

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 December 2024

DOCKET NUMBER: AR20230009780

APPLICANT REQUESTS: remission//cancellation of bonus for a Tuition Assistance (TA) debt.

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

- DD Form 149 (Application for Correction of Military Record)
- Pay Adjustment Authorization Form
- Memorandum [REDACTED] National Guard
- Student Transcript: Term: Spring 2010
- Email

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 he recently received a debt regarding a bonus for tuition assistance overpayment. Prior to graduating, all TA debts were paid, and he graduated, thereby all agreements were upheld. As for the bonus, although he had a bonus option for his second enlistment, he did not satisfy any requirements of the bonus and did not receive any over the course of his second enlistment. He believes this debt is in error. Had there been a bill it would have been paid from his Veterans Administration (VA) disability. Prior to graduation all TA claims were processed free and clear of debt at the time. He received no money from bonus during his second enlistment. This correction should be made to clear him of this debt. Records can show he received TA after 2014 without any indication debt which can be verified by submitted claims and payout. Also, since he lives off VA disability the debt, if there had been a debt, would be taken out. He believes this debt is an error regarding an earlier debt from TA which was paid when he first received disability compensation.

3. The applicant provides:

a. Memorandum, Subject: Recoupment for Legacy Federal TA (FTA), 1 July 2015, shows [REDACTED] National Guard Education and incentives Officer provided FTA in the amount of \$3,511.20 and the applicant was required to earn a passing grade for any classes funded by FTA or reimburse the federal government/

b. DD Form 139 1 October 2015 shows FTA funds were issued for a class the applicant failed, withdrew, dropped, or did not submit grades for Fiscal Year 2010. Out of Service Debt.

c. Student Academic Transcript, 18 Jun 2024 shows the applicant's Term: Spring 2010, failing grades and withdrawal during that time. He failed GN340, German Phonetics and Pronunciation and GN302, German Language and Culture as well as withdrew from GE350, Study Abroad.

d. Email string: Student Financial Services, 18 June 2024 show the applicant received \$3718.60 in FTA for Spring 2010 which was paid on to his student billing account on 12 March 2010.

4. A review of the applicant's official records shows the following:

a. The applicant entered active duty on 25 June 2002. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was honorably released from active duty on 31 October 2002 and transferred to the Army National Guard (ARNG). He completed 4 months, and 6 days net active service.

b. The applicant entered active duty on 1 December 2002. His DD Form 214 shows he was honorably released from active duty on 12 October 2003 and transferred to the Army National Guard (ARNG). He completed 10 months, and 12 days net active service.

c. The applicant entered active duty on 5 August 2005. His DD Form 214 shows he was honorably released from active duty on 8 December 2006 and transferred to the Army National Guard (ARNG). He completed 1 year, 4 months, and 4 days net active service.

d. DD Form 4 (Enlistment/Reenlistment Document-Armed Forces of the United States) shows the applicant enlisted in the Missouri ARNG on 4 September 2007.

e. NGB Form 22 (Report of Separation and Record of Service), 4 September 2013 shows the applicant was honorably discharged from the ARNG.

5. National Guard Bureau, Chief, Education Services Branch, who did not recommend relief, and opined:

a. The applicant requests his records be corrected to show he does not owe a Federal Tuition Assistance (FTA) debt in the amount of \$3,511.20 for the Spring 2010 semester at Southeast Missouri State University (SMSU).

b. After reviewing his records, we determined that the school received FTA in the amount of \$3,511.20 for the Spring 2010 term and that [REDACTED] received W (Withdrawal) and F (Failure) grades for those courses as follows:

- GE350, Study Abroad German (W)
- GN340, German Phonetics and Pronunciation (F)
- GN302, German Language and Culture (F)

c. Per Army Regulation (AR) (Army Continuing Education System) 621-5, paragraph 4-7, Soldiers agree to reimburse the Army when they withdraw from a class, or they fail to achieve a successful grade for the class. A copy of the transcript and email communication from the school stating they received payment from the Army, as well as the original debt collection notice (DD Form 139) from the [REDACTED] ARNG are attached and serve as proof that this is a legitimate debt. In addition, Public Law 110-246, Section 14219 eliminated the 10-year statute of limitations on debts that occur on or after 18 June 2008.

d. Given that the applicant received FTA in the amount of \$3,511.20 in the spring of 2010 but failed to successfully complete the courses for which FTA was paid, we cannot recommend relief.

6. In the processing of this case an advisory opinion was obtained from the National Guard Bureau, Chief, Special Actions Branch, who did not recommend relief, and opined:

a. Recommendation. Denial.

b. Discussion.

(1) The applicant received notification of a debt for FTA in the amount of \$3,511.20 dated 1 October 2015 for FY2010 FTA funds that were dispersed [REDACTED] University. The notification claims the applicant failed, withdrew, dropped, or did not submit grades for FY 2010 classes [REDACTED] University. He claims that there is no reason he would owe a debt and believes the recoupment is an error.

(2) After review of the Soldier's submission and coordination with the National Guard Bureau's Education Services Branch the soldier did not receive the recoupment in error. He failed GN340, German Phonetics and Pronunciation and GN302, German Language and Culture as well as withdrew from GE350, Study Abroad German in the Spring of 2010 after the FTA had been paid to the school.

(3) Per Army Regulation (AR) (Army Continuing Education System) 621-5, paragraph 4-7, he agreed to reimburse the Army if they withdraw from a class, or they fail to achieve a successful grade for the class. His transcript confirms failure and withdrawal and email communication from the school confirms they received payment from the Army in FY2010. In addition, Public Law 110-246, Section 14219 eliminated the 10-year statute of limitations on debts that occur on or after 18 June 2008.

(4) It is the recommendation of this office that the applicant's request be denied. The applicant failed two class and withdrew from a third class that was paid for by FTA in FY2010. He owes the recoupment of \$3,511.20 per AR 621-5.

(5) This advisory opinion was coordinated with National Guard Bureau's Education Services Branch.

7. On 26 June 2024, the applicant was provided with a copy of the advisory opinion for comment. He did not respond.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the facts and recommendation outlined in the NGB advisory opinion and the lack of any rebuttal of those facts and recommendation submitted by the applicant, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's military record.

#### 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.

3/17/2025

  
XCHAIRPERSON  


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, U.S. Code, 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. 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 U.S. Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. A Soldier's debt to the U.S. Army may be remitted or canceled on the basis of this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.
3. Army Regulation (Army Continuing Education System) 621-5, establishes vision, mission, strategic goals, policies, and responsibilities for Army Continuing Education System (ACES). Financial assistance will be provided for voluntary off-duty education programs in support of a Soldier's professional and personal self-development goals. TA is directly related to retaining quality Soldiers, enhancing their career progression, increasing the combat readiness of the Army, and returning Soldiers to civilian careers. Soldiers agree to reimburse the Army if they withdraw from a class, or they fail to achieve a successful grade for the class.
4. Public Law 110-246, Section 14219 eliminated the 10-year statute of limitations on debts that occur on or after 18 June 2008.

//NOTHING FOLLOWS//