

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 November 2024

DOCKET NUMBER: AR20240003481

APPLICANT REQUESTS: Correction of his record to show Post 9/11 GI Bill Transfer of Educational 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 he was not made aware that he would have to make changes to his Post-9/11 GI Bill prior to his retirement in order for his dependent to use the benefit. He requests that the correction be made in order for his wife to attend college and start a new career.

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

a. He enlisted in the Army National Guard (ARNG) on 25 March 1986.

b. Orders Number 103-8 issued by that State of Connecticut Office of the Adjutant General on 31 May 1991, discharged the applicant from the ARNG with a General characterization of service, effective 1 June 1991. His National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows he completed 5 years, 2 months and 7 days of net service this period.

c. NGB Form 22, from 29 July 1994 through 28 July 1995 shows he was discharged for expiration of service obligation and unsatisfactory participation. It shows he completed 1 year of net service this period. His record is void of an enlistment contract for this period.

d. He enlisted in the ARNG on 12 August 1998.

e. On 2 June 2003, he entered active duty in support of Operation Noble Eagle.

f. On 11 January 2004, he was honorably released from active duty and returned to his ARNG unit.

g. On 4 January 2006, he entered active duty in support of Operation Enduring Freedom.

h. On 22 May 2007, he was honorably released from active duty. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he served in Afghanistan from 14 April 2006 through 11 April 2007. He completed 1 year, 4 months, and 19 days of net active service during this period.

i. NGB Form 22 dated 2 June 2018 shows an honorable release from the CTARNG and transfer to the U.S. Army Reserve Control Group (Retired Reserve) with service from 25 March 1986 to 2 June 2018 and a net active service this period of 23 years.

j. Orders Number C03-492694, issued by the U.S. Army Human Resources Command on 11 March 2024, retired the applicant with an effective date of 20 July 2024.

3. On 12 September 2024, in the processing of this case advisory opinions were obtained from NGB, Chief, Education Services Branch and the Chief, Special Actions branch, that opined in pertinent part:

a. Applicant requests his records be corrected to reflect that his Post-9/11 GI Bill benefits were transferred to each of his eligible dependents prior to his retirement.

b. Title 38 United States Code (USC), Section 3319 requires service members to be actively serving in the armed services in order to transfer their Post-9/11 GI Bill benefits to their dependents.

c. The applicant requested to transfer his Post-9/11 GI Bill benefits on 23 July 2009. When the applicant was discharged from the ARNG on 20 July 2018, he had not transferred any of his education benefits to his dependents.

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 transfer their education benefits to dependents prior to exiting service.

e. Due to the lack of information available to service members at the time the applicant's transfer request was approved, we recommend the Board grant relief and correct his records to show that he transferred one month of benefits to each of his eligible dependents prior to separating from the ARNG.

6. On 12 September 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.

7. On 1 November 2024, the NGB, Chief, Special Action Branch, provided an updated advisory opinion which states in part:

a. The applicant requested to transfer his post-9/11 GI Bill benefits and applied when eligible. When he was discharged from the ARNG on 20 July 2018, he had not transferred any of his education benefits to his dependents.

b. Due to the lack of information available to service members at the time, the applicant's transfer request was not approved prior to his separation. We recommend the Board grant relief and correct his records to show that he transferred one month of benefits to each of his eligible dependents prior to separating from the ARNG.

#### 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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant requests his records be corrected to reflect that his Post-9/11 GI Bill benefits were transferred to each of his eligible dependents prior to his retirement. The law (38 USC section 3319) requires service members to be actively serving in the armed services in order to transfer their Post-9/11 GI Bill benefits to their dependents. When the applicant was discharged from the ARNG on 20 July 2018, he had not transferred any of his education benefits to his dependents. The NGB believes due to the lack of information available to service members, the applicant's transfer request should be approved. The Board did not concur with the NGB advisory for three reasons: One, the applicant served/remained in the ARNG nearly 10 years after this program started in August 2009; two, there is no evidence the applicant attempted to transfer the benefits while he was in the military between 2009 and 2018; and three, although information was not available during the early days of this program, such information was readily available to all Soldiers in the years after its implementation. Therefore, the Board determined relief is not warranted.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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. 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.

//NOTHING FOLLOWS//