

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 August 2024

DOCKET NUMBER: AR20240000783

APPLICANT REQUESTS:

- entitlement to payment under the Student Loan Repayment Program (SLRP)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- Excerpt from DD Form 1966 (Record of Military Processing Armed Forces of the United States)

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 that he enlisted in the Army National Guard (ARNG) in November 2010. He contests that when he contracted to serve, he completed documents which stated that his student loans would be repaid, however this has not occurred. He was later advised that loan repayment had not occurred because he failed one Army Physical Fitness Test (APFT). He was not aware of this conditional requirement and notes that other Soldiers who have failed their APFT have retained their enlistment benefits. He completed his service requirement and would like the military to honor his contractual obligation by providing loan repayment under the SLRP.

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

a. On 6 November 2010, the applicant enlisted in the ARNG for 8 years (6x2) with entitlement to the Selected Reserve Montgomery G.I. Bill, the SLRP and enrollment in the Educational Assistance Program. National Guard Bureau (NGB) Form 600-7-5-R-E (Annex L to DD Form 4 SLRP Addendum ARNG), Section III (Acknowledgement)

shows he had five loans at the time of enlistment. Section V (Suspension) provides that entitlement to the SLRP may be suspended if the applicant becomes flagged or repeatedly fails nonconsecutive APFT or fails to maintain body fat standards within a 1-year period. Section VI (Termination) provides that failure of two consecutive APFTs or body fat standards examination will result in the termination of the incentive.

b. On 16 October 2011, the applicant was flagged for exceeding the height and weight standards.

c. On 25 July 2012, the applicant was flagged for failing the APFT.

d. On 15 September 2012, the applicant's flag was removed.

e. On 5 November 2016, the applicant was honorably released from the ARNG and transferred into the U.S. Army Reserve (USAR) Control Group (Annual Training).

f. On 6 November 2018, the U.S. Army Human Resources Command issued Orders Number D-11-830583 honorably discharging him from the USAR, effective 6 November 2018.

4. On 3 June 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending disapproval of the applicant's request noting that he failed body fat standards on 4 August 2011 and 25 July 2012. The applicant also failed his APFT on 25 July 2012 and 15 September 2012. Further, the applicant failed the body composition and APFT twice consecutively within the first fiscal year terminating his SLRP entitlement.

5. On 5 June 2024, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments.

6. On 5 June 2024, the applicant responded to the advisory opinion again denying awareness of the APFT contingency associated with his SLRP incentive. He argues that the recruiters never explained this to him but instead are merely concerned about their recruiting numbers and bonuses. He further provides that the Army Body Composition standards are gradually evolving and that being a person of larger build, he has successfully passed all but one APFT. The applicant's rebuttal is further provided in its entirety within the supporting documents for the Board member's review.

BOARD DISCUSSION:

1. 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 evidence of record shows the applicant enlisted in the Army National Guard on 6 November 2010. In connection with his enlistment, he and a service representative authenticated a Student Loan Repayment Program (SLRP) Addendum indicating he had five dispersed loans. The applicant's entitlement to the SLRP incentive was contingent on several factors, including passing the Army Physical Fitness Test (APFT) and maintaining body fat standards. The Board reviewed the advisory opinion provided by Chief, Special Actions Branch, National Guard Bureau indicating the applicant failed his APFT on 25 July 2012 and 15 September 2012 and that he failed to maintain body fat standards on 4 August 2011 and 25 July 2012; resulting in the termination of his SLRP entitlement. The Board concluded based on the applicant's honorable service and ability to overcome his own deficiencies, relief was warranted.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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:	:	:	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 by:

- showing the applicant timely submitted an exception to the National Guard Bureau (NGB) for payment of his authorized loans, based on his 6 November 2010 Student Loan Repayment Program Addendum
- showing the NGB timely received, processed, and approved his exception to policy
- payment of his loans, up to the maximum authorized, provided all other criteria is met

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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. National Guard Regulation 600-7 (Selected Reserve Incentive Program (SRIP)) Chapter 5 (Student Loan Repayment Program) provides that Public Law 99-145, section 671(a)(1), and Title 10 USC 16301 authorizes the education loan repayment program for qualified members of Selected Reserve (SELRES) 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). The SLRP is offered to Non-Prior Service or Prior Service personnel. In addition to general SLRP eligibility requirements, members must also meet the following criteria:

- Enlist for a minimum of 6 years
- Have existing loans at the time of their enlistment
- Meet the current Armed Forces Qualification Test requirements
- Have not previously received the SLRP
- Be preapproved from the ARNG incentive management system in accordance with the current FY SRIP policy
- Completes a Student Loan Repayment Addendum (NGB Form 600-7-5-R-E) as part of the enlistment contract

a. Paragraph 1-16 (Incentive Payments) provides payment procedures and schedules are prescribed in this regulation. ARNG policy requires that the unit commander or other designated individuals will initiate the forms for payment immediately upon notice of the Soldier's entitlement and submit them to the State Incentive Manager for processing through the incentive management system for payment. The unit commander must ensure that Soldiers are counseled when they enlist, reenlist/extend, affiliate, commission or appoint for an incentive that they will not receive payments immediately. Payments will only be processed through personnel and pay channels for payment upon verification of all required contractual documentation.

b. Paragraph 1-18 (Suspension of SRIP Incentives) provides that except for suspension of favorable personnel actions based on failure to maintain body composition standards or APFT failure, Soldiers who have a suspension of favorable actions will not be processed for an initial or anniversary payment. Bonus payments will be processed effective the date the suspension is lifted, for Soldiers who have continued eligibility.

c. Paragraph 1-20 (Termination) provides that a Soldier's incentive eligibility and entitlement stop when any of the termination reasons listed within the applicable chapters of this regulation apply. Although the Soldier's entitlement to the incentive is terminated, the Soldier's responsibility to serve the current statutory or contractual obligation remains. Repeat APFT failure or failure to meet body fat standard within a one-year period will result in the suspension of an incentive. Two consecutive APFT or body fat standard failures will result in the termination of an incentive.

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. 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//