

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 January 2025

DOCKET NUMBER: AR20240002766

APPLICANT REQUESTS:

- Exception to Policy (ETP) to be paid her Prior Service Enlistment Bonus (PSEB)
- or in lieu of an ETP, removal of PSEB from her enlistment contract

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States), 29 October 2018
- DA Form 3540 (Certificate and Acknowledgement U. S. Army Reserve (USAR) Service Requirements and Methods of Fulfillment), 29 October 2018
- DA Form 5261-4 (Student Loan Repayment Program Addendum), 29 October 2018
- DA Form 5261-5 (Selected Reserve Incentive Program (SRIP) – USAR PSEB Addendum), 29 October 2018
- DA Form 5435 (Statement of Understanding The Montgomery GI Bill Selected Reserve), 29 October 2018
- DA Form 5435-1 (Statement of Understanding-The Selected Reserve Montgomery GI Bill Kicker Program), 29 October 2018
- Headquarters (HQs), U.S. Army Reserve Command (USARC) Letter to U.S. Representative
- HQs, USARC Inspector General (IG) Letter
- Letter to Colonel (COL) S-

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 when she enlisted on 29 October 2018, she was told by the counselor at the Lansing, MI, Military Entrance Processing Station that she would be receiving a PSEB in the amount of \$17,000.00, even though she told the counselor of her prior service and that she had received a PSEB previously, but it was never paid. She was later told that she was not eligible to receive it.

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

a. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant enlisted in the Regular Army on 19 June 1990. She was honorably released from active duty on 6 April 1992 and assigned to the USAR Control Group (Reinforcement) due to her pregnancy. It shows the applicant completed 1-year, 9-months, and 18-days of active service. It also shows her reserve obligation termination date was 30 July 1997.

b. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows the applicant enlisted in the Army National Guard (ARNG) in the state of Michigan on 19 August 1993. She was honorably released from the ARNG on 10 March 1995, and assigned to the USAR Control Group (Reinforcement) to complete 2-years, 5-months, and 8-days of her remaining statutory obligation due to dependency or hardship affecting her immediate family.

c. On 28 April 2010, the applicant enlisted in the USAR for 6-years.

(1) DD Form 1966 (Record of Military Processing – Armed Forces of the United States) shows in item:

(a) 18o (primary military occupational specialty (MOS)) - 88M (Motor Transport Operator).

(b) 24a (Previous Military Service or Employment with the U.S. Government) – the applicant was serving or had served in the Armed Forces or in the ARNG or Air National Guard.

(c) 32a (Specific Option/Program Enlisted For) – PSEB in the amount of \$10,000.00 for 6-years.

(d) 32b – the service member understood he/she would not be guaranteed any specific military skill or assignment to a geographic area except as shows in item 32a above and annexes attached to the DD Form 4.

( e) Section VI (Remarks) – for 24a, the applicant has prior Army service from 14 March 1995 through 19 August 1997.

(2) DA Form 5261-5 shows in item:

(a) Section III (Acknowledgement) - the service member acknowledged he/she met the following eligibility criteria:

- meet the requirements for enlistment in the USAR per Army Regulation 601-210
- not enlisting in the USAR to fill a permanent civilian position where membership in the Selected Reserve is a condition of employment
- not being released from AD or FTNGD for the purpose of enlistment in the USAR
- qualified in MOS Motor Transport Operator in which successfully served on active duty and attained a level of qualification commensurate with her grade and years of service, and which has been approved as a bonus MOS and correlates to the position vacancy for which she was enlisting
- receipt of an honorable discharge issued on separation from prior military service

(b) Section IV (Obligation) – enlisted for 6-years.

(c) Section V (Entitlement) - enlisted for a PSEB and had less than 16-years of military service and enlisted for 6-years for a \$10,000.00 bonus. Fifty percent of the total bonus to be paid at the time of enlistment and the remaining 50 percent to be paid in 25 percent increments at the end of the second and fourth year of satisfactory service in the Selected Reserve.

(3) DA Form 3540 shows in item Section IV (Service Obligation) - acknowledged the enlistment of a former member of the Armed Forces with no remaining statutory military service obligation was not currently a member of the USAR and had previous military service in the Armed Forces of the United States. Enlisted in the MOS 88M under the prior service program for a PSEB in the amount of \$10,000.00 for 6-years.

d. On 21 March 2016, Orders Number 16-081-00035, issued by HQs, 88th Regional Support Command, the applicant was honorably discharged from the USAR, effective 27 April 2016.

e. On 29 October 2018, the applicant enlisted in the USAR for 6-years.

(1) DD Form 1966 (Record of Military Processing – Armed Forces of the United States) shows in item:

(a) 18o - 88M (Motor Transport Operator).

(b) 24a – the applicant was serving or had served in the Armed Forces or in the ARNG or Air National Guard.

(c) 32a – PSEB in the amount of \$17,000.00 for 6-years.

(d) 32b – the service member understood he/she would not be guaranteed any specific military skill or assignment to a geographic area except as shows in item 32a above and annexes attached to the DD Form 4.

(e) Section VI (Remarks) – for 24a, the applicant has prior Army service from:

- 28 April 2010 through 27 April 2016 Active Reserve
- 11 March 1995 through 18 August 1997 Inactive Army
- 19 August 1993 through 10 March 1995 Active Reserve
- 7 April 1992 through 18 August 1993 Inactive Reserve
- 19 June 1990 through 6 April 1992 Active Army
- 12 July 1989 through 18 June 1990 Inactive Reserve

A cash bonus in the amount of \$17,000.00 was authorized per Headquarters Department of the Army Message 19-006.

(2) DA Form 3540 shows in item Section IV (Service Obligation) - acknowledged the enlistment of a former member of the Armed Forces with no remaining statutory military service obligation was not currently a member of the USAR and had previous military service in the Armed Forces of the United States. Enlisted in MOS 88M under the prior service program for a PSEB in the amount of \$17,000.00 for 6-years.

(3) DA Form 5261-5 shows in item:

(a) Section III (Acknowledgement) - the service member acknowledged he/she met the following eligibility criteria:

- meet the requirements for enlistment in the USAR per AR 601-210
- not enlisting in the USAR to fill a permanent civilian position where membership in the Selected Reserve is a condition of employment
- not being released from AD or FTNGD for the purpose of enlistment in the USAR
- qualified in MOS Motor Transport Operator in which successfully served on active duty and attained a level of qualification commensurate with her grade and years of service, and which has been approved as a bonus MOS and correlates to the position vacancy for which she is enlisting

- receipt of an honorable discharge issued on separation from prior military service

(b) Section IV (Obligation) – enlisted for 6-years.

(c) Section V (Entitlement) - enlisted for a PSEB and had less than 16-years of military service and enlisted for 6-years for a \$17,000.00 bonus. Fifty percent of the total bonus to be paid at the time of enlistment and the remaining 50 percent to be paid in 25 percent increments at the end of the second and fourth year of satisfactory service in the Selected Reserve.

f. On 18 October 2024, the applicant extended her enlistment in the USAR for 1-year.

4. The applicant provides:

a. The following documents from her 29 October 2018 enlistment, the pertinent documents were discussed in paragraph 3 above.

- DD Form 4
- DA Form 3540
- DA Form 5261-4
- DA Form 5261-5
- DA Form 5435
- DA Form 5435-1

b. HQs, USARC letter to U. S. Representative Mr. H- dated 26 March 2020 which stated the applicant enlisted in the USAR on 29 October 2018 for a 6-year term with a PSEB in the amount of \$17,000.00 in MOS 88M. The applicant was not eligible to receive this PSEB because she previously enlisted in the USAR on 28 April 2010 with a PSEB in the amount of \$10,000.00. Army policy states for service member to receive the PSEB, they must not have received or were currently entitled to a selective retention or critical retention bonus and must not have previously received an enlistment bonus. The accession agency failed to properly verify her eligibility and erroneously offered her the PSEB. The USARC G1 does not have the authority to grant an ETP.

c. HQs, USARC IG letter dated 22 January 2023 to the applicant which informed her that the inquiry submitted to the IG office was not the appropriate office to address her issue as individuals must exhaust all available forms of redress before the IG can provide any assistance.

d. Applicant's letter to COL S- dated 10 November 2023 which reiterates her opening statement to the Board.

5. On 15 November 2024, in the processing of this case, HQs, USARC provided an advisory opinion regarding the applicant's request to have the PSEB removed from her contract. The advisory official stated relief was not recommended for the ETP for the pay of the PSEB; however, recommended relief by correcting the applicant's contract to remove the PSEB from her 2018 enlistment contract and associated documents. Department of the Army policy prohibits service members who have received an enlistment or retention bonus from receiving a PSEB. The accessing agency erroneously failed to verify her PSEB eligibility properly due to no fault of the applicant.

6. On 17 December 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment. The applicant has not responded.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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 records and the Headquarters, U.S. Army Reserve Command – Resource Management-G-1 advisory opinion, the Board concurred with the advising official recommendation for partial approval by correcting the applicant's contract to remove the PSEB from her 2018 enlistment contract and associated documents. However, the opine noted, relief was not recommended for the exception to policy (ETP) for the pay of the PSEB.

2. The Board found that, based on the evidence in the record, the applicant enlisted in the USAR on 29 October 2018 for a 6-year term with a PSEB in the amount of \$17,000.00 but she was not eligible to receive this PSEB based on receiving PSEB in the amount of \$10,000 from her 2010 USAR enlistment. While the Board found the accessing agency erroneously failed to verify PSEB eligibility properly, the Board determined that the Board does not have the authority to grant the applicant's request for an ETP as this relief is contrary to DoD policy as stated in DoDI 1304.31. However, the Board recommends granting the applicant's alternative request for relief, based on the USARC G-1 advisory opinion, to correct the applicant's contract to remove the PSEB from her 2018 contract and associated documents.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:XXX	:XXX	:XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to the applicant's contract by removing the PSEB from her 2018 enlistment contract and associated documents.
2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to exception to policy (ETP) for the pay of the PSEB.

**//SIGNED//**

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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 Instruction 1304.31 (Enlisted Bonus Program), Establishes

policy, assigns responsibilities, and prescribes procedures for a bonus payment.

Paragraph 4.3. (Prior Service Reenlistment Bonus), b. Eligibility Requirements for a Prior Service Reenlistment Bonus an individual must:

- Not have previously received, or currently be entitled to, an Selective Retention Bonus in accordance with this issuance or a critical skills retention bonus in accordance with Section 355 of Title 37, U.S.C
- Not have more than 16-years of total military service and have received an honorable discharge at the conclusion of all previous periods of service
- Not have been released, or not be released, from active duty for the purpose of enlistment in a Reserve Component
- Provide either: (a) The original DD Form 214; (b) A reproduction of the DD Form 214 with a certified true copy stamp and the appropriate Federal Government authenticating seal imprinted on the reproduction for any period of previous military service; or (c) Other official documentation verifying member's satisfactory participation for all periods of previous service in the Active Component and Selected Reserve
- Successfully complete any additional training or re-training required to become technically qualified in a designated critical skill for which the member is projected to occupy
- Reenlist for at least 3-years in the Regular or Reserve Component of a Military Service for the purpose of qualifying for award of a prior service reenlistment bonus in accordance with this issuance
- Execute an agreement to serve as an enlisted member in the Regular or Reserve Component of a Military Service for a period of not less than 3-years upon acceptance of the agreement by the Secretary of the Military Department concerned

//NOTHING FOLLOWS//