

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 December 2024

DOCKET NUMBER: AR20240005896

APPLICANT REQUESTS:

- payment of \$4,000.00 Reenlistment/Extension Bonus (REB) contracted in the Army National Guard on 22 February 2015
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Email communication, March 2021 through November 2021
- Office of the Inspector General (IG) Letter to Applicant, 15 November 2021

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 his completion of contract and obligation were fulfilled and all supporting documentation was submitted to the Office of the IG for reference. He understands that his application to this Board will allow the bonus to be opened and paid.
3. A review of the applicant's military service records show:
 - a. He enlisted in the New York Army National Guard (NYARNG) for 6 years on 28 April 2006.
 - b. On 24 September 2007, Military Entrance Processing Station, Brooklyn, NY, published Orders Number 7026711, which ordered the applicant to initial active duty for training to attend Advanced Individual Training for Military Occupational Specialty (MOS) 68W (Combat Medic Specialist), with a report date of 3 October 2007.

- c. On 13 June 2008, Headquarters, U.S. Army Basic Combat Training Center of Excellence, Fort Jackson, SC, published Orders Number 165-455, which awarded the applicant Primary Military Occupation Specialty (PMOS) 42A1O (Human Resources Specialist), effective upon successful completion of the 42A course.
- d. On 19 July 2008, the applicant was released from active duty training and was transferred to his NYARNG unit. DD Form 214 (Certificate of Release or Discharge from Active Duty) item 11 (Primary Specialty) shows MOS 42A1O.
- e. On 30 September 2014, after previously extending on multiple occasions, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows the applicant extended in the ARNG for 1 year, which changed his expiration term of service (ETS) to 27 October 2015.
- f. On 22 February 2015, DA Form 4836 shows he extended in the ARNG for 2 years which changed his ETS to 27 October 2017. In connection with his extension, NGB Form 600-7-3-R-E shows:

(1) He reenlisted/extended for 2-years Duty MOS Qualified (DMOSQ) in MOS 42A and would receive a lump-sum payment in the amount of \$4,000.00 less taxes. His REB would be processed effective the day after his current ETS as a lump-sum payment upon verification of his MOS and unit of assignment qualification in the Guard Incentive Management System (GIMS). He would not receive REB payment if he did not meet all REB eligibility requirements on his contract start date (Day after current ETS). The REB contract would be verified by the State Incentive Manager prior to his REB payment being processed.

(2) He understood that he would be eligible for continued receipt of his REB under the following conditions: Note: Any transfer order stating "individual's request or in accordance with (IAW) State Laws and Regulations" will not substantiate retention of the REB unless the reason for transfer is specified in the "Remarks Section."

(a) His REB MOS is changed due to unit transition, inactivation, relocation, reorganization, or conversion. He may continue to retain his REB provided he met all other eligibility criteria, become DMOSQ within 24-months plus deployment periods, and he is not separated from the Selected Reserve (SELRES).

(b) His REB MOS is changed due to normal career progression (per DA Pamphlet (PAM) 611-21). He may be eligible to retain his REB for which contracted if he is still considered DMOSQ, assigned as the primary position holder and is not listed as excess (9993). Command-directed moves are the only authorized exception. A copy of his transfer order must be uploaded into iPERMS [Interactive Personnel Electronic Management System. If he voluntarily transferred for promotion purposes to another

MOS that is not in the same REB contracted Career Management Field, he will not be considered eligible for continued receipt of his REB. Note: This change supplements the requirements set forth within AR 601-210, paragraph 10-5 on continued receipt of incentives due to normal career progression.

(3) He may be terminated from REB eligibility with recoupment if:

(a) He was placed into excess Code 9993. (Exception: He is placed in an overstrength status due to unit inactivation, relocation, reorganization, or converted (unit transformation or reorganization). He will be considered eligible, to include his initial payment). The effective date of termination is the effective date he assigned as excess.

(b) He loses his REB MOS qualification due to denial/removal of a required security clearance. The effective date of termination is the effective date of official orders that he is considered Non-DMOSQ.

(c) He transfers within the State or Interstate Transfer (IST) for reasons other than those covered under Army Regulation (AR) 601-210 (Active and Reserve Components Enlistment Program) will be governed by (1) If he is moved involuntarily to an MOS for which he is not qualified; he will have 24-months from date of transfer plus periods of deployment to become DMOSQ in his new MOS and will remain eligible for any future schedule payment(s). If he fails to become DMOSQ within 24-months plus periods of deployment, his REB will be terminated the effective date of his transfer order. (2) He voluntarily transfers out of his current REB MOS into a different MOS unless otherwise authorized in this addendum. The effective date of termination is the effective date of his transfer order.

g. On 10 September 2017, he extended in the ARNG for 2 years.

h. On 11 September 2017, the Office of the Adjutant General, Joint Force Headquarters, NYARNG published Orders Number 254-1016, which awarded the applicant PMOS 09U1O (Unqualified in Authorized Army MOS) and withdrew PMOS 42A1O, effective 11 September 2017.

i. On 13 September 2017, Office of the Adjutant General, NYARNG published Orders Number 256-1025, which transferred the applicant from his Human Resources Specialist position with Headquarters and Headquarters Company, 1-69th Infantry, New York, NY to Heavy Vehicle Driver, Company F, 427th Brigade Support Battalion (BSB), Farmingdale, NY, effective 13 September 2017. The additional instructions show the reason as "Command Directed" and "PMOS ENL: 09U1O".

j. On 20 February 2018, Office of the Adjutant General, NYARNG published Orders Number 051-1136, which transferred the applicant from his Heavy Vehicle Driver

position with Company F, 427th BSB, Jamaica, NY to Heavy Vehicle Driver, Company H, 427th BSB, Farmingdale, NY, effective 1 February 2018. The additional instructions show the reason as "REORG" [reorganization], and "PMOS ENL: 09U1O".

k. On 14 June 2019, the applicant achieved course standards and completed the Wheeled Vehicle Mechanic course for MOS 91B1O. DD Form 1059 (Service School Academic Evaluation Report) shows the duration of the course was from 24 May to 14 June 2019.

l. On 17 June 2019, Office of the Adjutant General, NYARNG published Orders Number 168-1050, which awarded the applicant PMOS 91B1O and withdrew PMOS 09U1O, effective 13 June 2019.

m. On 21 October 2019, the applicant extended in the ARNG for 6 years, which changed his ETS to 27 October 2025.

4. In support of his request the applicant provides:

a. Email communication from March 2021 through November 2021, between the NYARNG Incentive Manager, National Guard Bureau (NGB) Program Specialist, Battalion Career Counselor, and applicant, discussing the applicant's REB and requesting a Closed Year Payment for Fiscal Year 2015 in the amount of \$4,000.00. In pertinent part, the email discussed submitting a request for assistance to the NYARNG IG office, who, subsequently referred the applicant to the ABCMR.

b. Office of the IG Letter, 15 November 2021, wherein, the NYARNG IG noncommissioned officer responded to the applicant's request for assistance with receiving his bonus and stated, after further review of the applicant's bonus request NGB concluded that he needed to contact the Army Review Boards Agency and apply to ABCMR.

5. On 20 November 2024, NGB, Chief, Special Actions Branch provided an advisory opinion and recommended approval of the applicant request's for payment of his REB. The NGB advisory official stated:

a. The applicant reenlisted in the NYARNG with a \$4,000.00 MOS Qualified bonus for 28 October 2015 to 27 October 2017 signed 22 February 2015. Bonus was established in the GIMS with an eligibility date of payment to be 29 October 2015 for the one-time lump sum payment of \$4,000.00. The applicant submitted an Inspector General Investigation, emails, and reorganization transfer order for review.

b. After review of the applicant's submission, he filed an Inspector General complaint with the NYARNG IG office, and it was determined through an investigation

the bonus was not paid erroneously. Emails between the IG and NGB Incentives Branch and the applicant indicate an ABCMR decision is required to allow a closed year payment, but the applicant should be eligible to receive the payment. He originally did not receive payment because of transfer to a non-bonus slot, however, the transfer order states it was due to inactivation, reorganization, or relocation on 1 February 2018. IAW Selected Reserve Incentive Program (SRIP) policy Fiscal Year 2015 (FY15), the applicant does not lose eligibility for this transfer.

c. It is the recommendation of this office that the applicant's request be approved. He met the requirements per his bonus addendum and SRIP FY15. He should be paid \$4,000.00 per his reenlistment contract signed 22 February 2015. The applicant included a concurrence memorandum from the NYARNG IG in his application.

6. On 21 November 2024, the applicant was provided a copy of the NGB 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 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 request, available military records and National Guard Bureau – Special Actions Branch advisory opinion, the Board concurred with the advising official recommendation for approval finding the applicant met the requirement per his bonus addendum and SRIP policy FY15. The opine noted the applicant does not lose eligibility for this transfer. Based on the advising opine, the Board granted relief for payment of \$4,000.00 Reenlistment/Extension Bonus (REB) contracted in the Army National Guard on 22 February 2015.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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XXX	XXX	XXX	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 to show payment of his \$4,000.00 Reenlistment/Extension Bonus (REB) contracted in the Army National Guard on 22 February 2015.

X //SIGNED//

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, U.S. Code, 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. Title 31 U. S. Code, 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, U. S. Code, 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.

3. Department of Defense Instruction 1205.21 (Reserve Component Incentive Programs Procedures), in effect at the time, 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 to the member.

4. National Guard Regulation 600-7 (Selected Reserve Incentive Programs (SRIP)) governs policies and procedures for the administration of the Army National Guard (ARNG) SRIP programs.

a. Paragraph 1-25 (Termination with recoupment of incentives) states, the conditions under which termination with recoupment of incentives is warranted are prescribed in this paragraph and the applicable program chapters and sections of this regulation. Termination with recoupment is defined as termination of the incentive which Soldier is entitled to a prorated incentive amount based on the number of months served satisfactorily prior to the incentive termination date. The Soldier may be required to pay funds back to the government or the Soldier may be entitled to a payment. Termination with recoupment will occur if a Soldier —

(1) Loses Military Occupational Specialty (MOS)/Area of Concentration (AOC) qualification due to denial or removal of required security clearance. The termination date is the date on the order removing the security clearance and being considered Non-DAOCQ/Duty MOS Qualified.

(2) Coded as excess or over-strength, unless involuntarily placed in status due to unit transition. The termination date is the date moved into the excess position. See paragraph 1-19, personnel movement between ARNG units.

(3) Voluntarily moves to a non-bonus unit or MOS unless assigned as a 09S (OCS Candidate), 09R (SMP Cadet), or as otherwise stated in this regulation. Termination is effective the date of transfer into the new MOS.

b. Paragraph 1-26 (Termination without recoupment) states, the conditions under which termination without recoupment of incentives is warranted are prescribed in this paragraph and the applicable program chapters and sections of this regulation. The

effective date of the termination will be the effective date of the action. Payments due prior to the effective date will be paid to the Soldier. Payments due after the effective date of the action will be canceled and will not be paid to the Soldier.

c. Paragraph 2-14 (Entitlement) states, entitlement to a Reenlistment/Extension Bonus for an immediate reenlistment or extension begins on the date after expiration term of service. The unit commander must ensure that Soldiers are counseled when they reenlist or extend that they will not receive payments immediately under this program. Payments will be processed through personnel pay channels upon verification of all contractual documentation and meeting the terms and conditions outlined in the incentive agreement.

d. Paragraph 2-15 (Eligibility) states, the Soldier must contract for not less than a three or six-year term of service approved for incentive entitlement by the Director ARNG as outlined in the current Fiscal Year (FY) SRIP policy. Reenlist or extend for the required term in either a critical skill or critical unit as designated by the current FY SRIP policy in effect on the date the REB addendum is approved within the ARNG incentive management system.

5. Army Regulation 601-210 (Active and Reserve Components Enlistment Program), in effect at the time, prescribes eligibility criteria governing the enlistment of persons, with or without prior Service, into the Regular Army, the Army Reserve (AR), and the Army National Guard. Chapter 10 (SRIP) states, the SRIP is approved annually by the Assistant Secretary of the Army for Manpower and Reserve Affairs. The SRIP programs are subject to legal and Department of Defense implications. As such, Deputy Chief of Staff, G-1 (DAPE-MPA-CB) will manage the program to ensure compliance with established standards.

a. Paragraph 10-5 (Continued receipt of incentives) subparagraph d (Status of incentives on unit transition) states, this paragraph provides guidelines for the disposition of incentives paid or pending payment to Selected Reserve (SELRES) unit Soldiers. For ease of reading and simplicity, reduction of over strength, reduction in force, and relocation or inactivation of a unit shall be referred to as unit transition. Unit transition occurs when a Soldier is voluntarily or involuntarily transferred or reassigned within, or between the ARNG of the United States (ARNGUS) and the Army Reserve (AR). Relocation refers to a Soldier's unit of assignment moving to a site that is beyond commuting distance. For the purpose of this regulation, commuting distance is defined as the maximum distance a member of a Reserve Component may be required to travel involuntarily between residence and inactive duty for training site.

b. Paragraph 10-5e states, successful implementation and use of the procedures described herein is dependent on command coordination and responsibility. When a unit is scheduled for transition, the command is responsible for retaining incentive recipients in the SELRES. If possible, in keeping with the terms of the Soldiers' contract,

the Soldier should be reassigned or transferred to a position requiring their MOS, or AOC.

c. Paragraph 10-5f states, the status or disposition of an incentive that has been paid or is pending payment is predicated on the following: A Soldier may continue to receive full incentive payment, if otherwise eligible, when the Soldier is transferred or reassigned to —

(1) Another SELRES unit of the ARNGUS/AR. Assignment will be in a bonus MOS or AOC, or to a bonus designated unit, where possible.

(2) Another unit of the ARNGUS/AR outside of commuting distance. Assignment in a bonus MOS or AOC, or to a bonus-designated unit, is preferred, but not necessary. This is provided there are no assignments available in the Soldier's bonus MOS or AOC, or type unit within commuting distance.

d. Paragraph 10-8 (Termination of incentives) states, incentive eligibility will be stopped when any of the termination reasons as listed below apply and that member shall not be eligible to receive any further incentive payments, except for Service performed before the termination date. Once declared ineligible, termination of an incentive will not affect a Soldier's responsibility to serve their current statutory or contractual Service commitment. Termination of eligibility to an incentive will occur, if a Soldier voluntarily moves to a non-bonus unit or MOS.

6. Army Regulation 15-185 (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. 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.

//NOTHING FOLLOWS//