

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 October 2024

DOCKET NUMBER: AR20240000335

APPLICANT REQUESTS: in effect, an Exception to Policy (ETP) to retain his Student Loan Repayment Program (SLRP) incentive dated 27 July 2011.

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant statement, 17 March 2015
- Idaho National Guard G-1 Memorandum - Subject: ETP Request for Enlistment Bonus (Applicant), 17 February 2016
- National Guard Bureau (NGB) Memorandum - Subject: Request for ETP for SLRP (Applicant), 23 February 2016

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:

a. He is requesting a correction to his enlistment incentives that he was supposed to receive from over 10 years ago. Please see the attached supporting documents for further clarification. At the time, his previous unit did not want to upload all of his documentation into his promotion packet. Due to this, he had to file an Inspector General (IG) complaint to have the issue resolved. He was promoted into a 00F (Immaterial) position, unknowingly losing his incentives. Please see the attached documentation for further clarification.

b. It was his situation that the State instituted a review for all incentives moving forward to ensure Soldiers would not lose any benefits without being properly informed. With the high turnover in the education office, his packet eventually got lost. He also recently started going back to school and stopped by the education office to inquire about the decision from the NGB and was told that they denied his ETP regarding his

SLRP. As you can read from his statement and ETP dated 17 February 2016, the State admitted that his promotion was not voluntary nor was it his fault.

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

a. He enlisted in the Idaho Army National Guard (IDARNG) on 2 March 2005. The applicant completed training requirements and was awarded Military Occupational Specialty (MOS) 31B (Military Police).

b. On 29 October 2009, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows he extended his IDARNG enlistment for 1 year, which changed his Expiration Term of Service (ETS) to 1 March 2012.

c. On 27 July 2011, DA Form 4836 shows he extended for 6 years changing his ETS to 1 March 2018. In connection with this extension, the applicant completed and signed NGB Form 600-7-5-R-E (Annex L to DD Form 4 SLRP Addendum ARNG), which shows, in pertinent part:

(1) He was enlisting, affiliating, reenlisting, or extending into a valid, vacant position in which double-slotting was not authorized. The addendum shows he extended for a "31B" position in Unit Identification Code (UIC) "WX42XX."

(2) At that time, he had 2 loans, and the total amount that may have been repaid on all loans may not exceed \$50,000.00. Loans in default at time of enlistment do not qualify for repayment under this program.

(3) Loans must be one year old or older on his first anniversary eligibility date to initially qualify for this program. The portion of the education LRP (up to \$50,000.00) that may be repaid annually on any qualifying loan(s) will not exceed 15 percent (not to exceed \$7,500.00 per year) of the total of all loan principal or \$500.00, whichever is greater, as determined in Section 16301 of Title 10, U.S. Code (USC). Payment will be processed on the anniversary date of enlistment/reenlistment/extension for each satisfactory year of service, subject to the availability of funds.

(4) If entitlement to an incentive is terminated for voluntarily transferring to an ineligible military specialty before the fulfillment of the service described in the member's written agreement, the member shall not be eligible to receive any further loan payments, except for payments for service performed before the termination date, on a pro-rated basis.

d. His record contains a Personnel Qualification Record - Enlisted dated 9 April 2015, which shows in Section C (Organization Data): Previous UPC/UIC: X42T2; Current UPC/UIC: 7XEAA, and Duty Position: 00F2O

e. On 23 February 2016, the NGB, Chief, Personnel Programs, Resources and Manpower Division, disapproved the applicant's request for ETP for SLRP. The NGB official stated:

(1) An ETP to retain the \$50,000.00 SLRP is disapproved for the discrepancy: voluntarily transferred out of the contracted MOS which violates the Department of Defense Instruction (DODI) 1205.21 (Reserve Component Incentive Programs Procedures), paragraph 6.6.2.

(2) The discrepancy identified in paragraph 2 violates a Department of Defense Instruction and the ARNG does not have the authority to approve this request. The State Incentive Manager will terminate the incentive with recoupment effective the date of transfer from the contracted MOS.

f. On 21 April 2017, IDARNG published Orders Number 111-003, which awarded the applicant Primary MOS 11B2O (Infantryman) and Secondary MOS 31B2O, effective 14 April 2017.

g. The applicant is currently serving in the IDARNG.

4. The applicant provides:

a. A self-authored statement dated 17 March 2015, wherein, he states:

(1) He is writing this letter to request an ETP concerning his contracted SLRP and MOS requirements. He was just informed that due to his promotion 2 years ago, that he will be ineligible to receive payments because he was promoted into a 00F position.

(2) He was promoted in April 2012 into his current position after fighting with his former unit concerning his "Enlisted Promotion System (EPS)" points. He was unfairly rated due to the fact that the old unit did not send his correspondence course paperwork showing how many hours he completed with his packet. When the list came out, he reviewed the packet he submitted which his unit had the appropriate paperwork attached. However, when contacting personnel in G-1, they showed him the paperwork that was submitted from his S-1, and it lacked proof of his coursework.

(3) Furious that he had to fight this issue he went straight to the IG at the time, filed a complaint and waited. Days, weeks, then months passed, he still had not heard from the IG, he began calling. His patience wore thin after phone calls were never returned, he spoke with his former Battalion commander and informed him of the issue at hand.

(4) The next day he heard back from the IG who was reluctant to help him with this issue and directed him to a master sergeant in the G-1. He looked into his incomplete packet, discovered that the unit failed to submit all of his documents and conducted an "EPS" Stab. After the stab was completed, he was number 1 in the state for E-4's and promoted into his current position. Although it is a 00F position, the unit requires that only 31B qualified personnel fill them, due to requirements needed to secure our [the unit's] Ammo Supply Point and be armed. He was never counseled on the issue that acceptance of this promotion would make him ineligible to receive payment for his SLRP.

(5) He is requesting this ETP be approved due to these circumstances that he had no control over. Had the appropriate documents been submitted, he would still be in his contracted position, and fairly promoted.

b. IDARNG Memorandum - Subject: ETP Request for Enlistment Bonus, dated 17 February 2016, which shows:

(1) The G1, Director of Personnel and Manpower requested review and final recommendation for approval/non-approval of the applicant's ETP request.

(2) The applicant signed a 6-year \$50,000.00 [SLRP Incentive] for a 31B position on 27 July 2011 with a contract start date of 27 July 2011. He was promoted into a 00F position, effective 26 April 2013. According to Section VI, number 4, Soldier's SLRP is to be terminated if the Soldier voluntarily transfers to an ineligible military specialty. In accordance with fiscal year 2011 SRIP 25 July 2011, Section 8.k. all immaterial branches are ineligible with exception to Regional Training Institute Instructor positions Additional Skill Identifier 8 and Drill Sergeant positions Skill Qualification Identifiers X. The Soldiers 00F position was not an eligible position.

(3) The State of Idaho is requesting an ETP due to no fault of the Soldier. The Soldier had advocated to fix an issue with his enlisted promotion packet in order to be awarded the proper points for his EPS packet. After a long process the issue was fixed and the Soldier was placed at the top of the list for promotion. The leadership did not consider that the potential promotion to a 00F position would cause termination of his SLRP. Since this time our State G-1 does a review for incentives on all 00F position promotions, as well as conducting effective unit training on incentives. Thank you for consideration in this Soldiers incentive issue.

BOARD DISCUSSION:

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

evidence shows the applicant signed a 6-year \$50,000 SLRP Incentive for military occupational specialty (MOS) 31B position on 27 July 2011 with a contract start date of 27 July 2011. He was promoted into a 00F position, effective 26 April 2013, and transferred out of the position. His SLRP incentive was terminated because he voluntarily transfers to an ineligible MOS/position. The FY11 Selected Reserve Incentive Program, dated 25 July 2011, stated all immaterial branches are ineligible with exception to RTI Instructor and/or Drill Sergeant Positions. The applicant's 00F position was not an eligible position. Although the applicant had a promotion issue within his unit, that was ultimately fixed, the fact remained that he committed to a 6-year service in the contacted MOS, but he voluntarily transferred to an ineligible MOS. The Board found no error or injustice.

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. 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. Title 31, USC, section 3702, also known as the barring act, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, USC, is relieving the government of the need to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.
3. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (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. It is not an investigative agency.
4. Department of Defense Instruction Number 1205.21 (Reserve Component Incentive Programs Procedures), states in:
 - a. Paragraph 6.2. (Written Agreements), 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.
 - b. Paragraph 6.6.2., persons whose military specialty is changed at the convenience of the Government or whose unit is inactivated, relocated, reorganized, or converted (e.g., weapons systems conversion) are entitled to continue receiving incentive payments provided they meet all other eligibility criteria, and are not separated from the Selected Reserve.
 - c. Paragraph 6.8. (Termination and Recoupment), if entitlement to an incentive is terminated for any reason before the fulfillment of the service described in the member's

written agreement, that member shall not be eligible to receive any further incentive payments, except for payments for service performed before the termination date. Unless granted relief, as covered in paragraphs 6.6. and 6.7., above, the member must refund a pro-rated amount to the Government, if such termination is for moving to a non-bonus skill or unit, unless the move is required by the Reserve component.

5. National Guard Regulation 600-7 (Selected Reserve Incentive Programs (SRIP)) governs policies and procedures for the administration of the Army National Guard (ARNG) SRIP programs. In pertinent part:

a. Paragraph 1-24 (Termination of incentives) states, incentive eligibility and entitlement will stop when any of the termination reasons listed in paragraphs 1-25 and 1-26 or the applicable program chapters and sections apply. The Soldier will not be eligible to receive any further incentive payments, except for Service performed before the termination date. The unit commander or authorized unit representative will initiate termination procedures and inform the State Incentive Manager when a Soldier is not in compliance with the incentive terms and conditions. Paragraph 1-25 (Termination with recoupment of incentives) states, termination with recoupment will occur, if a Soldier voluntarily moves to a non-bonus unit or MOS unless assigned as a 09S (Officer Candidate School Candidate), 09R (Simultaneous Membership Program Cadet), or as otherwise stated in this regulation. Termination is effective the date of transfer into the new MOS.

b. Paragraph 1-27b (ARNG Exceptions to Policy (ETP) request) states, all ETPs will be initiated by the Soldier and routed through their chain of command to the State Incentive Manager and the State G-1 as established in Chapter 5-3 (State Level). The State Level will evaluate all ETP's received on a case-by-case basis and route them to the appropriate level for final determination. The ARNG is the only level authorized to approve any ETP.

c. Section VII (Student Loan Repayment Program (SLRP)), paragraph 2-23 states, Public Law 99-145, section 671(a)(1), and Title 10, USC, section 16301 authorizes the education loan repayment program for qualified members of Selected Reserve 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). Repayment of any such loan will be made on the basis of each complete year of service performed by the borrower. A Soldier must meet the eligibility criteria in accordance with governing law, Department of Defense Instruction, Department of the Army, ARNG regulations or as outlined in the current Fiscal Year (FY) SRIP policy.

//NOTHING FOLLOWS//