

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 October 2024

DOCKET NUMBER: AR20240001065

APPLICANT REQUESTS: in effect, reinstatement and payment of his Reenlistment/Extension Bonus (REB) dated 3 November 2012.

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

- DD Form 149 (Application for Correction of Military Record)
- [REDACTED] National Guard Memorandum - Subject: Notification of Incentive Termination, 11 December 2023

FACTS:

1. The applicant states:

a. [REDACTED] National Guard State Incentives Services Division determined that he was in violation of his Selected Reserve Incentives Program (SRIP) REB in the amount of \$10,000.00 based on consecutive Army Physical Fitness Test (APFT) failures. The violation is cause for termination and recoupment with a termination date of 10 January 2014, recoupment total (if warranted) in the amount of \$0.00, and final payment (if warranted) of \$1,111.11.

b. If he was owed an amount and the date of payment is over six years from the current date, his only recourse for payment is to contact the Army Board for Correction of Military Records (ABCMR). He has since continued to serve his country and has passed his APFT which disqualified him for this bonus. He has continued to pass his APFT each year.

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

a. He enlisted in [REDACTED] Army National Guard ([REDACTED] ARNG) on 4 October 2006. The applicant completed training requirements and was awarded Military Occupational Specialty (MOS) 31B (Military Police).

b. On 10 June 2012, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows he extended his [REDACTED] ARNG enlistment for 1 year, which changed his Expiration Term of Service (ETS) to 3 October 2013.

c. On 3 November 2012, DA Form 4836 shows he extended his [REDACTED] ARNG enlistment for 6 years, which changed his ETS to 3 October 2019. In connection with this extension, 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 United States) states, in pertinent part:

(1) He reenlisted/extended for 6 years and would receive a total bonus in the amount of \$10,000.00. He certified he was reenlisting/extending Duty MOS Qualified (DMOSQ) or Non-DMOSQ (Due to mobilization/deployment, unit transition (reorganization, inactivation, transformation or relocation) only) as the primary position holder and he was not coded 9993 or 999M. His bonus would be processed effective the day after his current ETS as a lump-sum payment.

(2) Section VI (Termination) - He may be terminated from REB eligibility with recoupment for having two consecutive record APFT failures and/or two consecutive failures to meet body fat standards within this contract term. The termination date will be effective on the date of his second APFT failure or second failure to meet body fat standards.

d. On 30 April 2018, NGB Form 22-5 (Addendum to DD Form 4 Approval and Acceptance by Service Representative for Interstate Transfer in the ARNG) shows the applicant requested and was approved for an interstate transfer to [REDACTED] ARNG ([REDACTED] ARNG).

e. The applicant is currently serving in the [REDACTED] ARNG.

3. The applicant provides [REDACTED] National Guard Memorandum - Subject: Notification of Incentive Termination, dated 11 December 2023, wherein, the Incentive Manager notified him and stated:

a. The State Incentives Service Division determined that he was in violation of his SRIP contract. The violation was cause for termination and recoupment. The violation was for consecutive APFT failure and shows:

- Incentive type(s): REB
- Contract amount: \$10,000.00
- Termination date: 10 June 2014
- Recoupment total (if warranted): \$0.00
- Final payment (if warranted): \$1,111.11

b. In accordance with policy the applicant may submit an Exception to Policy (ETP). The ETP must include a request from him describing the circumstances in question and contain substantiating documentation which may include copies of service and incentive documents. Submit the ETP request to the state incentives manager.

c. Failure to submit an ETP within 45 days of this notification (including attempted delivery to the service member and current unit of assignment) will result in the continued processing of the termination. If the applicant is owed an amount and the date of payment is over 6 years from the current date, his only recourse for payment is to contact the ABCMR at [REDACTED]

4. On 9 August 2024, the Chief, Special Actions Branch, NGB, provided an advisory opinion and recommended denial of the applicant's request. The advisory official stated:

a. The applicant reenlisted in the [REDACTED] ARNG with a REB of \$10,000.00 on 3 November 2013. The incentive was terminated due to two consecutive APFT failures per Section VI of the bonus addendum and Fiscal Year 2014 (FY14) SRIP. The applicant states he has passed the APFT since termination and is requesting his bonus.

b. After review of the applicant's submission and records, he accumulated two APFT failures consecutively on 9 August 2013 and 10 June 2014. His REB was terminated per his bonus addendum Section VI stating, the bonus will be terminated on the date of receiving the second consecutive APFT failure. He additionally failed two more consecutive APFTs during that contract on 18 October 2016 and 17 October 2017 and was flagged in the body composition program 7 December 2013 to 20 March 2015.

c. It is the recommendation of this office that the applicant's request be denied. He failed two consecutive APFTs that terminated the bonus addendum per the SRIP FY14 and signed bonus addendum on 3 November 2013

5. On 19 August 2024, the applicant was provided with a copy of the NGB advisory opinion for comments or rebuttal. He did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.

2. The Board concurred with the conclusion of the advisory official that the evidence clearly shows the applicant violated his REB contract when he had two consecutive

APFT failures. Based on a preponderance of the evidence, the Board determined the decision to terminate his REB was not in error or unjust.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 for correction of the records of the individual concerned.

4/1/2025

X

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 31 United States Code (USC), section 3702, also known as the Barring Act, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, USC, is relieving the government of the need to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.

2. Army Regulation 15–185 (Army Board for Correction of Military Records ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

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. ARNG SRIP Policy for Fiscal Year 2012, 5 June 2012 - 30 September 2012 (Policy Number 12-01, Update 1) states in paragraph 24 that detailed remarks must be entered into Information Management and Reporting Center/Guard Incentive Management System clearly outlining the reasons for termination with recoupment and supporting documents must be uploaded. Reasons for termination with recoupment include a Soldier with contracts executed after 1 March 2009, and with two consecutive record APFT failures and/or two consecutive failures to meet body fat standards within the contract term. Termination will be effective on the date of the second APFT failure or second failure to meet body fat standards.

//NOTHING FOLLOWS//