

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 November 2024

DOCKET NUMBER: AR20240002812

APPLICANT REQUESTS:

- remission, cancellation, waiver of her Reserve Officers' Training Corps (ROTC) debt
- a video/telephonic appearance before the Board

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 (SROTC) Scholarship Cadet Contract), 18 August 2010
- U.S. Army Advanced Education Financial Assistance Record, 20 March 2014
- Commanding General (CG), U.S. Army Cadet Command (USACC) Disenrollment Memorandum, 14 May 2014
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service), 14 May 2014
- DA Form 3286 (Statement of Understanding), 9 January 2020
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of United States), 18 February 2020
- Commander, Headquarters and Headquarters Battery (HHB), 108th Air Defense Artillery (ADA) Brigade Memorandum - Subject: Request for Termination of Debt [Applicant] – Defense Finance and Accounting Service (DFAS) Account INJWVSDXX, 14 December 2023
- Department of Veterans Affairs (VA) Ratings Decision documents 23 February 2024
- VA certification letter, 8 July 2024

FACTS:

1. The applicant states she joined the U.S. Army to serve the country and to get relief for her ROTC debt. One of the remarks on the ROTC contract was that if she did not finish the program, she could repay the money back or serve on active duty for 4 years. She served on active duty from 18 February 2020 until 17 February 2024. She also has a 100 percent service-connected disability rating from the VA, effective 1 March 2024.

She attached the VA letter, memorandum for record from Colonel L\_, ROTC contract, and active duty contract.

2. A review of the applicant's service record shows:

a. On 18 August 2010, DA Form 597-3 shows the applicant's education commenced and she enrolled in the Pontifical Catholic University of Ponce, Puerto Rico ROTC program. In pertinent part, it states in:

(1) Paragraph 5 (Terms of Disenrollment), she understood and agreed that once she became obligated and she 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 (AR) (which include but are not limited to AR 145-1 (SROTC Program: Organization, Administration and Training)) incorporated herein by reference. She was subject to the terms in paragraphs 5a through 5e.

(2) Paragraph 5a (I Agree to Serve on Enlisted Active Duty), under the terms of this contract the Secretary of the Army or his or her designee, may order her to active duty as an enlisted Soldier, if she was qualified for a period of not more than four (4) years if she failed to complete the ROTC program. If she was disenrolled after the point of obligation, she may be ordered to active duty for one of the periods listed in paragraph 6 (Enlisted Active Duty Service Obligations), based upon the year during which her disenrollment was initiated.

(3) Paragraph 5e (I Agree that any obligation to reimburse will not be altered by subsequent enlisted duty), if she was disenrolled from ROTC, she understood the Secretary of the Army, or his or her designee retained the prerogative to either order her to active duty or order monetary repayment of her scholarship benefits. Therefore, if she was required to repay her advanced educational assistance under the terms of the contract, her subsequent enlistment in an Armed Service would not relieve her from repayment obligation.

b. On 5 October 2010, NGB Form 594-1 (Army National Guard (ARNG) Simultaneous Membership Program (SMP) Agreement) shows she agreed to participate in the SMP.

c. On 9 December 2010, DD Form 4 shows she enlisted in the Puerto Rico ARNG for 4 years.

d. On 14 May 2014, the CG, Headquarters, USACC and Fort Knox disenrolled the applicant and directed she be discharged from the ROTC Program under the provisions of AR 145-1, paragraph 3-43a(16), July 1996. Disenrollment was due to breach of the ROTC contract based on the applicant's failure to meet the requirements of the Oral

Proficiency Interview. Since the applicant was a member of the ARNG under the SMP, she was released to her unit to fulfill the remainder of her military service obligation. In addition to being released to her ARNG unit, when the ROTC scholarship contract is breached, any obligation to the Army must be satisfied by repaying the cost of advanced educational assistance provided by the Army. The total amount of monies spent in support of her education was \$26,775.00. A U.S. Army Advanced Education Financial Assistance Record (DA Form 5315-E) detailing the debt was enclosed. The applicant was informed to elect to pay the total amount in a lump sum or initiate a repayment plan.

e. On 14 May 2014, the applicant was honorably discharged from the ARNG by reason of "separation of cadets on disenrollment from the SROTC or an ROTC scholarship program. NGB Form 22 shows she completed 3 years, 5 months, and 6 days net service this period.

f. On 18 February 2020, she enlisted in the Regular Army for 4 years.

g. On 30 September 2023, the Department of the Army published Orders Number 0006154580.00, which promoted the applicant to the rank/grade of sergeant (SGT)/E-5, effective 1 October 2023

h. On 17 February 2024, the applicant was honorably discharged from the Army. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 4 years of active service.

3. The applicant provides:

a. DA Form 3286 dated 9 January 2020, which recorded the applicant's contractual obligations for enlisting into the Regular Army.

b. Commander, HHB, 108th ADA Brigade Memorandum - Subject: Request for Termination of Debt [Applicant] – DFAS Account INJWVSDXX, dated 14 December 2023, wherein the commander recommended cancellation of the applicant's ROTC debt is in the amount of \$26,980.59.

c. VA Ratings Decision documents dated 23 February 2024 and 8 July 2024 showing she has a 100 percent service-connected disability rating for multiple disabilities.

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 review based on law, policy, and regulation. The Board concluded the applicant's 4-year service obligation served the same purpose as a call to active duty to satisfy her ROTC scholarship debt.

2. 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:

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 to show her active duty service has satisfied her ROTC scholarship debt.

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 145-1 (Senior ROTC Program: Organization, Administration and Training) prescribes policies and general procedures for administering the Army's Senior Reserve Officers' Training Corps Program. It provides that a scholarship cadet may be disenrolled only by the Commanding General, ROTC Cadet Command. The Commanding General, ROTC Cadet Command, is the only authority for discharge of scholarship cadets.

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

b. Paragraph 3-43a (Disenrollment) states, a non-scholarship cadet may be disenrolled by the Professor of Military Science (PMS). A scholarship cadet may be disenrolled only by the Commanding General, ROTC Cadet Command. Disenrollment authority does not include the discharge authority for Simultaneous Membership Program participants. Subparagraph a(16) provides that non-scholarship and scholarship cadets will be disenrolled for breach of contract. 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 3-44a (Discharge and separation from the United States Army Reserve) states, the CG, ROTC Cadet Command, is the only authority for discharge of scholarship cadets. The Professor of Military Science, brigade commander or the region commander is the authority for discharging non-scholarship cadets (for exceptions see para 3-43). 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. Procedures governing disenrolled SMP participants are outlined in AR 601-210 (Regular Army and Reserve Components Enlistment Program) and National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management).

2. NGR 600-200 (Enlisted Personnel Management), paragraph 6-35 (Separation/Discharge from State ARNG and/or Reserve of the Army) states, the following are reasons, applicability, codes and board requirements for administrative separation or discharge from the Reserve of the Army, the State ARNG only, or both. These reasons may be used for separation from the State ARNG only. All Soldiers will be notified of a commander's recommendation for their involuntary discharge. Refer to AR 135-178, chapter 5, for the following reason for discharge: Separation of cadets on disenrollment from the SROTC or an ROTC Scholarship program.

3. AR 601-210, paragraph 9-14 (Enlistment Program 9H, U.S. Army Reserve Officers' Training Corps/Simultaneous Membership Program) provides that the ROTC/SMP is a voluntary officer training program that requires USAR enlisted status for eligibility. Subparagraph r (Processing release from ROTC/SMP and reassignment to Control Group (ROTC) states, unless disenrolled from the ROTC Advanced Course or commissioned, a cadet will not be reassigned from a Troop Program Unit to a Control Group administered by Commander, Army Human Resources Command (for example Annual Training, Reinforcement, and so forth). The voluntary or involuntary release of a cadet from the ROTC/SMP will require reassignment to Control Group (ROTC) administered by an ROTC region commander or discharge concurrent with disenrollment. A cadet will be involuntarily released from the ROTC/SMP and reassigned to Control Group (ROTC) when the cadet is removed from the ROTC/SMP for cause based on performance or conduct.

4. Title 10, United States Code (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 (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 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, U.S. Code (USC), section 7837 and/or Title 32, USC section 710(c), 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.

6. Title 10, USC, section 7837 (Settlement of accounts: remission or cancellation of indebtedness of members) states, the Secretary of the Army may have remitted or cancelled any part of the indebtedness of a person to the United States or any instrumentality of the United States incurred while the person was serving as a member of the Army, whether as a Regular or a Reserve in active status, but only if the Secretary considers such action to be in the best interest of the United States.

7. AR 15–185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency. Additionally, it states in paragraph 2-11 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//