

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 July 2024

DOCKET NUMBER: AR20230012102

APPLICANT REQUESTS: in effect, retroactive Cyber Assignment Incentive Pay (CAIP) for the period of 23 March 2021 through 20 April 2023.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 2823 (Sworn Statement)
- E-mails
- U.S. Army Cyber Command (ARCYBER) letter

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 effect, he had been attempting to get his CAIP packet processed for 2-years through his chain of command which was initially submitted in March 2021 after he completed the Job Qualification Requirements (JRQ) at the basic level. CAIP was approved at ARCYBER which had to go through various levels of authority and approval. His request always seemed to get misfiled or delayed for unknown reasons or had to be resubmitted due to ARCYBER changing the required documents in the packet. His Special Duty Assignment Pay was approved just prior to his separation from active duty which also took an exorbitant amount of time to get processed.

3. A review of the applicant's service record shows:

- a. On 29 October 2013, the applicant enlisted in the Regular Army (RA).
- b. On 17 November 2013, Orders Number 321-2820, issued by Headquarters (HQs), U.S. Maneuver Center of Excellence, the applicant was assigned to HQs and

HQs Company, 15th Signal Brigade, Fort Gordon, GA, effective 31 January 2014 to attend 25B (Information Technology Specialist) training.

c. On 1 May 2018, the applicant reenlisted in the RA.

d. On 17 January 2020:

(1) Orders Number 017-004, issued by HQs, U.S. Army Cyber Center of Excellence, the applicant was assigned to Cyber Protection Brigade, Fort Gordon, GA, effective 10 March 2020, in Military Occupational Specialty (MOS) 17C (Cyber Operations Specialist).

(2) Orders Number 017-040, issued by HQs, U.S. Army Cyber Center of Excellence, the applicant was awarded MOS 17C, effective 31 January 2020.

e. On 13 February 2020, the applicant's DA Form 1059 (Service School Academic Evaluation Report) shows the applicant met course standards for the 17C phase 2 course during the period of 26 August 2019 through 31 January 2020.

f. On 5 January 2021, Orders Number 005-407, issued by HQs, U.S. Army Cyber Center of Excellence, the applicant was assigned to the 782nd Military Intelligence Battalion, Fort Gordon, GA, effective 8 February 2021.

g. On 27 March 2023, Orders Number 4302505, issued by the Department of the Army, a special pay action for Special Duty Assignment Pay (SDAP) rate 2 in the amount of \$150.00 for Cyber Warriors Army Cyber Command Basic Level was initiated on 23 March 2021 with an end date of 21 March 2024.

h. On 30 April 2023, the applicant was honorably discharged from active duty. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 9-years, 6-months, and 2-days of active service. Item 11 (Primary Specialty) shows 17C30 Cyber Operations Specialist – 2 years and 5 months.

4. The applicant provides:

a. DA Form 2823 dated 10 March 2022 wherein the applicant stated he completed JQR on 23 March 2021 and knowing the usual processing time, he did not request a status of his packet until May. This was when he was notified his packet was denied due to missing his Soldier Record Brief. He then resubmitted the packet on 14 May 2021 which on 23 and 24 June 2021, he requested a status of his packet; however, he was not notified until 12 July 2021, that his packet was denied on 16 April 2021 due to the incorrect format being used. He then submitted a new packet, which he was notified on 14 July 2021 that ARCYBER disapproved his packet due to a missing signature and he resubmitted the packet again. On 1 September 2021, he requested the status of his

packet and was informed the battalion did not have his packet. On 6 January 2022, he requested another status of his packet and was notified it was at the battalion. At which time he requested a template for requested backpay for his CAIP but was told they did not have a template.

b. E-mail traffic regarding his CAIP and SDAP packet which shows the applicant's submission of his documents for CAIP and the numerous time he requested a status of his packet through his chain of command.

c. A letter from ARCYBER Command addressed to the Honorable R- A- dated 14 August 2023 which stated in pertinent part, the applicant's unit did not submit a correct or complete CAIP packet for further processing which prevented the ARCYBER Command to initiate a CAIP pay action. The applicant's only course of action was to apply with the Army Board for Corrections of Military Records.

5. On 18 April 2024, in the processing of his case, the Office of the Deputy Chief of Staff G1, provided an advisory opinion regarding the applicant's request for retroactive CAIP for the period of 23 March 2021 through 30 April 2023. The advisory official recommended disapproval of the applicant's request. The applicant did not have a valid CAIP contract which shows that he performed a qualifying duty other than Army Cyber Basic Level for which he received Special Duty Assignment Pay for the period of 23 March 2021 through 30 April 2023. A member may receive multiple assignment and special duty pays; however, a service member may not receive multiple pays for the same purpose and period of service. Assignment and special pay must be awarded for different types of duty performed if in conjunction with each other.

6. On 22 April 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment.

7. On 23 April 2024, the applicant responded via e-mail stating Army Cyber gave all T10 Cyber Operators CAIP and SDAP, after they met the JQR. He was on the 200 Cyber Management Team and was having issues getting CAIP processed in a timely manner and had to constantly follow-up or resubmit requests for CAIP and SDAP. He was not even awarded the proper SDAP amount due to his brigade commander taking longer than ideal to process his request.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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 records and the U.S. Army Cyber Command – Deputy Military Personnel Division and the Office of the Deputy Chief of Staff- G-1, Compensation and Entitlements Division advisory opinion, the Board concurred with the advising official recommendation for disapproval finding the applicant did not have a valid CAIP contract which shows that he performed a qualifying duty other than Army Cyber Basic Level for which he received Special Duty Assignment Pay for the period of 23 March 2021 through 30 April 2023. A member may receive multiple assignment and special duty pays; however, a service member may not receive multiple pays for the same purpose and period of service.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board found the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis to amend the decision of the ABCMR set forth in Docket Number AR20190012703 on 31 December 2020.

X //SIGNED//

CHAIRPERSON

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. Department of Defense (DoD) Financial Management Regulation (FMR) 7000.14R, Volume 7A:

a. Chapter 8 (Special Pay – Special Duty Assignment Pay), Special Duty Assignment Pay (SDAP) is awarded to Service members for the performance of duty in an assignment, location, or unit designated, where the assigned duties are determined to be extremely demanding, involving an unusual degree of responsibility or difficulty, or requiring special qualifications. Assignment and special duty pays are not to be continuous in nature and should be for a specified period. However, back-to-back assignment and special duty pays are authorized as long as the Service member continues to meet Service regulations and perform duties in assignments designated for the pay. A member may receive multiple assignment and special duty pays. However, a Service member may not receive multiple pays for the same purpose and period of service.

b. Chapter 15 (Special Pay – Assignment Incentive Pay (AIP)), the DoD may give AIP to eligible Active/Regular and Reserve Component (RC) Service members in accordance with Title 37 USC, section 352, the DoD Instruction (DoDI) 1340.26, "Assignment and Special Duty Pays," and regulations published by the Secretary of the Military Department concerned. The ability of the Secretary of the Military Department concerned to enter into a new agreement with a Service member for AIP is subject to the extension of such authority. Service members are not authorized to receive more than one AIP simultaneously for the same period of service. If a Service member is eligible for more than one AIP, the higher dollar value AIP will be paid. Paragraph 3.2, Army Cyber (ARCYBER) Command, Enlisted Soldiers, Warrant Officers, and Commissioned Officers must be fully trained and certified in a U.S. Cyber Command or ARCYBER work role. Soldiers must:

- have completed the appropriate training and have been awarded the appropriate certifications located inside the Cyber Mission Force (CMF) or those directly executing strategic to tactical level cyber missions required outside of the CMF;
- enter into a written agreement to serve 1 to 3-years in an ARCYBER approved billet, the written agreement will specify the period for which the AIP will be paid and the amount of the monthly rate of the AIP

The maximum monthly rate payable to any Soldier serving as a:

- Basic under the ARCYBER AIP program will start at \$200.00 and will not exceed \$1,000.00
- Senior under the ARCYBER AIP program will start at \$300.00 and will not exceed \$1,250.00
- Master under the ARCYBER AIP program will start at \$500.00 and will not exceed \$1,500.00
- Termination Unless reauthorized by Congress, AIP may not be paid after the date listed on the Duration of Authority table, unless the AIP agreement was entered into prior to the date on the table

3. Title 37 USC, section 352 (Assignment pay or special duty pay), Assignment or Special Duty Pay Authorized, the Secretary concerned may pay assignment or special duty pay to a member of a Regular or Reserve Component of the uniformed services who: is entitled to basic pay or compensation and performs duties in an assignment, location (including a cold weather location), or unit designated by, and under the conditions of service specified by, the Secretary concerned.

4. All Army Activities message (ALARACT) 084/2021 (Corrected Fiscal Year 2022 Special Duty Assignment Pay (SDAP) Biennial Review Results. SDAP is a discretionary monetary incentive paid to enlisted Soldiers who qualify for and serve in designated special duty assignments, that have extremely demanding duties requiring extraordinary effort for satisfactory performance or an unusual degree of responsibility. In addition to the MOS and assignment certified meeting the criteria for SDAP, Soldiers are only eligible to receive SDAP when they meet all of the following conditions. Are on active duty and entitled to basic pay. Or is a Reserve Component Soldier on inactive duty training and entitled to compensation. Are serving in pay grade E-3 or higher. Have completed the special schooling/training required for qualification in the special duty assignment. Are certified and actually serving in an authorized duty assignment designated for award of SDAP. The awarding of, or recommendation to increase, an SDAP level will not be based on the Soldier's performance or ability of a Soldier to accomplish an assigned task or production quota. 8.P. Soldiers Assigned To U.S. Army Cyber Command Are Authorized SD-2, SD-3, Or SD-4 Based on Position Requirement as Follows: 8.P.1. Basic Level, Sd-2. 8.P.2. Senior Level, Sd-3. 8.P.3. Master Level, Sd-4.

//NOTHING FOLLOWS//