

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 April 2024

DOCKET NUMBER: AR20230010041

APPLICANT REQUESTS:

- remission of \$827.02 educational debt
- a personal appearance (telephone or video)

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 9 August 2020
- Defense Finance and Accounting Service (DFAS) letter, 5 April 2023

FACTS:

1. The applicant states in pertinent part that while out-processing from military service in August 2020, he cleared both the finance and education office both of which indicated that he did not have an educational debt as of June 2020. He contests that now he is being advised that he has an educational debt that the Fort Drum finance or education office is unable to provide any additional information regarding the justification for the debt, other than the debt originated when the Army Education Center transitioned from the Go Army Education program to Ignite. This change created a host of erroneous debts within the system for several Soldiers no longer serving in the military. This debt has impacted his credit and precluded him from obtaining additional loans.

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

a. On 30 April 2001, the applicant enlisted in the U.S. Army Reserve (USAR) to serve as an 88U (Railway Operator Crewmember) for 8-years with entitlement to the Montgomery G.I. Bill (MGIB), the Selected Reserve (SR) MGIB Kicker and an Enlistment Bonus (\$3,000.00). The applicant was required to serve 6 of the 8 years in a bonus unit/military occupational specialty (MOS).

b. The DA Form 5435-R (Statement of Understanding – The Selected Reserve Montgomery G.I. Bill) endorsed at the time of enlistment (Section VII – Termination of

Entitlement) provides that entitlement to educational assistance would terminate if the applicant was deemed an unsatisfactory participant or entered on active duty or full-time active duty under the Active Guard/Reserve (AGR) Program.

c. On 24 November 2003, the U.S. Army Human Resources Command (AHRC) issued Orders Number R-11-377498 ordering the applicant to active duty in the AGR program, effective 8 December 2003.

d. On 16 July 2014, the applicant reenlisted for 6 years.

e. On 19 December 2014, the applicant completed the Army Reserve Career Counselor (79V) Course.

f. On 12 April 2020, an informal Physical Evaluation Board was conducted finding the applicant physical unfit for continued military service with a recommendation that he be permanently medically retired with a rating of 90 percent. The applicant concurred with the board's recommendation and waived his rights to a hearing.

g. On 27 May 2020, AHRC issued Orders Number 148-0002 releasing the applicant from assignment and duty because of a physical disability incurred while entitled to basic pay and under conditions that permit his retirement for permanent physical disability.

h. On 9 August 2020, the applicant was permanently medically retired from military service.

3. The applicant provides a DFAS letter dated 5 April 2023 that states "Debt is for tuition assistance received that has not been fulfilled. In order to fulfil your tuition assistance obligation, please contact your education office as explained in the Statement of Understanding you completed prior to your coursework. If you disagree with the validity or amount of your debt, please contact the Pay Office, Defense Military Pay Office, that placed you in debt and have them provide our office with proper documentation to alter or cancel your debt."

#### BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. 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

available evidence shows the applicant incurred a tuition assistance debt that has not been fulfilled. The applicant does not provide, and the service record does not contain sufficient information to examine or consider what educational course work the applicant elected, what service commitments he made in connection with this course work, and why he did not complete the course work. In the absence of additional information to provide context and explain the facts and circumstances, the Board determined there is insufficient evidence to grant relief.

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.2.

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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. Army Regulation (AR) 135-7 (Incentive Programs), in effect at the time of enlistment provides incentive benefits, and identifies eligibility criteria and entitlement, termination, suspension, and recoupment requirements.

a. Paragraph 1-17 (Termination) provides that Soldiers will have their incentive eligibility and entitlement stopped when any of the termination reasons apply as listed within the applicable chapters of this regulation. Once being declared ineligible, termination of SRIP will not affect a Soldier's responsibility to serve his or her current statutory or contractual service commitment.

b. Paragraph 1-18 (Recoupment) provides that the conditions under which recoupment action is warranted, and the computation of such recoupment amounts are outlined for each incentive within appropriate chapters of this regulation.

c. Paragraph 8-7.1 (Termination of Entitlement) provides that eligibility for educational assistance under the Montgomery GI Bill ceases if an enrolled Soldier is declared an unsatisfactory participant or who gained entitlement to the Montgomery G.I. Bill on or after 1 October 1990, enters on active duty in an AGR status.

d. Paragraph 8-8.1 (Reaffiliation in the Selected Reserve) provides that a Soldier's entitlement to benefits will be adjusted by the amount previously awarded according to Office of Veterans Affairs regulations. The period of the Selected Reserve service required of a Soldier who reaffiliates will be not less than the difference between the previous period of satisfactory Selected Reserve service performed and 6 years. A Soldier who terminated eligibility for educational assistance upon entry on AGR status may regain such eligibility on release from AGR status and reaffiliation with a Selected Reserve Unit. This is provided the Soldier has not gained entitlement to other government sponsored educational assistance programs by virtue of the service on AGR status.

2. AR 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 USC, section 4837, the Secretary of the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interests of the United States. Indebtedness to the U.S. Army that may not be canceled under Title 10 USC, section 4837 when the debt is incurred while not on active duty or in an active status.

3. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. Paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR may, in its discretion, hold a hearing or

request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//