

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 July 2024

DOCKET NUMBER: AR20230013214

APPLICANT REQUESTS: reversal of the National Guard Bureau (NGB) denial of his Exception to Policy (ETP) for payment of the \$10,000.00 Officer Accession Bonus (OAB).

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

- DD Form 149 (Application for Correction of Military Record)
- Army National Guard (ARNG) Incentives Exception to Policy (ETP) Summary Sheet
- Oklahoma (OK) National Guard (OKARNG) Joint Force Headquarters (HQs) Memorandum, Subject: Request ETP on Select Reserve Incentive Program Contract for Second Lieutenant (2LT) V-, A-
- OKARNG Joint Force HQs Memorandum, Subject: Delegation of Signature Authority
- NGB Form 337 (Oaths of Office)
- SF 50 (Notification of Personnel Action) effective 20 December 2021
- SF 50 effective 6 March 2021
- DA Form 1059 (Service School Academic Evaluation Report)
- SF 50 effective 24 June 2022
- Defense Finance and Accounting Service (DFAS) Military Leave and Earnings Statement (LES)
- DA Form 2823 (Sworn Statement)
- Soldier Summary screenshot
- NGB Memorandum, Subject: ETP Disapproval, OAB for 2LT V-, A-

FACTS:

1. The applicant states in effect, when he commissioned in the ARNG he was eligible to receive a \$10,000.00 OAB which he was paid prior to becoming a Military Technician (MilTech). He reported the payment through his chain of command and the state education office. This payment was due to no fault of his own and he should not be required to repay the OAB including the taxes.

2. A review of the applicant's service record shows:

- a. On 30 July 2010, the applicant enlisted in the ARNG.
- b. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was ordered to active duty for training (ADT) effective 15 June 2011. He completed training for award of military occupational specialty (MOS) 92Y, Unit Supply Specialist and he was honorably released from ADT on 4 November 2011.
- c. On 8 June 2016, the applicant extended his enlistment in the ARNG for 6-years for a new expiration term of service of 29 July 2022. The applicant's NGB Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 Reenlistment/Extension Bonus (REB) Addendum ARNG of the United States) stated he reenlisted or extended for 6-years in MOS 92Y (Unit Supply specialist) to receive a \$12,000.00 REB.
- d. On 6 May 2021, the applicant was honorably discharged from the ARNG due to appointment as a commissioned officer. NGB Form 22 (Report of Separation and Record of Service) shows he completed 10-years, 9-months, and 7-days of service.
- e. The applicant's Written Manual Addendum OAB ARNG of the United States which the applicant signed on 6 May 2021 states in connection with his commission as an officer into the ARNG, he understood to receive the OAB \$10,000.00 incentive he:
 - must never have received financial assistance through the Loan Repayment Program
 - agreed to serve in a valid area of concentration of 92A (Quartermaster)
 - must fill a valid unit vacancy
 - access for a minimum of 6-years
 - must not receive both an enlisted incentive and the OAB simultaneously, if so, the enlisted incentive would be terminated without recoupment
 - must not be accepting a commission in the ARNG for the purpose of qualifying for an Active Guard/Reserve (AGR) or MilTech position where a membership in the Reserve component (RC) is a condition of employment

The OAB will be terminated without recoupment if the applicant accepted an AGR or MilTech position where membership in the RC was a condition of his employment and served more than 1-day past the contract start date.

- f. On 7 May 2021, the applicant executed his oath of office and was appointed as a Reserve commissioned officer. He also executed his oath of office and was appointed as a commissioned officer in the OKARNG and was extended a temporary Federal recognition.

g. On 19 May 2021, Orders Number 1187319, issued by the OKARNG Army Element Joint Force HQs, ordered the applicant's discharge from the ARNG to accept a commission, effective 6 May 2021.

h. On 24 June 2021, Orders Number 38-1175-00120, issued by the OKARNG Joint Force HQs, ordered the applicant to Full Time National Guard duty - other training duty, effective 24 May 2021.

i. On 7 September 2021, Special Orders Number IP-1603, issued by the NGB extended permanent Federal recognition to the applicant for his initial appointment in the ARNG, effective 7 May 2021.

j. On 30 September 2021, the applicant was honorably released from active duty. DD Form 214 shows he completed 4-months and 7-days of active service.

k. Per the SF 50 provided by the applicant, on 20 December 2021, he became a MilTech where being a RC member was a condition of his employment which was 228-days since his commissioning and the signing of his OAB.

l. The applicant's DD Form 214 shows the applicant was ordered to active duty for training, effective 6 March 2022. He was honorably released from active duty on 23 June 2022. It also shows he completed 3-months and 18-days of active service.

m. On 17 June 2023, the NGB disapproved the applicant's request for ETP to retain his OAB. The OK State Incentives Manager was directed to terminate the incentive with recoupment.

3. The applicant provides:

a. ARNG Incentives ETP Summary sheet shows the applicant requested relief from the recoupment of his \$10,000.00 OAB for being a MilTech. The applicant became a MilTech on 20 December 2021, he was then paid his \$10,000.00 OAB on 30 October 2022. The Education Services Officer recommended approval of the applicant's request for relief from recoupment.

b. On 1 November 2022, the OKARNG Education Services Officer requested approval of the applicant's request for an ETP to retain his OAB. The applicant became a MilTech on 20 December 2021. He went on leave without pay on 6 March through 23 June 2022. As of 1 November 2022, the ARNG Incentive Management System had shown him as a Troop Program Unit (TPU) Soldier not a MilTech which caused his OAB to be manually paid on 30 October 2022. Due to the technical issues out of the applicant's control, he requests relief from the recoupment of the \$10,000.00 OAB.

c. OK National Guard memorandum, Subject: Delegation of Signature Authority shows the Education/Incentive Branch Chief had signature authority for the Director of Personnel/G1.

d. SF 50 shows the applicant excepted an indefinite appointment as a Supervisory Supply Systems Analyst, effective 20 December 2021. The MilTech position was dependent upon the applicant maintaining active membership in the ARNG. Loss of active ARNG status would result in separation.

e. SF 50 shows the applicant was absent – uniformed service due to being ordered to active duty for training for the period of 6 March through 23 June 2022 to attend Quartermaster Basic Officer Leader Course (BOLC).

f. DA Form 1059 shows the applicant attended and completed the Quartermaster BOLC during the period of 7 March through 23 June 2022.

g. SF 50 shows the applicant was returned to duty effective 24 June 2022.

h. DFAS LES dated 28 October 2022 shows the applicant was paid his OAB in the amount of \$10,000.00.

i. DA Form 2823 dated 1 November 2022; the applicant stated he signed his OAB written agreement on 6 May 2021 at which time he did not have plans of becoming a milTech but to remain a traditional Guardsman. When he became a MilTech, he was notified that he was no longer eligible for the OAB. He noticed a pending deposit on 25 October 2022 which he immediately reported to his chain of command. On 28 October 2022, the OAB in the amount of \$10,000.00 was deposited into his banking account. He requests the NGB to grant him relief from the recoupment of his OAB which was deposited into his banking account.

j. Soldier Summary screenshot shows the applicant was a TPU member.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant signed an OAB Addendum on 6 May 2021 that stated in connection with his commission as an officer into the ARNG, he would receive a \$10,000 OAB. He understood that the OAB will be terminated without recoupment if he accepted an AGR or MilTech position where membership in the RC was a condition of his employment and served more than 1 day past the contract start date. The evidence (SF 50) shows he accepted and became a MilTech on 20 December 2021, where being a RC member

was a condition of his employment which was 228 days since his commissioning and the signing of his OAB. Since he violated the conditions of his OAB agreement by accepting the MilTech position, his payment of the OAB was in error and should be recouped. He requested an exception to policy, but the NGB denied his request because he was paid the incentive in error. Although the payment was based due to technical issues out of the applicant's control, the Board agreed with the NGB and determined he did not qualify for the payment. The Board determined there is no error or injustice.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

■

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.

REFERENCE:

Army Regulation 601-210 (Regular Army 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 U.S. Army Reserve and the Army National Guard.

a. Paragraph 10-8 (Termination of incentives), entitlement to an incentive will be terminated when any of the following termination reasons apply before the fulfillment of the service described in the member's written agreement. That member will 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 his or her current statutory or contractual service commitment. Termination of eligibility to an incentive will occur if a Soldier accepts an AGR position, a permanent MilTech position, or a temporary MilTech position of more than 179-days, where membership in the Selected Reserve is a condition of employment.

b. Paragraph 10-15 (Selected Reserve Incentive Program—officer accession bonus and officer affiliation bonus), provides policy and guidance for the administration of the Selected Reserve OAB. The OAB will be used to attract and retain qualified commissioned and warrant officers possessing or qualifying for training in critical skills, grades, and/or units designated by the Secretary of the Army as critical to meet manpower shortages in the ARNG and USAR. The OAB applies to newly appointed commissioned and warrant officers (2LT or WO1) who agree to serve in a Selected Reserve unit of the component in which appointed. DA Form 5261–7 (Selected Reserve Incentive Program - Officer Accession Bonus) will be completed on individuals who qualify for and agree to receive the OAB. To be eligible for the bonus individual must:

- agree to accept an appointment as an officer in the ARNG and serve in a designated critical area of concentration (AOC) in a Selected Reserve unit of the component in which appointed, for a period of not less than 6-years from date of appointment
- not be accepting an appointment as an officer serving in the Selected Reserve for the purpose of qualifying for a MilTech position where membership in an RC is a condition of employment, or be accepting an appointment to fulfill either an AGR position or an assignment as an individual mobilization augmentee
- possess an AOC designated by the Secretary of the Army for bonus entitlement, or agree to accomplish the necessary training prescribed by the Secretary of the Army to achieve the designated critical AOC
- not currently be receiving financial assistance or special pay and will not receive such assistance or serve any related service obligation during the period of this agreement

- fill a critical skill in the Selected Reserve

Suspension of officer accession bonus and officer affiliation bonus. Recipients who fail to accept a commission or appointment as an officer, do not commence to participate, or do not satisfactorily complete the service obligation incurred under the agreement for any of the reasons listed below, will be subject to recoupment or loss of entitlement to a portion of the bonus amount:

- fail to participate satisfactorily in training or duty with the Selected Reserve, including failure to maintain medical and dental readiness, during the entire period of the service obligation, unless the failure to participate satisfactorily was due to reasons beyond the officer's control (for example, death, injury, illness, or other impairment not the result of misconduct)
- fail or fail to complete officer basic course or warrant officer basic course within 36-months of the date of appointment (for the OAB); or to complete AOC training within 36-months of affiliation date
- involuntarily separated from the Selected Reserve, unless as a result of unit inactivation, unit relocation, unit reorganization, or a DOD-directed reduction in the Selected Reserve force
- voluntarily move to a non-bonus skill, unless the move is required by the RC
- fail to extend the contracted term of service for a period of authorized nonavailability
- accept either a MilTech position, where membership in an RC is a condition of employment an AGR position, or assignment to an individual mobilization augmentee position

//NOTHING FOLLOWS//