

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 November 2024

DOCKET NUMBER: AR20240002099

APPLICANT REQUESTS: reversal of the National Guard Bureau (NGB) denial of her Exception to Policy (ETP) to retain her Reenlistment/Extension Bonus (REB) in the amount of \$10,000.00.

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)
- California Army National Guard (CAARNG), 1114th Transportation Company, Memorandum, Subject: Command Directed Transfer of Sergeant C- N- (the applicant)
- applicant statement for request of ETP to retain REB
- NGB Memorandum, Subject: Request for ETP for REB (Applicant)
- Email traffic between retention Noncommissioned Officer (NCO) and CAARNG

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 she reenlisted in 2012 for 6-years and was eligible to receive a REB in the amount of \$10,000.00. In 2013, she was notified by her command she was being involuntarily reassigned within her unit into a position which she was not qualified for due to unit reorganization. She was directed to reclassify into Military Occupational Specialty (MOS) 88M (Motor Transport Operator) or be classified as excess to the unit. She completed her training for 88M and became qualified for her new position within 24-months. Due to her command directed reassignment she was not paid her REB. She requested an ETP however, the NGB declined to honor the bonus portion of her contract citing she voluntarily transferred out of the contracted MOS. The command directed reassignment and reclassification memorandum was not uploaded into the Army National Guard Incentive Management System (GIMS). Therefore, the NGB was not fully informed of her situation.

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

- a. On 22 August 2006, the applicant enlisted in the ARNG.
- b. DD Form 214 shows the applicant was ordered to Initial Active Duty for Training (IADT) on 17 October 2006. She completed her Basic Combat Training and Advanced Individual Training as a 42A (Human Resources Specialist) and was released from active duty on 23 March 2007.
- c. On 28 June 2007, Orders Number 179-242, issued by the Department of Military Affairs State of Illinois, the applicant was awarded MOS 42A, effective 24 March 2007 after completion of her MOS formal U.S. Army training.
- d. On 6 September 2011, Orders Number 249-1080, issued by the Joint Force Headquarters (JFH), CAARNG, the applicant was released from her assignment as a HR Sergeant (SGT) with the 1114th TC CO and assigned to the 1040th Quartermaster (QM) CO, effective 1 September 2011, with the duty MOS 42A.
- e. Throughout the applicant's service she was ordered to active duty six times.
- f. On 13 January 2012, Orders Number 13-1032, issued by the JFH, CAARNG, the applicant was released from her assignment as a HR SGT with the 1040th QM CO and assigned to the 1114th TC CO, effective 13 January 2012, with the duty MOS 42A.
- g. On 4 April 2012, the applicant extended her enlistment with the ARNG for 1-year for a new Expiration Term of Service (ETS) date of 21 August 2013.
- h. On 8 September 2012, the applicant reenlisted/extended with the ARNG for 6-years for a new ETS date of 21 August 2019. In the completion of her reenlistment/extension the applicant signed NGB Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 REB Addendum ARNGUS) which stated in:
 - (1) Section II (Eligibility), she was eligible for the REB and must be the primary position holder, not in an over-strength or excess status in the MOS that matched the authorized military grade and skill qualification commensurate with the position for which she was reenlisting/extending. She must reenlist duty MOS qualified in the MOS 42A for 6-years. She shall serve satisfactorily for the entire period of her enlistment and was obligated to serve in the same MOS for which the bonus was approved, unless excused due to unit transition for deployment, reorganization, inactivation or relocation only.
 - (2) Section III (Bonus Amount and Payments) stated she reenlisted for 6-years to receive a total lump sum payment of \$10,000.00 and she certified that she reenlisted in

a valid, vacant position and was not coded as excess to the unit. She understood she would not receive her payment if she did not meet all eligibility requirements on her contract start date.

(3) Section V (Continued Receipt) stated she understood she will be eligible for continued receipt of incentives if her MOS changed due to unit transition, inactivation, relocation, reorganization or conversion and became duty MOS qualified within 24-months. If she performed active duty operational support, formerly active duty for special work and/or full time NG duty for operational support and continued to meet the eligibility criteria for the incentive.

(4) Section VI (Termination) stated she may be terminated from incentive eligibility with recoupment if she:

- voluntarily changed her reenlistment/extension MOS during the contractual obligation unless assigned as an Officer Candidate School Candidate or Simultaneous Membership Cadet
- she was placed into excess position
- she was placed in an over-strength status due to unit inactivation, relocation, reorganization or converted; she would be entitled to continued payments to include her initial payment if her MOS changed as a result of the above, she had 24-months from the date of the transformation/reorganization to become duty MOS qualified in the new MOS
- she must also be as the primary position holder in that valid vacancy
- she failed to become duty MOS qualified within 24-months of the contract date if she was non-duty MOS qualified due to being moved due to unit inactivation, relocation, reorganization or converted
- she was involuntarily transferred, she had 24-months from the date of the transfer to become duty MOS qualified in the new MOS and would be eligible for future scheduled payments
- she received payments and failed to become duty MOS qualified within 24-months, her incentive would be terminated effective the date of the transfer
- she transferred out of her current MOS into a non-duty MOS qualified MOS

i. On 23 September 2013, the commander of the 1114th TC CO command directed the movement of the applicant within the unit as she was MOS qualified in 42A and due to the NG restructuring the unit, she became over-grade/over-strength in her MOS. She was reassigned to an 88M vacancy within the unit in order to best meet the needs of the CAARNG. She was currently under a Selected Reserve incentive agreement obligation for a REB. She was involuntarily transferred out of her contracted MOS and she would retain her incentive eligibility.

j. On 12 December 2013, Orders Number 346-529, issued by the State of CA, Office of the Adjutant General, the applicant was ordered to active duty for training for the period of 7 February through 7 March 2014 to attend both phases of the 88M course.

k. DA Form 1059 (Service School Academic Evaluation Report) shows during the period of 7 through 21 February 2014 the applicant achieved course standards for the Motor Transport Operator course phase I.

l. DA Form 1059 shows during the period of 21 February through 7 March 2014 the applicant achieved course standards for the Motor Transport Operator course phase II.

m. On 17 March 2014, Orders Number 76-1089, issued by the JFH CAARNG, the applicant was awarded primary MOS 88M and secondary MOS 42A, effective 6 March 2014.

n. On 1 November 2014, Orders Number 305-1008, issued by the JFH, CAARNG, the applicant was released from her assignment as a Heavy Vehicle Driver for the 1114th TC CO and assigned as a Heavy Vehicle Driver for the 2668th TC CO Detachment 2, effective 16 September 2014 with the duty MOS 88M.

o. On 20 March 2015, Orders Number 79-1066, issued by the JFH CAARNG, the applicant was released from her assignment as a Heavy Vehicle Driver for the 2668th TC CO and assigned as an instructor for the 3rd Battalion (BN) (TC), 223rd Regiment, effective 16 March 2015 with the duty MOS 88M.

p. On 9 April 2016, Orders Number 100-1013, issued by the JFH CAARNG, the applicant was released from her assignment as an instructor for the 3rd BN (TC), 223rd Regiment and assigned as a Squad Leader for the 1114th TC CO, effective 1 April 2016 with the duty MOS 88M.

q. On 22 November 2017, NGB Memorandum, Subject: Request for ETP for REB (SSG) C- N-, the applicant's request for ETP to retain her \$10,000.00 REB was disapproved for voluntarily transferring out of her contracted MOS. Her contracted MOS was 42A and her current MOS was 88M. The ARNG did not have the authority to approve her request. The State Incentive Manager would terminate the incentive with recoupment effective the date she changed her MOS. The applicant was obligated a payment.

r. On 21 October 2018, the applicant reenlisted in the ARNG for 6-years for a new ETS date of 21 August 2025 and again on 13 September 2023 for a new ETS date of 21 August 2031.

4. The applicant provides:

a. Statement the applicant provided for her request for ETP to retain her REB which stated she reenlisted for a bonus in MOS 42A while she was assigned to the 1114th Transportation Company. She was forced to reclassify into MOS 88M or be classified as excess. She attempted to stay within the parameters of her contract to stay assigned to her unit. She reclassified to MOS 88M and then she was selected for promotion and promoted to SSG into a different unit. She worked to the best of her ability to get reassigned back to her original unit which she reenlisted. Based on the circumstances she felt she made the best choice available to her.

b. Email between the retention NCO and the CAARNG, between 14 September 2023 and 21 January 2024, where the retention NCO requested the CAARNG to contact the NGB for clarification if the applicant's request for ETP to retain her REB was accurate as the NGB disapproved her request; however, the GIMS shows her request was to be approved as of 11 December 2017. A response was not received.

BOARD DISCUSSION:

1. 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 review based on law, policy, and regulation. The Board found the evidence confirms the applicant was command directed to transfer from his military occupational specialty and did not voluntarily move from the required billet.

2. The Board reviewed and concurred with the administrative notes below.

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 and Army National Guard records of the individual concerned be corrected by:

- showing the applicant timely submitted an exception to the National Guard Bureau (NGB) for payment of her authorized REB
- showing the appropriate office timely received her request and authorized payment as a result of this correction

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.

ADMINISTRATIVE NOTES:

1. Reference the enclosed request for correction of military records from the subject individual to correct her DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period of service 17 October 2006 through 23 March 2007, by:

a. Delete: Item 24 (Character of Service): Uncharacterized

b. Add: Item 24: Honorable

2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.

- DD Form 214 17 October 2006 through 23 March 2007
- Award Military Occupational Specialty (MOS) 42A (Human Resources Specialist), Orders Number 179-242, 28 June 2007, Department of Military Affairs State of Illinois, MOS 42A
- Army Regulation 635-8 (Personnel Separations – Separation Processing and Documents)

3. Please correct the applicant's DD Form 214 by deleting and adding the item shown in paragraph 1a and b above. Provide the applicant a copy of the corrections. Please ensure that the corrections are recorded in the applicant's official military personnel record.

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. National Guard Regulation (NGR) 600-7 (Selective Reserve Incentive Programs), prescribes policies and procedures for the administration of the ARNGUS incentive programs.

a. Paragraph 1-11, (Personnel movement between ARNG units), Soldiers involuntarily transferred (due to unit inactivation, reorganization, or relocation) will be governed by the following:

- those who contracted for a bonus should be transferred into positions coded for their current MOS, or one within allowable substitution rules, or another critical skill and bonus unit, if possible
- only if the above cannot be accomplished will a Soldier be allowed to transfer into any unit or MOS vacancy (with the exception of Table of Distribution and Allowances units)
- Soldiers who are transferred into a MOS in which they are not qualified will have 24-months to become qualified in and awarded the MOS for their position or incentives will be terminated without recoupment
- Soldiers who decline a command directed reassignment, will have their incentive entitlement(s) terminated with recoupment

b. Paragraph 3-3, an immediate reenlistment or extension bonus may be awarded to an ARNG Soldier who; is qualified in and awarded the MOS for his/her position in a valid Modified Table of Organization and Equipment position in a bonus unit at the time the reenlistment or extension takes effect (the date of the oath of enlistment for an immediate reenlistment; the first day of the extended period of service for an extension).

c. Paragraph 3-9 (Termination without recoupment), terminate entitlement and eligibility for the Reenlistment Bonus when Soldiers who are reenlistment/extension bonus recipients and are transferred due to a reorganization, inactivation, or relocation must become MOSQ and awarded the MOS as their primary MOS within 24 months of assignment to the new MOS position. If the soldier does not become MOSQ the bonus will be terminated without recoupment. Termination will be effective 24 months after the date of reorganization, inactivation, or relocation. Do not recoup any amounts paid. Provide the termination notice and amount due, if any, using the memorandum.

d. Paragraph 3-10 (Termination with recoupment), terminate entitlement and eligibility for the Reenlistment Bonus when:

- voluntarily transfers to a non-bonus unit as of the effective date of transfer
- does not become qualified in and awarded as primary the MOS for their position within 24-months after a voluntary transfer into another MOS effective to the date of transfer from the contracted MOS
- Soldier who has been transferred due a reorganization, inactivation, or relocation within the last 12 months and is non-MOSQ may be reenlisted or extended for a bonus, Soldier must be MOSQ and awarded the MOS as the primary MOS within 24 months of assignment to the new MOS position or the bonus will be terminated with recoupment if payment was made

d. Paragraph 5-4 (Termination of an incentive contract), Termination with or without recoupment - Additional payments scheduled. The following actions are required for all incentive terminations with or without recoupment that would otherwise result in recoupment of monies paid or forfeiture of further incentive payments. The State will notify the Soldier and the Soldier's current unit of assignment of the issue requiring incentive termination and the exception to policy option.

3. Title 37 USC, section 331 (General bonus authority for enlisted members), (a) The Secretary concerned may pay a bonus under this section to a person, including a member of the armed forces, who:

- enlists in an armed force
- enlists in or affiliates with a reserve component of an armed force
- reenlists, voluntarily extends an enlistment, or otherwise agrees to serve:
- for a specified period in a designated career field, skill, or unit of an armed force
- under other conditions of service in an armed force

(g) (Repayment), a person or member who receives a bonus under this section and who fails to complete the period of service, or meet the conditions of service, for which the bonus is paid, as specified in the written agreement under subsection (d), shall be subject to the repayment.

4. Department of Defense Instruction 1205.21 (Reserve Component Incentive Programs Procedures), to update policy, assign responsibilities, and prescribe procedures under reference and for management of the Reserve components incentive programs.

a. Paragraph 6.6.2, persons whose military specialty is changed at the convenience of the Government or whose unit is inactivated, relocated, reorganized, or converted are

entitled to continue receiving incentive payments provided they meet all other eligibility criteria, and are not separated from the Selected Reserve.

b. Paragraph 6.8 (Termination and Recoupment), if entitlement to an incentive is terminated for any reason before the fulfillment of the service described in the member's written agreement, that member shall not be eligible to receive any further incentive payments, except for payments for service performed before the termination date. Unless granted relief, as covered in paragraphs 6.6. and 6.7., above, the member must refund a prorated amount to the Government, if such termination is for subparagraph 6.8.3, moves to a non-bonus skill or unit, unless the move is required by the Reserve component.

//NOTHING FOLLOWS//