

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 September 2023

DOCKET NUMBER: AR20230000881

APPLICANT REQUESTS: in effect, an Exception to Policy (ETP) to reinstate his Student Loan Repayment Program (SLRP) incentive.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 28 May 2020
- DA Form 2823 (Sworn Statement), 7 December 2020
- Memorandum for Record (MFR), Subject: ETP request to reinstate SLRP incentive for [Applicant], 10 December 2020
- DD Form 2475 (Department of Defense (DOD) Educational Loan Repayment Program (LRP) Annual Application), 6 January 2021
- DA Form 4836, 22 January 2021
- National Guard Bureau (NGB) Memorandum, Subject: Request for ETP for SLRP [Applicant], 5 February 2021

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 believes his SLRP incentive has been wrongly denied due to false information regarding enlistment. The error was made due to a lack of understanding of incentives.

b. In his initial six-year contract with the Florida Army National Guard (FLARNG) he received the SLRP incentive. This contract was signed on 4 June 2014. During the Spring and early Summer of 2020, he, like many in the FLARNG, was activated to assist with the COVID-19 epidemic. He had been deliberating on whether or not to reenlist with the FLARNG and was approaching the end of his contract. He informed his chain of command while on orders that he would like to reenlist with the FLARNG for a

full six-year contract. His Expiration Term of Service (ETS) date was approaching, and he made this decision with the idea to retain his SLRP incentive. He made clear his desire to have SLRP in his new contract to his Platoon Sergeant, Executive Officer, and the resident recruiter. In order to make this happen, it was recommended to him by the recruiter and full-time staff to sign a one-year extension of his original contract so that they would have time to create his new contract with SLRP and other benefits and ensure that there would be no mistakes. This would also allow for him to stay on active orders and continue with the COVID-19 mission. However, no one, including himself or the full-time staff, knew that by signing a one-year extension, he would be denying himself the very benefit that he was trying to receive.

c. In November of 2020, he submitted his paperwork for SLRP, but it was denied by his state office. The state student loan representative informed him that he would need to file a DD Form 2475 appeal with the state to have his incentives reinstated. He did so and signed a new six-year contract on 22 January 2021. However, he was informed on 5 February 2021 that his one-year extension had invalidated the incentive. They informed him that he would have had to sign a consecutive six-year contract (which was his original intent) with no one-year extension in order to maintain the incentive. No one was acting on bad faith or ill will by advising the one-year extension, as can be shown in his supporting documents, but the fact remains that he was told by his chain of command that the best option for him was to sign a one-year extension that he had no intention of ever doing.

d. He is seeking to rectify this situation by having his SLRP reinstated and continuing with his time and career in the Army National Guard (ARNG). Included is his sworn statement on the events as they occurred, a memo from his commanding officer on behalf of himself and his staff, his denial paperwork from the state of Florida, his DD Form 2475, his one-year extension, and his current six-year contract. He hopes this evidence is enough to prove his case.

3. A review of the applicant's official military records show the following:

a. On 5 June 2014, he enlisted in the FLARNG for 6 years in Military Occupational Specialty (MOS) 12W (Carpentry and Masonry Specialist). In connection with his enlistment in the ARNG under the Selective Reserve Incentive Program (SRIP), National Guard Bureau (NGB) Form 600-7-5-R-E (Annex L to DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) SLRP Addendum ARNG) shows he completed and signed a SLRP contract which states the following:

(1) Section II (Eligibility) –

(a) He understood that only those loans that have been disbursed prior to his date of enlistment are eligible for repayment under this contractual period. Loans disbursed after his date of enlistment are not eligible for repayment unless he reenlists/extends for a period of not less than 6 years in the ARNG once he has reached his new extension/reenlistment eligibility window. The date of enlistment into the ARNG establishes the lifetime maximum amount that may be repaid.

(b) He had 3 disbursed loan(s) existing in the amount of \$7,750.00. The total amount of repayment for qualifying loan(s) will not exceed \$50,000.00 with annual repayments of 15 percent of the original balance of the loan(s), plus accrued interest or \$500.00 plus the accrued interest, whichever is greater, as established by Law. He was enlisting into the ARNG for a period of not less than six-years (6x2 or 8x0 enlistment). He was not enlisting as a Glossary Non-Prior Service (GNPS).

(c) He understood that the non-prior service (NPS) SLRP may not be combined with another loan repayment program, and he understood that this SLRP addendum must be signed on the same date as the execution date of his DD Form 4 to include the Service Representative and Witnessing Officer (blank) in order for this addendum to be valid.

(2) Section III (SLRP Payment) –

(a) Anniversary SLRP payments will not exceed 15 percent or \$500.00 (whichever is greater) of the initial disbursed amounts that were approved upon the date of enlistment to include accrued interest. Payments on loans(s) that have a remaining outstanding balance (s) less than the maximum yearly repayment amount will only be eligible for that amount only. Loan(s) that have a zero balance will not be eligible for payment. The maximum annual payment amount will not exceed \$7,500.00 per year. Payment(s) will be processed on the anniversary month of his enlistment for each satisfactory year of service, subject to the availability of funds.

(b) The applicant understood that the SLRP anniversary payment is not processed automatically. He must continue each year to meet all requirements and his qualification has been verified by the State Incentive/SLRP Manager. Additionally, the Service member is required to complete the following actions each year to initiate the repayment process; otherwise, he will not be eligible for payment. In pertinent part, the applicant will receive the DD Form 2475 from his State Incentive/SLRP Manager within 90 days prior to his anniversary payment date. The applicant understood that the ARNG will only repay on loans disbursed prior to his date of enlistment. Loan(s) disbursed after he enlists are not eligible for repayment unless he reenlists/extends for a period of not less than 6 years in the ARNG once he has reached his new extension/reenlistment eligibility window.

(3) Section VIII (Statement of Understanding) –

(a) The applicant has read this entire SLRP addendum and understood all of the above statements concerning his enlistment incentive. He also understood that this addendum would be void if he did not meet all of the requirements at the time of signature. If the incentive was terminated, suspended, or recouped, he understood that it does not affect the terms of his contractual agreement. No other promises have been made to him in connection with this addendum.

(b) He understood that he may only add additional disbursed loans that he accrued after the date of his enlistment by executing a reenlistment/extension in the ARNG for a period of not less than 6 years once he has reached his new extension/reenlistment eligibility window. He also understood that the ARNG would only repay these loans provided that he did not have a break in service.

b. Orders Number 4279002 published by the Military Entrance Processing Station, Montgomery, AL, ordered the applicant to initial active duty for training to complete basic and advanced individual training with a report date of 5 October 2014.

c. On 26 February 2015, he was honorably released from active duty and was transferred to the FLARNG. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows in item 11 (Primary Specialty) MOS 12W10, and item 14 (Military Education) shows he completed the Carpentry and Masonry 17 weeks course in 2015.

d. On 28 May 2020, DA Form 4836 shows the applicant extended his FLARNG 6-year enlistment for 1 year, which changed his ETS date to 4 June 2021.

e. On 22 January 2021, DA Form 4836 shows the applicant extended his FLARNG 6-year enlistment for an additional 6-years, which changed his ETS date to 4 June 2027.

f. On 5 February 2021, the NGB G-1 notified the FLARNG, State Incentive Manager that the applicant's ETP to retain the \$50,000.00 SLRP was disapproved for the discrepancy: "did not contract for the proper term of service required which violates Army Regulation (AR) 621-202 (Army Educational Incentives and Entitlements), paragraph 6-2d(3)(b)." Date of agreement/enlistment shows 5 June 2014. His contracted MOS was 12W and his current MOS was listed as 12B (Combat Engineer). The discrepancy identified in Paragraph 2 violates the AR and the ARNG does not have the authority to approve this request. The State Incentive Manager will complete the incentive without recoupment effective the original ETS date, 4 June 2020. Erroneous payments have not been made on this contract.

4. The applicant provides:

a. DA Form 2823 (Sworn Statement) dated 7 December 2020, wherein, he states, in the summer of 2020 while on orders for the COVID-19 mission he was due to ETS from his enlistment. In order to stay on orders and allow for adequate time to create his reenlistment packet, it was recommended to him that he sign a 1-year extension of his enlistment so that there would be no break in service. This was advised by his leadership under the assumption that he would be adding SLRP to his enlistment and that it would take time to construct a contract that contained this addendum. What was not properly conveyed at the time was that SLRP was already within his contract and that by signing a 1-year extension it would remove this benefit from being added to his new contract. Neither he nor his leadership was aware of this discrepancy at the time or how it would delay his reenlistment process. It is the purpose of this statement to show that no ill will or contempt was shown by any party involved and to have approval for SLRP to be added into his new contract.

b. MFR, Subject: ETP request to reinstate SLRP incentive for [Applicant], dated 10 December 2020, wherein, his FLARNG unit commander states, the applicant extended his service contract for one year, due to the proximity of his ETS, to passing the APFT. It was not known by the unit's fulltime staff, or him, that he already had the SLRP. Due to this one-year extension, the applicant has lost his SLRP incentive. Request approval to reinstate this incentive for the applicant, due to this administrative error. His fulltime staff, and the unit commander will become better versed at processing extensions, as well as ensure Soldiers are eligible for various incentives, as well as their termination criteria.

c. DD Form 2475 dated 6 January 2021 requesting payment of a portion of his student loan(s).

BOARD DISCUSSION:

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 contentions, the military record, and regulatory guidance. The Board agreed that it was more than likely than not, that the applicant would not have known that upon signing a one-year extension of his enlistment to ensure there was no break in service, would void his SLRP incentive. As he was otherwise eligible and his request supported by the FLARNG unit commander, the Board determined the evidence presented sufficient to warrant a recommendation for relief.

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 sufficient to warrant recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show he met his contractual obligation to retain the SLRP and his eligibility for the Student Loan Program reinstated.







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.

ADMINISTRATIVE NOTE(S): N/A

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. National Guard Regulation 600-7 (Selected Reserve Incentive Programs (SRIP)) governs policies and procedures for the administration of the ARNG SRIP programs. In pertinent part, the regulation states:

a. Paragraph 1-20c (Incentive Payments) states, the unit commander must ensure that Soldiers are counseled when they enlist, reenlist/extend, affiliate, commission or appoint for an incentive that they will not receive payments immediately. Payments will only be processed through personnel and pay channels for payment upon verification of all required contractual documentation. Paragraph 1-20d states, the State Incentive Manager, in accordance with regulatory and SRIP policy guidance, will verify the following: (1) Continued eligibility for payment and correct due date. (2) Suspension reason and correct suspension date. (3) Termination reason and correct termination date.

b. Paragraph 1-26 (Termination without recoupment) states, the conditions under which termination without recoupment of incentives is warranted are prescribed in this paragraph and also the applicable program chapters and sections of this regulation. The effective date of the termination will be the effective date of the action. Payments due prior to the effective date will be paid to the Soldier. Payments due after the effective date of the action will be canceled and will not be paid to the Soldier.

c. Section VII (Student Loan Repayment Program), paragraph 2-24a states, in pertinent part, the SLRP may be offered to non-prior service applicant who enlists for a minimum of six-year obligation. Paragraph 2-24b states, in pertinent part, the SLRP may be offered to Prior Service enlistees, and current ARNG members who meet the following requirements: (1) Soldiers who previously contracted for SLRP in the Selected Reserve (SELRES) are only entitled to the maximum benefit established by the original contract, minus any amount previously paid under the contract. (2) Enlist/affiliate or reenlist/extend for a minimum of three years.

d. Paragraph 2-27 (Entitlement) states, repayment of such loan(s) annotated in Section 2-25 (Eligible Loans) shall be made on the basis of each complete year of service performed by the borrower. The portion or amount of a loan that may be repaid under Section 2-25 is 15 percent or \$500.00, whichever is greater, for each year of service, plus the amount of any interest that may accrue during the current year.

3. Army Regulation 621-202 (Army Educational Incentives and Entitlements) prescribes Army-unique policies, responsibilities, and procedures for the administration of veterans' education programs and education incentives authorized by law, and provides information on Title 38, USC, Chapter 30 (38 USC Chapter 30), 38 USC Chapter 32, 38 USC Chapter 33, 10 USC Chapter 1606, and 10 USC Chapter 1607.

a. Chapter 6 (Student Loan Repayment Program - Reserve Components (U.S. Army Reserve and Army National Guard)), paragraph 6-1 (Authority) states, this chapter provides policy and guidance for the administration of the SLRP. The SLRP is authorized under Title 10, USC, section 16301, which establishes the SLRP for qualified Selected Reserve (SELRES) personnel.

b. Paragraph 6-2 (Eligibility) states, to be eligible for the SLRP incentive, a Soldier must contractually obligate himself or herself to serve satisfactorily per AR 135-91. A Soldier must serve in the SELRES for the full term of the contractual agreement. Continued receipt of the SLRP or MGIB–SR on transfer from ARNGUS to the USAR or from the USAR to the ARNGUS will be managed in accordance with AR 601-210. In pertinent part, an eligible Soldier is one who:

(1) Contracts to serve in the SELRES of the ARNGUS or USAR in a MOS or unit authorized under the SRIP. Executes NGB Form 600-7-5-R-E (ARNG Student Loan Repayment Program Addendum) on the same date of the Service contractual agreements (DD Form 4, DA Form 4836, or assignment order).

(2) Enlists, reenlists, immediately or indefinitely reenlists, extends, is appointed, or is reappointed in the SELRES per AR 140-111, AR 601-210, AR 601-280, or NGR 600-200.

(3) If contracting for a term of service in the SELRES as (1) A non-prior service Soldier must meet requirements listed in AR 601–210. (2) A prior service or in-service Soldier must meet requirements listed in AR 601–210. (3) For a Soldier released from active duty (REFRAD) from the Regular Army, with a remaining service obligation (RMSO) upon reassignment to a USAR and/or ARNG Troop Program Unit (TPU) contracted by TPU officials for SLRP, the following applies: (a) May not be contracting for SELRES service to gain entitlement to increased educational assistance under the Montgomery GI Bill (MGIB – SR) 2x4 Program. (b) Upon transfer into the USAR/ARNG has at least 3 years remaining on their statutory military service obligation. (c) Soldiers who transfer into a TPU who have less than 3 years (6 years for ARNG) remaining on their RMSO must reenlist for a term of service that is by whole years, equal to or greater than the remaining term of the RMSO (but not less than 3 years) per AR 140–111.

4. Department of Defense Instruction 1205.21 (Reserve Component Incentive Programs Procedures), currently in effect, requires each recipient of an incentive to sign

a written agreement stating the member has been advised of, and understands the conditions under which continued entitlement to unpaid incentive amounts shall be terminated and which advance payments may be recouped. The agreement must clearly specify the terms of the Reserve Service commitment that authorizes the payment of the incentive.

//NOTHING FOLLOWS//