

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 July 2024

DOCKET NUMBER: AR20230013167

APPLICANT REQUESTS: payment of his Officer Affiliation Bonus (OAB) of \$10,000

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 5960 (Reserve Components Career Counselor Interview Record)
- DA Form 5961 (Request for Reserve Component Assignment)
- Written Agreement U.S. Army Reserve (USAR) Officer/Warrant Officer Affiliation Bonus Acknowledgement
- Two Requests for Exception to Policy (ETP) for USAR Bonus
- USAR Command (USARC) ETP Memorandum

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:

a. He executed a USAR contract on 17 January 2019 with a \$10,000 OAB. At the time of signing, he was ineligible for the OAB due to a prior military service obligation (MSO).

b. According to the ETP memorandum, 7 August 2013, "in this case the Human Resources Command - Reserve Component Transitions Office failed to verify [his] eligibility for the OAB." While the memorandum indicates his "statutory and contractual obligations" made him ineligible for the OAB, at the time of executing the contract, he detrimentally relied on the Human Resources Command - Reserve Component Transitions Office, at the time of signing the USAR contract on 17 January 2019, as their office representative made clear to him that there were no OAB eligibility issues.

c. He attended the Military Intelligence (MI) Captain Career course (CCC), he attended the Counterintelligence Officer course (CIOC), he obtained his top secret clearance, and completed a myriad of other requirements in order to fulfill his portion of the contract with the USAR.

d. The USAR is not fulfilling its portion of the contract due to its own organization failing to verify his eligibility for the OAB, prior to execution of the USAR contract and by making misrepresentations to him at execution of the contract that he would, in fact, be eligible for the OAB.

3. The applicant provides the following documents:

a. Written Agreement - USAR Officer/Warrant Officer Affiliation Bonus Acknowledgement, 17 January 2019 shows:

(1) The service representative is responsible for verifying eligibility, as well as reading and explaining the affiliation bonus requirements outlined in this written agreement.

(2) The applicant agreed to serve in the Selected Reserve (SELRES) in a critical officer/warrant officer skill Area of Concentration (AOC) of 35E (CI Officer). He agreed to complete AOC training in 35E within 24 months of affiliation date. He was serving on Active Duty (AD) for more than 30 days or is a member of the Reserve Component not on AD and if he previously served on AD, he was released from that duty under honorable conditions.

(3) He understood he must not be entitled to retired or retainer pay, he had not previously received an affiliation bonus for service in the SELRES. His term of obligation was three years. He was eligible for an OAB by affiliating from AD into a USAR SELRES unit for \$10,000.

(4) He signed the form on 17 January 2019. The service representative did not sign the form.

b. On 24 February 2023 and 11 April 2023, his chain of command recommended approval of the requested ETP. The request for ETP is not available for the Board's review.

c. Memorandum, Subject: ETP, dated 7 August 2023, issued by the Director Resource Management, USARC, which states:

(1) The applicant affiliated with the USAR on 17 January 2019 for a three-year term with a \$10,000 OAB in AOC 35E (CI Officer). The USAR Pay Center did not pay

him his OAB, due to him not becoming a qualified 35E within the required 24-month timeframe.

(2) During his reclassification training, the MI proponent went through an Army-wide conversion to AOC 35A (Intelligence Officer). Due to the MI force structure change, the applicant would still be eligible for the \$10,000 OAB.

(3) Additional research revealed he was still serving under his initial eight-year statutory MSO and Senior Reserve Officers' Training Corps (SROTC) contractual MSO, at the time of affiliation.

(4) He entered military service on 22 July 2011 establishing an initial statutory MSO of 21 July 2019. On 19 October 2011, he entered into a SROTC contractual agreement stipulating that upon appointment, he would agree to a contractual MSO not to exceed eight years.

(5) His appointment date is 20 May 2013, establishing an eight-year contractual MSO of 19 May 2021. Department of Defense Instruction (DoDI) 1304.34 requires officers to complete all MSOs to be eligible for the OAB. His statutory and contractual obligations made him ineligible for the OAB, at the time of affiliation. In this case the Human Resources Command - Reserve Component Transitions office failed to verify his eligibility for the OAB. The USARC G-1 does not have the authority to grant an ETP in cases where DoDI is concerned. The applicant would need to apply to the Army Review Boards Agency.

4. The applicant's service record contains the following documents:

a. DA Form 71 (Oath of Office - Military Personnel) shows he took the oath of office in the Regular Army on 16 June 2013.

b. DA Form 5961, 17 January 2019, shows he was requesting assignment in the USAR upon completion of his active service, unless sooner authorized and he voluntarily accepted assignment in a USAR unit. His expiration term of service was 22 January 2019. He had a remaining MSO term of 3 years.

c. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he served in the Regular Army from 16 June 2013 and was honorably transferred to USAR Control Group (Reinforcement) on 22 January 2019. His reserve obligation termination date was 21 July 2019. He served 5 years, 7 months, and 7 days of active-duty service. He was released from active duty for completion of required active service.

d. Memorandum Appointment as a Reserve Commissioned Officer, 23 January 2019 appointed him in the USAR for an indefinite term.

e. DA Forms 1059 (Service School Academic Evaluation Report) show he achieved course standards in the following courses:

- MI CCC 21-002 from 11 January 2021 through 24 January 2021
- MI CCC 21-002 from 25 January 2021 through 7 February 2021
- CIOC 22-004 from 22 February 2022 through 24 June 2022

f. His service record is void of the OAB agreement.

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 petition, available military records and Headquarters United States Army Reserve Command (USARC)- Resource Management G-1 exception to policy memorandum, the Board noted the advising official stating based on the applicant's eight-year obligation he would still be eligible for the \$10,000 OAB.

2. However, the Board determined the applicant has demonstrated an error and or injustice by a preponderance of evidence. The Board found at no fault of the applicant, he was eligible for the OAB \$10,000 bonus. Furthermore, the Board noted the applicant's chain of command concurred with approval of the applicant being awarded his bonus. Evidence shows the applicant completed the necessary requirements and should not be penalized by not being awarded his officer accession bonus. Therefore, the Board granted relief for the limited purpose of facilitating payment of the \$10,000 USAR Officer Affiliation Bonus.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was 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 for the limited purpose of facilitating payment of the \$10,000 USAR Officer Affiliation Bonus to reflect that the applicant satisfied all bonus eligibility criteria under the provision of DODI 1304.34.



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, USC, 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. Department of Defense Instruction (DoDI) 1304.34 (General Bonus Authority for Officers) states in:

a. Section 3.1 (General) the Secretaries of the Military Departments may pay a bonus pursuant to the officer bonus program, in accordance with Section 332 of Title 37, USC. Such a bonus is made to persons or officers, as appropriate, to support accession and retention efforts for a designated military specialty, career field, unit, or grade, or to meet some other condition or conditions of service imposed by the Secretary of the Military Department concerned.

b. A member must affiliate as an officer with a Reserve Component of a Military Service. Agree to remain on active duty or in an active status for a specified period as an officer in a Military Service. Transfer between the Regular Component and the Ready Reserve of the same Military Service. Signs a written agreement with the Secretary of the Military Department concerned to serve for a specified period in a designated career field, skill, unit, or grade, or meet some other condition or conditions

of service imposed by the Secretary. Successfully completes training and becomes qualified in a designated skill or career field, if completion of such training and technical qualification forms the basis for which the bonus is paid. Qualifies pursuant to any additional eligibility criteria prescribed by the Secretary of the Military Department concerned. Is not serving a service obligation.

c. An officer who has a service obligation is not eligible for a bonus pursuant to this issuance except when the officer service his or initial service obligation incurred at time of commission or appointment; incurs a service obligation due to permanent change in duty station or promotion; incurs a service obligation for attending and completing professional military education or government-funded education courses; or incurs a service obligation as a result of transferring his or her Post 9-11 GI Bill benefits.

d. Section 3.3 (Reserve Component Affiliation Bonus) the affiliation bonus authorized in accordance with Section 332(a)(2) of Title 37, USC, and implemented by this issuance offers a monetary incentive for an officer to affiliate with the SELRES of a Military Service. The bonus is authorized when an officer affiliates with the SELRES of a Military Service and agrees to serve for a specified period, not less than 3 years, of obligated service in a military skill designated critical by the Secretary of the Military Department concerned or to meet manpower shortages in a SELRES unit or officer pay grade. Additionally, the Secretary of the Military Department concerned may, with the officer's consent, convert the officer to a designated career field or military skill in which there is a shortage of trained and qualified personnel. The bonus is authorized when an officer affiliates with the SELRES of a Military Service and agrees to serve for a specified period, not less than 3 years, of obligated service in a military skill designated critical by the Secretary of the Military Department concerned or to meet manpower shortages in a SELRES unit or officer pay grade. Additionally, the Secretary of the Military Department concerned may, with the officer's consent, convert the officer to a designated career field or military skill in which there is a shortage of trained and qualified personnel. Execute an agreement to serve as an officer in the SELRES for a service obligation of at least 3 years. The maximum affiliation bonus may not exceed \$10,000 for a minimum 3-year service obligation.

3. Title 10, USC, section 1552 states, the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.

//NOTHING FOLLOWS//