

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 January 2025

DOCKET NUMBER: AR20240006942

APPLICANT REQUESTS: remission of his Reserve Officers' Training Corps (ROTC) debt in the amount of \$37,601.00, in lieu of service. Additionally, he requests reimbursement of previous paid funds.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- DA Form 3508 (Application for Remission or Cancellation of Indebtness)
- Request for cancellation or remission of indebtedness memorandum
- Defense Finance and Accounting Service (DFAS) leave and earnings statement
- Soldier Talent Profile Record Brief
- DFAS letter, 3 December 2012
- Memorandum - Subject: Disenrollment from the U.S. Army ROTC Program with supporting documents
- Advanced Education Financial Assistance Record
- DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract)

FACTS:

1. The applicant states, in pertinent part, that his current active duty service should remit payment of his \$37,601.00 in ROTC scholarship debt. He has paid his debt down to just over \$25,000.00. In 2019, he made the decision to enlist with the goal of serving as a Special Forces Noncommissioned Officer. He was told at the Military Entrance Processing Station that he was ineligible for enlistment bonuses because he had debt to the government, however he was determined to serve as an infantryman. To no avail, he attempted to have his debt remitted through the appropriate channels. He recently reenlisted for six additional years. He believes his years of service, commitment to the Army, and completion of the Army's toughest training pipeline should mitigate his debt. This debt has serious consequences for his family. He was denied bonuses upon his enlistment, and he hope that there are accommodations to award him those bonuses.

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

a. On 21 September 2009, the applicant enlisted in the U.S. Army Reserve as an ROTC Cadet with entitlement to a 4-year scholarship. The applicant endorsed DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract) acknowledging his entitlement to full tuition and fees. This document provides acknowledgment by the applicant that once he became obligated and then later disenrolled from the ROTC program, he 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. Government for his advanced education from the commencement of the contractual agreement to the date of his disenrollment. Under the terms of the contract, the applicant further acknowledged that if he was disenrolled from the ROTC program, the Secretary of the Army retained the prerogative to either order him to active duty or order monetary repayment of scholarship benefits. Subsequent enlistment in an Armed Service would not relieve him of this repayment obligation.

b. On or about 26 January 2012, the applicant was notified that he was being disenrolled from the ROTC program under the provisions of Army Regulation 145-1 (Senior ROTC Program, Organization, Administration and Training), based on breach of contract for voluntarily withdrawing from the Citadel. At the time of notification the applicant was informed that he could be called to enlisted active duty in an enlisted grade of E-1 or required to repay scholarship benefits in the amount of \$37,601 in lieu of call to active duty in fulfillment of his contractual obligation. Or, if eligible, he could have chosen expeditious call to enlisted active duty in order to satisfy the breach of contract. If he elected this option, he normally would have been ordered to active duty within 30 days of his disenrollment. The applicant was immediately placed on a leave of absence pending his disenrollment.

c. On or about 27 June 2012, the applicant was disenrolled and discharged from the ROTC program, by the Commanding General, Fort Knox, KY. The applicant was again advised that when the ROTC scholarship contract is breached, any obligation to the Army must be satisfied by repaying the cost of advanced education assistance provided by the Army. The total amount of monies spent in support of his education was \$37,601.00. The applicant was afforded the option to either pay the total amount in one lump sum payment or to initiate a repayment plan.

d. On 10 August 2020, the applicant enlisted in the Regular Army, for 3 years.

e. On 28 July 2023, the applicant was awarded the Special Forces Tab.

f. On 7 December 2023, the applicant reenlisted in the Regular Army, for 6 years.

3. The applicant provides the following:

a. DA Form 3508, and sworn statement in support of his request for remission of his debt. In his request, the applicant states the debt has caused financial hardship to his family and made him ineligible for two enlistment bonuses.

b. Advanced Education Financial Record that shows the itemized ROTC scholarship benefits that were paid, totaling \$37,601.00.

c. DFAS letter dated 3 December 2012, reflective of him being advised of the \$37,601.00 debt. The applicant was further advised that if he was financially unable to make full payment, then he could make monthly installment payments.

d. Leave and Earning Statement for the period covering 1-30 November 2023, that shows his total debt balance was \$26,134.88.

e. Soldier Talent Profile, reflective of the applicant's pertinent personnel information to include administrative data, assignment history, civilian and military education etc.

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. Based upon the applicant completing over five years of military service, he continued service to this date, and the negative impact the debt may cause for his ability for continued service, the Board concluded there is an injustice warranting the cancellation of the applicant's ROTC debt.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	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 Army records of the individual concerned be corrected by cancelling any remaining balance of the applicant's ROTC debt and reimbursement of any previously collected monies related to the ROTC debt.

5/4/2025

X

CHAIRPERSON

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, U.S. Code, 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, U.S. Code, 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.

3. Army Regulation 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. 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 the USAR Control Group (ROTC) may be discharged or

separated for the convenience of the Government for termination of a scholarship.

b. Cadets assigned to the 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 3-43 (Disenrollment Criteria) subparagraph (a.) provides that a breach of contract 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. 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 recoupment of the cost of advanced educational assistance provided by the Army.

e. Paragraph 3-44 (Discharge and Separation from the U.S. Army Reserve) provides that 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.

4. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10 U.S. Code, 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, U.S. Code, Section 4837 when the debt is incurred while not on active duty or in an active status.

//NOTHING FOLLOWS//