

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 May 2024

DOCKET NUMBER: AR20230010086

APPLICANT REQUESTS: cancellation of his Reserve Officers' Training Corps (ROTC) scholarship indebtedness in the amount of \$121,430.00.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract)
- Senior ROTC Contract Agreement Special Active Duty Provision Statement of Understanding
- Defense Finance and Accounting Service (DFAS) Debt and Claims Management Ticket
- Leave and Earnings Statement (LES)

FACTS:

1. The applicant states in effect, he currently owes an indebtedness in the amount of \$121,430.00 for advanced financial assistance for his ROTC scholarship. He was ordered to active duty to fulfill his contractual obligation in lieu of repayment. This indebtedness was placed in suspension until the completion of his contractual obligation. Though the indebtedness was placed into suspension he continues to receive notifications of payment requirements. He requests the cancelation of his indebtedness as he has completed his contractual obligation.

2. On 30 August 2013, the applicant enlisted in the U.S. Army Reserve (USAR) as a cadet and was assigned to the USAR Control Group (ROTC).

3. The applicant's Enlisted Record Brief shows his:

- Basic Active Service Date is 7 October 2019
- Pay Entry Base Date is 7 October 2019
- Expiration of Term of Service is 26 July 2027
- Date of Initial Entry to Military Service is 7 October 2019

4. DA Form 597-3 shows in:

a. Part I (Agreement of the Department of the Army), the Army agrees to pay 4 academic years of full tuition and educational fees.

b. Part II (Agreement of Scholarship Cadet Contracting in the Senior ROTC Program);

(1) The cadet agrees to enroll in the necessary courses and successfully complete the requirements for the degree in the academic major selected. The cadet agrees to remain enrolled in and successfully complete the ROTC program as a prerequisite for commissioning.

(2) The cadet understood and agreed he would incur an active duty and/or reimbursement obligation after the first day of his Military Science III year.

(3) The cadet understood and agreed once obligated and if disenrolled from the ROTC program for breach of contract or any other disenrollment criteria, he/she would be subject to: (1) Serve on enlisted active duty, Secretary of the Army or designee may order the cadet to active duty as an enlisted Soldier for a period of not more than 4-years for failure to complete the ROTC program. (2) Reimbursement to the U.S. Government, required to reimburse the U.S. Government through repayment of an amount of money plus interest equal to the entire amount of financial assistance paid for advanced education. (3) Failure to Complete Required Service Obligation, the cadet understood and agreed if voluntarily or because of misconduct fail to begin or complete any period of active duty incurred under the contract, will be required to reimburse an amount of money plus interest equal to or bears the same ratio to the total cost of financial assistance provided as the unserved portion of such duty bears to the total period of such duty obligated to serve.

5. On 12 March 2019, Orders Number 2019-30, issued by the ROTC Boston University, the applicant was discharged from the USAR Control Group (ROTC), effective 20 January 2017.

6. The applicant provides a Senior ROTC Contract Agreement Special Active Duty Provision Statement of Understanding dated 27 July 2019 states he was briefed on the terms of his Senior ROTC contract and if he was found in breach of his contract, he desired to serve on active duty immediately to fulfill his Senior ROTC obligation. He understood he would be ordered to active duty for 4-years in the fulfillment of his contractual obligation. He also understood as a scholarship cadet, if he failed to fulfill the active duty service obligation including meeting the physical standards for accession, he would be subject to the terms of repayment.

7. On 15 August 2019, Headquarters (HQs), U.S. Army Cadet Command (USACC) and Fort Knox, the applicant was notified he was disenrolled and discharged from the ROTC program for breach of contract. Since he requested to be ordered to active duty to fulfill his contract obligation, he was ordered to active duty for the term of service of 48-months as specified in the ROTC contract. In the event he was determined to be ineligible for or fail to complete his active duty service obligation of 48-months, he shall be required to repay the cost of advanced education assistance, Leader's Training Course Bonus or Critical Language Incentive Pay provided by the Army. A debt in the amount of \$121,430.00 will be established.

8. On 15 August 2019, Orders Number 232-007, issued by HQs, USACC and Fort Knox, the applicant was ordered to active duty for an active duty commitment of 48-months, effective 7 October 2019. He was ordered to active duty to satisfy the terms of the DA Form 597-3. The additional instructions stated the recoupment of incentives or scholarship financial assistance received in the amount of \$121,430.00 applies if the service obligation is not fulfilled or if the individual fails to meet the standards for accession to include the physical standards.

9. DD Form 785 (Record of Disenrollment from Officer Candidate Type Training) dated 9 September 2019 shows the applicant was disenrolled, effective 20 January 2017 from the ROTC program based on the findings of a board and subsequent determination of USACC. The form was produced and signed to match the original which was no longer on file, though the results and determination had been finalized and resulted in Orders to active duty. The remarks stated the applicant demonstrated the capacity to perform in the demanding environment receiving top marks during his early contract period. His choice of a demanding degree coupled with his personal challenges that arose during his 3rd year resulted in his performance degrading dramatically. It is likely he would be a high performing Soldier who would overcome those obstacles to pursue and attain a commission.

10. On 30 September 2019, Orders Number 9280020, issued by the Military Entrance Processing Station, the applicant was ordered to active duty for a 4-year active duty commitment as an enlisted Soldier, effective 15 October 2019 to report to Fort Sill, OK.

11. On 7 October 2019, the applicant enlisted in the Regular Army (RA) for 4-years.

12. DA Form 1059 (Service School Academic Evaluation Report), shows the applicant achieved course standards for the Field Artillery Firefinder Radar Operator course during the period of 6 January through 24 March 2020.

13. On 31 March 2020, Orders Number 091-346, issued by HQs, U.S. Army Garrison, Fort Sill, the applicant was awarded military occupational specialty 13R (Filed Artillery Firefinder Radar Operator), effective 2 April 2020.

14. On 1 May 2020, Orders Number 122-442, issued by HQs, U.S. Army Garrison, Fort Sill, the applicant was assigned to Fort Campbell, KY, effective 30 May 2020, he would proceed on or about 1 May 2020.

15. DA Form 1059 shows the applicant was placed on the Commandant's List for the Basic Leader Course during the period of 14 May through 9 June 2021.

16. On 27 July 2022, the applicant reenlisted in the RA for 5-years.

17. On 14 June 2023, Orders Number 5042115, issued by the Department of the Army, the applicant was assigned to Fort Liberty, NC, effective 16 February 2023.

18. On 6 October 2023, the applicant completed his 4-year contractual service obligation.

19. DA Form 1059 shows the applicant was placed on the Commandant's List for the Special Forces Weapons Sergeant Course and Advanced Leaders Course during the period of 3 July 2022 through 15 February 2024.

20 The applicant also provides a/an:

a. DFAS Debt and Claims Management Ticket shows the applicant was currently in active service in lieu of repayment of his student tuition. His account was placed in service in lieu suspense pending the completion of his contractual obligation. He would continue to receive statements for indebtedness as it is an automatic system generated process. He will receive a separate statement when his suspension ends. As DFAS is not authorized to cancel his debt, the applicant must apply to the Army Board for Correction of Military Records for the termination of his debt once he has completed 2-years of active duty service.

b. LES for the period of 1 through 30 June 2023 shows the applicant has a pay date of 7 October 2019 and at the time completed 3-years of service.

BOARD DISCUSSION:

1. The applicant's request for cancellation of his Reserve Officers' Training Corps (ROTC) scholarship indebtedness in the amount of \$121,430.00, his contentions, his military record, and regulatory guidance were carefully considered. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief was warranted.

2. The applicant initially contracted as an ROTC cadet, but he failed to commission. He was required to either repay the Army for his scholarship or complete 4 years of active enlisted Service. The applicant enlisted in the Army, completed 4 years of active duty enlisted service.

3. The Board determined the applicant fulfilled his contractual agreement to the Army, and no longer owes the Army a debt, because he completed 4 years of active duty enlisted service.

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 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 showing the applicant met the contractual requirements established in his DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract) by showing he completed 4-years of enlisted active service and correcting his record to show he no longer owes a scholarship debt by virtue of having met his contractual obligation.

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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 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 based on this regulation in cases arising from debts incurred while serving on active duty or in an active status as a Soldier.

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

a. Paragraph 3-39 (Termination of scholarship and disenrollment), the Commanding General, ROTC Cadet Command, is the approving authority for termination of scholarship and/or disenrollment. A scholarship will be terminated, and the cadet disenrolled for any of the reasons listed in paragraph 3-43.

b. Paragraph 3-43 (Disenrollment), a. A scholarship cadet may be disenrolled only by the CG, ROTCCC. Disenrollment authority does not include the discharge authority for Simultaneous Membership Program participants. Scholarship cadets will be disenrolled for the following reasons: Subparagraph (6) Failure 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. (16) Breach of contract (including formerly used term willful evasion). (Note: Breach is defined as any act, performance, or nonperformance on the part of a student that breaches the terms of the contract regardless of whether the act, performance or nonperformance was done with specific intent to breach the contract or whether the student knew that the act, performance, or nonperformance breaches the contract).

c. Paragraph 3-44 (Discharge and separation from the U.S. Army Reserve), a. The CG, ROTCCC, is the only authority for discharge of scholarship cadets. ROTC cadets normally will be honorably discharged on the date of disenrollment from the ROTC program, except those ordered to active duty under the terms of their ROTC contract. c. 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. e. Cadets called to active duty for breach of the terms of their ROTC contract will serve periods of active duty as specified in their contract.

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. 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

b. To such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

4. U. S. Army Cadet Command Pamphlet 145-4 (Enrollment, Retention and Disenrollment Criteria Policy and Procedure) in effect at the time, provides guidance for the Professor of Military Science (PMS) to use in the management of Cadets, and processing Cadet Actions for enrollment, retention, and disenrollment.

a. Paragraph 6-10 (Academic Standards), if the Cadet fails to meet the academic standards listed in the contractual agreement during any semester/term following contracting, the PMS will, c. If the Cadet fails to correct the deficiency during the probationary or suspension period, the PMS must consider whether retention of the Cadet's scholarship is prudent, or if scholarship termination or disenrollment would be appropriate.

b. Paragraph 8-8c (2) (c) (4) Any scholarship Cadet under consideration for call to active duty will not be discharged from SROTC until determination has been received from Headquarters Cadet Command. If determined that the Cadet will be ordered to active duty, the Cadet will not be discharged, and appropriate active duty orders will be issued by Headquarters, Cadet Command. Call to active duty will be processed in accordance with AR 135-210 and paragraph 8-11 below.

c. Paragraph 8-11 (Recoupment or Order to Active Duty), a. Scholarship Cadets, (1) Once the disenrollment packet/ action is approved by Headquarters, Cadet Command, the Cadet will be notified of the final results and his obligation in accordance with appropriate regulations. Simultaneous Membership Program scholarship Cadets are required to repay scholarship funds expended on their behalf, in addition to completing the military service obligation in their unit.

//NOTHING FOLLOWS//