

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 December 2024

DOCKET NUMBER: AR20240004669

APPLICANT REQUESTS: correction of her records to reflect entitlement to Transfer Education Benefits (TEB) under the Post 9/11 G.I. Bill to her dependent children.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 5435-R (Statement of Understanding – the Selected Reserve Montgomery G.I. Bill), 24 September 2009

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 she was medically retired from the Army National Guard (ARNG). However, prior to being medically retired, she initiated her election to TEB under the Post 9/11 G.I. Bill to her 3 dependent children. She notes that the request was not properly processed by her Battalion personnel.

3. A review of the applicant's service records reflects the following:

a. On 30 September 2009, the applicant enlisted in the ARNG for 8 years with entitlement to the Montgomery G.I. Bill.

b. On 29 September 2015, the applicant elected to extend her enlistment in the ARNG by 1 year.

c. On 10 March 2016, an Informal Physical Evaluation Board convened finding the applicant physically unfit for continued military service with a recommendation that she be permanently medically retired. The applicant concurred with the board's recommendation and waived her rights to a formal hearing.

d. On 25 March 2016, the U.S. Army Physical Disability Agency issued Orders Number D 085-20 releasing the applicant from assignment and duty because of a physical disability incurred while entitled to basic pay and under conditions that permit her retirement for permanent physical disability. These orders show the applicant completed 2 years, 6 months, and 11 days towards her disability retirement and 6 years and 7 months for basic pay.

e. On 29 April 2016, the [REDACTED] ARNG issued Orders Number 120-059 medically retiring the applicant from the ARNG and assigning her to the Retired Reserve, effective 29 April 2016.

f. On 29 April 2016, the applicant was medically retired under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management). She completed 6 years and 7 months of net service.

4. On 20 November 2024, the National Guard Bureau, Chief, Special Actions Branch, provided an advisory opinion recommending disapproval of the applicant's request noting that on 29 January 2015, and on 5 February 2016, the applicant submitted her requests to transfer her education benefits under the Post 9/11 G.I. Bill. However, both requests were denied because she had not completed 6-years of creditable service. On 28 April 2016, she separated from the ARNG with 5-years of creditable service. Per Title 38 USC, Section 3319(b)(1), to be eligible to transfer Post 9/11 G.I. Bill benefits, service members must have completed at least 6-years of service in the Armed Forces and commit to serve at least 4 more years.

5. On 21 November 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. The applicant did not respond.

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 Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board concurred with the National Guard Bureau advising official finding the applicant had not completed 6-years of creditable service and was discharged prior to serving 6-years of creditable service. The Board determined there was no error or injustice to support amending his 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.

3/25/2025

X

CHAIRPERSON

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. Public Law 110-252 limits the eligibility to transfer unused benefits to those members of the Armed Forces who are serving on active duty or a member of the Selected Reserve.

a. A Soldier must be on active duty or a member of the Selected Reserve at the time of transfer of educational benefits to his or her dependent on or after 1 August 2009.

b. A Soldier must have at least 6 years of eligible service in order to transfer educational benefits to a spouse and at least 10 years of eligible service to transfer to eligible children.

c. A Soldier may only transfer to eligible family members. To be considered an eligible family member the spouse or child must be enrolled in the Defense Enrollment Eligibility Reporting System.

d. A Soldier must also agree to serve the prescribed additional service obligation based on the time in service the Soldier had on 1 August 2009.

e. A Soldier should not be granted relief based on unawareness of the law, program rules, or procedures unless he or she left the service during the implementation phase which is the first 90 days of the program.

f. A Soldier must have initially requested to transfer benefits on the DOD TEB online database. The TEB online database was operational 29 June 2009. Once approved in the TEB online database by the Soldier's service, the approval information is automatically relayed electronically to the VA for their access.

3. Army Regulation 621-202 (Army Educational Incentives and Entitlements) paragraph 4-15 states Soldiers may elect to transfer their Post 9/11 G.I. 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 SELRES.

//NOTHING FOLLOWS//