

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 January 2024

DOCKET NUMBER: AR20230003975

APPLICANT REQUESTS:

- entitlement to the Student Loan Repayment Program (SLRP) and Enlisted Loan Repayment Program (ELRP) payments for the period of 2011 through 2016
- repayment of all previous payments made (\$3665.72)

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

- DD Form 149 (Application for Correction of Military Record)
- Digital Privacy Release Form, 16 November 2023
- Email communication
- Self-authored letter
- Memorandum – Subject: Request to Recommend Payment under the [REDACTED] Army National Guard (PAARNG) SLRP
- Email communication
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 2 April 2010
- National Guard Bureau (NGB) Form 600-7-5-R-E (Annex L to DD Form 4 Enlisted Loan Repayment Program Addendum Army National Guard of the U.S.), 2 April 2010
- Enlisted Loan Repayment Program (ELRP) Counseling Checklist, 2 April 2010
- [REDACTED] letter, 21 March 2023
- SLRP payment history
- DA Form 2166-8 (Noncommissioned Officer Evaluation Report)
- Email communication
- Federal Student Aid Loan Detail letter
- Memorandum – Subject: Request for Exception to Policy (ETP) for SLRP, 27 September 2013

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 in pertinent part, as of March 2023, he has made a total of \$3665.72 worth of payments towards the loan balance (\$43,794.37). He notes that due to several administrative errors, payments were delayed. On 27 September 2013, the ARNG Deputy, G-1 sent a memorandum to the PA State Incentives Manager stating that the errors made were not the fault of the Soldier and therefore all loan payments should be made in accordance with the SLRP. He further provides that the total loan amount to repaid exceeds the authorized \$50,000.00. However, this is the result of delayed actions on behalf of the ARNG; loans were processed within the Federal Student Loan website and repayment requests were submitted to the [REDACTED] ARNG State Incentives Manager, yet payments were not released as scheduled.

3. A review of the applicant's available service records reflects the following:

a. After serving in the U.S. Army Reserve (USAR), on 4 January 1990, the applicant enlisted in the ARNG for 6 years.

b. On 28 April 1992, the applicant extended his enlistment by 2 years.

c. On 13 December 1997, the applicant extended his enlistment by 6 years.

d. On 3 September 2002, the applicant was issued his Notification of Eligibility for Retired Pay at Age 60 letter.

e. On 18 August 2003, the applicant extended his enlistment by 6 years.

f. On 16 August 2009, the applicant extended his enlistment by 6 years.

g. On 2 April 2010, applicant extended his enlistment by 6 months. The applicant elected to participate in the ELRP. NGB Form 600-7-5-R-E reflects that he had 1 existing student loan for \$8,277.00. This document further provides that the applicant was enlisting/extending for a term of service of not less than 6 years in the ARNG and he acknowledged that he was permitted to add new disbursed loans only at the time of extensions of not less than 6 years.

h. On 7 May 2013, the [REDACTED] ARNG issued Orders Number 127-1006 announcing the applicant's promotion to sergeant major (SGM)/E-9, effective 8 April 2013.

i. On 25 April 2016, the applicant extended his enlistment by 1 year.

j. On 9 August 2016, the applicant extended his enlistment by 1 year.

k. On or about 17 November 2016, a commander's inquiry was initiated regarding allegations against the applicant for posting inappropriate photographs and or videos for which he was the subject of on the internet.

l. On 11 December 2016, the applicant was released from the ARNG and transferred into the USAR Control Group (Retired).

m. On 20 January 2017, the applicant was issued a General Officer Memorandum of Reprimand for being monetarily compensated for his appearances in pornographic films, videos and photographs which were readily accessible on the internet and in other mediums while concurrently serving in senior positions of authority. The issuing authority directed that this document be filed within his Official Military Personnel File.

n. On 29 September 2020, the U.S. Army Human Resources Command issued Orders Number C09-099113 retiring the applicant and placing him on the retired list, effective 11 December 2020.

4. The applicant provides the following a:

a. Digital Privacy Release Form dated 16 November 2023, reflective if the applicant's submitted request for assistance with a Federal Agency (Army Review Boards Agency) concerning his entitlement to loan repayment under the SLRP.

b. Email communication reflective of communication concerning the applicant's submitted request for entitlement to repayment of his student loans as provided by the SLRP. This communication is provided in its entirety within the supporting documents for the Board's review.

c. Self-authored letter reflective of the applicant's contention and requested relief. This document is provided in its entirety within the supporting documents for the Board's review and further restated within the applicant's opening statement to this Board within paragraph 2 above.

d. Memorandum – Subject: Request to Recommend Payment under the [REDACTED] ARNG SLRP, reflective of the applicant's submitted request for a determination memorandum issued by the ABCMR with a recommendation that the NGB approve funds to repay his student loans from fiscal years (FY) 2011 – 2016 as provided by the ELRP. This document is provided in its entirety within the supporting documents for the Board's review.

e. Email communication reflective of communication concerning the applicants request for entitlement to loan repayment under the SLRP. The [REDACTED] ARNG State Incentives Manager advised that the applicant needed to request release of funding for

loans that were not added during the closed years of FY11-FY14 in order for payments to be processed noting that they would not request closed year funding without the ABCMRs approved recommendation.

f. [REDACTED] letter dated 21 March 2023, reflective of the applicant's loan repayment history covering the period of 21 February 2013 – 7 February 2020 with a remaining balance of \$43,794.37. During the period of 4 March 2014 – 15 June 2016, the government paid approximately \$17,438.03 towards his student loans. Regular payments were made by the applicant from 9 June 2018 – 7 February 2020.

g. SLRP payment history reflective of the applicant's certified payment schedule for FY11 – FY16. Documentation reflects 5 loans in forbearance with an original loan amount totaling \$42,027.00.

h. DA Form 2166-8 reflective of the applicant's duty performance as assessed by members of his immediate leadership between 1 September 2009 – 30 September 2015.

i. Email communication (March 2010) reflective of communication concerning the applicant's SLRP approval in connection with his reenlistment/extension. The applicant was only approved for the reimbursement of 1 student loan totaling \$8,277.00.

j. Federal Student Aid Loan Detail letter reflective of the disbursement of \$8,277.00 worth of student loans disbursed on behalf of the applicant on 4 March 2010.

k. Memorandum – Subject: Request for ETP for SLRP dated 27 September 2013, reflective of the NGB approval of the applicants request for an ETP to retain the \$50,000.00 worth of entitlements under the SLRP. The NGB noted that there were numerous administrative errors, and the bonus control number was requested after the contract date. However, the applicant accepted the incentive offer in good faith and fulfilled the contractual obligation associated with it. The withholding of payments would be against equity and conscious and contrary to the best interest of the Army.

5. The applicant did not provide nor does review of his available service records reflect evidence of any submitted DD Form 2475 (DoD Educational Loan Repayment Program).

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. One potential outcome was to deny relief based on the applicant not providing sufficient evidence reflecting he submitted DD Form 2475 (DoD Educational Loan Repayment Program). However, upon further review of the applicant's petition, available military records and National Guard Bureau- Deputy G1, the Board concurred with the advising official recommendation for approval due to numerous administrative errors and the BCN was requested after the date of extension. The opine noted the applicant accepted the incentive offer in good faith and has fulfilled the obligations under the contract date. The Board agreed that withholding payment of the incentive would be against equity and good conscience and contrary to the best interest of the Army. Based on this, the Board granted relief showing the applicant is entitlement to the Student Loan Repayment Program (SLRP) and Enlisted Loan Repayment Program (ELRP) payments for the period of 2011 through 2016 and authorized repayment of all previous payments made (\$3665.72).

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	■	■	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 records of the individual concerned be corrected to show the applicant is entitlement to the Student Loan Repayment Program (SLRP) and Enlisted Loan Repayment Program (ELRP) payments for the period of 2011 through 2016 and repayment of all previous payments made (\$3665.72).

2/18/2024

X [REDACTED]

CHAIRPERSON
[REDACTED]

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. National Guard Regulation 600-7 (Selected Reserve Incentive Program (SRIP)) Chapter 5 (Student Loan Repayment Program) provides that Public Law 99-145, section 671(a)(1), and Title 10 USC 16301 authorizes the education loan repayment program for qualified members of SELRES 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), any loan made under part D of such title (Title 20 USC 1087) or any loan made under part E of such title (Title 20 USC 1087).

a. Repayment of any such loan will be made based on each complete year of service performed by the borrower. The total amount that will be repaid on all loans on behalf of any member under this program will not exceed the program maximum amount authorized by FY SRIP policy at time of signature. Service members are required to complete Annual Loan Repayment DD Form 2475 (DoD Educational Loan Repayment Program) each anniversary year upon receipt from Incentive Manager, or

unit administrator. Nothing in this section shall be construed to authorize refunding any repayment of a loan. This includes payment made against the loan by any individual or agency, including the member.

b. Paragraph 1-13 (Obligation) provides that an enlisted Soldier must enter into a contractual obligation to serve satisfactorily for the full term of service specified for an incentive program authorized by this regulation.

c. Paragraph 1-16 (Incentive Payments) provides payment procedures and schedules are prescribed in this regulation. ARNG policy requires that the unit commander or other designated individuals will initiate the forms for payment immediately upon notice of the Soldier's entitlement and submit them to the State Incentive Manager for processing to Military Pay Branch for payment.

d. Chapter 5 (Student Loan Repayment Program) Paragraph 5-2 provides that effective 1 October 1999, SLRP is offered to prior service enlistees. In accordance with paragraph 5-2 and current members who have served the last 3 consecutive years in the ARNG, did not receive the SLRP as an enlistment, reenlistment or extension option in the Selected Reserve and have existing loans (loans established after the date of immediate reenlistment/extension are not eligible for SLRP, may immediately reenlist/extend for a term of service that will provide a contractual obligation of not less than 6 years.

e. Paragraph 5-7 (Service Member Responsibilities) provides that Soldiers must complete Section I of Annual Loan Repayment memorandum each anniversary year upon receipt from Incentive Manager. Forward to Incentive Manager within thirty (30) days of receipt.

3. Title 10, USC, section 1552 states the Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice.

//NOTHING FOLLOWS//