



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 8695-22
Ref: Signature Date

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Dear █

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 18 October 2023. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion contained in Commander, Naval Service Training Command (NSTC) letter 1500/Ser. N00/2476 of 17 April 2023 and Licensed Clinical Psychologist, Board for Corrections of Naval Records (BCNR) letter Docket No: NR20220008695 of 11 September 2023, and your responses to the opinions.

On 12 August 2014, you enlisted in the Naval Reserve for 8 years with an Expiration of Obligated Service of 11 August 2022.

On 12 August 2014, you signed a Naval Reserve Officers Training Corps (NROTC) Scholarship Contract (NSTC 1533/135) stating in part that "I understand and agree that I will incur either an enlisted service or a reimbursement obligation, as specified in Paragraph 6. If I withdraw or am disenrolled from the NROTC program after a certain date (the "Commitment Point"). To avoid incurring these obligations, I must have either been disenrolled from the NROTC Program by the Navy before the Commitment Point, or have withdrawn myself from the NROTC Program in writing delivered to my [Professor of Naval Science] before the Commitment Point."¹ Part 6 of this contract notes failure to fulfill contract obligations; failure to commission that at the discretion of the Secretary of the Navy (SECNAV) or his or her designee, you will be required to either serve on

¹ Commitment Point is calculated as follows: Recipient of a National Four-Year Scholarship awarded before commence of studies at the School, the Commitment Point is the first day the Naval Science class convenes during the Fall semester of second year in the NROTC Program, whether or not physically present in that class.

active enlisted duty for a period of at least two years or reimburse the Navy for the cost of the tuition and fees you have incurred, plus interest if you fail to fulfill any terms or conditions of this contract, become ineligible to serve as an officer prior to commissioning, not offered a commission because the Navy has determined you lack the aptitude or am not suitable to be an officer, disenrolled from the NROTC Program for any reason (including medical or physical disqualification) or refuse to accept a commission.

On 9 October 2015, Commanding Officer (CO), NROTC Unit, █ notified you that your semester grade point average (GPA) for the Spring 2015 term was 1.0. Consequently, you were placed on academic probation for the Fall 2015 term.

On 15 January 2016, CO, NROTC Unit notified you that you were removed from academic probation.

On 27 April 2016, CO, NROTC Unit notified you that a Performance Review Board (PRB) was held on 14 April 2016. The Board recommended academic probation. The CO concurred with the Board, and effective 22 April 2016 you were placed on academic probation.

On 1 September 2016, CO, NROTC Unit notified you that you were removed from academic probation.

On 13 January 2017, CO, NROTC Unit notified you that effective 13 January 2017 you are placed on Interim Leave of Absence (LOA) until he had reviewed all information and recommendation from the PRB, and that LOA and disenrollment from the NROTC program are possible results of all PRBs.

On 3 February 2017, CO, NROTC Unit notified you that a PRB was held on 19 January 2017 resulting in a recommendation for academic probation. The CO concurred with the recommendation, and stated that your academic history and semester GPA for Fall 2016 was 2.00. Consequently, effective 1 February 2017 you will be removed from Interim LOA pending completion of PRB and placed on academic probation for the Spring 2017 semester.

On 10 April 2017, CO, NROTC Unit notified you that you were removed from academic probation effective 5 April 2017.

On 30 June 2017, CO, NROTC Unit notified you that you were placed on academic probation for the Fall 2017 Semester effective 1 July 2017.

On 30 October 2017, █ (new CO) arrived at NROTC █ for duty.

On 13 February 2018, CO, NROTC Unit notified you that a PRB was held on 2 February 2018 resulting in a recommendation for academic LOA. The CO concurred with the recommendation, and effective 13 February 2018 you were placed on academic LOA for the Winter 2018 term.

On 10 May 2018, Senior Member, PRB notified the NROTC Unit CO that a PRB was convened on 8 May 2018. By that time, three PRBs had been convened regarding your academic performance, each resulting in academic probation. Additionally, you had been placed on academic probation in the Spring of 2017. And an additional PRB was convened in the Fall of 2017 resulting in academic LOA.

By a vote of 3 to 0, the board found that you did not meet academic requirements in accordance with NSTC. M-1533.2B (Regulations for Officer Development). Board recommendation: By a vote of 3 to 0, the Board recommended that you be disenrolled for failure to maintain academic standards. The general opinion of the Board is that you continued to fail to show improvement during your time at the unit. You had not met the standards on multiple occasions nor do you have the adequate aptitude and motivation for consideration in the naval service.

On 26 June 2018, CO, NROTC Unit notified you that “I have reviewed all related documentation. I concur with the recommendation of the Board for Academic Disenrollment.”

On 12 July 2018, your attorney submitted a rebuttal to academic disenrollment recommendation on your behalf. Respectfully requested suspension the disenrollment action, and to place you on Medical LOA. Once properly evaluated, if you were fit for duty, please allow you unencumbered by the medical condition that has plagued you to complete your degree requirements and commission.²

On 16 July 2018, CO, NROTC Unit notified you that the actions of the PRB were suspended, based on evidence provided, you were being placed on Interim Medical, pending Bureau of Medicine and Surgery (BUMED) LOA.

In accordance with NSTC M-1533.2C CH-2 published in January 2019, Academic Standards. To ensure NROTC graduates are properly prepared academically, each student shall meet the following standards: Have no failing grade in any subject required for completion of degree or commissioning requirements; maintain a cumulative GPA on a 4.0 scale of 2.5 for midshipmen; midshipmen and who entered their current NROTC program prior to July 2016 are grandfathered and remain under the 2.0 minimum cumulative GPA standard. Maintain satisfactory overall progress toward completion of degree requirements within established program time limits while maintaining full-time student status per institution regulations, and Keep their NROTC class advisors fully informed about all matters pertaining to performance, degree progress, and changes to their degree completion program.

Academic Deficiencies. a. Academic deficiency is defined as failure to comply with one or more of the standards addressed in this chapter. An academic deficiency exists when any of the following apply: Failed or incomplete courses. Failure to maintain good academic standing with the academic institution; Failure to meet standards identified under paragraph 1 above.

Academic LOA: A midshipman may be placed on LOA due to unsatisfactory academic performance or when it appears that the midshipman may not complete the program. If the midshipman is still academically deficient at the end of one term on LOA, the Professor of Naval Science (PNS) shall recommend either an extension or academic disenrollment.

The PRB is an administrative tool available to the PNS to investigate, review, and document recommendations regarding the best course of action to be taken to ensure successful fulfillment of program requirements by students enrolled in any NSTC officer development program.

² Enclosed was a letter from ■ dated On 11 July 2018, notifying to Whom it may Concern, that in her professional opinion, she believed you were experiencing anxiety and dysphoria as you put considerable pressure on yourself to complete your school work to the highest degree, becoming overwhelmed. She recommended you continue to find support participating in psychotherapy services for a least one month, at which time she will re-evaluate for further recommendations.

Disenrollment Recommendations: Ultimate disenrollment authority for obligated Navy or Marine Option midshipmen is with SECNAV (currently delegated to Assistant SECNAV (Manpower and Reserve Affairs) (ASN (M&RA)), for obligated SSM with CNSTC, for all non-obligated midshipmen with Director, Officer Development (Note: non-obligated SSMP may be disenrolled by the Unit PNS/OIC), for STA-21 OCs with CNSTC, and for MECEP OCs with MCRC. The PNS has some latitude in determining whether circumstances warrant the recommendation of disenrollment of a student. However, a recommendation for disenrollment should be considered as the primary course of action following a PRB for the following: a. Academic deficiencies (Section 3-18) that result in a cumulative GPA of less than a 2.5 at any point after completing three semesters (or four quarters) of college, regardless of time in the NROTC program.

On 17 December 2018, you notified the NROTC Unit CO of your intention to complete the remaining requirements for graduation during this term, which ends on 21 March 2019.

On 9 May 2019, Chief, BUMED notified Director, Officer Development (OD4), NSTC via NROTC Unit that based on a review of the available medical information, you do not meet established physical standards due to history of mild depression, in sustained remission. A medical waiver of the physical standards is recommended for continuation in the NROTC scholarship program leading to a commission in the Navy. Deputy Commander for NROTC Operations granted waiver for continuation in NROTC.

On 27 June 2019, CO, NROTC Unit notified you that effective 26 June 2019, you were removed from Interim Medical pending BUMED LOA and effective 27 June 2019 were placed on Interim LOA pending results of PRB.

On 27 June 2019, CO, NROTC Unit notified you that a PRB will be convened at 1000 on 18 July 2019 to investigate and make recommendations on your academic performance in the Winter 2018-2019 term.

On 18 July 2019, Senior Member, PRB notified the NROTC Unit CO of their findings and recommendation. As part of your performance history, under advisor comments, your advisor stated that you continue to fall short of performing at the level of a commissioned officer and you should not be granted a commission. By a vote of 3-0 the board found that you were guilty of failing to maintain academic standards during Winter term 2019 at ■■■■■. The board found that the cross-town argument, your inaction taken with regard to enrolling in the Naval Science Ethics course, your apparent improved performance during periods of oversight, but decline once off probation bring into question your overall motivation. However, your appearance and solid support via recommendations, the board found you to be of sound moral character. The board ultimately found you had met all commissioning requirements. A recommendation leading to disenrollment would be unreasonable given your completion of commissioning requirements combined with the non-standard academic remediation process. By a vote of 3-0, the board recommended no action.

On 24 July 2019, Senior Member, PRB notified you that pursuant to NSTC M-1533.2C, January 2019, CH-2, NROTC Regulations for Officer Development, a PRB was held on 18 Jul 19. The Board recommendation is No Action.³

³ The PRB report of 18 July 2019 details the PRB proceedings and includes all of the evidence that was presented to the Board. The Board's determination is only a recommendation to the PNS.

On 9 August 2019, CO, NROTC Unit notified you that per NSTC M-1533.2C, January 2019, CH-2, NROTC Regulations for Officer Development PRR Report of 18 July 2019, “I do not concur with the Board's recommendation of no action, I recommend disenrollment and have included additional details in Disenrollment Recommendation in your case.”

On 9 August 2019, CO, NROTC Unit notified Commander, NSTC that he recommended disenrollment and recoument in your case, due to consistent failure to meet academic standards and lackluster performance in other aspects of your training as a Midshipman. The NROTC CO provided a detailed statement for his recommendation and closed by stating that “[i]t is regrettable that this recommendation has had to come at this late stage in [your] training. However, my overall assessment of his potential as an officer leads me to recommend against commissioning and in favor of upholding the well-established program standards. It is not in the Navy's best interest to commission [you].”

On 9 August 2019, CO, NROTC Unit notified you that per NSTC M-1533.2C, January 2019, CH-2, NROTC Regulations for Officer Development that the purpose of this letter is to place you on LOA pending disenrollment, G-code effective 9 August 2019. All entitlements, including stipend and tuition, will stop effective immediately.

On 10 September 2019, CO, NROTC Unit notified the Director, Officer Development that you were being disenrolled for failing to meet the minimum GPA requirement of 2.5 in at least six of your twelve terms at ■■■■■ (trimester system). You were recommended for Active Enlisted Service, should you pursue that path to service.

On 20 November 2019, Commander, NSTC notified SECNAV that you were recommended for disenrollment from the NROTC Unit, Rensselaer Polytechnic Institute for failing to meet minimum academic standards to commission.

Recommend termination of your appointment as a midshipman, United States Navy Reserve. If approved, termination of appointment will be effective immediately.

You have graduated and were a recipient of a NROTC Scholarship. You were not a prior enlisted member or obligated to any known previous contracts. Therefore, recoument of scholarship funds in the amount of \$170,998.00 is recommended in lieu of active enlisted service. Should you enlist or commission in active duty service at a later date, you may contact this command on procedures to have your debt deferred/terminated at that time.

On 23 December 2019, Deputy Assistant SECNAV (DASN), Military Manpower and Personnel approved the recommendation.

On 23 January 2020, Commander, NSTC notified CO, NROTC Unit that the SECNAV [DASN] has approved your disenrollment from the NROTC Program, and has directed that you reimburse the government in the amount of \$170,998.00 for advanced educational assistance received. And if you desire entry into active service, recommend contacting a local recruiter. And once on active duty you can provide Commander, NSTC a copy of your enlistment/commissioning documents to defer/terminate your recoument action.

On 15 April 2020, Office of the Secretary (Military Manpower and Personnel) notified your attorney that “I have carefully considered the matters you submitted on February 14, 2020, including your

comments on the █ Professor of Naval Science’s endorsements and █ statements. However, I decline to revise my December 23, 2019 decision to disenroll █ from the [NROTC] and direct recoupment of scholarship funds. The administrative record shows that █ failed consistently to meet NROTC academic standards in effect during his undergraduate tenure. █ also concedes that he failed to achieve the term [GPA] required by regulation. NROTC staff provided █ with multiple notices advising him that failing to meet all academic standards could result in disenrollment. Should █ enlist or commission into the U.S. Armed Forces at a later date, he may contact [NSTC] to defer or terminate his outstanding educational debt.”⁴

On 17 April 2023, Commander, NSTC notified the BCNR that it was found that while you were grandfathered under the old policy that allows commissioning with a 2.0 cumulative GPA, the minimum requirement was to meet 2.5 GPA per academic term. You failed to meet the minimum standards 8 out of 13 terms. In December 2019, DASN M&RA approved your disenrollment with \$170,998.00 recoupment. The DASN also declined an appeal request in April 2020. You would be eligible to have your debt removed if you were to enlist in any armed forces service and serve honorably for two years on active duty. If you are interested in enlisting, you are encouraged to contact a recruiter.

On 5 June 2023, your attorney submitted a rebuttal to the advisory opinion, stating, “The Advisory Opinion provides no explanation or defense to the Navy's due process violations, and inequitable treatment of █, and as such, should be disregarded. Moreover, the NSTC's response fails to consider the psychological harm that █ suffered, as a result of the treatment of his NROTC leadership, which has left him not physically qualified for further service. It seems unlikely that the Commander, NSTC, reviewed any of the matters submitted by █, as the response is illogical and without substance.” You further asserted if the Board determined that disenrollment was warranted under the circumstances, your mental health would also need to be considered as a physically disqualifying condition. As a matter of prudence, and the assertions provided in your petition and maintained in your rebuttal of 5 June 2023, the Board sought a medical advisory opinion from the Board’s Licensed Clinical Psychologist.

On 11 September 2023, the BCNR Licensed Clinical Psychologist provided an advisory opinion, stating that “[I]tters submitted from his civilian provider do not list formal diagnoses, but describe mental health symptoms, which reportedly onset in June 2018. Petitioner’s academic struggles significantly pre-date the onset of his mental health symptoms. Available records indicate his mental health symptoms resolved by December 2018, but he continued to experience academic difficulties. In May 2019, BUMED indicated that, while he did not meet commissioning standards due to a history of mild mental health symptoms, the symptoms had been in remission for a sufficiently sustained period that a medical waiver was recommended. The Petitioner submitted evidence his mental health symptoms returned, and reportedly he is no longer recommended for military service. However, there is insufficient evidence that his academic difficulties could be attributed to mental

⁴ Additionally, the Defense Finance and Accounting Service (DFAS) notified you that your debt(s) has been referred to the DFAS Debt Collection Management Office for collection. They previously notified you of a debt owed to DoD and have not received a payment. This was your final notice on your delinquent debt. If you are unable to pay the debt in one lump sum due to financial hardship, you may be eligible to request reduced monthly payments for up to one year. To request a reduced monthly payment, you must submit a Voluntary Repayment Agreement (VRA) and Financial Hardship Application (FHA) available at: www.dfas.mil/debtandclaims. For VRA-FHA consideration, you must also begin making your requested monthly payments while your request is in review. Interest will continue to be assessed on any unpaid balance. Your total balance due is \$171,253.81.

health symptoms, given his academic history before and after his mental health difficulties. Additional records (e.g., complete mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his academic performance) may contribute to an alternate opinion. Based on the available evidence, it is my clinical opinion there is evidence of mental health symptoms experienced during the Petitioner’s NROTC experience. There is insufficient evidence to attribute his academic performance to mental health concerns.”

You requested remission and/or waiver of the alleged debt to the Navy in the amount of \$171,253.81, as well as any interest or penalties, return of any payments made, and any other relief as this Board may direct. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert the NROTC failed to provide adequate leadership and/or failed to properly and expeditiously process you and as a result, you struggled in your major and incurred additional education assistance. The Board determined that even though you struggled academically, there is no evidence that you requested help from your advisor or command and were denied. Furthermore, you had the option to withdraw without incurring a service obligation or recoupment of tuition if you did so before the first day the naval science class convened during the Fall semester of your second year.⁵ By the Fall of your second year, you had an academic warning and an academic probation resulting in a PRB, yet you did not request to withdraw or to change your major when it could have been easier to adjust to a change in curriculum.

The Board further noted your NROTC Unit did have a new PNS/CO which assume his duties on 30 October 2017. However, at this point you had already been notified academic probations, PRB, Interim LOA. And approximately 3 months after the change of command [2 February 2018], a PRB was held and you were placed on academic LOA for the Winter 2018 term. On 8 May 2018, another PRB was held, during which you stated that during the latest term, you “had been complacent” but you had “made changes to improve.” By that time in your NROTC program, you had already been subject to an academic warning, 3 PRBs resulting in academic probation, and another PRB resulting in academic LOA. The general opinion of the PRB was that you had not met the standards on multiple occasions nor do you have the adequate aptitude and motivation for consideration in the naval service and recommended disenrollment. Your CO concurred. The Board concluded that the Navy gave you multiple opportunities to improve, yet you were “complacent” with so many performance deficiencies while knowing the possible outcome from any PRB could be disenrollment.

Taking into consideration your written statement and documentary evidence, the new PNS/CO suspended the academic disenrollment and approved you to be placed on a medical LOA while submitting your mental health concerns to BUMED for review. The new PNS/CO authorized your request to return and to continue in the NROTC program and complete the remaining requirements for graduation. Your GPA for the Winter term 2018-2019 was 1.90. On 18 July 2019, a PRB was convened to investigate and make recommendations on your academic performance in the Winter 2019 term. As part of your performance history, under advisor comments, your advisor stated you should not be granted a commission. The PRB found that you were guilty of failing to maintain academic standards during Winter term 2019, however unanimously, the PRB recommended to take no action against you as you had already met the commissioning standards, however the PNS/CO recommended you for academic disenrollment with recoupment of scholarship funds based on the

⁵ You signed a Naval Reserve Officers Training Corps (NROTC) Scholarship Contract (NSTC 1533/135) on 12 August 2014, which you read, understood, and agreed to all obligations pertaining to the NROTC Scholarship Program.

totality of your performance while participating in the NROTC program. The PNS/CO further recommended you for active enlisted service in lieu of recoupment.

You assert through counsel that “while you did not consistently maintain term standards as a Midshipman, you met commissioning standards at the end of your collegiate career and in so doing, kept your end of the bargain. This constitutes substantial compliance with the contract, and the Navy breached its obligation when they disenrolled you.” However, in accordance with your NROTC Scholarship Contract, you are required to reimburse the Navy for the cost of the tuition and fees incurred, plus interest, if you fail to fulfill *any* terms or conditions of your contract. The Board determined that you earned a degree with educational assistance from the government and you were not offered a commission because the Navy has determined that you are not suitable to be an officer. Because you failed to commission, and because you state that you are not physically qualified for military service, you are required to repay the government for the education you received. The Board agreed that the process was followed and in accordance with the NSTC established guidelines provided in NSTC M-1533.2D of 18 December 2019. Specifically acknowledging you were grandfathered and remained under the 2.0 minimum cumulative GPA standard based on you entering the NROTC program prior to July 2016. All corrective and rehabilitative steps were followed as outlined in Chapter 6 of the guidelines, and further found appropriate with regards to Appendix B, which provides a uniform approach to give all NROTC participants the same opportunities. In this connection, the Board substantially concurred with the comments contained in the advisory opinions.

Finally, the Board found no evidence of toxic leadership or environment during your NROTC participation. The Board found that your record contains ample chances for corrective action by your PNS/CO and NROTC staff. The Board also reviewed your submitted evidence (statement from your father) to corroborate your assertion. The Board noted your father’s successful naval career, however this statement provided an opinion based on his own NROTC experience and service but did not provide material evidence to show the PNS/CO was negligent in his duties/provided inappropriate treatment towards you concerning remedial or rehabilitative steps provided, nor an unjust disenrollment with recoupment recommendation.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

11/14/2023

