

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 April 2024

DOCKET NUMBER: AR20230009390

APPLICANT REQUESTS: exception to policy for payment of her \$10,000 Officer Accession Bonus (May 2009) in the Army National Guard.

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

- DD Form 149 (Application for Correction of Military Record)
- Developmental Counseling Form, 24 May 2023
- Army National Guard Transfer Order, 15 May 2011
- Officer Accession Bonus Addendum, 9 May 2009
- Special Orders 259, 2 December 2015, Initial Appointment
- Request for Exception to Policy, 23 May 2023 (Unit Administrator)
- Request for Exception to Policy, 25 May 2023, Applicant

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 she was never paid a commissioning bonus. She was told after signing the bonus contract that it would not be paid due to lack of funding availability (it was 2009). She completed the officer course and flight school with same Army branch (Aviation) as she signed the commissioning bonus for. She completed BOLC (Basic Officer Leader Course) in 2011 and was still aviation in 2013 (3 years after commissioning). She was assigned to a MEDEVAC (Medical Evacuation) unit for a deployment in 2012 but remained in the Aviation branch. She branch-transferred in 2015 to remain in that unit. She was unaware that the commissioning bonus could or would be paid out. Her understanding was that funding was not available for the bonus in 2009. She was unaware that the reason the bonus had not been paid was a miscommunication on a MOS/branch change.
3. Review of the applicant's service records shows:

a. Having had prior reenlisted service, the applicant executed an oath of office and was appointed a Reserve commissioned officer of the [REDACTED] Army National Guard (IAARNG) on 9 May 2009.

b. In connection with this appointment, she and a service official signed an Officer Accession Bonus Addendum that promised her a \$10,000 bonus as follows:

(1) She agreed to serve in the Selected Reserve for 6 years.

(2) She is being accessed into an MTO&E unit that is not identified as a National Guard Bureau (NGB) critical UIC (Unit Identification Code). She would receive a bonus of \$10,000 paid in two 50% installments. The first 50% installment is payable upon successful completion of the officer basic course and the second and final 50% installment is payable on the third-year anniversary of her commission/appointment date.

(3) The bonus would be terminated if she moved to a non-bonus skill unless the move is required by the Reserve component.

c. She entered and served on active duty from 9 June 2010 to 11 August 2011 and complete the Initial Entry Rotary Wing Course.

d. She again entered and served on active duty as an Aviation Officer from 20 July 2012 to 23 July 2013 and served in Afghanistan from September 2012 to June 2013.

e. On 25 March 2015, she executed a new oath of office in the [REDACTED] ARNG as a Medical Services Corps Reserve officer.

f. She again entered and served on active duty from 24 August 2017 to 5 September 2018 as an Aero-Medical Evacuation Officer and served in Afghanistan and Kuwait from October 2017 to June 2018.

g. She was promoted to captain in the ARNG in September 2016.

h. Her NGB Form 23A, ARNG Current Annual Statement, dated 29 September 2023 shows she has completed 18 qualifying years of service towards non-regular retirement.

4. The applicant's Unit Administrator submitted a memorandum, 23 March 2023, in which he requested the ABCMR grant an exception to policy for the applicant to receive her first and second officer accession bonus payments of \$5,000 each (less taxes) in or around 2011 and 2012. The UA stated the applicant should not have had any recouped due to the branch change which was effective 25 March 2015. Her bonus payment that

she is/was entitled to keep at that point would have been \$10,000 (less taxes). The applicant never received those payments then and still now. Since these payments were due to her nearly 12 years ago the State Education Center can't process an exception to policy request from the Soldier (over 5 years). On 23 May 2023 when the unit was made aware of this situation and the missed payment. They began working with the State education center to gather documentation to help support her ABCMR. This is at no fault of the Soldier and her bonus should have been paid out in a timely manner years ago. Within 24 hours of being notified of this situation we (her unit) began the ABCMR process with her, her ambition to solve this problem should allow for her to receive her bonus payments of \$10,000 (less taxes).

5. On 24 May 2023, the applicant's unit commander signed a memorandum in which she stated she signed an officer accession agreement on 9 May 2009 to receive a bonus of \$10,000 paid in two 50% installments (she completion of BOLC-2011 and the first third year anniversary-2012). She should have received her first and second installments of \$5,000 each (less taxes) but neither were paid out. Her payments should not have been prorated with recoupment due to her branch change which was effective 25 March 2015 which would have been after she received her second installment. This neglect of payment is not at fault of her own because it was not processed properly through the system. The State education center is going through hundreds of these situations that are overdue which is why she is just now being made aware as the Soldier. Her unit notified her on May 25th of the missed payment, and she would like to receive an exception to receive this bonus of the entire \$10,000 (less taxes).

6. The National Guard Bureau (NGB) provided an advisory opinion on 5 March 2024 recommending approval. The advisory official restated the applicant's request to review the circumstances leading to the non-payment of her Officer Accession Bonus (OAB) in the amount of \$10,000.00 and that the OAB she contracted for be paid out.

a. The applicant signed an OAB addendum the amount of \$10,000.00 to be paid in two installments. The first 50% installment would be paid upon successful completion of Officer Basic Course (OBC), and the second and final 50% installment would be payable on the third-year anniversary of her commission date. The documents provided by the applicant were reviewed by the ■ ARNG incentives and education office and concluded that the applicant did not receive the first bonus installment upon completion of OBC, nor the second installment on the third-year anniversary of commissioning.

b. The Guard Incentive Management System shows that the applicant's OAB was terminated due to unauthorized change of Military Occupational Skill (MOS). Additionally, the ■ ARNG concluded that bonus skill (MOS/AOC) was not identified on the OAB addendum, and that the Soldier continued her service obligation through the agreement and received no consideration for her obligation.

c. This office recommends approval of the Soldier’s request to reverse the termination of her OAB in the amount of \$10,000.00 and make payment minus taxes. The ■ARNG supports this recommendation because the bonus skill was not identified on the OAB addendum, and the Soldier completed her service obligation per the OAB agreement.

d. The ■ARNG did try to rectify the payment of the OAB but were prevented from doing so due to the restraints put in place by the Barring Act. This opinion was coordinated with ■ARNG Incentives and Education office.

7. The applicant was provided with a copy of this advisory opinion to give her an opportunity to submit comments and/or rebuttal. She did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board concurred with the conclusion of the advisory official that the evidence supports correction of the record to show the applicant was authorized to retain her OAB in the amount of \$10,000. The Board determined her record should be corrected to show her eligibility for the incentive was not terminated and she should be paid the incentive.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	■	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 and Army National Guard records of the individual concerned be corrected by showing she was authorized to retain the \$10,000 OAB she contracted for on 9 May 2009 and paying her the incentive.

8/27/2024

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. National Guard Regulation 600-7 Personnel - General Selected Reserve Incentive Programs, revises the use of Army National Guard Selected Reserve Incentive Programs and clarifies incentive requirements for enlisted, officer, loan repayment, and specialty incentive programs.

a. Under the provisions of Title 37 U.S. Code 308j, an Officer Accession Bonus (OAB) may be given to an individual who commissions as either a commissioned officer or warrant officer in the ARNG for a term of not less than three years. Soldier must meet the eligibility criteria in accordance with governing law, DODI, DA, ARNG regulations and current ARNG SRIP policy. Payment(s) will be processed upon verification of all contractual documentation and meeting the terms and conditions outlined in the incentive agreement.

b. The officer must meet the following requirements at time of commission to be eligible for the OAB:

(1) Contract for a term of service not less than three years of which the contracted period must be served in the ARNG.

(2) Meet eligibility criteria for commission as a commissioned officer prescribed by governing ARNG regulations. Each recipient must have never held a previous commission as an officer or warrant officer in any of the armed forces of the United States.

(3) Must be in a valid position vacancy and either agree to accomplish the necessary training to achieve qualification in the designated critical skill; or is already fully qualified in the designated critical skill at time of commission.

(4) Must be the primary position holder, not in an over-strength or excess status in an AOC (Area of Concentration)/MOS (Military Occupational Specialty) that matches the authorized military grade and skill qualification commensurate with the position for which contracting in order to establish the CS requirements on the contract start date.

(5) Must sign an OAB written agreement generated by the incentive management system within the time frame as established by current FY SRIP policy. Agreement will clearly specify the terms of the Reserve Service commitment that authorizes the payment of the incentive to the member. The OAB agreement must be properly initialed, signed and dated by all parties on the same day.

(6) Must agree to serve in the AOC for which the OAB was awarded for the full term of their agreement. The Officer is allowed normal career progression as long as they are the primary position holder within the Career Management Field (CMF) for which they received the OAB. The OAB will not be continued if an order states "Individual or Voluntary Request." (Exceptions may be considered on a case-by-case basis by ARNG-HRM for movement out of the contracted CMF due to promotion and/or acceptance to staff and command positions).

//NOTHING FOLLOWS//