

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 July 2025

DOCKET NUMBER: AR20240003127

APPLICANT REQUESTS:

- Transfer Education Benefits under the Post 9/11 GI Bill
- A personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) – reflective of the applicant's service on active duty from 15 March 2012 – 15 October 2015; medically retired
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) – reflective of the applicant's service in the Army National Guard (ARNG) from 11 July 1997 – 15 October 2015; medically retired

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 in part he:
 - Retired from the ARNG in 2015; he believed that he had transferred his educational benefits to his dependent
 - He was advised by the Department of Veterans Affairs (DVA) that his benefits had not been transferred
 - Had he known this while serving, he would have remained in service; he was medically disqualified
3. A review of the applicant's service records reflect the following:
 - After serving in the Regular Army, he enlisted in the ARNG on 11 July 1997

- On 4 August 2010 – he was issued a Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter)
- On 9 March 2012 (Orders Number A-03-204405) – he was ordered to active duty for Operational Support, effective 15 March 2012
- On 24 August 2014 – a Physical Evaluation Board convened finding the applicant physically unfit for continued military service with a recommendation that he be permanently medically retired
- On 15 October 2015 – he was medically retired from military service
- On 22 October 2015 (Orders Number 295-798) - he was discharged from the ARNG, effective 15 October 2015

4. On 21 February 2025, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending approval of the applicant's request noting that he requested to transfer his Post 9/11 GI Bill benefits on 7 August 2015. However, because his expiration term service date at the time was less than four years from his request date and because he was on medical hold, he was unable to extend his enlistment to meet the four-year service requirement, his request was denied. 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 requirements to become eligible. This is especially true for the applicant who was either deployed or on medical hold from 2010 thru 2015. Since it is likely that he was not aware of the requirements to establish eligibility for the Post 9/11 GI Bill, and because he would have only incurred a one-year service obligation had he submitted a request in 2009 when he initially became eligible, they recommend that his request be granted.

5. On 25 February 2025, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide 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 that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Upon review of the applicant's petition, available military records, and the National Guard Bureau, Chief, Special Actions Branch advisory, the Board concurred with the advising official to grant approval, finding the applicant may not have been aware of the transfer of education benefits program, this is especially true for the applicant who was either deployed or on medical hold from 2010 to 2015. Since it is likely that he was not aware of the requirements to establish eligibility for the Post 9/11 GI Bill, and because

he would have only incurred a one-year service obligation had he submitted a request in 2009 when he initially became eligible.

2. 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	:XX	:XX	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 the applicant filed and the Army approved, in a timely manner, his application to transfer his unused education benefits to his eligible dependent(s), provided all other program eligibility criteria were met, in accordance with the Transfer of Education Benefits provisions of the Post-9/11 GI Bill.


X //signed//

CHAIRPERSON
 Signed by:

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, U.S. Code, 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, section 3319 provides the eligibility requirements necessary to transfer unused education benefits to family members. A service member may execute transfer of benefits only while serving as a member of the Armed Forces. The DVA is responsible for final determination of eligibility for educational benefits under this program. General eligibility criteria are as follows:

a. Service members must have accrued specific qualifying active-duty service, on or after, 11 September 2001 of at least 30 continuous days of qualifying active-duty service if discharged due to a service-connected disability or; between 90 days and 36 months or more of total aggregate qualifying active duty service, and

b. Service members also must have served on active duty in the Regular Army; as a Reserve member ordered to active duty under Title 10, U.S. Code, sections 688, 12301(a), 12301(d), 12301(g), 12302 and 12304 (orders in support of contingency operations, i.e., mobilization), and must have received an honorable discharge at the conclusion of active-duty service.

c. The program guidance stipulates if a service member becomes retirement eligible during the period beginning on 1 August 2009 through 1 August 2013, and agrees to serve the additional period as specified below, he/she is entitled to transfer benefits to his/her dependents. A member is considered to be retirement eligible upon completion of 20 years of active federal service or 20 qualifying years as computed under Title 10, U.S. Code, section 12732:

a. Service members eligible for retirement on 1 August 2009 - no additional service required;

d. Service members who have an approved retirement date after 1 August 2009 and before 1 July 2010, no additional service required;

e. Service members eligible for retirement after 1 August 2009, and before 1 August 2010 - 1 year of additional service is required;

f. Service members eligible for retirement on or after 1 August 2010, and before 1 August 2011 - 2 years of additional service is required;

g. Service members eligible for retirement on or after 1 August 2011, and before 1 August 2012 - 3 years of additional service is required; and

h. Active-duty service members, who separate, retire, transfer to the Reserve or who are discharged on or prior to 1 August 2009 are not eligible to elect transferability.

3. Army Regulation 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 may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's 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//