

IN THE CASE OF: ██████████

BOARD DATE: 14 June 2024

DOCKET NUMBER: AR20230010883

APPLICANT REQUESTS: reinstatement of his Student Loan Repayment Program (SLRP) incentive for the remaining balance of \$3,042.57.

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

- DD Form 149 (Application for Correction of Military Record)
- National Guard Bureau (NGB) Form 600-7-5-R-E (Annex S to DD Form 4, SLRP Addendum Army National Guard (ARNG) of the United States), 15 September 2001

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 was instructed to contact the ABCMR in order to have his SLRP paid. He was in the ██████████ Army National Guard (██████ ARNG) and then transferred over to the U.S. Army Reserve (USAR) Troop Program Unit and has tried over the years to resolve this issue.

3. A review of the applicant's service records show:

a. On 26 July 2000, he enlisted in the ████████ ARNG.

b. NGB Form 22 (Report of Separation and Record of Service) dated 4 February 2001 reflects an honorable discharge from the ████████ ARNG with a net service of 6 months and 9 days.

c. On 15 September 2001, he enlisted in the ████████ ARNG for a period of 8 years. In conjunction with this enlistment, a NGB Form 600-7-5-R-E shows he was entitled to the SLRP in the amount of \$10,000.00 and he had one disbursed loan in the amount of

\$3,042.57 for enlistment into the unit identifying code WXFGXX and the critical skill Military Occupational Specialty (MOS) 71L (Administrative Specialist).

d. On 26 February 2002, the Adjutant General School, United States Army Soldier Support Institute issued a diploma for completion of the Administrative Specialist Course from 22 January to 26 February 2002.

e. On 5 April 2006:

(1) The Mississippi Military Department, The Adjutant General's Office issued Orders Number 095-846 honorably discharging from him the ARNG and as a Reserve of the Army, with a retroactive effective date of 4 April 2006.

(2) NGB Form 337 (Oaths of Office) shows he was appointed as a Reserve commissioned officer with the [REDACTED] ARNG and executed an oath of office.

(3) On 6 April 2006, the [REDACTED] Military Department, The Adjutant General's Office issued Orders Number 096-822 appointing him in the ARNG with the Adjutant General's Corps.

f. On 12 July 2006, the NGB issued Special Orders Number 175 AR announcing his Federal Recognition as a commissioned officer with the ARNG with a retroactive effective date of 5 April 2006.

g. On 31 January 2007:

(1) The [REDACTED] Military Department, The Adjutant General's Office issued Orders Number 031-813 discharging him from the ARNG under honorable conditions with transfer to the U.S. Army Reserve (USAR) Control Group (Reinforcement).

(2) NGB Form 22 shows he was released from the [REDACTED] ARNG with a general-under honorable conditions characterization of service with service from 5 April 2006 to 31 January 2007 for a net service this period of 9 months and 26 days.

h. On 16 February 2007, the NGB issued Special Orders Number 39 AR withdrawing Federal Recognition with the ARNG and transfer to the U.S. Army Reserve (USAR) with a retroactive effective date of 31 January 2007.

i. He continues service with the USAR.

4. On 8 April 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending approval of the applicant's request stating, in effect:

a. The applicant entered into an agreement with the [REDACTED] ARNG on 15 September 2001 as a non-prior service applicant for the SLRP. He signed Annex S to DD Form 4 for the \$10,000.00 SLRP incentive and incurred a 6-year service obligation to the [REDACTED] ARNG. According to the bonus addendum, he had one student loan in the amount of \$3,042.57.

b. The applicant is now a member of the USAR and claims that he was never paid this incentive while he was a member of the [REDACTED] ARNG. The [REDACTED] ARNG Incentives Manager was consulted in the preparation of this advisory opinion and provided a response, enclosed. The [REDACTED] ARNG recommends full relief of his request because the Guard Incentive Management System cannot provide information as to whether he was paid or not.

c. He remained in the [REDACTED] ARNG until 5 October 2009 when he transferred to the USAR. This office recommends approval of the applicant's request for SLRP payment based on the fact that he completed the 6-year service obligation to the [REDACTED] ARNG and there is no record that he received the agreed payments to his student loan lender.

5. On 14 May 2024, the applicant was given with a copy of the advisory opinion and provided an opportunity to respond.

6. On 16 May 2024, he responded to the advisory opinion concurring with the opinion and providing no additional information for review.

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. Upon review of the applicant's petition, available military records and the National Guard Bureau's advisory opinion finding the applicant entered into an agreement with the Army National Guard (ARNG) for the Student Loan Repayment Program option in the amount of \$10,000 for a 6-year service obligation that he successfully completed. Based on the applicant's statement and advisory recommending approval, the Board determined relief was appropriate.

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 and Army National Guard records of the individual concerned be corrected to show the applicant is authorized payment toward his student loans under the Student Loan Repayment Program (SLRP) for the unused portion of the incentive.

7/1/2024

X [Redacted Signature]

CHAIRPERSON

[Redacted Name]

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 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.

3. AR 600-7 (Selected Reserve Incentive Program (SRIP)) states with regard to loan repayment, it is the Soldiers responsibility to complete a DD Form 2475 each anniversary year upon receipt from the incentive Manager or the Unit Administrator. Nothing in this section will be construed to authorize refunding any repayment of a loan, including payments made against the loan by any individual or agency, including the member. It is the Soldiers responsibility to maintain a current mailing address on file with the government.

4. 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//