

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 July 2024

DOCKET NUMBER: AR20230012648

APPLICANT REQUESTS:

- remission, cancellation, or waiver of the remaining Army Senior Reserve Officers' Training Corps (ROTC) Scholarship debt fee
- a personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Pioneer Credit Recovery Debt letter/statement, 13 April 2020

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:

a. He is requesting to have a \$166.00 fee removed from his debt account in order to close out his College Student Loan debt. The fee is more than five (5) years old and has never appeared on any documentation that he has requested.

b. The treasury notified him that typically these fees can be dismissed after 5 years. He has also paid the entire balance of the student loan off. This fee has never been mentioned in the documents he has requested over the years for the total balance owed. He would like favorable consideration with dismissal of this added fee due to his balance being completely paid off and this \$166.00 not appearing on any statements or documents he received over the years on his ROTC debt repayment.

c. He has the debt collection letter which stated his balance and other amount, and the additional fee was never stated on the document or with his credit. Everything is showing complete and the additional charge of \$166.00 is not showing. He also has a

list of all payments made to pay.gov matching the totals. The collections company says the debt has been serviced/complete and they no longer have it in their system.

3. A review of the applicant's official records show the following:

a. On 18 January 2013, he enlisted in the U.S. Army Reserve (USAR) as a Cadet. In connection with his enlistment, he completed and signed DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract), which shows, in relevant part:

(1) The applicant enrolled in the Auburn University ROTC program and the Department of the Army agreed to pay scholarship benefits for a period of 2.5 academic years.

(2) He understood and agreed that once he became obligated and he was disenrolled from the ROTC program for breach of contractual terms or any other disenrollment criteria established now or in the future by Army Regulations (which include but are not limited to Army Regulation (AR) 145-1 (Senior ROTC Program, Organization, Administration and Training)), he was subject to the terms in paragraphs 5a through 5e.

(3) Paragraph 5b (I Agree to Reimburse the United States Government) provides that, if he was offered the opportunity to repay his advanced educational assistance in lieu of being ordered to active duty, he would 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 his advanced education from the commencement of this contractual agreement to the date of his disenrollment or refusal to accept a commission. This amount included any financial assistance he may have received prior to his obligation point.

b. On 20 April 2015, the Professor of Military Science recommended the applicant be disenrolled due to breach of contract for not enrolling in Army ROTC classes in the Spring of 2015. The applicant acknowledged receipt of the notification of disenrollment on 15 June 2015. He declined an expeditious and delayed call to active duty.

c. On 7 August 2015, the Commander, Sixth Brigade, U.S. Army Cadet Command recommended approval of the disenrollment action and requirement to repay scholarship benefits.

4. The applicant provides a Pioneer Credit Recovery debt statement dated 13 April 2020, which shows he was notified of his delinquent debt in the amount of \$47,964.90 had been placed with the agency for collection.

5. On 5 April 2024, the Supervisor, Correction of Records/Claims Debt and Claims Management, Defense Finance and Accounting Service (DFAS) responded to an Army Review Boards Agency request for information regarding the applicant's debt and remaining fee. The DFAS official stated, the applicant had a debt in their "Defense Debt Management System (DDMS)" that was originally for \$42,455.60 plus interest/penalties/admin fees of \$23.99. \$166.60 of the original debt and \$0.04 of the interest/penalties/admin fees were written off. The applicant has paid \$42,312.95 towards the debt bringing his debt balance to the current amount of \$0.00 and is showing as paid in full. There is no debt documentation as the debt interfaced to our DDMS system. The member's debt reasons are showing as followed:

- Debt is for ROTC Education Tuition assistance
- \$930.00 is for collection of an ROTC debt from "05/14/2014-07/15/2014"
- \$166.60 is for collection of an ROTC debt from "03/21/2015-03/31/2015"

BOARD DISCUSSION:

1. The Board determined 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.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant signed an Army Senior ROTC Scholarship Cadet Contract. He agreed that once he became obligated and he was disenrolled from the ROTC program for breach of contractual terms or any other disenrollment criteria he was subject to the terms of this agreement. He was disenrolled due to breach of contract for not enrolling in Army ROTC classes in the Spring of 2015. He acknowledged receipt of the notification of disenrollment but declined an expeditious and delayed call to active duty. As such, he was required to repay scholarship benefits. According to his DFAS pay records, he had a debt of \$42,455.60 plus interest, penalties, and administrative fees of \$23.99. The amount of \$166.60 of the original debt and \$0.04 of the interest/penalties/admin fees were written off. The applicant has paid \$42,312.95 towards the debt bringing his debt balance to the current amount of \$0.00 and is showing as paid in full. Since there is no debt to repay, the Board determined there is no error or injustice to correct. The applicant may use this Record Proceedings as proof that he no longer owes DFAS any debt related to his ROTC scholarship.

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.

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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. 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. 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 military occupational specialty 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.
 - e. Subsection (b) provides that, the Secretary concerned shall determine the period of active duty to be served by any person for advanced education assistance to be provided such person by an armed force, except that if the period of active duty required to be served is specified under another provision of law with respect to the advanced education assistance to be provided, the period specified in the agreement shall be the same as the period specified in such other provision of law.
3. 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.

4. 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 Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. In accordance with the authority of Title 10 USC, section 7837, 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.

5. AR 15-185 (ABCMR) states, the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states that applicants 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//