

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 January 2025

DOCKET NUMBER: AR20240003256

APPLICANT REQUESTS: in effect, retroactive U.S. Army Special Operations Command (USASOC) Team Sergeant Assignment Incentive Pay (AIP) at a monthly rate of \$375.00, effective 12 September 2022.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 2166-9-2 (NCO Evaluation Report SSG-1SG/MSG), 8 August 2022
- DA Form 2166-2, 8 August 2023
- Email communication, 4 August - 29 September 2023
- DA Form 4187 (Personnel Action), 28 September 2023

FACTS:

1. The applicant states:

a. He has been serving as a Special Forces Operational Detachment (SFOD) -A Team Sergeant since August 2021. He put in for initial AIP of \$200.00 (which should have been \$375.00) on 12 September 2022. His paperwork was processed, and he began receiving \$200.00 AIP shortly thereafter. During August 2023; he was notified that the AIP should have been \$375.00 and that if a corrected DA Form 4187 was "submitted by 1 October 2023" he would be eligible to receive backpay from the start of Fiscal Year 2023 (FY23). He submitted all required documents on 28 September 2023 to 2nd Battalion, 10th Special Forces Group (Airborne) S1.

b. In December 2023, he inquired with the S1 why there was no increase in AIP during the current pay period since it was quick to take in effect for the \$200.00 erroneous AIP. He was told there was a miscommunication and paperwork needed to be approved at 1st Special Forces Command by 1 October 2023, which on average takes 6 months. According to S1 he would not be eligible to receive backpay. Even with correct paperwork being submitted on 28 September 2023. He has yet to receive \$375.00 AIP even after multiple inquires to S1 and the USASOC Inspector General.

c. From October 2022 thru February 2024 pay period he is owed \$2,975.00 in AIP. Other team sergeants in his sister battalion are getting the correct amount. There are multiple team sergeants in 2nd Battalion that are not receiving their correct pay and are told that they will not be receiving backpay by 2nd Battalion, 10th Special Forces Group S1.

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

a. On 16 August 2005, he enlisted in the Regular Army and reenlisted on multiple occasions.

b. DA Forms 2166-9-2 show while the applicant was assigned to B Company, 2nd Battalion, 10th Special Forces Group (Airborne), Fort Carson, CO, he was rated as a Special Forces Team Sergeant from 9 August 2021 through 8 August 2023, and received favorable ratings.

c. On 22 February 2024, the Department of the Army (DA) published Order Number 0007345460.00, which awarded the applicant Special Duty Assignment Pay (SDAP) Rate 6, in the amount of \$450.00, starting 1 October 2021 and ending 1 February 2027. The orders show his position title as "Operations Sergeant."

d. On 4 October 2024, DA published Order Number 0009786004.00, which assigned the applicant to Headquarters and Headquarters Company, 10th Special Forces Group (Airborne), effective 14 October 2024. The orders show his position title as "Standard Excess."

3. In support of his case the applicant provides:

a. Email communication during the period of 4 August - 29 September 2023, between his Company Sergeant Major and Battalion S1 Noncommissioned Officer in Charge, discussing the applicant's Team Sergeant AIP and submitting the required documents. They also discussed SDAP.

b. DA Form 4187 signed by the applicant on 28 September 2023, wherein, he requested Team Sergeant AIP, effective 8 August 2021, in the amount of \$375.00 per month for each month he serves in the assignment under this agreement. The form states, he volunteered to remain on active duty in a U.S. Army Special Operations Command designated assignment, 10th Special Forces Group (Airborne), SFOD-A Team Sergeant for 24 months, from the date of this agreement.

4. On 19 December 2024, the U.S. Army Human Resources Command (HRC), Deputy Chief, OMD, provided an advisory opinion for this case and stated HRC is unable to grant administrative relief regarding the applicant's request due to the following reasons:

a. The AIP Policy that the applicant fell under when he initially submitted his agreement (12 September 2022) was the FY22 Policy. The rate under that agreement was \$200.00 (FYP22 AIP Policy, paragraph 4(d)(2)).

b. The FY23 AIP Policy did not come into effect until 1 October 2022 (AIP FY23 Policy, paragraph 3(a)). Therefore, the rate that the applicant submitted for was correct. USASOC is not permitted to process personnel on a current agreement simply due to a new rate. They would need to verify that their agreement expired prior to initiating a new agreement. The applicant's resubmission was approved by USASOC on 13 December 2023. The applicant should be receiving AIP at the rate of \$375.00 with a begin date of 13 December 2023.

5. On 20 December 2024, the applicant was provided with a copy of the HRC advisory opinion to allow 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 that relief was not warranted.
2. The Board carefully considered the applicant's contentions, his record of service, his requests for AIP and applicable regulatory guidance. The Board considered the dates of the applicant's agreements, the date of the latest agreement, and the review and conclusions of the AHRC advising official. Based on the evidence, the Board agreed with the advising official and determined by a preponderance of evidence that the amount of incentive pay received by the applicant was not in error or unjust.

BOARD VOTE:

| <u>Mbr 1</u> | <u>Mbr 2</u> | <u>Mbr 3</u> | |
|--------------|--------------|--------------|----------------------|
| : | : | : | 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.

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, the regulation 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.

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 Financial Management Regulation, 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:

- AIP
- SDAP
- Hardship duty pay
- Sea pay (see AR 600–88)

b. Paragraph 9-3a (Payment) states, in pertinent part, the Defense Joint Military Pay System will credit all assignment and special duty pays established on the Master Military Pay Account each month until action is taken to stop the entitlement. The Soldier's unit commander will re-certify all assignment and special duty pay annually. The commander will use the unit commanders finance report to identify Soldiers who are receiving a special pay and ensure that they have access to financial literacy training in compliance with Directive Type Message-19-009.

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 \$3,500.00.

3. Headquarters, United States Army Special Operations Command (USASOC) Memorandum for Record (MFR), Subject: USASOC Team Sergeant/First Sergeant Assignment Incentive Pay (AIP) Program Management for FY22, established policy for implementation and management of the USASOC Team Sergeant/First Sergeant AIP. This policy delineates responsibilities and eligibility criteria as it applies to USASOC AIP for Career Management Field (CMF) 18 Team Sergeants/First Sergeants. Reserve Component Soldiers are not eligible for this incentive. In pertinent part:

a. Headquarters, Department of the Army (DA) G-1 directs USASOC to manage all U.S. Army SOF [Special Operations Forces] AIP. This policy is effective 1 October 2021 and expires on 30 September 2022, unless otherwise changed or suspended by proper authority. The USASOC Commanding General is the approval authority for all AIP contracts. This authority is delegated to the USASOC Command Sergeant Major (CSM).

b. All contracts executed under a previous AIP policy will remain in effect until the expiration of the contract or otherwise terminated under the provisions of this memorandum. Where this memorandum authorizes a higher AIP, Soldiers may re-obligate for an additional service commitment for the higher amount.

c. Paragraph 4 (The CMF-18 Team Sergeant Program) states in pertinent part:

(1) Approval authority for this program is the USASOC CSM, further delegated to the 1st Special Forces Command CSM. Contracts will not be effective prior 1 October 2021. Soldiers who assumed Team Sergeant duties after 1 October 2021 will use their assumption date as the effective date. Contracts under this program will not exceed 30 September 2022.

(2) Soldiers must be permanently assigned to an authorized Team Sergeant billet and remain assigned to an AIP billet for the duration of the AIP contract. Paragraph 4d(2) provides that, Team Sergeants may be paid AIP at a monthly rate of \$200.00.

4. Headquarters, USASOC MFR, Subject: USASOC AIP Program Management for Fiscal Year 2023, establishes policy for implementation and management of the USASOC AIP. In pertinent part:

a. Paragraph 3a states, Headquarters, DA G-1 directs USASOC to manage all U.S. Army SOF AIP. This policy is effective 1 October 2022 and expires on 30 September 2023 unless otherwise changed or suspended by proper authority.

b. Paragraph 3h (Contract procedures) states, a written contract (DA Form 4187), that clearly defines the tour length, paragraph and line number of position filled, and AIP rate is required. The DA Form 4187 serves as the contractual device. All contracts executed under this policy will be signed by the Soldier requesting participation in the AIP program. Contracts will be endorsed through the Soldier's chain of command to the first O-5 or O-6 commander. Final approval authority is outlined in each program. Contracts will not be less than 12 months or greater than 36 months. Payment will be effective upon assignment to an approved position and when all other eligibility criteria is met. Submit all contracts to USASOC DCS, G-1, Plans Operations Policy and Programs Division, "any contracts received more than 90 days after the requested effective date, will be effective on the date of receipt."

c. Paragraph 11 (The CMF-18 Team Sergeant Program) states, overall responsibility for the execution of this program is the USASOC DCS G-1. Paragraph 11d(2) provides that, Team Sergeants may be paid AIP at a monthly rate of \$375.00.

//NOTHING FOLLOWS//