

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 February 2024

DOCKET NUMBER: AR20230004888

APPLICANT REQUESTS: remission/cancellation of indebtedness from disenrollment from the Reserve Officers' Training Corps (ROTC).

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

- DD Form 149 (Application for Correction of Military Record)
- Personal Letter
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States), 2 March 2017
- National Guard Bureau (NGB) Form 594-1 (Annex DD Form 4/DA Form 4836, Army National Guard (ARNG) Simultaneous Membership Program (SMP) Agreement), 13 June 2017
- DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract), 21 September 2017
- U.S. Army Advanced Education Financial Assistance Record, 4 December 2018
- Cadet Record Brief, 17 April 2019
- Star Transcript
- Memorandum, Subject: Inappropriate Relations Incident Outcome, 30 September 2019
- Memorandum, Subject: National Guard Participation Status Update, 1 October 2019
- Memorandum for Record (MFR), Subject: Disenrollment, 7 October 2019
- Memorandum, Subject: Notification of Disenrollment from the ROTC - Due Process and Appellate Rights of Scholarship/Nonscholarship, 25 October 2019
- Cadet Form 133-R (Privacy Act Statement Army Senior ROTC Disenrollment Proceedings), 30 October 2019
- Cadet Command Form 131-R (Cadet Action Request), 30 October 2019
- MFR, Subject: Affidavit of Personal Service/hand delivery notification of disenrollment, 30 October 2019
- Memorandum, Subject: Disenrollment, 1 November 2019
- Memorandum, Subject: Disenrollment - Brigade Commander, 11 January 2021
- Cadet Affidavit - Financial Hardship, 1 July 2021

- DA Form 3072-2 (Applicant's Monthly Financial Statement), 1 July 2021
- Memorandum for Monetary Debt/Financial Hardship, 13 August 2021
- DD Form 785 (Record of Disenrollment from Officer Candidate – Type Training), 28 June 2022
- Orders Number 179-1, 24 August 2022
- United States Senate Authorization Form

FACTS:

1. The applicant states, in pertinent part she left the ROTC program for the following reasons:

a. In May of 2017, she began dating sergeant (SGT) D- B-. She was under the impression that the relationship was allowed because he was not her recruiter. During her freshman year ROTC held a meeting with the female cadets regarding SGT D- B- and his involvement with other cadets, which led to her explaining her relationship with the cadre. SGT D- B- blamed her for his removal from recruiting and threatened to commit suicide. She also received messages via social media from the mother of SGT D- B-'s son stating that she had ruined the life of their son as well as hers and SGT D- B- and she would make harassing phone calls at her workplace asking details regarding the investigation.

b. The first unit she was placed with after entering the ROTC program was with the [REDACTED] Military Police (MP) Company in [REDACTED]. There she was emotionally and physically abused by a [REDACTED] who repetitively told her she was a terrible cadet who was incapable of doing anything asked of her correctly. He also kicked her in the head as punishment after not having her Advanced Combat Helmet (ACH) on. When it came time for OC qualifications, she was pepper sprayed even though she was not supposed to be sprayed due to her status as a cadet. However, she was sprayed by the senior enlisted personnel. In May 2018, she was forced to go to Fort Polk and the Joint Readiness Training Center (JRTC) with her company which required her to leave approximately one to two weeks before her finals in school. She was regularly allowed a maximum of three hours of sleep per night and times when she was not allowed to sleep for 36 hours at a time. Additionally, the females in the unit were not allowed to use the portable showers that were specifically provided for feminine hygiene and caused many of them to suffer infections. While at JRTC, she was appointed as the acting lieutenant (LT) and left in charge of the remainder of the unit that stayed after the simulated attack ended since she was required to stay the entire rotation. Ultimately, this caused a negative impact to her grades with her university.

c. When she returned to [REDACTED] the following semester, her mental health had decreased significantly because of her experiences in the Army. Her Grade Point Average (GPA) dropped from 3.75 to 2.6 and she ended up going to see a

counselor. Eventually, she ended up leaving her school in order to improve her mental health and regain personal confidence.

d. The Army became a financial burden for her and her family as she would take time off from her civilian job to attend drills and training, causing her to lose a minimum of \$1,000.00 per month. Her mother does not have a job and her father never finished high school. Therefore, her parents partially rely on her income to live.

2. A review of the applicant's available service record reflects the following:

a. On 2 March 2017, she enlisted in the West Virginia Army National Guard (WVARNG) for a period of 8 years.

b. NGB Form 594-1, dated 13 June 2017, shows she enrolled into the SMP (Simultaneous Membership Program) as a cadet with the ROTC program with West Virginia University as a WVARNG 4 Year Minuteman Scholarship Nominee.

c. DA Form 597-3, dated 21 September 2017, shows she was enrolled at West Virginia University and the Army agreed to pay full tuition and fees for her education commencing on 21 September 2017 and a completion date of May 2021. Item 2 (General Cadet Agreement) shows she agreed to maintain a GPA of 2.0 on a 4.0 or equivalent scale. Item 5 (Terms of Disenrollment) shows she agreed to reimburse the Government in lieu of being ordered to active duty. She would be required to repay the amount of money, plus interest, equal to the entire amount of financial assistance paid for her advanced education.

(1) The Section titled "Cadet Obligation" states: I understand and agree that I will incur an active duty and/or reimbursement after the first day of my MS (Military Science) II Year if I am a 3-year, 4-year, or 5-year scholarship recipient, after the first day of my MSIII year if I am a 2-year scholarship recipient or after the first day of my MSIV if I am a one-year or less scholarship recipient.

(2) Section 5a states "I agree to serve on active duty": Under the terms of this contract, the Secretary of the Army or his or her designee, may order me to active duty as an enlisted soldier, if I am qualified, for a period of not more than four (4) years if I fail to complete the ROTC program. If I am disenrolled after the point of obligation, I may be ordered to active duty for one of the periods listed in paragraph 6 below based upon the year during which my disenrollment was initiated.

(3) Section 5b, I agree to reimburse the United States Government: If I am offered the opportunity to repay my advanced educational assistance in lieu of being ordered to active duty, I will be required to reimburse the United States government through repayment of an amount of money, plus interest, equal to the entire amount of

financial assistance (to include tuition, educational fees, books, laboratory expenses, and supplies) paid by the United States for my advanced education from the commencement of this contractual agreement to the date of my disenrollment or refusal to accept a commission. This amount includes any financial assistance I may have received prior to my obligation point. I agree that any money I am determined to owe to the United States shall bear interest at the rate equal to the highest rate being paid by the United States on securities having maturity dates of ninety days or less and shall accrue from the day that I am first notified of the amount I owe to the United States as reimbursement under this contract. I understand that I may be deemed to have failed to comply with the terms and conditions of this contract (breach of contract) regardless of whether I knew that the failure violated the contract and regardless of whether the failure was the result of an act or omission on my part made with a specific intent to avoid responsibilities under the contract.

d. On 24 August 2022, the ROTC West Virginia University issued Orders Number 179-1 discharging her from the U.S. Army Reserve (ROTC Control Group) with a retroactive effective date of 28 June 2022.

e. On 25 August 2022, the WVARNG AUGOE Army Element Joint Force Headquarters issued Orders Number 2002232 demoting her from the rank of SGT to private (PV2)/E-2 for SMP Withdraw/Elimination from ROTC with a retroactive effective date of 28 June 2022.

f. NGB Form 22 (Report of Separation and Record of Service), dated 11 January 2023 reflects an uncharacterized discharge from the WVARNG with service from 2 March 2017 to 11 January 2023 for a net service this period of 5 years, 10 months, and 10 days.

g. On 19 January 2023, the WVARNG issued Orders Number 3898890 involuntarily discharging her with a retroactive effective date of 11 January 2023.

h. Her record is void of her ROTC disenrollment packet.

3. The applicant provides the following:

a. U.S. Army Advanced Education Financial Assistance Record, dated 4 December 2018 showing a balance of \$16,500.00 for ROTC Scholarship benefits paid.

b. Cadet Record Brief, dated 17 April 2019 showing her GPA in the Fall of 2017 as 3.71, Spring 2018 as 3.79, and dropping in the Fall of 2018 to 2.62.

c. Star Transcript showing the classes she was enrolled in throughout her time at

WVU.

d. Memorandum, Subject: Inappropriate Relations Incident Outcome, dated 30 September 2019 documenting that she had inappropriate relations with a recruiter and that the recruiter was not charged civilly or militarily but was discharged from the WVARNG over the incident.

e. MFR, Subject: National Guard Participation Status Update, dated 1 October 2019 stating, in effect, the applicant was in a non-drilling/non-pay status (Absent Without Leave (AWOL)) from August 2018 to September 2019. She was transferred to a Field Artillery unit and needed to attend Basic Training and fulfill her service obligations per her contract. Most likely, she will continue to be AWOL and in a non-pay status. The applicant is looking to get a hardship discharge from the WVARNG.

f. MFR, Subject: Disenrollment, dated 7 October 2019 stating, in effect, that she requested a personal hardship disenrollment. She was in an inappropriate relationship with a recruiter between Spring 2017 to Fall 2018. There were no medical, death, or expense issues involved with the disenrollment.

g. Memorandum, Subject: Notification of Disenrollment from the ROTC - Due Process and Appellate Rights of Scholarship/Non-scholarship, dated 25 October 2019 showing the Professor of Military Science initiated her disenrollment for personal hardship which constituted a breach of contract.

h. Cadet Form 133-R, dated 30 October 2019 privacy act statement for the disenrollment packet.

i. Cadet Command Form 131-R dated 30 October 2019 showing she requested disenrollment for personal hardship.

j. Memorandum, Subject: Affidavit of Personal Service/hand delivery notification of disenrollment, dated 30 October 2019 showing she was hand delivered documentation for her disenrollment from ROTC.

k. Memorandum, Subject: Disenrollment, dated 1 November 2019 showing her Professor of Military Science recommended her for disenrollment from the ROTC program based on personal hardship based on multiple significant events through her time in the WVARNG and as a SMP cadet which helped shape her decision to leave the program.

l. Memorandum, Subject: Disenrollment - Brigade Commander, dated 11 January 2021 showing her Brigade Commander concurred with the recommendation for her disenrollment from ROTC.

m. Cadet Affidavit - Financial Hardship, dated 1 July 2021 wherein she signed confirming that her statements regarding her personal hardship and disenrollment from ROTC were true.

n. DA Form 3072-2 dated 1 July 2021 showing her monthly income, debts, and balance after all bills were satisfied.

o. MFR, Subject: Monetary Debt/Financial Hardship, dated 13 August 2021 wherein a Professor of Military Science supported her request for monetary debt/financial hardship remission or cancellation of her ROTC debt.

p. DD Form 785 dated 28 June 2022 showing she was disenrolled from the ROTC program for personal hardship.

q. United States Senate Authorization Form authorizing Senator J- M- to act on her behalf regarding her application for remission or cancellation of indebtedness.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The evidence of record confirms the applicant was accepted into an Army ROTC scholarship program. She fully understood and accepted the terms of her enrollment when she authenticated her contract. She agreed that if she were disenrolled from the ROTC Program for any reason, she would have to repay her scholarship debt or be ordered to active duty in the rank/grade of PV1/E-1 for an appropriate number of years. The evidence of record shows she failed to satisfy the contractual requirements of this program. The reason for her disenrollment is personal hardship following an inappropriate relationship with a recruiter. There were no medical, death, or expense issues involved with this disenrollment. The applicant knowingly and voluntarily acknowledged that she had breached the terms of her ROTC contract and waived her rights disenrollment board. She also waived her right to dispute the amount and validity of her educational indebtedness. She further declined both expedited and delayed call to active duty and was ultimately discharged in June 2022.

b. The Board also noted that both the applicant's Professor of Military Science and ROTC Brigade Commander opined that the applicant's personal hardship was based on inexcusable, significant events she endured as an SMP Cadet with the WVARNG, that impacted her academically. They added that based on the applicant's continued

commitment and fulfillment of her duties, both officers recommended neither repayment of the scholarship funds she received nor going into the service.

c. As a matter of equity, based on the applicant's commitment to the program, despite her unfortunate events, and based on the appearance that repayment would be contrary to a personnel policy or management objectives, against equity and good conscience, or contrary to the best interest of the United States, the Board determined that the applicant's records should be corrected to show her debt was cancelled.

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 that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing her ROTC Scholarship debt was waived by the appropriate officials in a timely manner.

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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) 145-1 (Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training) prescribes policies and general procedures for administering the Army's Senior ROTC Program.

a. Paragraph 3-31 (Introduction) states the Army ROTC Scholarship Program provides financial assistance to those students who have demonstrated academic excellence and leadership potential. The U.S. Army Scholarship Program's purpose is to provide for the education and training of highly qualified and motivated young men and women who have a strong commitment to military service as commissioned officers

b. Paragraph 3-43 (Disenrollment) (a)(11) states a scholarship cadet may be disenrolled only by the Commanding General, ROTC Cadet Command. A cadet will be disenrolled when it is discovered that a fact or condition exists that will bar a cadet from appointment as a commissioned officer, to include a positive urinalysis for drug and alcohol abuse.

2. AR 37-104-4 (Military Pay and Allowances Policy), provides the policies and provisions for entitlements and collections of pay and allowances of military personnel. Paragraph 31-2 (Recoupment) states recoupment applies to those individuals who have signed an agreement that contains recoupment provisions. Recoupment action will be taken at transition when the personnel and finance communities identify a Soldier or cadet as being eligible for recoupment action.

3. Title 10 United States Code (USC), section 2005(a), states that the Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement under the terms of which such person shall agree: (1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement and (2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement.

4. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) states a Soldier's debt to the U.S. Army may be remitted or canceled under Title 10, USC, section 7837 and Title 32, USC, section 710 arising from debts acknowledged as valid. Title 10 USC, section 4837, 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. Indebtedness to the U.S. Army that may not be canceled under Title 10 USC, section 4837 when the debt is incurred while not on active duty or in an active status.

//NOTHING FOLLOWS//