

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 May 2025

DOCKET NUMBER: AR20240008647

APPLICANT REQUESTS:

- Upgrade his general under honorable conditions discharge to honorable
- Paid his accrued leave
- Paid his enlistment bonus

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record).

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 essentially states he requests for his general under honorable conditions discharge for patterns of misconduct be upgraded to honorably, to be paid his accrued leave which he had at the time of discharged and to be paid his enlistment bonuses in the amount of \$13,000.00 as promised in his contract.
 - These requests should be granted due to the mistakes that were made by higher authorities which were out of his control that caused his training to be stopped
 - He can provide more information regarding the unfair treatment
 - He did not know that he could apply himself, he attempted to get an attorney but he could not afford his rates
3. A review of the applicant's service record shows:
 - On 30 August 2016, the applicant enlisted in the Regular Army (RA)
 - RA Applicant Data Report dated 14 July 2016 shows:
 - Enlistment date 30 August 2016
 - 48-month enlistment term
 - Basic Combat Training at Fort Leonard Wood

- Ship date of 30 August 2016
- Enlistment job of 12N (Horizontal Construction Engineer)
- Incentives: 174 \$5,000.00 and 271 \$8,000.00

- DD Form 1966 (Record of Military Processing – Armed Forces of the United States) shows:
 - Primary Military Occupational Specialty (MOS): 12N
 - Enlisted for training of choice and Army incentives 174 and 271
 - MOS 12N for 4-year enlistment

- DA Form 3286 Annex A shows:
 - He enlisted under programs for training of choice and the incentives:
 - Cash Bonus for 40year enlistment in the amount of \$5,000.00
 - Seasonal Bonus Mid Priority Seat in the amount of \$8,000.00
 - He had been assured of attending the school course for 12N
 - Initial payment of the bonuses would be upon completion of the contracted MOS and arrival at first duty station
 - Remaining bonus would be paid in equal anniversary payments across the remainder of his enlistment contract
 - He understood if he failed to complete his initial term of service in the incentivized MOS for which he contracted due to his own misconduct, performance or reason other than the needs of the Army, resulting in failure to attain the bonus MOS, he bonus eligibility would be terminated and any unearned amount received would be subject to recoupment
 - He further understood his eligibility to receive non MOS related incentives remains intact provided he remained otherwise eligible and complete his first term of Army contracted service

- DA Form 3286 Annex B shows:
 - He enlisted under programs for training of choice and the incentives:
 - Cash Bonus for 40year enlistment in the amount of \$5,000.00
 - Seasonal Bonus Mid Priority Seat in the amount of \$8,000.00
 - He had been assured of attending the school course for 12N
 - Initial payment of the bonuses would be upon completion of the contracted MOS and arrival at first duty station
 - Remaining bonus would be paid in equal anniversary payments across the remainder of his enlistment contract
 - He understood if he failed to complete his initial term of service in the incentivized MOS for which he contracted due to his own misconduct, performance or reason other than the needs of the Army, resulting in failure to attain the bonus MOS, he bonus eligibility would be terminated and any unearned amount received would be subject to recoupment

- He further understood his eligibility to receive non MOS related incentives remains intact provided he remained otherwise eligible and complete his first term of Army contracted service
- Paragraph 5 (Statement and Conditions which apply to all incentive programs above): I further acknowledge and understand that my incentive is subject to the following conditions:
 - Should I fail to satisfactorily complete the AIT or OSUT, I will be trained in another MOS or CMF and required to complete my term of enlistment based upon the needs of the Army, forfeiting any entitlement of the Cash Bonus or LRP
 - I will lose entitlement to the incentive above if I fail to successfully complete training(including academic failure) and awarded the MOS I have enlisted for
 - I must stay qualified in my incentive MOS for the duration of my initial enlistment, unless otherwise directed by Headquarters, Department of the Army. Change of MOS due to normal career progression is authorized
- Memorandum Number 219 dated 24 October 2016 stated he would be released from Echo Company and assigned to Delta Company, 554th Engineer Battalion, 1st Engineer Brigade, U. S. Army Maneuver Support Center of Excellence, Fort Leonard Wood, he would be training in MOS 91L (Construction Equipment Repairer)
- On 3 March 2017, he was counseled for his failure to training, he refused to train and made the decision he did not want to be added to a class and no longer wanted to train
 - he agreed to the counseling and stated that being in hold over status for several month had discouraged him from continuing his military career
- On 13 March 2017, he was counseled for the initiation of a adverse action flag, he agreed to the counseling
- On 14 March 2017, he made a formal statement requesting separation from active duty for the following reasons:
 - He graduated Basic Combat Training on 10 November 2016
 - Assigned to the hold over company for a month
 - Assigned to a company for 91L training, a MOS for which he was not contracted
 - He finally convinced the company; he was in the incorrect company for his contracted MOS
 - Awaited for over 4-months for assignment to the 12N class; finally put in a class only to be kicked out the next day and was told he was not priority

- Gave him the feeling the Army did not want him
- The move he learned about the Army the more he got depressed and nervous
- On 21 March 2017, he accepted non-judicial punishment for failure to obey a lawful order, his punishment included:
 - Reduction in rank to private one
 - Forfeiture of \$373.00 pay
 - 14-days extra duty and restriction
 - Oral reprimand
- On 10 April 2017, he was counseled for refusal to follow orders of a commissioned officer and the possibility of separation from the Army, he agreed with the counseling
- On 11 April 2017, he received a mental health evaluation; he was negative for traumatic brain injury and post-traumatic stress disorder, he was cleared for an administrative separation
- On 1 May 2017, he did not request to remain in the military, he did not wish to make statements in his own behalf
- On 1 May 2017, he requested to be provided a Government transportation request for transportation at no cost to his home of record at the time of entry in the Army
- On 9 May 2017, his commander initiated separation from active duty for patterns of misconduct, he was notified he was being separated from active duty and his commander recommended an honorable character of service, he acknowledge the notification of the separation
- On 10 May 2017, after consultation with counsel; he:
 - Was not entitle to an administrative separation board and was not entitled to appear before it
 - He did not submit statements in his own behalf
 - He waived consultation by counsel
 - He may encounter substantial prejudice in civilian life
 - He may be ineligible for many or all benefits as a Veteran under both Federal and State laws
 - He may apply to the Army Discharge Review Board or Army Board for Correction of Military Records to request an upgrade
 - Consideration by either board did not imply it would be granted
- On 12 May 2017, his battalion commander recommended he be discharged with a general under honorable conditions
- On 1 June 2017, the separation authority directed he be separated from active duty with a general under honorable conditions discharge

- On 6 June 2017, he was assigned to the U. S. Army transition point for discharge from the RA by Orders Number 154-1311 dated 3 June 2017
- On 6 June 2017, he was discharged from active duty for patterns of misconduct, DD Form 214 (Certificate of Release or Discharge from Active Duty) shows:
 - He completed 9-months and 7-days of active service
 - Item 11 (Primary Specialty): None
 - Item 16 (Days Accrued Leave Paid): 9.5-days
 - Item 18 (Remarks): Member has not completed first term of service
- Enlisted Record Brief shows he was assigned to :
 - Delta Company, 31st Engineer Battalion Training on 29 November 2016
 - Delta Company, 554th Engineer Battalion Training on 8 December 2016
 - Retraining Holding Unit on 1 May 2017

4. On 14 April 2025, in the processing of this case, the Office of the Deputy Chief of Staff G provided an advisory opinion regarding the applicant's request. The advisory official recommended disapproval of his request. The applicant failed to successfully complete training and become MOS qualified in the MOS in accordance with paragraph 5 of DA Form 3286 Annex B.

5. On 16 April 2025, the Army Review Boards Agency Case Management Division provided the applicant the advisory opinion for review and comment.

6. On 25 April 2025, the applicant responded by stating he feels he was not give the same opportunities to progress in his military career as others. He enlisted in the RA in late August 2016 as a 12N for a \$15,000.00 bonus. He arrived at Fort Leonard Wood in early September 2016 and was assigned at the reception battalion for a few day. He was moved to a company for his Basic Combat Training. He trained harder than he had ever had before because being the Army was something he dreamt of and making a positive difference for him and his country. After graduation he was assigned to a battalion for his MOS training, he and others were told that there were not enough Soldiers to begin the next class, so they had to wait for more arrivals. They were moved to a holding battalion where there were about one hundred other Soldiers. Every week or so the sergeant would come and announce the name of Soldiers who were assigned to a class. After about a month of waiting in limbo, he was finally assigned to a room of about 30 Soldiers to begin training. The sergeant began to explain the expectations of the course when he realized he was not in 12N training as the enlisted for. He brought this to the attention of his leadership, he was told his name was on the list for 91L so he was incorrect. He showed his enlistment contract to his leadership and they finally believed him and assured him they would get it straighten out but he would have to wait a few weeks for the next 12N class to begin. He agreed. It was had to sit in a small room while everyone else was in training.

When the next 12N class began, he attended the first day, on the second day the sergeant teaching the course told him he was going to be removed from the course because he was not a priority. That hit him hard. So once again he was placed in back in hold for another class. There were Soldiers who had not enlisted until after he was removed from the first class and they had graduated 12N course before he was. One class after another would start and his name was not on the roster. He finally had enough and told his leadership that he was done and could not remain in limbo. His sergeant stated "Okay" and the long separation process began. The first thing that happened, was the battalion captain demoted him for failure to train. He thought it was outrageous because he really was never given the opportunity to train. After several weeks, he met again with the captain who had sympathy for him because he recommended, he receive an honorable discharge but it was denied and he received a general under honorable conditions. He knows the signing bonus was only awarded to Soldiers after they complete their MOS training but he feels as though he deserved something due to the fact he was never give the same opportunities as everyone else.

After his discharge, he returned home but he was embarrassed about being discharged early. He is unable to enlist again in the military due to a vehicle accident. He is on a disability and has a 3-year daughter living on a low fixed income is difficult to say the least. When his daughter is older, he was to be able to tell her he was discharged from the Army with a positive outcome. He volunteered at his local legion and helps Veterans in the area.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the misconduct leading to the applicant's separation resulting in the applicant failing to meet the terms of the bonus and the facts outlined in the G1 advisory opinion, the Board concluded there was insufficient evidence to upgrade the applicant's characterization of service or to make changes to the applicant's military pay record.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

//SIGNED//
X

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 Regulation (AR) 635-200 (Personnel Separations – Active Duty Enlisted Administrative Separations) in effect at the time, 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. Readiness is promoted by maintaining high standards of conduct and performance.

a. Paragraph 3-5, characterization at separation will be based upon the quality of the Soldier's service, including the reason for separation and guidance in paragraph 3-7, subject to the limitations under the various reasons for separation.

- The quality of service will be determined according to standards of acceptable personal conduct and performance of duty for military personnel
- These standards are found in the UCMJ, directives and regulations issued by the Army and the time-honored customs and traditions of military service

The quality of service of a Soldier on AD is affected adversely by conduct that is of a nature to bring discredit on the Army or is prejudicial to good order and discipline. Characterization may be based on conduct in the civilian community. The reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization. Due consideration will be given to the Soldier's age, length of service, grade, aptitude, physical and mental conditions, and the standards of acceptable conduct and performance of duty. e. The characterization of service is of great significance to the Soldier and must accurately reflect the nature of service performed.

- Eligibility for veterans' benefits provided by law, eligibility for re-entry into service, and acceptability for employment in the civilian community may be affected by these determinations
- The characterization of service will be determined solely by the military record during the current enlistment or period of service, plus any extension thereof, from which the Soldier is being separated
- The Soldier's performance of duty and conduct must be accurately evaluated. The evaluation must be based on the overall period of service and not on any isolated actions or entries on DA Form 2-1

b. Paragraph 3-7a (Honorable discharge) An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier'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. An honorable discharge may be furnished when disqualifying entries in the Soldier's military record are outweighed by subsequent honest and faithful service over a greater period of time during the current term of service. It is a pattern of behavior and not the isolated incident that should be considered the governing factor in determination of character of service.

c. Paragraph 3-7 (General discharge), 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to AD.

d. Paragraph 3-9 (Uncharacterized separations), entry-level-status separation. A separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status, except when:

- Characterization under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case
- HQDA, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty, this characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, convenience of the Government, and Secretarial plenary authority
- Soldier has less than 181-days of continuous active military service, has completed Initial Entry Training, has been awarded an MOS, and has reported for duty at a follow-on unit of assignment (see para 11-3c)
- Entry level status, for RA Soldiers, entry-level status is the first 180-days of continuous AD or the first 180-days of continuous AD following a break of more than 92-days of active military service

e. Paragraph 11-3 (Separation policy), this policy applies to Soldiers who:

- Enlisted in the RA, ARNG, or USAR
- Are in entry-level status, undergoing IET, and, before the date of the initiation of separation action, have completed no more than 180-days of creditable continuous AD or IADT or no more than 90 days of Phase II under a split or alternate training option.
- Have demonstrated that they are not qualified for retention, the following conditions are illustrations of conduct and/or performance that disqualify Soldiers for retention:
 - Cannot or will not adapt socially or emotionally to military life
 - Cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline
 - Have demonstrated character and behavior characteristics not compatible with satisfactory continued service

- Have failed to respond to counseling

f. Paragraph 14-12b (Pattern of Misconduct), a pattern of misconduct consisting of one of the following: (1) Discreditable involvement with civil or military authorities. (2) Discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

g. Paragraph 14-13 (Procedures), the administrative board procedures will be used; however, the use of the notification procedure is authorized if characterization of service under other than honorable conditions is not warranted under paragraph 3–7c.

3. Department of Defense Financial Management Regulation DoD FMR 7000.14-R, volume 7a (Military Pay Policy – Active Duty and Reserve Pay), chapter 35 (Separation Payments), prescribes the policy for entitlements that members may receive when separating from military service. Paragraph 2.0 (Accrued Leave Pay), a member who is discharged or separated under honorable conditions is entitled to payment of unused accrued leave unless the member continues on active duty under conditions that require accrued leave to be carried forward, or in the case of a Reserve Component member, the member elects to have the leave carried forward to the member's next period of active service. An enlisted member who voluntarily extends their enlistment for the first time is also entitled to payment for unused accrued leave. A member who receives an entry-level discharge before completing 6-months of active duty will be considered as having received an honorable discharge with payment of accrued leave being authorized. A member, who is discharged before completing 6-months of active duty because of failure to serve satisfactorily, forfeits all accrued leave at the time of discharge. Such forfeiture also applies to any member with prior military service who had a break in service of 90 or more consecutive days. The following constitute reasons for failure to serve satisfactorily; Enlisted reasons include:

- Defective enlistment and induction (minority and fraudulent entry only)
- Entry-level performance and conduct\
- Unsatisfactory performance
- Drug and/or alcohol abuse rehabilitation failure
- Misconduct, moral, and/or professional dereliction
- Separation in lieu of trial by court-martial
- Security (unless the member receives an honorable discharge)

4. DoD FMR 7000.14-R, volume 7a, chapter 9 (Active-Duty Enlisted Members Enlistment, Reenlistment, and Retention Bonuses), establishes DoD policy guidance pertaining to active-duty enlistment, reenlistment, and retention bonuses. Paragraph 1.3, for each of the bonuses described in this chapter, a member who does not complete the agreed term of service or who does not otherwise meet the conditions of

service for the bonus will be subject to the repayment provisions of Chapter 2. A member who is discharged 12-months or less before the expiration of enlistment or extension of enlistment in accordance with Title 10 United States Code (USC), section 1171 may be considered to have completed the terms of enlistment or extension of enlistment for which the bonus was paid. For all other early discharges, the Military Departments will determine and advise when repayment is not required. The bonus may be paid either in periodic installments or a single lump sum. The timing of the initial payment is at the discretion of the Secretary of the Military Department concerned, except that it must not be paid before the member completes basic recruit training. For individuals enlisted for specialties requiring formal training, the Service concerned may withhold the initial payment until the individual completes the training and qualifies in the military skill, so the bonus serves as an incentive to complete the training needed to qualify in the skill.

5. AR 601-210 (Regular Army and Reserve Components Enlistment Program) prescribes eligibility criteria governing the enlistment of persons, with or without prior service (PS), into the Regular Army (RA), the U.S. Army Reserve (USAR), and the Army National Guard (ARNG).

a. Paragraph 8-3 (Waivers of enlistment commitments (not applicable to Reserve Components)), after a person enters the Army, any portion of the enlistment commitment may be waived. However, such waivers should be used sparingly and only when reasons are valid (for example, compassionate or hardship reasons, or when the Army is unable to fulfill an enlistment commitment). Prepare the waiver in writing. A waiver is not automatic and it is not designed for Soldiers to change their enlistment unless unusual or Government-directed circumstances exist. The procedures below apply:

- RA enlistees with commitments for training and duty in a specific MOS or career management field, assignment to a specific unit, and an enlistment incentive may not waive the training without waiving the incentive
- RA enlistees who waive the unit assignment commitment, but not the incentive, may be assigned to an installation or unit authorized personnel with the incentive skill
- RA enlistees with an incentive commitment who have a contractual agreement for training, or for training and a specific unit assignment, may waive the incentive commitment to apply for some other training or assignment

b. Paragraph 9-7 (Enlistment Program 9A, U. S. Army Training Enlistment Program), this program is available to qualified NPS, PS, and glossary NPS applicants enlisting for the minimum term of enlistment authorized by REQUEST. PS applicants must be authorized to retrain in order to enlist under this program. All enlistees must meet the prerequisites and qualifications before and after enlistment, per DA Pam 611–

21. Primary enlistment options available for enlistment are: REQUEST Option 3: U.S. Army Training of Choice. Informed that the training selected is based on current training requirements existing at the time of applicant's enlistment. Also, one of the following may occur: training selected may be discontinued before attendance; Soldier later may become medically disqualified for training selected; or Soldier may fail to receive required security clearance. If any one of these events occurs, the Soldier will be given the chance to select related training or any other training for which qualified and a training requirement (quota) exists. An alternate selection will be honored. Soldier will be required to complete the term of service for which enlisted. If Soldier does not desire alternate training, the Soldier may initiate a request for unfulfilled enlistment commitment. Advised that if relieved from training for academic deficiency, disciplinary reasons, or failure to receive required security clearance because of information withheld by applicant at time of enlistment, then the Soldier will be assigned according to the needs of the Army and required to complete the term of service for which enlisted.

//NOTHING FOLLOWS//