

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 July 2024

DOCKET NUMBER: AR20230014423

APPLICANT REQUESTS: remission/cancellation of indebtedness from disenrollment from the Reserve Officers' Training Corps (ROTC) in the amount of \$54,785.00.

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

- DD Form 149 (Application for Correction of Military Record)
- [REDACTED] University Campus Safety and Security Department Supplemental Case Report, 26 September 2016
- Email correspondence
- Photocopy identification cards
- Memorandum, Subject: Disenrollment from the U.S. Army ROTC Program, 25 January 2017
- United States Air Force Reserve Appointment, 20 December 2019
- Department of the Air Force, Certificate of Aeronautical Rating, 9 July 2021
- Certificate of Flying Training Squadron
- Memorandum, Subject: Character Reference, 10 June 2022
- Memorandum, Subject: Character Reference, 1 July 2022

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, he was disenrolled from the ROTC program with [REDACTED] University for misconduct and is now serving as an active service member in the Air National Guard (ANG). Since his disenrollment, he has matured and continued his desire to serve his country. With serving on active service, he is looking to have his ROTC scholarship debt cancelled or remitted.
3. A review of the applicant's available service record reflects he enlisted in the U.S. Army Reserve (USAR) as a cadet with an Army Senior ROTC Scholarship and was assigned to the USAR Control Group (ROTC). In conjunction with this enlistment, he

signed DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract) to attend the ROTC scholarship program with the [REDACTED] University, at full tuition, for a period of 3 years. He agreed in section 5 (Terms of Disenrollment) that if he breached his contract, he was subject to being ordered to active duty as an enlisted Soldier, if qualified for a period of not more than four years. He may be required to reimburse the U.S. Government if offered the opportunity to repay his advanced educational assistance in lieu of being ordered to active duty. He agreed that any subsequent enlistment in an Armed Service would not relieve him of his repayment obligation.

4. The applicant provides the following:

- a. [REDACTED] University Campus Safety and Security Department Supplemental Case Report dated 26 September 2016 showing the applicant's fake identification card was discovered that was used to purchase alcohol, along with five other cadets/suspects, during the Air Force alcohol investigation. He willingly turned in the identification card and email correspondence from which he communicated to make the identification card purchase. The recommendation was to charge all suspects with the University Regulation Violation: Criminal Violations, Florida Statute 322.212 (Unauthorized possession of driver's license or identification card).
- b. Email correspondence shows the communication and transactions for purchasing the fake identification cards to purchase alcohol underage.
- c. Photocopy of identification cards, showing the fake identification cards purchased as referenced in the email correspondence and supplemental case report.
- d. Memorandum, Subject: Disenrollment from the U.S. Army ROTC Program, dated 25 January 2017 from the Commanding General of the United States Army Cadet Command, showing he (the applicant) was discharged from the program for misconduct as demonstrated by buying, selling, and possessing fake ID cards. He was liable for \$54,785.00 paid in support of his education.
- e. United States Air Force Reserve Appointment, dated 20 December 2019 showing he accepted a Reserve commission with the ANG.
- f. Department of the Air Force, Certificate of Aeronautical Rating, dated 9 July 2021 showing he completed specialized undergraduate pilot training with the ANG.
- g. Certificate of Flying Training Squadron submitted as evidence to his training as a pilot with the ANG.

h. Memorandum, Subject: Character Reference, dated 10 June 2022 from the 186th Operations Group Superintendent, Chief Master Sergeant [REDACTED] provided in support of the applicant's positive attitude, punctuality and being detail oriented.

i. Memorandum, Subject: Character Reference, dated 1 July 2022 from the Air National Guard Chief of Staff, Brigadier General [REDACTED] supporting the applicant's request for remission or cancellation of indebtedness for his ROTC scholarship in exchange for active service (10 year service commitment).

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. One potential outcome discussed was to deny relief based upon the agreed upon terms of the ROTC educational benefit and the failure of the applicant to complete the terms of the contract based upon his own misconduct. However, based upon the active duty Guard commitment the applicant is currently serving and the character evidence provided, the Board concluded there was sufficient evidence warranting the cancelation of the applicant's debt from disenrollment from the Reserve Officers' Training Corps (ROTC).

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

[REDACTED]	:	[REDACTED]	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	[REDACTED]	:	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 Army records of the individual concerned be corrected by cancelling the remainder of the applicant's debt from disenrollment from the Reserve Officers' Training Corps (ROTC).

1/6/2025

X [REDACTED]

CHAIRPERSON
[REDACTED]

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

a. Paragraph 3-31 (Introduction) states the Army ROTC Scholarship Program provides financial assistance to those students who have demonstrated academic excellence and leadership potential. The U.S. Army Scholarship Program's purpose is to provide for the education and training of highly qualified and motivated young men and women who have a strong commitment to military service as commissioned officers.

b. Paragraph 3-43 (Disenrollment) (a)(16) states a scholarship cadet may be disenrolled only by the Commanding General, ROTC Cadet Command. A cadet may be disenrolled for 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).

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. Title 10, USC, section 2005(a), states

a. 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 under the terms of which such person shall agree: (1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement and (2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement.

b. states the Secretary concerned shall require that the person enter into the agreement described in subsection (a). In addition to the requirements of paragraph (1) through(4) of such subsection, the agreement shall specify that, if the person does not complete the education requirements specified in the agreement or does not fulfill any term or condition prescribed pursuant to paragraph (4) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) (Repayment of Unearned Portion of Bonuses and Other Benefits When Conditions of Payment Not Met; Termination of Entitlement to Unpaid Amounts) or 373 (Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met) of title 37 without the Secretary first ordering such person to active duty as provided for under subsection (a)(2) and sections 2107 (Financial assistance program for specially selected members)(f) and 2107a(f).

5. 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.

//NOTHING FOLLOWS//