

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 January 2025

DOCKET NUMBER: AR20240003151

APPLICANT REQUESTS: an exception to policy to transfer education benefits under the Transfer of Education Benefits (TEB) provision of the Post-9/11 GI Bill to his dependents.

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

DD Form 149 (Application for Correction of Military Record) - online

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 2008-2009 time frame, he was informed that he could transfer his Post 9/11 benefits to his dependents. He signed up for it, but it did not update in the eBenefits database. He does not have documentation. He was unaware that he would not have the ability to transfer benefits while he was transitioning out of the Army. He could not alter the process.
3. On 3 June 1995, the applicant was appointed as an officer in the Regular Army Aviation branch, in the rank of second lieutenant.
4. On 7 July 2016, the applicant was awarded the Legion of Merit.
5. The applicant was discharged on 31 July 2016 in the rank of lieutenant colonel. His DD Form 214 (Certificate of Release or Discharge from Active Duty) confirms he was discharged under the provisions of Army Regulation 600-8-24 (Officer Transfers and Discharges), for retirement. His service was characterized as honorable. He was assigned Separation Code RBD. He completed 21 years, 1 month, and 28 days of net active service this period.

6. Additionally his DD Form 214 shows he was awarded or authorized the Bronze Star Medal (2nd Award), Meritorious Service Medal (4th Award), Army Commendation Medal (3rd Award), Army Achievement Medal (4th Award), Joint Meritorious Unit Award, Valorous Unit Award, Army Superior Unit Award (2nd Award), National Defense Service Medal (2nd Award), Armed Forces Expeditionary Medal, Global War on Terrorism Service Medal, Iraq Campaign Medal with Campaign Star (3rd Award), Army Service Ribbon, Overseas Service Ribbon (3rd Award), Kosovo Campaign Medal with Bronze Service Star, North Atlantic Treaty Organization Medal, Combat Infantryman Badge, Expert Infantryman Badge, Ranger Tab, Combat Action Badge, Parachutist Badge, Air Assault Badge, and Secretary of Defense Identification Badge.

7. In the processing of this case, an advisory opinion was obtained on 16 November 2024, from the Chief, Education Incentives Branch, Human Resources Command. The advisory official recommended disapproval of the applicant's request for the Post 9/11 GI Bill TEB and opined:

a. The applicant was eligible to transfer his Post 9/11 GI Bill when the program first became available on 1 August 2009 because he had already attained the minimum required six years of service. Effective 31 July 2016, the applicant was placed on the U.S. Army Retired List. Our records indicate that he did not submit a TEB request during the seven years he was eligible for the program, starting with the program's implementation date in 2009 and ending with his retirement in 2016.

b. On 12 November 2024, this office contacted the Defense Manpower Data Center (DMDC) to determine if a TEB request was submitted by the applicant. The DMDC system records a date/time stamp every time a Soldier's TEB milConnect website account is accessed, and when a TEB-related transaction is submitted. DMDC indicates that the applicant accessed the milConnect website eight times prior to his retirement without ever submitting a TEB request. He could have submitted a TEB request at those times but chose not to do so. Between 8 August 2016 and 30 May 2019, he accessed milConnect four additional times. However, these access attempts were after his retirement date and outside his program eligibility period. Again, please note that a Soldier earns the Post 9/11 GI Bill because of their Active-Duty service, however, TEB is a retention incentive, not a Soldier's entitled benefit.

c. The applicant had multiple opportunities to educate himself with the program participation requirements and he had ample opportunity to submit a TEB request via milConnect.

8. On 3 December 2024, the applicant was provided a copy of the advisory opinion and afforded 15 days to provide comments. On 17 December 2024, the applicant stated:

a. After reading the advisory opinion provided by the Chief, Education Incentives Branch, he doesn't believe he has any documentation to provide that would do much to influence any final decision.

b. The advisory opinion states the TEB is a retention incentive, and he did serve the required additional service time following his date of eligibility. The intent of the benefit was to keep officers in good standing on active duty and he stayed in good standing on active duty – the intent of the benefit was achieved to the benefit of the U.S. Army. While he did receive counseling on the Post 9/11 GI Bill benefit and its TEB incentive at various times, it is entirely possible that those briefings might have lacked specificity and emphasis on all requirements. It was always his intent to apply for the TEB incentive and he thought he had done all that was necessary. It is also possible that a loss of connectivity during the process or digital error within the different systems could have negated his efforts.

9. In reaching its determination, the Board may consider the applicant's petition, service record, and statements in light of the published guidance.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the findings and recommendation outlined in the HRC advisory opinion and the response from the applicant stating he did receive Post 9-11 GI bill counseling, the Board concluded there was insufficient evidence of an error or injustice warranting a correction to the applicant's 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.

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, dated 30 June 2008, authorized the Post-9/11 GI Bill which became effective 1 August 2009. Section 3319 of this law states that 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.
3. On 22 June 2009, Department of Defense (DOD) established the criteria for eligibility and transfer of unused education benefits to eligible family members. The policy states any member of the Armed Forces on or after 1 August 2009 who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, is eligible for the Post-9/11 GI Bill and:
 - a. has at least 6 years of service in the Armed Forces on the date of election and agrees to serve 4 additional years in the Armed Forces from the date of election, or
 - b. has at least 10 years of service in the Armed Forces (active duty and/or Selected Reserve) on the date of election, is precluded by either standard policy (service or DOD) or statute from committing to 4 additional years, and agrees to serve for the maximum amount of time allowed by such policy or statute, or

c. is or becomes retirement eligible during the period from 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 duty or 20 qualifying years of Reserve Component service.

4. The policy further states the Secretaries of the Military Departments will provide active duty participants and members of the Reserve Components with qualifying active duty service individual pre-separation or release from active duty counseling on the benefits under the Post-9/11 GI Bill and document accordingly and maintain records for individuals who receive supplemental educational assistance under Public Law 110-252, section 3316.

5. On 10 July 2009, the Army released the Post-9/11 GI Bill Implementation Policy which identified and established responsibilities, eligibility criteria, benefits, and detailed guidance on the administration of the program. The policy states, in part, that those who retire on or before 1 August 2009 are, by law, not eligible to transfer unused Post-9/11 GI Bill benefits because their last day of duty will be 31 July 2009 and they will transfer to the Retired List on 1 August 2009. However, the policy does apply to those so retired if they are recalled to active duty and serve on or after 1 August 2009 and before 2 August 2012.