

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 September 2024

DOCKET NUMBER: AR20230013932

APPLICANT REQUESTS: retroactive entitlement to transfer education benefits (TEB) under the Post 9/11 G.I. Bill to his dependents.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 he is asking for the addition of dependent(s) to GI Bill. He was unaware that his application was denied in 2011. His dependents were denied due to lack of time in service. He was unaware of this until 2023. He was not aware 6 years of completed service was required. The only information he was given was that there has to be 3 years left on the contract. Therefore, he reenlisted for this purpose and thought he had successfully transferred his education benefits to his children. He has met all criteria to be eligible to pass along this benefit to his children. He currently has one child in college and another which will attend as well. He completed 12 years total in service and more than 3 years were left on his enlistment when he attempted to transfer benefits.
3. The applicant enlisted in the Army National Guard (ARNG) on 21 August 2007.
 - a. He entered active duty for training from 23 October 2007 to 20 March 2008. He agreed to serve in the ARNG for 6 years and in the U.S. Army Reserve for 2 years. He completed training for award of military occupational specialty 19D, Cavalry Scout.
 - b. He was ordered to active duty on 5 December 2009 and served in Kuwait/Iraq from 5 February 2010 to 4 July 2010. He was honorably released from active duty and transferred back to his ARNG unit after completing 7 months and 19 days of active service.

c. His records show he was married to [REDACTED] in [REDACTED]. They have two dependent children: [REDACTED] born in [REDACTED] and [REDACTED] born in [REDACTED].

d. The applicant extended his enlistment by 6 years on 12 February 2013.

e. He was honorably discharged from the ARNG on 20 August 2019. His NGB Form 22 (Report of Separation and Record of service) shows he completed 12 years of ARNG service. Likewise, his NGB Form 23A, ARNG Current Annual Statement, shows he completed 12 qualifying years of service towards non-regular retirement.

4. The National Guard Bureau provided an advisory opinion on 31 July 2024 in the processing of this case. The NGB advisory official reiterated the applicant's request to have his records corrected to reflect that his Post-9/11 GI Bill benefits were transferred to each of his eligible dependents prior to his retirement (i.e., separation). The NGB recommend approval.

a. Title 38, U.S. Code (USC), Section 3319 requires service members to be actively serving in the armed services in order to transfer their post-9/11 GI Bill benefits to their dependents. Title 38 USC, Section 3319 also requires a service member to have completed at least six years of service in the Armed Forces and to enter into an agreement to serve at least four more years as a member of the uniformed services.

b. When the applicant requested transfer on July 16, 2013, he had less than six years of military service, so his transfer request was denied. Had the applicant requested TEB on or after August 21, 2013, he would have been eligible. He was discharged from the ARNG on August 20, 2019, with a total of 12 years of service. From August 1, 2009, through August 1, 2013, the ARNG, Department of Defense, and Department of Veterans Affairs initiated a massive public awareness campaign plan on the Post-9/11 GI Bill and the transfer of education benefits program through military, public, and social media venues. Although significant measures were taken during this period to disseminate information, many service members were not fully aware of the requirement to have served six years before TEB eligibility.

c. Due to the lack of information available to service members at the time of the applicant's transfer request, the NGB recommends the Board grant relief and correct his record to show that he submitted his transfer request on August 21, 2013, with an Obligation End Date of August 20, 2017, and that he transferred one month of benefits to each of his eligible dependents. This opinion was coordinated with the Army National Guard Education Services Branch.

5. The applicant was provided with a copy of this advisory to give him an opportunity to submit a rebuttal and/or comments. He did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.
2. The Board concurred with the conclusion of the advisory official that the applicant's failure to resubmit a request to transfer his Post-9/11 GI Bill education benefits after he had completed 6 years of service likely arose from a lack of knowledge of the program. The Board determined the applicant's record should be corrected to show he submitted his transfer request on 21 August 2013, and it was approved.

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 and Army National Guard records of the individual concerned be corrected by showing he submitted a request to transfer his Post-9/11 GI Bill education benefits to his dependents (1 month each) on 21 August 2013 and his request was approved.

2/26/2025

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, 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. Public Law 110-252 limits the eligibility to transfer unused benefits to those members of the Armed Forces who are serving on active duty or a member of the Selected Reserve.

a. A Soldier must be on active duty or a member of the Selected Reserve at the time of transfer of educational benefits to his or her dependent on or after 1 August 2009.

b. A Soldier must have at least 6 years of eligible service in order to transfer educational benefits to a spouse and at least 10 years of eligible service to transfer to eligible children.

c. A Soldier may only transfer to eligible family members. To be considered an eligible family member the spouse or child must be enrolled in the Defense Enrollment Eligibility Reporting System.

d. A Soldier must also agree to serve the prescribed additional service obligation based on the time in service the Soldier had on 1 August 2009.

e. A Soldier should not be granted relief based on unawareness of the law, program rules, or procedures unless he or she left the service during the implementation phase which is the first 90 days of the program.

f. A Soldier must have initially requested to transfer benefits on the DOD TEB online database. The TEB online database was operational 29 June 2009. Once approved in the TEB online database by the Soldier's service, the approval information is automatically relayed electronically to the VA for their access.

3. Army Regulation 621-202 (Army Educational Incentives and Entitlements) paragraph 4-15 states Soldiers may elect to transfer their Post-9/11 G.I. Bill education benefits to their spouse, one or more of their children, or a combination of spouse and children through the TEB website in the milConnect portal at <https://www.dmdc.osd.mil/mil-connect> or <http://milconnect.dmdc.mil>. Only dependents listed as eligible in the TEB website may receive the Post-9/11 G.I. Bill education benefit. TEB is neither an entitlement nor a transition benefit, but was specifically identified by statute as a tool for

recruitment and retention of the career force. The ability to transfer the Post-9/11 G.I. Bill education benefit was created as a recruitment and retention incentive for additional service within the Uniformed Services. Soldiers may increase, decrease, or revoke months to an eligible dependent at any time as long as at least one month is transferred to the dependent before the Soldier leaves the Armed Forces. Once a Soldier leaves service, the Soldier may not transfer benefits to dependents who had not received at least one month while the Soldier was on active duty or in the SELRES.

//NOTHING FOLLOWS//