

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 July 2024

DOCKET NUMBER: AR20230013618

APPLICANT REQUESTS: reinstatement of U.S. Army Reserve (USAR) Reenlistment Bonus and Student Loan Repayment Program (SLRP) incentives contracted on 13 September 2018.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 1966 (Record of Military Processing - Armed Forces of the United States), 8 August 2008
- DD Form 4 (Enlistment/Reenlistment Document - Armed Forces of the United States), 8 August 2008
- DA Form 3286 (Statement for Enlistment - U.S. Army Enlistment Program), 19 August 2008
- Orders Number 084-285, 25 March 2009
- DA Form 1059 (Service School Academic Evaluation Report), 26 July 2011
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 30 March 2013
- Orders Number 023-001, 23 January 2014
- DD Form 214, 23 January 2014
- DD Form 4, 13 September 2018
- DA Form 5261-4 (SLRP Addendum), 13 September 2018
- USAR Reenlistment Bonus Addendum, 13 September 2018
- DD Form 214, 9 February 2019
- J\_ M\_ patient medical documents, 13 March 2021
- Applicant's Memorandum - Subject: Bonus and SLRP Reinstatement, 8 September 2022
- Regional Level Application Software (RLAS) Unit Manning Report, 30 October 2022
- Commander's Memorandum for Record - Subject: Applicant, 2 February 2023
- Personnel Action Packet Checklist, 2 March 2023
- U.S. Army Reserve Command (USARC) Memorandum - Subject: Exception to Policy (ETP) for [Applicant], 17 April 2023
- Statement of Witness, 17 May 2023

- Applicant's Memorandum - Subject: Bonus and SLRP Reinstatement for [Applicant], 6 July 2023
- RLAS Support Resource Management Training Application screenshot
- Walgreens COVID-19 medical documents

FACTS:

1. The applicant states:

a. He was given 6 Multiple Unit Training Assembly (MUTA) unexcused absences for a family emergency for the Battle Assembly (BA) dates 12-14 March 2021. Since the ETP denial, his command has changed the 6 MUTA unexcused absences to excused. Please see attached memorandums, documents, and evidence for full explanation.

b. This correction should be made because he was given 6 MUTA unexcused absences even though he had a family emergency. He has provided verifiable proof backing up his claim. The 143rd Expeditionary Sustainment Command (ESC) agreed that his BA absences from 12-14 March 2021 were marked unexcused in error and have since changed the unexcused absences to excused.

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

a. On 8 August 2008, DD Form 4 shows he enlisted in the USAR for 8 years and enlisted in the Regular Army for a period of 4 years and 32 weeks on 19 August 2008.

b. On 30 March 2013, DD Form 214 shows he was honorably released from active duty and was transferred to his USAR unit in Orlando, FL.

c. He entered active duty for training on 16 August 2013.

d. On 23 January 2014, DD Form 214 shows he was released from active-duty training and was transferred to his USAR unit in Orlando, FL. It also shows he completed training for the Information Systems Operator/Analyst Course and was awarded Military Occupational Specialty (MOS) 25B (Information Technology Specialist).

e. On 28 September 2016, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows he extended his USAR enlistment for 1 year.

f. On 13 September 2018, he reenlisted in the USAR for 6 years. In connection with his reenlistment, he contracted for the SLRP and USAR Reenlistment Bonus. The applicant completed and signed:

(1) DA Form 5261-4, which shows, in relevant part, he acknowledged he had previous military service was a member of the USAR and was contracting to serve for 3 more years in the Selected Reserve. He contracted to serve in MOS 25B, and Headquarters Department of the Army approved a maximum of \$10,000.00 in loan repayments not to exceed \$50,000.00. He reenlisted for 6 years and indicated that he understood the terms of the agreement and his enlistment to loan repayment under the SLRP would be terminated if he became an unsatisfactory participant per Army Regulation (AR) 135-91.

(2) USAR Reenlistment Bonus Addendum, which shows, in relevant part, he acknowledged he was qualified in MOS 25B, and the MOS was approved as a bonus MOS and correlated to the unit position vacancy for which he reenlisted. He reenlisted for 6 years with a bonus amount of \$20,000.00, in accordance with USAR Selected Reserve Incentive Program (SRIP) list. Retaining the bonus once paid was contingent upon satisfactory participation in the Selected Reserve and subject to current recoupment policy. He selected the six-year lump sum option, and the lump sum of the bonus would begin on the effective date of the contract. When his entitlement to the reenlistment bonus was terminated for becoming an unsatisfactory participant per AR 135-91, previous bonus payments may be subject to recoupment.

g. On 22 January 2024, the Department of the Army published Orders Number 0007046381.00, which promoted the applicant to the rank/grade of staff sergeant (SSG)/E-6, effective 1 March 2024.

3. In support of his case the applicant provides:

a. DD Form 1966 dated 8 August 2008, which shows his personal data, examination and entrance data processing codes, and certifications for enlistment into the U.S. Army.

b. DA Form 3286 dated 19 August 2008 showing his contractual obligations, guarantees, and annexes related to his enlistment contract.

c. Orders Number 084-285 dated 25 March 2009 and issued by Headquarters, U.S. Army Signal Center and Fort Gordon, which awarded the applicant MOS 25P1O7D00 (Microwave Systems Operator Maintainer), effective 7 April 2009 or upon completion of training and award of required security clearance.

d. DA Form 1059 dated 26 July 2011, which shows he completed the Warrior Leader Course.

e. Orders Number 023-001 dated 23 January 2014 and issued by Headquarters, U.S. Army Signal Center of Excellence and Fort Gordon, which awarded the applicant

MOS 25B, effective 23 January 2014 or upon completion of training and award of required security clearance.

f. DD Form 214 ending on 9 February 2019, which shows he was ordered to active duty in support of Operation Enduring Freedom. He entered active duty on 22 February 2018 and was released from active duty and transferred to his USAR unit on 9 February 2019.

g. J\_ M\_ patient medical documents dated 13 March 2021, showing she was admitted and discharged for "rectal bleeding/abdominal pain from an emergency room in Florida on 13 March 2021.

h. Memorandum for Record - Subject: Bonus and SLRP Reinstatement, dated 8 September 2022, wherein, the applicant stated:

(1) He was seeking to have both his \$20,000.00 reenlistment bonus reinstated along with his \$10,000.00 SLRP from the same reenlistment contract for the following reason. Before BA on 11 and 12 December 2021, he was exposed to COVID-19. He notified his first-line supervisor prior to 11 December 2021, that he was exposed to COVID-19 and that he was not feeling well. Following Department of Defense (DoD) guidelines, he quarantined himself and did not show up to BA and he scheduled to have a COVID-19 test on the earliest date possible, Monday December 13th.

(2) Most of the following is irrelevant to his case to have his absences counted as excused as he was following DoD guidelines; however, it does complete the entire story of his holidays he spent alone and quarantined and why he did not respond to certified mail about the unexcused absences. He got the results of his COVID-19 test on Wednesday 15 December 2022 and he was negative. However, he was still not feeling well and continued to quarantine himself until he had a second COVID-19 test on 26 December 2022 and that came back positive. He continued to quarantine himself past the New Year and showed up to Drill in January after testing negative.

(3) He did not sign or see the certification letter explaining he was over the unexcused quota of 9 MUTA sent to his house prior to January BA. His mother, J\_ M\_, signed for this letter and forgot to give it to him right away. It was around February/March before he realized his pay was being garnished to recoup his \$20,000.00 reenlistment signing bonus. He also had \$10,000.00 student loan repayment from that reenlistment contract and the government's payment to his student loan holder was cancelled following his unexcused absences from December 2021 BA. He has not missed a BA since December 2021.

i. RLAS Unit Manning Report dated 30 October 2022, showing the applicant was assigned to a 25B2O – E-5 - Senior Information Technology Specialist position.

j. Headquarters and Headquarters Company, 143D Sustainment Command (Expeditionary) Commander's Memorandum for Record - Subject: [Applicant], dated 2 February 2023, wherein, the immediate commander stated, the applicant was erroneously coded "U" for battle assembly on 11-12 December 2021. Under AR 135-91, Section II, the applicant is excused due to illness. The applicant tested positive for COVID-19 after being exposed to someone. He notified his first line leader, however, a failure in communication to the section leader led to him being reported as unexcused.

k. Personnel Action Packet Checklist dated 2 March 2023, showing the required forms and documents submitted by the applicant requesting an ETP for USAR Bonus.

l. USARC Memorandum - Subject: ETP for [Applicant], dated 17 April 2023, which shows, the Director Resource Management USARC G-1 stated:

(1) The applicant reenlisted in the USAR on 13 September 2018 for a six-year term with a \$20,000.00 Selected Retention Bonus (SRB) and \$10,000.00 SLRP in MOS 25B, Information Technology Specialist. On 12 September 2020, the applicant's unit declared him an unsatisfactory participant due to him accumulating 10 unexcused absences from 12 September 2020 to 11 April 2021. Army policy requires the termination and recoupment of a Soldier's incentives when they get nine or more unexcused absences within a twelve-month period. The applicant's unit submitted documentation to support the attendance code change for 11-12 December 2021; however, those dates are outside the respective dates that led to the termination and recoupment of the applicant's incentives.

(2) Based on the circumstances, in this case, the USARC G-1 disapproves the request for an ETP.

m. Statement of Witness dated 17 May 2023, stating the applicant and his mother were at the emergency room on 13 March 2021.

n. Memorandum for Record - Subject: Bonus and SLRP Reinstatement for [Applicant], dated 6 July 2023, wherein, the applicant stated:

(1) This is a rebuttal to the denial of his bonus and SLRP reinstatement. He is seeking to have his \$20,000.00 reenlistment bonus along with his \$10,000.00 student loan repayment from the same reenlistment contract reinstated. He was given a 6 MUTA unexcused absence for missing battle assembly 12-14 March 2021 due to a family emergency.

(2) On Thursday 11 March 2021, his 73-year-old mother complained of an illness and said she might need to go to the hospital. She and the applicant lived together with no one else, and he felt he could not leave her alone to go to BA. He told his first line

supervisor, Staff Sergeant (SSG) T\_ B, about the family emergency and he told the applicant to keep him informed of what was happening.

(3) On Friday 12 March 2021, he took his mother to a medical facility she had been going to and he was told there is nothing they could do for her at that time and for him to monitor and/or take his mother to the ER [emergency room] if it gets worse. The next day on Saturday 13 March 2021, he took his mother to the ER. He has attached the documents of his mother's visit to the ER. He is not qualified to edit medical documents for "HIPAA", but due to the magnitude of his situation, he has permission from his mother to share these documents with whom it may concern. Along with this evidence, he also submits a document of a witness who spoke to his mother and him in the emergency room of that hospital on 13 March 2021. D\_ N\_ is a Volusia County Evac, a first responder, who was working that day and witnessed his mother and him in the ER. He was in contact with SSG T\_ B\_ before, during, and after this family emergency letting him know why he was not at BA including sending him text messages while he was at the ER.

o. RLAS Support Resource Management Training Application screenshot showing drill dates and attendance incentive codes.

p. Walgreens COVID-19 medical documents, which show he tested negative on 13 December 2021 and positive on 27 December 2021.

### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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 grant relief based on documentation from the applicant's command noting his absences were excused due to testing positive for COVID. However, upon further review of the applicant's petition, available military records and United States Army Reserve Command (USARC), G-1 advisory opinion, the Board concurred with the advising official recommendation for denial due to having over 9 MUTA unexcused absences. The opine noted, the applicant's unit submitted documentation to support the attendance code change for 11-12 December 2021 due to COVID.

2. However, the dates the applicant speaks to are outside the respective dates that led to the termination and recoupment of the applicant's incentives. The Board noted the Army policy requires the termination and recoupment of a Soldier's incentives when they get nine or more unexcused absences within a twelve-month period

The Board carefully reviewed the applicant's rebuttal and the evidence within the applicant's records. The Board found the applicant reenlisted for 6 years and indicated that he understood the terms of the agreement and his enlistment to loan repayment under the SLRP would be terminated if he became an unsatisfactory participant per Army Regulation (AR) 135-91. The Board determined there is insufficient evidence of an error or injustice that warrants reinstatement of the applicant's U.S. Army Reserve (USAR) Reenlistment Bonus and Student Loan Repayment Program (SLRP) incentives contracted. Therefore, the Board denied 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.

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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) 15–185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that 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 will decide cases based on the evidence of record. The ABCMR is not an investigative agency.

2. AR 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Provisions) defines Army National Guard and USAR service obligations. It prescribes policies and procedures governing the various types of service obligations and participation requirements. The Regulation states that an enlisted Soldier who is obligated by statute or contract will be charged with unsatisfactory participation when, without proper authority, he or she accrues a total of 9 or more unexcused absences from scheduled drills in any 12-month period.

3. AR 601-210 (Regular Army and Reserve Components Enlistment Program) prescribes eligibility criteria governing the enlistment of persons, with or without prior service, into the Regular Army, the U.S. Army Reserve, and the Army National Guard. Chapter 10 (SRIP Enlisted and Officer Incentives), paragraph 10-8 (Termination of incentives) states, entitlement to an incentive will be terminated when a member becomes an unsatisfactory participant (see AR 135-91). The effective date for termination entered into the personnel data reporting systems for Soldiers declared unsatisfactory participants is the date of the first unexcused absence. Paragraph 10-9 (Recoupment of incentives) states, with the exceptions of paragraphs 10-9a (1) and (2), recoupment conditions in this paragraph cover all incentives. Members who are not granted relief through the waiver process for incentives received must refund a pro-rata amount to the Government when termination is due to reasons outlined in paragraph 10-8. The only exceptions are cases in which prorated recoupment is not authorized in paragraph 10–9c. Commanders will refer to the respective Army component (USAR/ARNG) G-1 office most directly responsible for recruiting and retention (pay grade O-6 or civilian equivalent or higher) for resolution and consideration for waiver or exception. Cases considered for waiver or exception are those in which recoupment would be contrary to personnel policy or other management objectives, against equity or good conscience or contrary to the best interests of the United States, and clearly in the best interest of the Army.

4. Department of Defense Instruction (DODI) 1205.21 (Reserve Component Incentive Program Procedures) states in Paragraph 6.2, 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. Paragraph 6.8.1. states, a Soldier's incentive will be terminated with recoupment if they fail to participate satisfactorily in required training during the entire period of service agreed to, in accordance with the written agreement, unless the failure to participate satisfactorily was due to reasons beyond the control of the member (i.e., death, injury, illness, or other impairment).

5. AR 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. In accordance with the authority of Title 10 U.S. Code, section 7837, 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.

//NOTHING FOLLOWS//