

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 May 2025

DOCKET NUMBER: AR20240008744

APPLICANT REQUESTS: remission/cancellation of indebtedness from disenrollment from the Reserve Officers' Training Corps (ROTC).

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 Scholarship Cadet Contract), 15 May 2001 to be addressed in the service record below
- DD Form 149, 4 August 2006 showing his initial application to the Army Board for Correction of Military Records (ABCMR) which was administratively closed
- DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 30 June 2024 to be addressed in the service record below
- Defense Finance and Accounting Service (DFAS) Letter of Indebtedness, 3 December 2004 notifying him of his responsibility to repay a debt to the U.S. Government
- U.S. Department of Treasury Letter of Indebtedness, 5 April 2023 showing his monies applied to his debt with DFAS
- DFAS website excerpt showing communication on his account to request remission or cancellation of indebtedness through the ABCMR

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 has a debt for ROTC education tuition assistance to DFAS that the Internal Revenue Service is deducting from his tax returns
- He elected to enter active duty service in lieu of repayment of his ROTC debt
- He initially submitted a DD Form 149 in 2006, and the debt stopped being collected; suddenly in 2023 this debt started being taken out of his tax

returns again despite being on active duty service continually for 20 years

- DFAS stated that for this educational debt to be removed he must apply to the Army Review Boards Agency for remission or cancellation of this debt

3. A review of the applicant's service record reflects the following:

- His record is void of his initial enlistment contract DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) as a Cadet with the ROTC program
- DA Form 597-3, dated 15 May 2001 was signed in agreement for the ROTC scholarship program with the University of Alabama-Birmingham, at full tuition, for a period of 4 years:
 - Item 7d states in part, if offered, the Secretary of the Army or his or her designee may order him to active duty as an enlisted Soldier for a period of not more than four years or, In lieu of being ordered to active duty, may require me to reimburse the United States through repayment of an amount of money, equal to the entire amount of financial assistance paid by the United States for his advanced education
- His record is void of the ROTC disenrollment memorandum
- The U.S. Army Cadet Command provided his Cadet Record Brief showing he was disenrolled from the University of Alabama-Birmingham for academic failure on 4 May 2004
- On 8 June 2004, he enlisted in the Regular Army and continued service until his length of service retirement
- DD Form 214, ending 30 June 2024 reflects an honorable retirement with service from 8 June 2004 to 30 June 2024 for a net active service of 20 years and 23 days

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 available evidence showing the applicant completed 20 years of federal service upon being disenrolled from the Reserve Officers' Training Corps (ROTC), the Board concluded there was sufficient evidence available to cancel the applicant ROTC debt based upon his completed military service.

BOARD VOTE:Mbr 1 Mbr 2 Mbr 3

:XXX	:XXX	:XXX	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 the applicant ROTC debt based upon his completed military service.

//SIGNED//

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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. 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//