

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230011953

APPLICANT REQUESTS: remission from recoupment of a previously received \$10,000.00 Reenlistment/Extension Bonus.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 30 July 2012
- National Guard Bureau (NGB) Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 – REB Addendum Army National Guard (ARNG) of the U.S. (ARNG), 30 July 2012
- NGB Form 23A (ARNG Current Annual Statement), 24 June 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states in pertinent part that on 30 July 2012, he elected to extend his current enlistment by 6-years with entitlement to a \$10,000.00 REB. He contests that this bonus is currently being recouped because of his participation in the Military Technician (Mil-Tech) program. He notes that the recoupment of these funds for an incident occurring 10 years ago is causing financial hardship for him as a single parent.
3. A review of the applicant's available service records reflects the following:
 - a. On 24 June 2005, the applicant enlisted in the ARNG to serve as a 92Y (Unit Supply Specialist) for 8-years (6X2 enlistment) with entitlement to a \$10,000.00 Enlistment Bonus to be disbursed in 2 increments (50 percent upon completion of initial active-duty training resulting in award of the 92Y Military Occupational Specialty (MOS) and 50 percent upon the third-year anniversary of this enlistment).

b. On 12 April 2006, the GAARNG issued Orders Number 102-013 announcing applicant's award of the 92Y MOS, effective 6 March 2006.

c. On 3 June 2010, the applicant elected to extend his current enlistment in the ARNG by 1 year.

d. On 18 June 2010, the GAARNG issued Orders Number 169-700 announcing the applicant's award of the 88M (Motor Transport Operator) MOS in accordance with National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management), Paragraph 2-5 (Award of MOS), effective 8 May 2010.

e. On 1 December 2011, the applicant elected to extend his current enlistment in the ARNG by 1 year.

f. On 30 July 2012, the applicant elected to extend his current enlistment in the ARNG by 6-years with entitlement to a \$10,000.00 REB in MOS 88M to be paid in a lump sum after reaching his current expiration term service date. NGB Form 600-7-3-R-E, Section V (Continued Receipt) provides that REB eligibility would be retained if the servicemember accepts a Mil-Tech assignment tour for less than 180-days in any continuous 12-month period. Section VI (Termination) provides that the bonus will be terminated with recoupment if he was previously in the Mil-Tech program prior to reenlisting/extending for this incentive and fails to serve at least 3 years of this incentive contractual agreement in a drilling status prior to returning back to a Mil-tech status.

g. On 28 February 2019, the applicant elected to extend his current enlistment in the ARNG by 6-years.

h. On 30 May 2023, the applicant elected to extend his current enlistment in the ARNG by 1-day.

4. The applicant provides an NGB Form 23A dated 24 June 2023, reflective of the applicant's qualifying service completed from 24 June 2005 – 24 June 2023.

5. On 20 February 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending approval of the applicant's request noting in pertinent part, that he accepted a Mil-Tech position, and his contract should have been terminated without recoupment with an effective date of 19 April 2016, which was the date before he processed as a permanent technician. The applicant entered into a 6-year contract agreement on 30 July 2012, and later accepted a Mil-Tech position on 19 April 2016, based on the timelines and contract agreement he is entitled to retain his \$10,000.00 bonus, which the GAARNG supports. Additionally, the reason why the applicant is currently having his bonus recouped is due to an erroneous request in the Guard

Incentive Management System (GIMS) to recoup his bonus due to him not having an Army Physical Fitness Test on record within 18 months of the contract signature date.

6. On 22 February 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. He did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military record and National Guard Bureau- Special Actions Branch advisory opinion, the Board concurred with the advising official recommendation for approval finding the applicant's enlistment bonus of \$10,000.00 was being recouped due to him accepting a technician position with the GAARNG. The opine noted that the GAARNG requested that zero dollars be recouped in accordance with the addendum found in section VI(Termination) without recoupment, paragraph 4(d). As such, the Board found sufficient evidence based on the advising opine and granted relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show remission from recoupment of a previously received \$10,000.00 Reenlistment/Extension Bonus



I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Army Reserve Fiscal Year 2011 Selected Reserve Incentive Programs (SRIP) Policy Guidance provides that the REB is processed in lump sum payment provided the Soldier meets all eligibility requirements on the contract start date. Termination with recoupment action will occur if the Soldier accepts a Mil-Tech position where membership in a Reserve Component is a condition of employment and have served 180 days or more in the losing SELRES from the payment date (includes indefinite and technicians on tour for 180 consecutive days or more in any continuous 12-month period) will result in the incentive agreement being terminated 1 day prior to the start date of the tour.
3. Department of Defense Instruction 1205.21 (Reserve Component Incentive Programs Procedures), currently in effect, requires each recipient of an incentive to sign a written agreement stating the member has been advised of, and understands the conditions under which continued entitlement to unpaid incentive amounts shall be terminated and which advance payments may be recouped. The agreement must

clearly specify the terms of the Reserve Service commitment that authorizes the payment of the incentive.

4. Title 37, USC, Section 373 (Repayment of Unearned Portion of Bonus, Incentive Pay, or Similar Benefit, and Termination of Remaining Payments, when Conditions of Payment not met) provides a member of the uniformed services who is paid a bonus, incentive pay, or similar benefit, the receipt of which is contingent upon the member's satisfaction of certain service or eligibility requirements, shall repay to the United States any unearned portion of the bonus, incentive pay, or similar benefit if the member fails to satisfy any such service or eligibility requirement, and the member may not receive any unpaid amounts of the bonus, incentive pay, or similar benefit after the member fails to satisfy such service or eligibility requirement.

5. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 USC, section 4837, the Secretary of the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interests of the United States. Indebtedness to the U.S. Army that may not be canceled under Title 10 USC, section 4837 when the debt is incurred while not on active duty or in an active status.

//NOTHING FOLLOWS//