

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 November 2024

DOCKET NUMBER: AR20240002751

APPLICANT REQUESTS:

- Correction of his record to show Post 9/11 GI Bill Transfer of Educational Benefits (TEB) to his dependent
- Video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 30 October 2001
- DD Form 214, ending 16 June 2006
- Certificate, Bronze Star Medal
- Memorandum, Subject: Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 2023, after many attempts he was informed that his unused education benefits would not be transferred to his son. After contacting the state's G1 he was told to petition the ABCMR. With 26 years of honorable service, he believes his son is eligible for these education benefits, as he served well over 90 days following the events of 11 September 2001.

3. A review of the applicant's available service record shows:

- a. He enlisted in the Army National Guard (ARNG) on 17 April 1986.

b. On 3 February 2001, he entered active duty.

c. On 30 October 2001, he was honorably released from active duty. His DD Form 214 shows he served in Bosnia from 18 March 2001 through 4 October 2001. He completed 8 months and 28 days of net active service this period.

d. On 6 November 2001 he was honorably released from the United States Army Reserve.

e. On 1 August 2003 date he enlisted in the ARNG.

f. On 3 January 2005, he entered active duty.

g. On 16 June 2006, he was honorably released from active duty. His DD Form 214 shows he served in Kuwait and Iraq in support of Operation Iraqi Freedom from 9 May 2005 through 11 May 2006. He completed 1 year, 5 months, and 14 days of net active service during this period.

h. On 5 February 2010, he entered active duty in support of Operation Iraqi Freedom.

i. On 9 April 2011, he was honorably released from active duty. DD Form 214 shows he served in Kuwait/Iraq from 28 March 2010 through 16 January 2011. He completed 1 year, 2 months, and 5 days of net active service during this period.

j. On 7 January 2013, the Adjutant General, State of Georgia, issued Orders Number 007-810 honorably discharged him from the ARNG and transferred him to the Retired Reserve, effective 31 July 2012.

k. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) dated 31 July 2012 shows an honorable release from the GAARNG and transfer to the U.S. Army Reserve Control Group (Retired Reserve) with service from 1 August 2003 to 31 July 2012 and a net active service this period of 9 years.

4. The applicant provides:

a. A self-authored statement in which he states in part, in 2023, after many attempts he was informed that his unused education benefits would not be transferred to his son. After contacting the state's G1 he was told to petition the ABCMR. With 26 years of honorable service, he believes his son is eligible for these education benefits, as he served well over 90 days following the events of 11 September 2001.

b. A Bronze Star Medal certificate, awarded to the applicant for exceptionally meritorious service while assigned as the S6 Noncommissioned Officer in Charge during a time of persistent conflict in support of Operation Iraqi Freedom and Operation New Dawn.

c. Memorandum, Subject: Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter), that notifies the applicant that having completed the required years of service, he will be eligible for retired pay upon application at the age 60 in accordance with provisions of the Title 10, U.S. Code (USC), Chapter 1223.

5. On 30 July and 31 July 2024, in the processing of this case advisory opinions were obtained from NGB, Chief, Education Services Branch and Chief, Special Actions Branch, that opined in pertinent part:

a. Applicant requested his records be corrected to reflect that he transferred his Post-9/11 GI Bill education benefits prior to his separation.

b. Title 38, USC, Section 3319 requires service members to transfer at least one month of their Post-9/11 GI Bill benefits to their eligible dependents prior to separating from service.

c. Per Directive-Type Memorandum 09-003 dated 22 June 2009, the applicant was eligible to transfer his Post-9/11 GI Bill benefits without incurring an additional service obligation due to having completed at least 20 years of service prior to 1 August 2009.

d. From 1 August 2009, through 1 August 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 submit a transfer request or to transfer at least one month of benefits to each eligible dependent.

e. Since it is likely the applicant was not aware of the requirement to submit a transfer request and because doing so would not have caused him to serve an additional service obligation, we recommend the Board grant relief.

6. On 1 August 2024, the applicant's case was placed on hold for 14 days and he was provided a copy of the advisory opinion and afforded an opportunity to respond. The applicant did not provide a response.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon reviewing the applicant's petition, available military records and advisory opinion from the National Guard Bureau (NGB) Education Services Branch - Special Actions Branch, the Board concurred with the advising official's recommendation for approval. It found that the applicant was likely unaware of the requirement to submit a transfer request, and that doing so would not have imposed any additional service obligation. The opinion further noted that, despite significant efforts to disseminate information during this period, many service members remained unaware of the necessity to submit a transfer request or to transfer at least one month of benefits to each eligible dependent.

2. Based on the advising official's recommendation, the Board determined there was sufficient evidence to support the applicant's claim for correction of his record to reflect the transfer of Post-9/11 GI Bill Educational Benefits (TEB) to his dependent. As such, the Board granted relief.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

XX	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 the Army records of the individual concerned be corrected show the applicant is authorized to transfer his Post 9/11 GI Bill Educational Benefits (TEB) to his dependent

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 38, USC, section 3319 (Authority to Transfer Unused Education Benefits to Family Members) states that an individual transferring an entitlement to educational assistance under this section shall designate the dependent or dependents to whom such entitlement is being transferred, designate the number of months of such entitlement to be transferred to each such dependent and specify the period for which the transfer shall be effective for each dependent. An individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.
2. On 10 July 2009, the Army released the Post-9/11 GI Bill Implementation Policy that identified and established responsibilities, eligibility criteria, benefits, and detailed guidance on the administration of the program.
 - a. Transferability of Unused Benefits to Dependents. For the purposes of transferability, Armed Forces include all active duty service and all Selected Reserve service regardless of branch of service or component. Soldiers whose request to transfer benefits is approved will incur an additional service obligation in accordance with the below policy. Soldiers are expected to serve the additional service obligation.
 - b. Eligibility.
 - (1) Any Soldier of the Armed Forces who fulfills Post 9/11 GI Bill eligibility

requirements and who, at the time of the approval of the Soldier's request to transfer entitlement to educational assistance does not have an adverse action flag, is eligible for the Post 9/11 GI Bill, and;

(2) Has at least 6 years of service in the Armed Forces on the date of election and agrees to serve 4 additional years from the date of request, regardless of the number of months transferred, or;

(3) Has at least 10 years of service in the Armed Forces on the date of election and if cannot commit to 4 additional years due to a Retention Control Point (RCP) or Mandatory Retirement Date (MRD), must commit to serve for the maximum amount of time allowed by either RCP or MRD as of the date of request, regardless of the number of months transferred.

(4) Is or will become retirement eligible during the period from 1 August 2009, through 1 August 2013 and agrees to serve the additional period, if any, specified below. For the purposes of this paragraph, a Soldier is considered to be retirement eligible if he or she has completed 20 years of active Federal service or 20 qualifying years as computed under Title 10 USC, section 12732.

3. Army Regulation (AR) 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 Selected Reserve.

4. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//