

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 September 2024

DOCKET NUMBER: AR20230015284

APPLICANT REQUESTS: exception to policy to transfer his Post 9/11 education benefits to his son.

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

- DD Form 149 (Application for Correction of Military Record)
- NGB Form 22, Report of Separation and Record of Service, 30 November 2023
- Endorsement by The Adjutant General, Florida National Guard
- Milconnect Printout, TEB Rejected 17 October 2023

FACTS:

1. The applicant states he was not allowed to transfer his Post 9/11 GI Bill Benefit to his son due to not being granted a 4-year MRD (mandatory retirement date) extension to meet the requirement to transfer this benefit. His requests for a 4-year MRD extension have been repeatedly denied by the National Guard Bureau. For many years his extensions have only been approved for 1 to 2 years at a time. His most recent request for an MRD extension was denied. He served nearly 34 years in [REDACTED] Army National Guard ([REDACTED] ARNG) and deployed multiple times. He served honorably and with merit retiring as a Commander and State Surgeon. The error or injustice is caused by not having an MRD extension over the past several years for a continuous 4 years even though he served for more than the required amount of time. He should be allowed to transfer his GI Bill benefit to his son. He provides an endorsement from The Adjutant General (TAG) [REDACTED] National Guard, 17 November 2023, that states:

a. He (TAG) offers his strongest endorsement for an exception to policy for the applicant to transfer his Post 9/11 GI Bill benefit to his son. The applicant, [REDACTED] ARNG Medical Detachment Commander and State Surgeon, is retiring at the end of November 2023 after an extraordinary military career of nearly 34 years. He has served during multiple deployments for our state and nation and was a key medical advisor to the leadership of Florida during the COVID-19 pandemic.

b. The applicant is 64 years old. The automated denial for his transfer of benefits was due to his not having 4 years of service remaining. It's implausible that those that

have served over 30 years in uniform would not have an exception to this 4-year rule. He not only endorses the applicant's exception, but also recommends a review of the policy so that others who serve 30 years or more have the opportunity to fully utilize this highly deserved benefit.

2. The applicant was born in [REDACTED] and turned 60 in [REDACTED]. His record shows he was married (or remarried) to [REDACTED] on [REDACTED] and they had a dependent [REDACTED] born in [REDACTED]

a. The applicant was appointed a commissioned officer in the Army National Guard (ARNG) on 24 March 1990. He served in a variety of command and staff assignments, including multiple periods on active duty, and he was promoted to colonel in December 2011. He had a Mandatory Retirement Date (MRD) of November 2018.

b. On 3 June 2018, the [REDACTED] ARNG approved the applicant's request to extend his MRD by 1 year, from November 2018 to November 2019 for the purpose of achieving 20 years of creditable service towards a non-regular retirement is approved.

c. On 15 July 2019, the [REDACTED] ARNG approved the applicant's request to extend his MRD beyond the current MRD of 30 November 2019 until 30 November 2020. He was retained beyond that date on the reserve active-status list, due to his critical skills as a physician as a AMEDD officer.

d. On 22 June 2020, the [REDACTED] ARNG approved the applicant's request to extend his MRD beyond the current MRD of 30 November 2020 until 30 November 2022. He was retained beyond that date on the reserve active-status list, due to his critical skills as a physician as a AMEDD officer.

e. On 19 October 2023, the applicant submitted a request to transfer his Post 9/11 GI Bill education benefits. However, his request was rejected on 17 October 2023 because he did not commit to the required additional service time (4 years).

f. The applicant was separated from the ARNG on 30 November 2023 and transferred to the Retired Reserve. His NGB Form 22 shows he completed over 33 years and 8 months of ARNG service.

3. The NGB provided an advisory opinion on 31 July 2024 in the processing of this case. An NGB advisory official reiterated the applicant's request to have his record corrected to reflect that his Post 9/11 GI Bill benefits were transferred prior to his discharge, and recommended disapproval.

a. Title 38, United States Code (USC), Section 3319 authorizes service components to allow eligible Service Members to transfer their unused post-9/11 GI Bill benefits as a

retention incentive. To be eligible to transfer benefits, a service member must be currently serving in the Uniformed Services, be eligible for the post-9/11 GI Bill, have completed at least six years of service, and agree to serve four additional years. The applicant was eligible to transfer his benefits at the start of the post-9/11 GI Bill program on 1 August 2009, but he did not submit his transfer request until 19 October 2023. because his Mandatory Retirement Date was 30 November 2023, it did not allow for him to complete the statutory four-year service obligation and his transfer request was rejected.

b. The authority to transfer post-9/11 GI Bill benefits is specifically identified by statute in Public Law 110–252 as a tool for recruitment and retention of the career force. Because the applicant was not able to commit to the required four-year service obligation when he submitted his transfer request, the NGB does not recommend the Board grant relief. This opinion was coordinated with the Army National Guard Education Services Branch.

4. The applicant responded to the NGB advisory opinion regarding the request to transfer his GI bill benefit to his son. He states he served over 33 years. He had only been granted one year extensions since the post 911 GI bill went into effect in 2009 and could not get a 4 year extension. He was recently forced into retirement in November of 2023, due to his age. It was before his retirement that he requested to transfer the benefit since he did not have the option to do so before. After close to 34 years of service, many tours of duty in combat zones, an unwavering commitment to the state of Florida and our country, and all the sacrifices made by his family, he asks the Board to advise him on what he can do at this point to give this earned benefit to his son or daughter to attend college.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, a majority of the Board found relief is warranted.

2. Notwithstanding the recommendation of the advisory official to deny relief in this case, a majority of the Board found the applicant had been eligible to transfer his Post-9/11 GI Bill education benefits to his dependents from the beginning of the program in 2009. Had he submitted a request in a timely manner, he would easily have fulfilled the service obligation that comes with an approved request. A majority of the Board determined the applicant's record should be corrected to show he submitted a request to transfer his Post-9/11 GI Bill education benefits to his dependents in a timely manner and completed the 4-year service obligation.

3. The member in the minority found no evidence of error or injustice, noting the applicant had been eligible to transfer his Post-9/11 GI Bill education benefits to his dependents from the beginning of the program, and he has provided no explanation of why he did not do so in time to complete the associated service obligation.

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 to show he submitted a request to transfer his Post-9/11 GI Bill education benefits to his dependents in a timely manner and completed the 4-year service obligation.

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. 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.

g. The Soldier must commit to a 4 year service obligation, must not have any current FLAGS at time of TEB request or during the TEB approval process, and must verify remaining service and extend if necessary.

2 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 Selected Reserve.

//NOTHING FOLLOWS//