

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 November 2023

DOCKET NUMBER: AR20220008755

APPLICANT REQUESTS: exception to policy for payments towards his loan from his 2009 Student Loan Repayment Program incentive in the [REDACTED] Army National Guard ([REDACTED] ARNG).

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

- DD Form 149 (Application for Correction of Military Record)
- Annex L (Student Loan Repayment Program (SLRP) Addendum), 1 December 2008
- List of loans and corresponding balances
- Letter of Support from [REDACTED] ARNG Deputy Chief of Staff for Personnel
- Education Services Office memorandum, 24 August 2021

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 never received his student loan repayment from his initial enlistment in the [REDACTED] Army National Guard ([REDACTED] ARNG). He verified with his state and has been informed that he is owed his student loan repayment starting from 2008 onward. The National Guard Bureau (NGB) doesn't have much to do with soldiers not getting paid their incentives. In his case, he provided his loan documents to his RNCO (readiness Noncommissioned Officer) and then his RNCO never processed the documents and pushed it to State. That is why his SLRP didn't get paid. It has been brought to his attention recently that he has not received his tax return over the past couple of years due to his outstanding loan balances with the Department of Education and this is also causing him issues with refinancing his VA (Department of Veterans Affairs) property as well. Also, since this was brought to his attention, until 2018, he has been incurring interest that he should be exempt from due to the failure of the [REDACTED] ARNG.

3. Review of the applicant's service records shows:

a. He enlisted in the U.S. Army Reserve for 8 years, 6 years of which to be served in the ■■■ ARNG. In conjunction with this enlistment, he signed an SLRP Addendum in which he stated:

- He enlisted for the non-critical skill projected vacancy in military occupational specialty 44C, Finance Accounting Specialist
- he has 4 loans existing in the amount of \$60,000; the total amount of repayment for qualifying loan(s) will not exceed \$20,000.
- the portion that may be repaid annually on any qualifying loan(s) will not exceed 15 percent (not to exceed \$3,000 per year) of the total of all loans or \$500, whichever is greater
- payment will be processed on the anniversary date of his enlistment for each satisfactory year of service
- the incentive would be terminated if he became an unsatisfactory participant by: Accumulating 9 unexcused absences within a 12-month period or failing to attend or complete Annual Training (AT) without commander approval; or voluntarily transfer out of my contracted MOS; or reach the maximum amount allowable for repayment (\$20,000)

b He entered active duty for training from 27 January to 18 July 2009 and completed training for award of military occupational specialty 44C, Financial Management Technician.

c. On 13 January 2010, ■■■ ARNG published orders awarding him MOS 36B, Financial Management Specialist (MOS 44C was renamed MOS 36B).

d. He again entered active duty on 2 May 2013 and served in Afghanistan from June 2013 to January 2014. He was honorably released from active duty on 20 February 2014.

e. The applicant was honorably discharged from the ARNG on 5 August 2016 to accept appointment as a commissioned or warrant officer. His NGB Form 22 (Report of Separation and Record of Service) shows he completed 7 years, 8 months, and 5 days of ARNG service.

f. He was appointed as a Reserve commissioned officer of the ■■■ ARNG on 6 May 2016. He entered active duty for training from 17 September 2017 to 1 February 2018 and completed the Infantry Basic Officer Leader Course.

4. The ■■■ ARNG Education and Incentives Office submitted a memorandum, subject: Incentive Eligibility for [Applicant], that states their records show that the applicant was

eligible for his Select Reserve Incentive Program Non-Prior Service Student Loan Repayment Program anniversary payments from FY9 – FY12. The applicant met all eligibility requirements from 2009 to 2012. Request positive action on this matter and that he be granted eligibility to receive all closed year payments owed during his good standings in the [REDACTED] ARNG.

5. On 10 August 2021, the Deputy Chief of Staff for Personnel, [REDACTED] ARNG provided a memorandum, subject: Incentive Validation of Eligibility for [Applicant]. It states the [REDACTED] ARNG records show that the applicant was eligible for SLRP payments for FY09 and FY12. He met all eligibility requirements from 2009 thru 2012. The Deputy Chief of Staff requested positive action on this matter and that the applicant be granted eligibility to receive all closed year payments owed as he continues to fulfill his obligation in good standings in the [REDACTED] ARNG.

- Unit of Assignment: HHC, 1st Battalion, 181st Infantry
- Duty MOS in GIMS: 11A
- Bonus AOC/MOS: 09S
- Strength Indicator: Not over strength

6. On 25 October 2023, the NGB provided an advisory opinion in the processing of this case. An advisory official restated the applicant's request for payments towards his loan from his Student Loan Repayment Program and recommended partial approval. The NGB official stated:

a. The applicant states that he signed a Student Loan Repayment Program contract when enlisting with the [REDACTED] ssachusetts Army National Guard in 2008. However, due to mishandling of paperwork by his unit, his contract was never properly processed, and he never received any payments. The applicant is requesting payments towards his student loans per the Student Loan Repayment Program.

b. The applicant's records show that he signed a Student Loan Repayment Program addendum on 1 December 2008, which states that he had four disbursed loans existing in the amount of \$60,000.00. According to the incentive contracts history in GIMS, the contract was verified and approved in March 2009. However, no documents were uploaded until March 2014, and the contract was denied to a MOS mismatch in April 2014. The applicant's loan went into default on 2 January 2013.

c. According to NGR 600-7 and Annex L to DD Form 4, payment will be processed on the anniversary date of the applicant's enlistment for each year of service. His Student Loan Repayment eligibility may be terminated without recoupment if he voluntarily transfers out of his contracted MOS. The applicant's MOS changed from 44C to 36B in 2010 because the Army changed the Financial Management Technician MOS

from 44C to 36B. This change was not a voluntary change by the applicant. Annex L also states that the ARNG will not make any payments on defaulted loan(s).

d. For these reasons, it is the recommendation of this office that the applicant's request be partially approved. Based on the applicant's records, his student loan was not correctly paid per the outlines of the contract. The repayment of his loans through the Student Loan Repayment Program should have been paid starting in FY2010. The applicant successfully met the requirements of the contract during this time. However, the applicant is ineligible to receive payments after FY13 since his loan went into default.

e. The Army National Guard Incentives Branch did not provide a recommendation for this recommendation. The Massachusetts Army National Guard concurs with this recommendation.

7. A copy of this advisory opinion was mailed to the applicant on 27 October 2023, to give him an opportunity to submit additional comments and/or a rebuttal.

BOARD DISCUSSION:

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

2. The Board concurred with the conclusion of the advisory official that payments should have been made toward the applicant's loans under the Student Loan Repayment Program from FY2010 through FY 2013. The Board determined it would be appropriate to correct the applicant's record to show timely requests for loan payments were submitted and approved during this period, and payments should be made retroactively in accordance with the governing regulations. The Board further concurred with the advisory official's conclusion that the applicant is not authorized any payments for qualifying periods after his loan went into default.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ 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 partial relief. As a result, the Board recommends that all Department of the Army and Army National Guard records of the individual concerned be corrected to show timely requests for loan payments under the Student Loan Repayment Program were submitted and approved for Fiscal Years 2010, 2011, 2012, and 2013, and payments should be made retroactively in accordance with the governing regulations.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any relief in excess of that described above.

2/16/2024

X █

CHAIRPERSON

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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, governs incentive policies, procedures, and eligibility criteria for persons entering into an incentive agreement at the time of enlistment, affiliation, reenlistment, extension, commission, or appointment into the ARNG, on or after the effective date of this regulation.

a. Public Law 99-145, section 671(a)(1), and Title 10, U.S. Code, section 16301 authorizes the education loan repayment program for qualified members of Selected Reserve enlisted personnel with loans made, insured, or guaranteed under part B of Title IV of the Higher Education Act of 1965 (Title 20 USC 1071 et seq.), any loan made under part D of such title (Title 20 USC 1087a et seq), or any loan made under part E of such title (Title 20 USC 1087aa et seq). Repayment of any such loan will be made on the basis of each complete year of service performed by the borrower. Soldier must meet the eligibility criteria in accordance with governing law, DODI, DA, ARNG regulations or as outlined in the current FY SRIP policy.

b. State Loan Repayment Program Manager: State representative designated for the management of the SLRP. Issues, verifies, validates, establishes, and monitors all SLRP incentives. Functions as the subject matter expert and provides customer service through all forms of communication (for example, fax, email, memorandums, and telephone) and routinely route to proper office as necessary.

c. Continued participation in SLRP requires that the Soldier remain in the MOS in which they originally gained eligibility for the SLRP incentive and in a valid position within an MTOE or deployable TDA unit.

d. Enlisted Soldiers who enter an authorized commissioning program as a non-scholarship recipient and/or accept an appointment or commission as an officer or warrant officer in a Selected Reserve may continue to receive SLRP payments as stipulated in their original contract so long as they remain otherwise qualified.

//NOTHING FOLLOWS//