

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 December 2024

DOCKET NUMBER: AR20240004774

APPLICANT REQUESTS: reconsideration of her previous request to correct her record to show she elected to give one month of her Post 9/11 GI Bill, Transfer of Education Benefits (TEB), to her daughter.

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), 3 April 2009
- NGB Form 22 (Report of Separation and Record of Service), 9 November 2010
- Post-9/11 GI Bill Statement of Benefits
- News article dated 3 March 2023
- Department of Veterans Affairs (VA) Statement of Service/Verification of Honorable Service

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20190011167 on 13 January 2022.

2. The applicant states she honorably served her country for over 22 years. As a single parent, she left her child for Hurricane Katrina and deployed to Kosovo. The Army has documentation showing that she earned 31 months and 7 days of eligibility for the GI Bill, but no record of her transferring this benefit to her daughter. She is requesting the benefit that she earned, not for herself, but for her daughter to pursue her goal of becoming a doctor.

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

a. DD Form 214 that she entered active duty on 10 November 1987 and was honorably released from active duty on 9 December 1991 due to the expiration term of service. She completed 4 years and 1 month of net active service this period.

b. DD Form 214 that she entered active duty on 20 June 1993 and was honorably released from active duty on 20 December 1993, due to the completion of required active service. She completed 5 months and 11 days of net active service this period.

c. She entered the Missouri Army National Guard (MOARNG) on 11 February 1994.

d. DD Form 214 shows she entered active duty on 23 March 2008 and she was honorably released from active duty on 3 April 2009, due to the completion of required active service. She completed 1 year and 11 days of net active service this period.

e. Memorandum, issued by MOARNG, Subject: Notification of Eligibility for Retired Pay at Age 60, dated 12 May 2009, shows she completed the required years of service and will be eligible for retired pay upon application at age 60.

f. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows she honorably resigned from the ARNG on 9 November 2010. She completed 16 years, 8 months, and 29 days of net service this period with 22 years, 8 months, and 11 days of total service for retired pay.

g. Orders 028-151, issued by Headquarters MOARNG, dated 28 January 2011, shows she was separated from the ARNG effective 9 November 2010, and was honorably transferred to the Retired Reserve.

h. On 13 January 2022, the ABCMR denied her request to correct her record to show she elected to give one month of her Post-9/11 GI Bill to her daughter. The Board determined relief was not warranted. Based upon the lack of any documentation to corroborate the statement of the applicant concerning the previous submission to have her educational benefits transferred, the Board concluded there was insufficient evidence of an error or injustice which would warrant correction of her record to show she elected to give one month of her Post-9/11 GI Bill to her dependent daughter.

4. The applicant provides:

- Post-9/11 GI Bill Statement of Benefits that shows she has received 31 months and 7 days of benefits.
- News article dated 3 March 2023, that discusses how a retired Vietnam War veteran was awarded the Medal of Honor 60 years after his recommendation for the award was lost and resubmitted.
- VA Statement of Service that shows the applicant's service in the Army as follows: 10 November 1987 – 9 December 1991; Honorable; 20 June 1993 – 20 December 1993; Honorable; and 23 March 2008 – 3 April 2009; Honorable.
- VA Verification of Honorable Service that shows the applicant served honorably in the Uniformed Services of the United States.

5. On 16 October 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion for this case. The advisory opinion states:

a. The applicant gained eligibility for the post-9/11 GI Bill after deploying in support of Operation Enduring Freedom in 2008-2009 and was eligible to transfer her benefits from the beginning of the program on 1 August 2009. Though we find no evidence that she requested to transfer her benefits via the MilConnect website prior to retiring on 9 November 2011, it is likely that she was not aware of that requirement.

b. From August 1, 2009, through August 1, 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 submit a transfer request and to transfer at least one month of benefits to each eligible dependent via the Milconnect website. In addition, if she had requested to transfer her benefits while in service, she would not have been required to complete a service obligation. Because it is likely the applicant was not made aware of the requirement to submit a transfer request via the MilConnect website and because she would not have incurred an additional service obligation, we recommended that the board grant relief.

6. On 17 October 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. On 30 October 2024, she responded and stated that for many years she's attempted to correct this situation, she's written to Senators, Congressmen, the President of the United States, The Veteran's Administration, the National Guard and the Army Review Board. A disservice has been done and she truly believes it needs to be corrected. She served her country honorably for over 20 years, and continues to serve her country as a civilian working with the Department of Homeland Security for over 20 years. All she is asking is this wrong be corrected. As previously stated, she is a single parent of one child. She knows that she signed over the Post-9/11 GI Bill to her daughter. Her daughter was 8 years old when she deployed on her for a year, and she did so in part to be able to assist her in her future. Her daughter is currently in graduate school to become a Physician Assistant and is going broke in the process. If there is anyway the Board can agree with the National Guard Bureau and grant relief, she and her daughter would be eternally grateful.

BOARD DISCUSSION:

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. The evidence shows the applicant served in the ARNG from 11 February 1994 to 9

November 2011, completing 16 years, 8 months, and 29 days of ARNG service. She gained eligibility for the post-9/11 GI Bill after deploying in support of OEF in 2008-2009 and was eligible to transfer her benefits from the beginning of the program on 1 August 2009. However, there is no evidence the applicant requested to transfer her benefits via the MilConnect website prior to retiring on 9 November 2011. Although the ARNG, DOD, and the VA 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, it is likely the applicant was not made aware of the requirement to submit a transfer request via the MilConnect website and because she would not have incurred an additional service obligation. Therefore, the Board determined relief is warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant amendment of the ABCMR's decision in Docket Number AR20190011167 on 13 January 2022. 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 transferred at least one month to each of her eligible dependents prior to her retirement, provided all other Post 9/11 TEB criteria is met. 2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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 three 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 three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Public Law 110-252 establishes legal limitations on the transferability of unused Post-9/11 GI Bill benefits. Further, Public Law 110-252, section 3020, limits eligibility to transfer unused benefits to those members of the Armed Forces who are serving on active duty or as a member of the Selected Reserve. Although significant measures were taken to disseminate the information to all Soldiers within all Army components during the initial phase of the program, many Soldiers who left the service during the first 90 days of the program were not fully aware of the requirement to transfer benefits prior to leaving military service. A Soldier must currently 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 (emphasis added).
3. Public Law 110-252, as amended by Public Law 111-377, identified the qualifications to receive the Post-9/11 GI Bill, one of which was that the service member must have performed active service on or after 11 September 2001, in order to be eligible for the Post-9/11 GI Bill. Public Law 110-252 established legal requirements on the transferability of unused benefits to those members of the Armed Forces who were serving on active duty or as a member of the Selected Reserve on or after 1 August 2009.
4. On 22 June 2009, the Department of Defense (DOD) established the criteria for eligibility and transfer of unused education benefits to eligible family members. The policy limits the entitlement to transfer education benefits to any member of the Armed Forces on or after 1 August 2009, who, at the time of the approval of his or her request to transfer entitlement to educational assistance under this section, is eligible for the Post-9/11 GI Bill.
 - 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.
 - b. Has at least 10 years of service in the Armed Forces (active duty and/or service in the 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.

- for those individuals eligible for retirement on 1 August 2009, no additional service is required
- for those individuals who have an approved retirement date after 1 August 2009, and before 1 July 2010, no additional service is required
- for those individuals eligible for retirement after 1 August 2009, and before 1 August 2010, 1 year of additional service after approval of transfer is required
- for those individuals eligible for retirement on or after 1 August 2010, and before 1 August 2011, 2 years of additional service after approval of transfer are required

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 service or 20 qualifying years of Reserve service.

5. Army Regulation 621-202 (Army Educational Incentives and Entitlements), paragraph 4–15 states that 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 www.dmdc.osd.mil/mil-connect or 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. 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//