

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 November 2024

DOCKET NUMBER: AR20240004107

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

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

FACTS:

1. The applicant did not file within the three-year time frame provided in Title 10, United States 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 prior to his retirement, his unit was preparing for a deployment to Poland and his unit's Readiness Noncommissioned Officer neglected to provide him with adequate guidance regarding his educational benefits
3. A review of the applicant's available service record shows:
  - a. He enlisted in the Regular Army on 20 September 1995.
  - b. On 17 June 1998, while stationed at Camp Casey, Korea, he enlisted in the Army National Guard (ARNG).
  - c. On 27 July 1998, he was honorably Released from Active Duty (REFRAD) to attend school.
  - d. He was ordered to active duty on 25 July 2002 in support of Operation Enduring Freedom with service in Germany.
  - e. On 22 March 2003, he was honorably REFRAD and returned to his ARNG unit. He completed 7 months and 28 days of net active service.

f. On 22 January 2005, he was ordered to active duty in support of Operation Iraqi Freedom.

g. On 9 July 2006, he was honorably REFRAD. He completed 1 year, 6 months, and 18 days of net active service.

h. On 3 December 2007, he was ordered to active duty in support of Operation Enduring Freedom.

i. On 15 February 2009, he was honorably REFRAD. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he served in Afghanistan from 1 March 2008 through 25 November 2008.

j. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) dated 31 October 2018 shows an honorable release from the PAARNG and transfer to the U.S. Army Reserve Control Group (Retired Reserve) with service from 28 July 1998 to 31 October 2018 and a net service this period of 20 years, 3 months, and 3 days.

4. On 9 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 record be corrected to reflect that his Transfer of Education Benefits (TEB) request was submitted and approved prior to separation.

b. Title 38, USC, Section 3319 authorizes service components to allow eligible Service Members to transfer their unused Post-9/11 GI Bill benefits as a retention incentive. To transfer benefits, a service member must be actively serving in the Uniformed Services, be eligible for the Post-9/11 GI Bill, have completed at least six years of service, and agree to serve four additional years.

c. On 24 July 2018, the applicant submitted a request to retire from the ARNG. On 31 October 2018, he voluntarily retired from the ARNG with 23 years, 5 months, and 9 days of service. The applicant was eligible for the TEB program since its inception in 2009, however, there is no evidence that he submitted a TEB request prior to his retirement.

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. In addition, the applicant's records were reviewed by

the state education office prior to his separation with an annotation that he did not have an obligation end date and therefore had not submitted a TEB request.

e. While there is no way to confirm that the applicant did or did not receive a briefing on the requirement to submit a TEB request while actively serving, it is highly unlikely that he was not made aware of that requirement during an annual/periodic education briefing from 2009 thru 2018. As a result, we cannot recommend relief.

5. On 24 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.

#### 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 record be corrected to reflect that his Transfer of Education Benefits (TEB) request was submitted and approved prior to separation. The law (38 USC Section 3319) authorizes service components to allow eligible Service Members to transfer their unused Post-9/11 GI Bill benefits as a retention incentive. The evidence shows the applicant submitted a TEB request on 24 July 2018. He voluntarily retired from the ARNG on 31 October 2018, with over 23 years and 5 months of service. The applicant was eligible for the TEB program since its inception in 2009, however, there is no evidence that he submitted a TEB request prior to his retirement. The Board agreed with the NGB's determination that while it is unknown if the applicant did or did not receive a briefing on the requirement to submit a TEB request while actively serving, it is highly unlikely that he was not made aware of that requirement during an annual or periodic education briefing from 2009 thru 2018. Therefore, the Board determined relief is not warranted.

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. Title 10, USC, 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. 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.

3. 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.

4. 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//