

Wrongfully Disenrolled University of Portland ROTC Cadet Saved from \$84,000 Scholarship Bill

Assistant Secretary of the Army Thomas R. Lamont recently ordered an investigation into allegations of document fabrication and systematic problems in the University of Portland Reserve Officers Training Corps program after the military law firm Tully Rinckey PLLC successfully showed the program erroneously disenrolled a cadet. Further, Lamont, the head of Army's Manpower and Reserve Affairs, declared the cadet does not have to pay \$84,288 in unearned education benefits and she will not have to serve on active duty to fulfill her contractual obligations to the military. Lamont's decision concludes Sabrina E. Norton's nearly 18-month legal battle against the University of Portland ROTC, which disenrolled her because she breached her cadet contract through her alleged voluntary withdrawal from the university. However, as Ms. Norton's attorney, Tully Rinckey PLLC attorney Michael W. Macomber, argued in the cadet's appeal, her withdrawal was in fact involuntary. Further, ROTC officials failed to follow the program's policy memorandum and written directions when they initially moved to disenroll Ms. Norton after she failed her Army Physical Fitness Test (APFT) in January 2012. On top of that, Mr. Macomber argued that a falsified document was the only evidence that Ms. Norton had ever been counseled regarding her alleged APFT deficiencies. "This is a great decision that saves a very bright student from the dark financial outlook of having to repay over \$84,000. Hopefully, the investigation will also bring some much-needed accountability to the University of Portland ROTC program," said Mr. Macomber. Ms. Norton enrolled in University of Portland ROTC in 2009 with the hopes of studying biochemistry and becoming a pediatrician. Although she excelled academically, she occasionally struggled with the ROTC program's physical fitness standards. In January 2012, she failed the push-up portion of her APFT by one push-up. The ROTC program's professor of military science immediately initiated her disenrollment. Having been told she would be disenrolled and be required to repay her tuition – even though she actually had until the end of the semester to pass the APFT – Ms. Norton withdrew from the university rather than stay through the spring semester. Her incorrect assumption about her immediate disenrollment, Mr. Macomber argued, rendered her withdrawal from the university involuntary. Under ROTC policy, cadets should be placed on administrative suspension or probation before being disenrolled for failing an APFT. Ms. Norton, however, never received such counseling prior to failing her January 2012, even though a Developmental Counseling Form (DA Form 4856) purportedly drafted by a military science advisor the previous September claimed otherwise. Mr. Macomber pointed out several irregularities with this document, revealing it to be invalid. In his decision on Ms. Norton's appeal, Mr. Lamont directed the Army Training and Doctrine command's commanding general to appoint an investigating officer outside the chain of command of the 8th ROTC Brigade "to investigate the allegations of document fabrication and any systematic problems in the University of Portland ROTC program." "It is not uncommon for some ROTC programs to play fast and loose with their own policies when it comes to disenrollment and disciplinary proceedings. Cadets facing these proceedings need backup – an attorney – who can ensure program officials play by the rules and make it a fair fight," said Mr. Macomber.

