

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 June 2024

DOCKET NUMBER: AR20230009527

APPLICANT REQUESTS: correction of his service record to reflect the following:

- reinstatement of his Student Loan Repayment Program (SLRP) incentive in the amount of \$20,000.00
- payment of his Non-Prior Service Enlistment Bonus (NPSEB) in the amount of \$20,000.00

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 3540 (Certificate and Acknowledgement United States Army Reserve (USAR) Service Requirements and Methods of Fulfillment)
- Army Review Boards Agency (ARBA), Congressional Liaison and Inquiries (CLI) Correspondence

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 he is trying to get his student loan payment and his enlistment bonus from his contract. He served his entire contract and stayed in the USAR rather than transferring to the Individual Ready Reserve (IRR) simply to be eligible for the incentives.
3. A review of the applicant's service record shows:
  - a. On 8 November 2007, he enlisted in the USAR for a period of 8 years. In connection with this enlistment he was entitled to the following in exchange for 6 years as an assigned member in the USAR Selected Reserve in Military Occupational Specialty (MOS) 25Q (Multichannel Transmission Systems Operator – Maintainer):

(1) DA Form 3540 shows he was authorized entitlement to the Non-Prior Service Montgomery GI Bill Kicker - \$350.00, NPSEB -\$20,000.00, and SLRP - \$20,000.00.

(2) DA Form 5261-4 (Student Loan Repayment Program Addendum) wherein he agreed to \$20,000.00 in student loan payments upon completion of initial active duty training and qualification in MOS 25Q. Section VII (Termination), item 3, states entitlement to the enlistment bonus will be terminated should he fail to become MOS qualified within 12 months.

(3) DA Form 5261 (Selected Reserve Incentive Program – Enlistment Bonus Addendum) wherein he agreed to a \$20,000.00 NPSEB to be paid in three installments; first 50 percent upon completion of initial active duty training and qualifying in the bonus MOS, 25 percent upon successful completion of his 2nd year, and 25 percent upon completion of his 4th year of the enlisted term. Section VII (Termination), item 3, states entitlement to the enlistment bonus will be terminated should he fail to become MOS qualified within 12 months.

b. On 8 November 2007, he subsequently entered active duty for initial active duty training.

c. A DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably released from active duty training for completion of required active service on 30 April 2008. His DD Form 214 shows he completed 5 months and 23 days of active service. It also shows in:

- Item 11 (Primary Specialty): 25Q10
- Item 14 (Military Education): Multichannel Transmission Systems Operator, 15 weeks, 2008

d. On 10 April 2009, he entered active duty.

e. A DD Form 214 shows he was released from active duty on 21 September 2009. He completed 5 months and 12 days of active service. It also shows in:

- Item 11: 25B10 IT Specialist, 0 years and 0 months and 25Q10 Multichannel Transmission Operator/Maintainer, 1 year and 5 months
- Item 14: Information Systems Operator/Analyst, 19 weeks, 2009

f. A DA Form 1059 (Service School Academic Evaluation Report), dated 15 July 2011, shows he exceeded course standards in the Satellite Communication Operator-Maintainer Course from 27 June 2011 to 15 July 2011.

g. On 25 November 2015, Headquarters, 99th Regional Support Command issued

Orders Number 15-329-00048 honorably discharging him from the USAR.

4. The applicant provides correspondence from a U.S. Representative and the CLI department within ARBA showing the Congressional interest and authorization for the applicant's request.

5. On 2 February 2024, in the processing of this case, the Office of the Deputy Chief of Staff, G-1, Chief, Incentives and Budget Branch, Enlisted Accessions Division, provided an advisory opinion recommending approval of the applicant's request, stating:

a. The applicant maintained career progression in communication 25 series MOS. Trained and graduated 25Q, 25B, and 25S courses. DD Forms 214 indicated a 25Q and 25B MOS.

b. They reviewed his records in coordination with the USAR Incentives Program Manager Accessions Management Branch. USAR records confirm he enlisted into the USAR in November 2007, for a 6-year term as a 25Q. He graduated 25Q Advanced Individual Training (AIT) on 1 May 2008. However, his security clearance had not been adjudicated favorably. Fort Gordon, GA, did not publish MOS orders for him, therefore making him ineligible to receive the \$20,000.00 NPSEB, \$20,000.00 SLRP, and \$350.00 Montgomery GI Bill (MGIB) Kicker. However, he reclassified to 25B (Information Technology Specialist) in September 2009 and in July 2011 to 25S (Satellite Communication System Operator-Maintainer). During fiscal year 2009 and 2011, USAR Select Reserve Incentive Program (SRIP) Policy offered the same enlistment bonus, SLRP, MGIB Kicker granted to him in 2007. His 2008 DD Form 214, box 11 reflected 25Q10 MOS, 2009 DD Form 214, box 11 indicated 25B10 MOS, DA Form 1059 (Service School Academic Evaluation Report) graduated 25S course (Honor Graduate) 27 June – 15 July 2011. He maintained a long line of career progression in the communications field, followed orders, and fulfilled his 6-year obligation to the U.S. Army.

6. On 13 February 2024, the applicant was given with a copy of the advisory opinion and provided an opportunity to respond. He did not respond.

#### 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 record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board reviewed and concurred with the advisory opinion provided by the Office of the Deputy Chief of Staff, G-1, Chief, Incentives and Budget Branch finding the applicant maintained a long line of career progression in the communication field,

followed orders, and fulfilled his 6-year obligation to the Army and therefore was entitled to receive both incentives.

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 is 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 by:

- reinstating his Student Loan Repayment Program (SLRP) incentive in the amount of \$20,000.00
- paying his Non-Prior Service Enlistment Bonus (NPSEB) in the amount of \$20,000.00

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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, 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. Army Regulation (AR) 621-202 (Army Educational Incentives and Entitlements) states a Soldier must serve in the Selected Reserve for the full term of the contractual agreement. An eligible Soldier is one who contracts to serve in the Selected Reserve of the USAR in a MOS and executes a DA Form 5261-4. Once a Soldier has enlisted, and executed a DA Form 5261-4 to participate in the SLRP, the provisions of the DA Form 5261-4 remain in force until participation in the SLRP is terminated in accordance with this regulation or the maximum SLRP benefit has been paid.

3. AR 135-7 (Incentive Programs) states the SLRP incentive provides for the repayment by the Government of a designated portion of any outstanding loan(s) secured after 1 October 1975. Subject to this chapter, any loan made, insured or guaranteed under Part B of the Higher Education Act of 1965, or any loan made under Part E of this Act, after 1 October 1975, may be repaid.

a. The following loans qualify for repayment. However, these loans must have been incurred after 1 October 1975 or qualifying periods of Selected Reserve service after 1 October 1980.

- Stafford Loan Program (formerly Guaranteed Student Loans (GSL))
- Federally Insured Student Loans (FISL)
- Perkins Loan (formerly National Defense Student Loan and National Direct Student Loans (NDSL))
- Auxiliary Loans to Assist Students (ALAS)
- Supplemental Loans for Students (SLS)
- Consolidated Loan Program (CLP)
- SMART Loans

b. For each year of satisfactory service in the Selected Reserve, the loan amount to be repaid if the amount of the loan or loans does not exceed the designated maximum portions, the amount of annual repayment is 15 percent of the original balance of the loan or loans, plus accrued interest not paid by the Department of Education, or \$500.00 plus the accrued interest not paid by the Department of Education, whichever is greater.

c. A soldier will not be eligible for any initial or subsequent loan repayments until he or she— has completed IADT, is MOS qualified or received sufficient training to be deployed. Has been awarded a high school diploma or otherwise qualifies as a secondary school graduate as prescribed by paragraph 1–7.1d and shows proof of such status within the time frame established in paragraph 1–7.1a. Has served 1 year in the Selected Reserve after securing the loan or loans. Has reached the anniversary date of the Selected Reserve contract for SLRP participation.

4. Department of Defense Instructions 1205.21 (Reserve Component Incentive Programs Procedures) paragraph 6.2 states, as a condition of the receipt of an incentive covered by this Instruction, each recipient shall be required to sign a written agreement stating that 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. That agreement shall clearly specify the terms of the Reserve Service commitment that authorizes the payment of the incentive to the member.

5. 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.

6. Title 31, USC, section 3702, is the 6-year barring statute for payment of claims by the government. In essence, if an individual brings a claim against the government for monetary relief, the barring statute says that the government is only obligated to pay the individual 6 years from the date of approval of the claim. Attacks to the barring statute have resulted in litigation in the U.S. Court of Federal Claims. In the case of *Pride versus the United States*, the court held that the Board for Correction of Military Records (BCMR) is not bound by the barring act, that the BCMR decision creates a new entitlement to payment and the 6 years starts running over again, and that payment is automatic and not discretionary when a BCMR decision creates an entitlement.

//NOTHING FOLLOWS//