

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230011986

APPLICANT REQUESTS:

- remission/cancellation of a \$39,200 debt associated with previously received Reserve Officers' Training Corps (ROTC) scholarship funds
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Notification of Disenrollment from the ROTC – Due Process and Appellate Rights of Scholarship/Non-scholarship, 1 June 2022
- Memorandum – Subject: Disenrollment, 5 July 2022
- Orders Number 1935547, 21 July 2022
- Memorandum – Subject: Disenrollment from the U.S. Army ROTC Program, 15 August 2023

FACTS:

1. The applicant states in pertinent part that procedures utilized resulting in her requirement to repay the ROTC scholarship is substantially defective and should be remitted. She contests that the debt was unfair at the time. She argues that the disenrollment memorandum provided states that she was disenrolled due to her inaptitude for military service as demonstrated by her refusal to comply with the COVID-19 vaccination requirement. Her disenrollment proceedings were initiated during the summer of 2022. In April 2023, she was advised that since the COVID-19 vaccination requirement was rescinded, she needed to request to be disenrolled based upon a false foundation in that she simply did not enroll in the course. She reiterates that she was forced to disenroll during the last semester of her senior year of college due to her refusal to take the COVID-19 vaccination.

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

- a. On 27 February 2017, the applicant enlisted in the Army National Guard (ARNG) for 8 years.

b. On 22 August 2017, the applicant was ordered to active duty for the completion of Initial Entry Training.

c. On 30 March 2018, the applicant was released from active duty following the completion of the 12Y (Geospatial Engineer Specialist) course.

d. On or about 20 August 2018, the applicant enrolled in the 4-year Purdue University ROTC Program as a Simultaneous Membership Program (SMP) Cadet. The applicant endorsed DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract) acknowledging her entitlement to full tuition fees and a monthly stipend \$450.00 per month. This document provides acknowledgment by the applicant that once she became obligated and then later disenrolled from the ROTC program, she would be subject to reimburse the U.S. Government through repayment of an amount of money plus interest, equal to the entire amount of financial assistance paid by the U.S. for her advanced education from the commencement of the contractual agreement to the date of her disenrollment. Under the terms of the contract, the applicant further acknowledged that if she was disenrolled from the ROTC program, the Secretary of the Army retained the prerogative to either order her to active duty or order monetary repayment of scholarship benefits. Subsequent enlistment in an Armed Service would not relieve her of this repayment obligation.

e. On 10 January 2022, the applicant was counseled by the Professor of Military Science (PMS) for declining to receive the COVID-19 vaccine. The applicant was further advised that on 4 August 2021, the Secretary of Defense directed the Secretary of the Army to begin full vaccination of the U.S. Army against the COVID-19 disease. Further, on 3 November 2021, the U.S. Army Training and Doctrine Command directed that all contracted SROTC cadets would be vaccinated prior to being commissioned. The applicant was advised that if she believed that she should be granted an exemption, she would need to consult with her health care provider. However, if she continued to refuse to be immunized after the denial of her exemption request/appeal, she would be in violation of the directive and subject to adverse administrative action such as the initiation of disenrollment proceedings and recoupment of all scholarship funds.

f. On 29 March 2022, the IAARNG issued Orders Number 1743901 reducing the applicant in rank from sergeant (SGT)/E-5 to private first class (PFC)/E-3 due to her withdrawal/elimination from the ROTC program, effective 14 February 2022

g. On 7 May 2022, the applicant's Bachelor of Science degree was conferred.

h. On 1 July 2022, the applicant was honorably discharged from the ARNG under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management), paragraph 6-35c(2) (Pregnancy).

i. On 30 May 2023, the applicant was advised that on 24 January 2023, the Secretary of the Army rescinded all policies specifically associated with the COVID-19 vaccine mandate. Since the mandate had been removed that applicant was eligible to return to the ROTC program and receive her commission. She was further advised that if she no longer desired to be commissioned, disenrollment action would be initiated for a breach of contract.

j. On 8 June 2023, the PMS advised the applicant that he was initiating her disenrollment from the ROTC program based on her failure to maintain enrollment in Military Science classes which constitutes either individually or collectively a breach of the terms of her SROTC contract. The applicant was placed on a leave of absence.

k. On 21 June 2023, the applicant acknowledged being advised of her rights regarding her pending disenrollment. The applicant elected to waive her rights.

l. On 15 August 2023, the Purdue University ROTC, issued Orders Number 023-106 discharging the applicant from the U.S. Army Control Group (ROTC) effective 15 August 2023 under the provisions of Army Regulation (AR) 145-1 (Senior ROTC Program, Organization, Administration and Training), paragraph 10-2b(16). Disenrollment is due to breach of the ROTC contract based on her failure to maintain enrollment in Military Science classes.

3. The applicant provides the following a:

a. Memorandum – Subject: Notification of Disenrollment from the ROTC – Due Process and Appellate Rights of Scholarship/Non-scholarship dated 1 June 2022, reflective of the PMS advising the applicant that he was initiating disenrollment from the ROTC program due to her deemed inaptitude for military service as demonstrated by her refusal to comply with the COVID-19 vaccination order which constitutes a breach of the terms of her SROTC contract. Therefore, the applicant was placed on a leave of absence pending disenrollment. The applicant was advised of her rights to seek legal counsel and the right to request a hearing. She was further advised that if she was disenrolled, she would be afforded the right to appeal the disenrollment, the resulting debt, if any, and the recoupment decision through the U.S. Army Cadet Command (USACC) within 14 working days of this notification. As a scholarship cadet, she may be called to active duty as an enlisted Soldier or be required to repay any bonus, incentives and or scholarship benefits in the amount of \$39,200.00 in lieu of the call to active duty in fulfillment of her contractual obligation. As an SMP participant, she may be released from the ROTC program and returned to the USAR or ARNG to satisfy the remaining portion of her contractual obligation and if she received a bonus, incentives and or scholarship benefits she would be required to repay any of these benefits expended in her behalf. Further, she was advised that she would retain the status of "cadet" until her disenrollment (and discharge, if applicable) is complete, as such, she would not be able

to enlist in any other military service or component. Additionally, she would not be able to use a subsequent period of military service to satisfy her ROTC indebtedness if that subsequent period of military service is not the direct result of being ordered onto active duty because of her disenrollment from ROTC. Lastly, if eligible, she could request permission to complete her current baccalaureate degree in the school in which she was enrolled before being ordered to serve on active duty following completion of her disenrollment as an enlisted Soldier. If she so chose this option, she would be ordered to enlisted active duty within sixty (60) days after she would normally complete her baccalaureate degree requirements, or after she was withdrawn/dismissed from the school/university, whichever occurs first. If a graduate student, she would be ordered to active duty when she completed the current academic school year, or upon withdrawal/dismissal from the school/university, whichever occurs first.

b. Memorandum – Subject: Disenrollment dated 5 July 2022, reflective of the PMS advising the applicant of her disenrollment from the ROTC program under the provisions of AR 145-1, paragraph 3-43a.(13). Disenrollment is based on inaptitude for military service as demonstrated by her refusal to comply with the COVID-19 vaccination order which constitutes a breach of the terms of the SROTC contract. The PMS further provided that his recommendation was to disenroll her and collect the \$39,200.00 debt in lieu of her declining the option of being called to active duty.

c. Orders Number 1935547 dated 21 July 2022 reflective of the applicant being voluntarily separated from the ARNG, effective 1 July 2022, in accordance with NGR 600-200 due to her pregnancy.

d. Memorandum – Subject: Disenrollment from the U.S. Army ROTC Program dated 15 August 2023, reflective of the applicant being advised by the Commander, USACC of her disenrollment from the SROTC program in accordance with AR 145-1, paragraph 10-2b.(16) Disenrollment is due to breach of the ROTC contract based on her failure to maintain enrollment in Military Science classes. The applicant was afforded 14 days to elect one of the two options: repayment of the \$39,200.00 in a lump sum or to initiate a repayment plan. In absence of a response by the suspense date an involuntary collection action may be initiated.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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. Upon review of the applicant's petition, available military record and US Army ROTC Program- Disenrollment Memorandum, the Board determined there is

sufficient evidence to support partial relief in support of the applicant’s contentions for remission of her ROTC debt. The Board agreed the applicant should be provided two options for relief of her ROTC Debt.

2. The Board determined based on the options from the ROTC Disenrollment Program, the applicant should be offered the opportunity to resolve her ROTC debit by one of two options. The Board noted the applicant should be allowed to either enlist into the military service or arrange a payment plan to payback her \$39, 200.00 debit. Based on this the Board granted partial relief.

3. The applicant’s request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

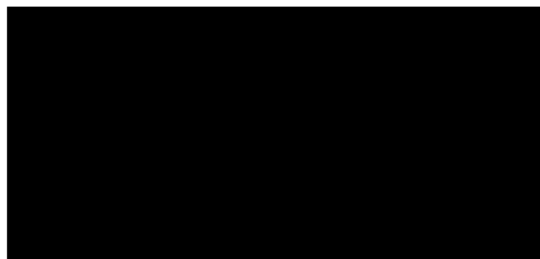
BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
■	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by allowing the applicant an option to enlist into the armed forces for a period of four years or arrange a payment plan to payback her ROTC debt in the of \$39,200.
2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to remission/cancellation of the \$39,200 debt associated with previously received Reserve Officers' Training Corps (ROTC) scholarship funds.



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. AR 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 United States Code (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.
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. A non-scholarship cadet may be disenrolled by the Professor of Military Science. Disenrollment authority does not include the discharge authority for Simultaneous Membership Program (SMP) participants. Procedures governing disenrolled SMP participants are outlined in AR 601-210. The Commanding General, ROTC Cadet Command, 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. If not academically enrolled, the cadet will be ordered to active duty 60 days from date of notification of active duty.

a. Cadets assigned to USAR Control Group (ROTC) may be discharged or separated for the convenience of the Government for termination of a scholarship.

b. Cadets assigned to USAR Control Group (ROTC), who are 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.

c. Scholarship students may be required to repay all or part of their scholarship financial assistance.

d. Paragraph 10-2 (Disenrollment Criteria) subparagraph (b.) provides that when cadets are found to be in breach of their service agreements, under the terms of such contracts their obligation to the Army may be satisfied through enlisted active-duty service or through recoument of the cost of advanced educational assistance provided by the Army.

e. Disenrollment proceedings will be considered for scholarship and non-scholarship cadets due to medical disqualification as determined by the USACC Command Surgeon. A medical condition which precludes appointment will be cause for initiating disenrollment.

f. Disenrollment proceedings will also be considered for cadets that withdraw, are dismissed or suspended from the educational institution.

g. Disenrollment proceedings will also be considered for cadets that lack the ability or desire for military service demonstrated by a lack of general adaptability, desire, military skill or leadership. A lack of ability or desire may include failure to adapt or thrive in a military environment or an inability to accept the military model.

h. Disenrollment proceedings will also be considered for cadets who breach their contract. A breach of contract as evidenced by any act, performance or nonperformance on the part of the cadet that breaches the terms of the contract regardless of whether the act, performance or nonperformance was done with a specific intent to breach the contract.

3. AR 601-210 (Regular Army and Army Reserve Enlistment Program) provides that an ROTC cadet assigned to Control Group (ROTC) or participating in the SMP who desires to enlist in the RA, to include the Mandatory Service Obligation (MSO) delayed status, may enlist if he or she:

- has received clearance from the appropriate Professor of Military Science (PMS) or ROTC region commander
- DD Form 368 (Request for Conditional Release) is used for this purpose, and it must be in possession of the recruiting officials before processing the cadet for enlistment
- has obtained a DD Form 368 from the ARNG or USAR unit commander, as well as the appropriate PMS or ROTC region commander, if the cadet is a participant in the SMP
- has not been alerted for order to AD under a Presidential call-up or a partial or full mobilization
- has not been notified of orders directing involuntary order to AD
- is not an ROTC scholarship recipient

4. 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.

5. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//