

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 September 2024

DOCKET NUMBER: AR20230015154

APPLICANT REQUESTS:

- backpay of Tier 1 Cyber Assignment Incentive Pay (CAIP) in the amount of \$1,000/month, effective July 2022
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 87 (Certificate of Training) - Cyberspace Capability Developer Basic Proficiency, 22 July 2022
- DA Form 4187 (Personnel Action), 25 July 2022
- Commander, 780th Military Intelligence Brigade Memorandum - Subject: Request Exception to Policy (ETP) for Processing CAIP outside the current Fiscal Year (FY) 2023 (FY23), 1 May 2023
- CAIP Tracker comments, February - September 2023
- Email communication, 15 September 2023
- Email communication, 26 October 2023

FACTS:

1. The applicant states he qualified as a Cyberspace Capabilities Developer (tier 1 CAIP: \$1000/month) in July of 2022 and still has yet to receive backpay as of November 2023.

a. The DA Form 4187 to start CAIP was eventually signed by his Brigade Commander on 9 September 2022 (which according to the FY22 rules should be the start date). After that, they [the applicant and unit] did not hear anything for months. They assume that Army Cyber Command (ARCYBER) did not do anything with the packet until it had already become the next fiscal year. It was not until Lieutenant Colonel B\_ at 780th Military Intelligence Brigade started putting pressure on S-1 in February 2023 that they heard anything.

c. The S-1 told him to fill out a FY23 version of the form, which he promptly did. In April, an ETP was sent to ARCYBER after being requested. In June they had to find and send an Assumption of Command memo because the Deputy Brigade Commander had signed the original DA Form 4187 form. In July, we were told the packet was with Headquarters Department of the Army (HQDA) for review. Again, there was silence, so he initiated a Congressional Inquiry in August to which he received a response in September. It was a letter from the Chief of Staff at ARCYBER stating the packet had not been to his desk yet. Our S-1 stated as of 11 September that the packet was with HQDA, however, there is no way to get ahold of anyone at HQDA, and S-1 has not been able to get much from ARCYBER as well. He has now been told that ETPs for CAIP are no longer being processed and he must go through the Board of Corrections.

2. A review of the applicant's official records show:

a. On 16 October 2017, the applicant enlisted in the Regular Army for a period of 6 years and 8 weeks.

b. On 7 February 2019, Headquarters United States Army Cyber Center of Excellence, Fort Gordon, GA, published Orders Number 038-063, which awarded the applicant military occupational specialty 17C1O (Cyber Operations Specialist), effective 22 February 2019.

c. On 18 September 2019, the U.S. Army Installation Management Command, Headquarters, U.S. Army Garrison, Fort Meade, MD, published Orders Number 260-101, which awarded the applicant Special Duty Assignment Pay (SDAP) (SD-2/\$150.00), effective 4 September 2019, with a termination date of 3 September 2022.

d. On 21 March 2020, he completed the Basic Leader Course.

e. On 23 August 2022, the U.S. Army Cyber Command, Fort Gordon, GA, published Permanent Order Number 235-550, which awarded the applicant Area of Concentration-Skill Identifier "17C2OE4" [Cyber Operations Specialist-Cyber Mission Force Service], effective 23 August 2022.

f. On 10 December 2023, he was honorably released from active duty and was transferred to the U.S. Army Reserve Control Group (Reinforcement). DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged in the rank of staff sergeant and he completed 6 years, 1 month, and 19 days net active service.

3. In support of his case the applicant provides:

a. DA Form 87 showing he completed the Cyberspace Capability Developer Basic Proficiency training, effective 22 July 2022, with an expiration date on 20 July 2025.

b. DA Form 4187 showing he requested CAIP on 25 July 2022, and acknowledged he understood he was entering into a written agreement to serve in an approved U.S. Cyber Command or ARCYBER Cyber Mission Force Work Role. He agreed to accept CAIP at the rate of \$1,000.00 per month for 12 months, at the Basic level while he was assigned and performing duties as a Cyberspace Capability Developer. He understood this agreement started on the date of the Brigade Commander's signature. The Brigade Commander signed the DA Form 4187 on 9 September 2022.

c. Commander, 780th Military Intelligence Brigade Memorandum - Subject: Request ETP for Processing CAIP outside the current FY23, dated 1 May 2023, which shows the Brigade Commander submitted an ETP request to obtain Deputy Chief of Staff, G-1 approval for FY22 CAIP for the applicant who completed the Job Qualification Record (JQR) for Cyberspace Capabilities Developer at TIER 1 for \$1,000 monthly. Effective date of CAIP: 22 July 2022. The Brigade Commander provided a background and justification for the ETP request.

d. CAIP Tracker comments, February - September 2023, which shows the applicant's chain of command requesting information and updates pertaining to the applicant's CAIP request.

e. Email communication dated 15 September 2023 and 26 October 2023, between the U.S. Army Cyber Command Headquarters G-1 Military Personnel Division and the applicant's Brigade/unit, wherein, the G-1 official stated, per HQDA, all exception to policy requests must go through the Army Board for Correction of Military Records (ABCMR) for consideration of approval. Actions previously submitted to ARCYBER will not be processed. We recommend that you update your records to reflect this change. ARCYBER does not have any pending actions for ETPs. Once we received notification from HQDA, all pending ETPs were archived, and Brigades were notified of the change. Attached is information on the ABCMR process for submission. Please disseminate this information to the units in your Brigade.

4. On 17 June 2024, the Office of the Deputy Chief of Staff G-1 (Pentagon), Program Analyst Compensation and Entitlements Division provided an advisory opinion for this case and recommended the Board disapprove the applicant's request for administrative relief. The advisory official stated:

a. After careful review this office recommends that the board disapprove the applicant's request for administrative relief. The applicant was authorized Special Duty Assignment Pay Level 2 on 19 September 2019. Additionally, he was receiving

Assignment Incentive Pay (AIP) 16 September 2019 through 15 September 2022, at \$200.00 a month.

b. Reference 1.c, paragraph 9-3(c) precludes Soldiers from receiving multiple assignment and special duty pays for the same purpose and period. The applicant's receipt of AIP would violate Department of Defense and Army policy.

5. On 20 June 2024, the applicant responded to the G-1 advisory opinion and stated:

a. He would like to comment on the memorandum from the Office of the Deputy of the Chief G-1 regarding his case. He put a stop to his AIP in September of 2022 because he qualified for the new tier of \$1,000 for becoming a developer in August 2022. The new AIP should have started during that period with the SDAP being the same as he was fulfilling a cyber role as a 17C.

b. He does not understand their [G-1] logic in this matter. He was supposed to start receiving new AIP starting September 2022 for 12 months until September 2023. He was fulfilling a Tier 1 work role for over a year and did not receive any AIP from September 2022 until his expiration term of service date of 10 December 2023. This is very disconcerting, and he worked incredibly hard to earn the role as a developer. He encourages the Office of the Chief to look over the timeline again and grant him the AIP that he worked for.

#### BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The evidence shows the applicant was awarded MOS 17C (Cyber Operations Specialist), effective 22 February 2019. He was issued orders awarding him Special Duty Assignment Pay (SDAP) (SD-2/\$150.00), effective 4 September 2019, with a termination date of 3 September 2022. Effective 23 August 2022, the U.S. Army Cyber Command, issued orders which awarded him MOS/ASI 17C2OE4" [Cyber Operations Specialist-Cyber Mission Force Service], effective 23 August 2022. The applicant was released from active duty on 10 December 2023.

b. The applicant seeks payment of Cyber Assignment Incentive Pay (CAIP) of \$1,000 per month from July 2022 through September 2023. He completed the Cyberspace Capability Developer Basic Proficiency training, effective 22 July 2022, with an expiration date on 20 July 2025. He completed an agreement on 25 July 2022, to perform duties as a Cyberspace Capability Developer in exchange for CAIP; the agreement specifies that the start date is the date of the Brigade Commander's signature, who signed the form on 9 September 2022. Although the Brigade Commander didn't sign the form until 9 September 2022, in May 2023 he requested an exception to policy from G-1 permitting applicant to receive CAIP starting in Fiscal Year 2022 (September 2022). Apparently, the exception was never granted and the CAIP was never paid to the applicant.

c. An advisory opinion from G-1 recommends disapproving the applicant's request for the \$1,000 per month CAIP. The memo states that AR 637-1 paragraph 9-3(c) precludes Soldiers from receiving multiple assignment and special duty pays for the same purpose and period. The memo further states that applicant was already receiving Special Duty Assignment Pay Level 2 and Assignment Incentive Pay (AIP) 16 September 2019 through 15 September 2022, at \$200 a month and that payment of the additional CAIP would violate Army policy.

d. While the advisory opinion is correct that applicant should not receive both the \$1,000/month CAIP and the SDP, the applicant did in fact put a stop to his CAIP in September of 2022 because he qualified for the new tier of \$1,000 for becoming a developer in July 2022. The new CAIP should have started during that period with the SDAP being the same as he was fulfilling a cyber role as a 17C. The applicant fulfilled a Tier 1 work role for over a year and did not receive any CAIP from September 2022 until his separation date of 10 December 2023.

e. Contrary to the G-1 advisory opinion, the Board determined an error occurred and the applicant should have received the new CAIP starting September 2022 for 12 months until September 2023. The applicant is entitled to back payment of CAIP in the amount of \$1,000 per month for his performance of duties as a Cyberspace Capability Developer from September 2022 to September 2023. The monthly CAIP and monthly SADP that he was receiving should have been terminated in September 2022 when he transitioned to the Capability Developer position."

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 by:

- publishing appropriate orders to authorize the applicant Cyber Assignment Incentive Pay (CAIP) in the amount of \$1,000 per month from September 2022 to September 2023 October 2022
- the CAIP per month and Special Duty Assignment Pay (SADP) per month he was previously receiving were terminated in September of 2022

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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. Army Regulation (AR) 15-185 (Army Board for Correction of Military Records (ABCMR)), states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

2. AR 637-1 (Army Compensation and Entitlements Policy) provides Department of the Army policies for entitlements and collections of pay and allowances for active duty Soldiers. It is used in conjunction with the Department of Defense (DoD) Financial Management Regulation (FMR), Volume 7A. Chapter 9 (Assignment and Special Duty Pays):

a. Paragraph 9-1 (Entitlement provisions) states, assignment and special duty pays are awarded for the performance of duty in an assignment, location, or unit designated and under the conditions of service specified by the Secretary of the Army. Assignment and special duty pays include:

- Assignment incentive pay (AIP)
- Special duty assignment pay (SDAP)
- Hardship duty pay (HDP)
- Sea pay (see AR 600–88)

b. Paragraph 9-3 (Payment) states, in pertinent part, the Defense Joint Military Pay System (DJMS) will credit all assignment and special duty pays established on the Master Military Pay Account (MMPA) each month until action is taken to stop the entitlement.

c. Paragraph 9-3c states, Soldiers may receive multiple assignment and special duty pays; however, Soldiers will not receive multiple assignment and special duty pays for the same purpose and period of service and the combination of all assignment and special duty pays listed in paragraph 9-1 will not exceed a monthly average of \$3,500.

3. U.S. Army Cyber Command Memorandum - Subject: Implementation Guidance for the Fiscal Year 22 Cyber Assignment Incentive Pay Program (CAIP), dated 4 November 2021, serves as the written agreement for implementing the CAIP Program for the Cyber Workforce, to include those personnel that possess advanced training, unique qualifications, and highly perishable skills in support of cyberspace operations at the Service, Combatant Command, and National level. Paragraph 7 states, Tier I: Includes Officers, Warrant Officers, and Enlisted Soldiers fully certified in one of the following

work roles: Cyberspace Capability Developer (CCD), Exploitation Analyst (EA), Remote Operator (RO), Data Engineer (DE) and Analytical Support Officer (ASO). Officers and Warrant Officers certified as CCDs are only authorized CAIP after achieving Senior and Master proficiency levels. Basic CAIP for CCDs is reserved for Enlisted Soldiers only. A remote operator must have completed the NSA operator training program (i.e., RIOT, FORGE). Tier I includes those directly assigned to a Cyber Force Team, those serving as an institutional or foundational training instructor, or those performing cyber operations in other organizations listed in Tier IV. Those Tier I personnel that are assigned as instructors or in Tier IV units, to include the 915th Cyber Warfare Battalion, and those serving as an institutional or foundational training instructor, or those performing cyber operations in other organizations listed in Tier IV can only enter into a 12-month CAIP agreement. These Soldiers may receive a monthly CAIP stipend based on their level of proficiency in the amount indicated below (7a thru 7c).

- a. Basic proficiency level is \$1,000 (Excluding Warrant and Officer CCD work roles);
- b. Senior proficiency level is \$1,250;
- c. Master proficiency level is \$1,500.

//NOTHING FOLLOWS//