

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 August 2025

DOCKET NUMBER: AR20240007285

APPLICANT REQUESTS:

- entitlement to the remaining payment of the Non-Prior Service Enlistment Bonus (NPSEB)
- an upgrade of characterization of service from Under Other than Honorable Conditions to Honorable

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

- DD Form 149 (Application for Correction of Military Record)
- NGB Form 22 (National Guard Report of Separation and Record of Service) – reflective of the applicant's service in the Army National Guard (ARNG) from 27 August 2009 – 26 August 2015; honorably discharged and transferred into the U.S. Army Reserve Control Group (Annual Training)
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the U.S.), 27 August 2009 – reflective of the applicant's initial enlistment in the ARNG for 8 years
- NGB Form 600-7-1-R-E (Annex E to DD Form 4 Non-Prior Service Enlistment Bonus Addendum Army National Guard), 27 August 2009 – reflective of the applicant's entitlement to a \$10,000 NPSEB to be paid in three installments:
 - 50 percent upon completion of Initial Active Duty Training (IADT) and verification of Military Occupational Specialty (MOS)
 - 20 percent on the 3rd anniversary of his enlistment
 - 30 percent on the 6th anniversary of his enlistment
 - 50 percent of the bonus will be forfeited if the applicant does not ship on the original scheduled IADT date (20 October 2009)
 - This document is void of the applicant's signature, the Service Representative's signature and a Bonus Control Number (BCN)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 10 June 2024 – reflective of the applicant's service on active duty from 24 August 2016 – 10 June 2024; item 24 (Character of Service) reflects: Under Other than

Honorable Conditions; item 28 (Narrative Reason for Separation) reflects: In Lieu of Trial by Court Martial

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:
 - he received communication which indicated that he may not have previously received all of his enlistment bonus
 - he would like his discharge from active duty upgraded to match that in which he received from the ARNG (Honorable)
3. A review of the applicant's service record reflects the following:
 - On 27 August 2009 – he enlisted in the ARNG for 8 years with entitlement to a \$10,000.00 NPSEB to be paid in three installments:
 - 50 percent upon completion of IADT and verification of MOS
 - 20 percent on the 3rd anniversary of his enlistment
 - 30 percent on the 6th anniversary of his enlistment
 - 50 percent of the bonus will be forfeited if the applicant does not ship on the original scheduled IADT date (20 October 2009)
 - This document is void of the applicant's signature, the Service Representatives signature and a BCN
 - On 29 October 2009 – he entered IADT
 - On 5 March 2010 (Orders Number 111-518)– he was awarded the 88M (Motor Transport Operator) MOS
 - On 15 November 2013 – the applicant's submitted request to retain his NPSEB was denied by the National Guard Bureau (NGB) for various reasons to include:
 - the NGB Form 600-7-1-R-E is missing the signature of the applicant and the Service Representative in violation of Army National Guard Selected Reserve Incentive Program (SRIP) 07-06
 - the Bonus Control Number (BCN) was requested after the date of the enlistment in violation of ARNG SRIP 07-06; the associated DD Form 4 and DD Form 1966 (Record of military Processing) do not support an incentive being offered in connection with this enlistment

- the applicant failed to ship in accordance with his contracted ship date in violation of ARNG SRIP 07-06
- On 28 September 2015 (Orders Number 271-530) – he was discharged from the ARNG effective 26 August 2015 and transferred to the U.S. Army Reserve (USAR) Control Group (Annual Training)
- On 27 July 2018 – the applicant enlisted in the Regular Army for 6 years
- On 21 October 2021 – the applicant elected to extend his enlistment by 6 years and 6 months
- On 18 September 2022 (Orders Number 271-0458) – he was promoted to staff sergeant (SSG)/E-6 effective 1 October 2022
- On or about 15 March 2024 – he was charged with two specifications of Sexual Assault without Consent and one specification of Abusive Sexual Contact
- On 3 April 2024 – the applicant requested to be discharged in lieu of trial by court martial
- On 9 May 2024 – the U.S. Army Recruiting Command, Commanding General approved the applicant's submitted request and directed that he be discharged with an Under Other Than Honorable Characterization of Service
- On 28 May 2024 (Orders Number 8250860) – he was reduced to private (PVT)/E-1 effective 9 May 2024
- On 10 June 2024 – he was discharged from military service; DD Form 214 reflects:
 - item 24 (Character of Service): Under Other than Honorable Conditions
 - item 28 (Narrative Reason for Separation): In Lieu of Trial by Court Martial

4. On 2 April 2025, the National Guard Bureau, Chief, Special Actions, provided an advisory opinion recommending partial approval of the applicant's request noting that a review of his records concluded that his NPSEB was terminated with recoupment following an exception to policy (ETP) denial for multiple violations of the bonus addendum, and the ARNG SRIP 07-06 to include:

- he will forfeit 50 percent of the total bonus amount if he does not ship on the original scheduled IADT; his shipping date was 20 October 2009 – he did not ship until 29 October 2009
- paragraph 5 of the SRIP, details the reason for termination of a bonus incentive with recoupment, and any other additional termination that is not included in the SRIP can be found in National Guard Regulation 600-7.
- National Guard Regulation (NGR) 600-7, paragraph 2-39 (Processing) states that an addendum must be signed and dated by the Soldier, Administering Official, and the Service Representative or the contract is not valid

a. The PRNG concludes that the applicant should have his NPSEB reestablished, and all payments associated with contract should be paid out. The PRNG states that the applicant's failure to sign the addendum documents was a result of recruiter error and therefore he should not be penalized.

b. The NGB recommends that the applicant's NPSEB be reestablished, and only 50 percent of the bonus incentive be paid. The PRNG did establish reason for the lack of signature on the applicant's bonus addendum and stated that he did fulfill all eligibility criteria to receive all payments associated with the bonus incentive. A DD Form 214 in his records shows that he failed to ship by 20 October 2009, and therefore was in violation of the contract, and that 50 percent of the total bonus would be recouped. The applicant should be entitled to only \$5,000.00 of the \$10,000.00 bonus incentive.

5. On 8 April 2025, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. 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 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 review based on law, policy, and regulation.

Entitlement to the remaining payment of the NPSEB: Partial Grant. A minority of the Board found that relief was not warranted, while a majority of the Board found that relief was warranted. The evidence of record shows the applicant enlisted in the ARNG on 27 August 2009 with entitlement to a \$10,000.00 NPSEB. The bonus addendum is void of the applicant's signature, the service representatives' signature, BCN, and he did not ship until 29 October 2009. The Board reviewed and concurred with the National Guard Bureau advisory noting the applicant did not ship until 29 October 2009 which violated his bonus addendum requiring shipment 20 October 2009. Therefore, the Board granted relief in the amount of \$5,000.00. The Board defers to the Defense Finance and Accounting Service for calculation of payment.

An upgrade of characterization of service from Under Other than Honorable Conditions to Honorable: Deny. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was charged with two specifications of sexual assault without consent and one specification of abusive sexual contact, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board found no error or injustice in the separation proceedings and designated characterization of service.

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 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's ARNG enlistment was honored, and the appropriate office timely received this information and paid the NPSEB in the amount of \$5,000.00 as a result of this correction.

2. The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board denied the portion of the applicant's request for an upgrade of characterization of service from Under Other than Honorable Conditions to Honorable.

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. Army National Guard (ARNG) Selected Reserve Incentive Program (SRIP) Guidance for Fiscal Year (FY) 2007, 2008, and 2009, 10 August 2007 – 30 September 2009 (Policy Number 07-06) is provided to assist ARNG leadership and personnel managers in meeting the readiness requirements for the ARNG. It is imperative that each State utilize the resources available within the ARNG Incentive Program in order to target personnel strength and readiness issues.

a. Section 6 (Non-Prior Service Enlistment Bonus (NPSEB)) provides that no bonus amount more than the combined legal maximum of \$20,000 may be offered. Only allowable combinations include a NPS Critical Unit Identification Code (UIC), NPS Critical Skill (CS), NPS Modification Table of Organization and Equipment (MTOE), or NPS Civilian Acquired Skills Program (CASP) bonus with the Quick Ship and/or Off-Peak option. Soldiers must ship on or before their original ship date. If the Soldier fails to ship within the time constraints described above, the incentive will be decremented by 50 percent of the overall amount. If the Soldier fails to ship within the 365 days of their enlistment date, the incentive will be terminated without payment.

b. The NPSEB will be paid in three installments: first 50 percent installment will be processed for payment upon successful completion of IADT and verification of MOS qualification, the second 20 percent installment will be processed on the third-year anniversary, and final 30 percent installment will be processed on the sixth-year anniversary of the Soldier's date of enlistment.

3. Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel) sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of soldiers for a variety of reasons.

b. Paragraph 3-7 (Types of Administrative Discharges/Character of Service) provides that:

- an Honorable discharge is a separation with honor and entitles the recipient to benefits provided by law; the honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is

otherwise so meritorious that any other characterization would be clearly inappropriate

- a General discharge is a separation from the Army under honorable conditions; when authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge
- an Other Than Honorable Conditions discharge is an administrative separation from the service under conditions other than honorable; may be used for misconduct, for security reasons or for the good of the service

4. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//