

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS
RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 November 2024

DOCKET NUMBER: AR20240001596

APPLICANT REQUESTS: correction of his record to show Post 9/11 GI Bill Transfer of Education Benefits (TEB) to his dependent.

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

FACTS:

1. The applicant states his GI Bill benefits were terminated due to him not completing his term of service. He did not retire at his own request; he was retired due to his failure to be promoted after reaching his retention control point. His retirement was not due to any legal or court-martial offenses.

2. A review of the applicant's service record shows the following:

a. On 28 October 1991, the applicant enlisted in the U.S. Army Reserve (USAR) and acknowledged a Statement of Understanding of the Selected Reserve Educational Assistance Program.

b. On 1 April 1994, he was released from the USAR and then immediately enlisted in the Arkansas Army National Guard (ARARNG). He had continued service through extensions with his final extension on 13 December 2019 for a term of 4 years.

c. DA Form 2-1 (Personnel Qualification Record) shows in Section VII, item 35, that he was ordered to active duty in support of Operation Enduring Freedom for a period of 12 months with a report date of 10 February 2003.

d. DD Form 220 (Active Duty Report) indicates on 3 September 2005, the applicant was ordered to active duty in support of Hurricane Katrina Relief Efforts in an active duty special work status and returned on 3 November 2005.

e. On 6 May 2009, on DD Form 2384-1 (Notice of Basic Eligibility), he acknowledged that he read and understood the expiration details of his entitlements of

unused educational assistance benefits will normally expire on the earlier of the following two dates:

- the 14th anniversary of eligibility to benefits if he remains a member in good standing during that period
- on the date of separation from the Selected Reserve for a disability due to no fault of their own, or involuntarily separated during the period of 1 October 1991 through 30 September 1999, due to inactivation of their unit or position. In such case benefits are retained for the entire 14-year period)

f. A Memorandum, subject of Notification of Eligibility for Retired Pay for Non-Regular Service (20-Year Letter), dated 2 November 2013, shows he had completed the required years of service and will be eligible for retired pay upon application at age 60 unless he qualifies for a reduced eligibility age and notified the applicant that his eligibility is based upon the National Guard Bureau Form 23A (ARNG Current Annual Statement).

g. Orders Number 093-0002, dated 3 April 2023, issued by the Military Department of Arkansas, Office of the Adjutant General, released the applicant from active duty and placed him on the retired list with an effective date of retirement of 1 October 2023.

h. On 30 September 2023, he was honorably released from active duty and transferred to the U.S. Army Reserve Control Group (Retired Reserve). He completed 29 years and 6 months of net service this period. He served in:

- Kuwait/Iraq, 7 April 2003 to 16 February 2004
- Iraq, 10 September 2007 – 25 June 2008

3. On 18 September 2024, the National Guard Bureau (NGB), Chief, Special Actions Branch, provided an advisory opinion recommending disapproval and stating in pertinent part:

a. Title 38 United States Code (USC), Section 3319 requires service members to complete a four-year service obligation to retain their transferred Post-9/11 GI Bill benefits. The applicant submitted his transfer request on 27 December 2019 and was assigned a four-year service obligation ending on 26 December 2023.

b. During the approval process, the applicant was required to review and agree to several statements on the MilConnect website informing him of his required service obligation. In addition, after approval, the ARNG sent the applicant an email informing him of his obligation end date and impacts of voluntarily separating from service prior to completing his required service obligation.

c. On 4 October 2022, the applicant requested voluntary retirement from the Active Guard/Reserve program and on 30 September 2023 he was transferred to the retired reserve with 2 months and 26 days remaining on his required service obligation.

d. Since the applicant voluntarily separated from the ARNG prior to completing his required service obligation, NGB do not recommend relief.

4. On 20 September 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal, he did not respond, however, on 15 February 2024, the applicant had submitted an email to the Army Review Boards Agency requesting a status update of his request.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board concurred with the National Guard Bureau advising official finding the applicant voluntarily retired prior to his obligation end date. The Board determined there was no error or injustice to support amending his record.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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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 must also agree to serve the prescribed active duty service obligation based on the time in service the Soldier had on 1 August 2009.

2. On 22 June 2009, the Department of Defense established the criteria for eligibility and transfer of unused education benefits to eligible family members. The policy states an eligible individual is any member of the Armed Forces who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, and on or after 1 August 2009, is eligible for the Post-9/11 GI Bill and, in pertinent part, is or becomes retirement eligible during the period 1 August 2009 through 1 August 2013. A service member is considered to be retirement-eligible if he or she has completed 20 years of active service or 20 qualifying years of Reserve service.

3. Army Regulation 621-202 (Army Educational Incentives and Entitlements) paragraph 4-15 states Soldiers may elect to transfer their Post-9/11 GI 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 GI 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 GI 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//