

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 April 2024

DOCKET NUMBER: AR20230009925

APPLICANT REQUESTS: remission of debt associated with previously received Reserve Officers' Training Corps (ROTC) scholarship funds.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 16 September 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 in pertinent part that he served on active duty for four years in lieu of being required to repay previously received ROTC scholarship funds. He contests that he received a letter from the Defense Finance and Accounting Service reflective of a service debt in excess of \$40,000.00.

3. A review of the applicant's available service records reflects the following:

a. On 10 September 2009, the applicant contracted with the U.S. Army Reserve (USAR) with entitlement to a 4-year scholarship with the Indiana University ROTC program.

b. On 3 August 2011, the applicant was notified that the Professor of Military Science (PMS) was initiating his disenrollment in accordance with Army Regulation (AR) 145-1 (Senior ROTC Program, Organization, Administration and Training), for failure to maintain a minimum semester cumulative academic Grade Point Average (GPA) of 2.0 on a 4.0 scale. The applicant was placed on a leave of absence pending his disenrollment. He was advised if he was a scholarship cadet, he may be called to active duty or required to repay scholarship benefits in the amount of \$27, 485.12 in lieu

of call to active duty in fulfillment of his contractual obligation. If eligible, the applicant could elect an expeditious call to active duty in order to satisfy the breach of contract.

c. On 13 August 2011, the applicant responded to the notification, he elected to have a hearing and declined an expeditious call to active duty for fulfillment of his contractual obligation.

d. On 6 September 2011, a disenrollment board was conducted. The applicant argued the requirement to repay the previously received scholarship funds noting that he paid for his sophomore year of college out of his own funds. He further denied completely understanding the contract terms. However, he did acknowledge previously being explained the requirement to repay monies received if he did not request to leave the program after his freshmen year.

e. On or about 7 September 2011, the applicant was notified that the appointed Investigating Officer (IO) and board ratified his scholarship debt (\$27,485.12) and determined that there was sufficient evidence to support recoupment. The IO further recommended that the applicant not be released from the ROTC contractual obligation, should not be ordered to active duty in an enlisted status, but instead be ordered to repay his valid debt to the U.S. Government. The applicant was afforded 5 days to submit a rebuttal to the findings.

f. As of 22 September 2011, the applicant had not responded to the notification.

g. On 4 October 2011, the PMS advised the U.S. Army Cadet Command (USACC) that the applicant was being disenrolled from the ROTC program for failing to maintain academic standards. The PMS further recommended that the applicant be required to repay the scholarship funds paid to him while enrolled in the ROTC program.

h. On 2 December 2011, the Commander, Headquarters, 7th Brigade USACC, recommended that the applicant be disenrolled from the ROTC program for failing to maintain academic standards and recommended that the applicant be required to repay the \$27,485.12 worth of scholarship funds paid to him while enrolled in the ROTC program.

i. On 20 March 2012, the applicant was disenrolled from the ROTC program for failure to maintain a minimum semester cumulative academic GPA of 2.0 on a 4.0 scale in accordance with AR 145-1, paragraph 3-43a.(6). He was further advised that when the ROTC scholarship contract is breached, any obligation to the Army must be satisfied by repaying the cost of advanced education assistance provided by the

Army. The total amount of monies spent in support of his education was \$27,485.12. He was required to elect to either provide repayment via lump sum payment or to initiate a repayment plan.

j. On 17 September 2012, the applicant enlisted in the Regular Army to serve as a 68W (Health Care Specialist) for 4-years.

k. On 11 February 2016, the applicant enlisted in the Army National Guard (ARNG) for 6-years.

l. On 12 July 2016, the Installation Management Command issued Orders Number 194-0016 reassigning the applicant to the U.S. Army transition point pending separation processing.

m. On 16 September 2016, the applicant was released from active duty and transferred into the [REDACTED] ARNG.

n. On 10 August 2022, the [REDACTED] ARNG issued Orders Number 1979937 voluntarily discharging the applicant from the ARNG, effective 16 September 2022.

o. On 4 May 2023, the Defense Finance and Accounting Service (DFAS) advised the applicant that their records reflect that he had an indebtedness in the principal amount of \$27,485.12 for the recoupment of education tuition assistance paid on his behalf within a U.S. Army Program. Further, while a service member is on active duty, they may qualify for a temporary debt suspension for up to two (2) years by providing their office with proof of current active duty enlistment as well as documentation from the service of the agreement showing acceptance to either defer the debt if less than 24-months active enlisted service or waive debt if more than two years or commissioned. The applicant was advised that he could apply to this Board for suspension or termination of this indebtedness.

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 and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition and available military records, the Board noted the applicant was disenrolled due to breach of his ROTC contract for failure to maintain a minimum semester cumulative academic GPA of 2.0 on a 4.0 scale in accordance with AR 145-1, paragraph 3-43a.(6).

2. The Board determined the applicant enlisted into the regular Army on 17 September 2012 as a 68W (Health Care Specialist) for 4-years, nearly six months after his disenrollment. The Board agreed the applicant service a period of four years and deployed during his span of enlistment to include receiving a honorable discharge. Furthermore, the Board noted upon completion of his active-duty service, the applicant enlisted into the Army National Guard for an additional six years. The Board agreed remission of indebtedness associated with previously received Reserve Officers' Training Corps (ROTC) scholarship funds is warranted. Therefore, the Board granted relief for the \$27,485.12 debt remission.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
█	█	█	GRANT FULL RELIEF
:	:	:	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 records of the individual concerned be corrected by notifying DFAS that the applicant's debt in the amount of \$27,485.12 has been relieved that was established due to his military service.

5/6/2024

X █

CHAIRPERSON
█

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. AR 145-1 (Senior ROTC Program, Organization, Administration and Training) provides that a scholarship cadet may be disenrolled only by the Commanding General, ROTC Cadet Command. Paragraph 3-43 (Disenrollment) provides that non-scholarship and scholarship cadets will be disenrolled if they fail to maintain a minimum semester or quarter cumulative academic GPA of 2.0 on a 4.0 scale or higher if required by the school and at least a 3.0 on a 4.0 scale or equivalent semester or quarter and cumulative average in all ROTC courses.

a. A board of officers will be appointed by the PMS, the brigade commander, or the region commander according to the formal procedures outlined in AR 15-6, as modified by this regulation (see AR 15-6, paragraph 1-1) and guidance from the CG, USAROTCCC, to consider the case of each cadet considered for disenrollment.

b. A cadet who is involuntarily ordered to active duty for breach of his or her contract will be so ordered within 60 days after they would normally complete baccalaureate degree requirements, provided the cadet continues to pursue a baccalaureate degree at the school where they are enrolled in the ROTC or the school where the cadet has agreed to pursue such degree, if the school where he or she is enrolled does not offer that degree. If not academically enrolled, the cadet will be ordered to active duty 60 days from date of notification of active duty. Graduate students may not be ordered to active duty until they complete the academic year in which they are enrolled, or disenroll from the school, whichever occurs first.

c. Paragraph 3-44 (Discharge and Separation from the USAR) provides that the CG, ROTCCC, is the only authority for discharge of scholarship cadets. Upon disenrollment from the ROTC, a cadet assigned to Control Group (ROTC), who is not ordered to active duty or pending such an order and has previously completed a basic training course conducted by a U.S. Armed Force, will be transferred to the IRR if the military service obligation has not been met. A cadet assigned to Control Group (ROTC) who is not ordered to active duty or pending such an order and has no previous military service, or who has not completed a basic training course, will be discharged. The effective date of discharge or transfer will be the date of disenrollment from the ROTC.

3. Title 10, USC, section 2005 (Advanced Education Assistance: Active-Duty Agreement; Reimbursement Requirements), provides 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 with the Secretary concerned under the terms of which such person shall agree:

- a. To complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement.
- b. That if such person failed to complete the education requirements specified in the agreement, such person would serve on active duty for a period specified in the agreement (usually a four-year enlistment at the grade of E-1, in a MOS at the needs of the Army).
- c. That if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed, such person shall be subject to the repayment provisions of Title 37 USC, section 303a(e); and
- d. To such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

4. AR 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of 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//