

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 August 2025

DOCKET NUMBER: AR20240007391

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

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

- DD Form 149 (Application for Correction of Military Record)
- Enlisted Record Brief – one-page summary of his career information, including qualifications and history
- DD Form 214 (Certificate of Release or Discharge from Active Duty) – reflective of his service on active duty from 19 August 1993 – 31 January 2019; retired

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 he was unable to transfer his Montgomery GI Bill to the PGIB because he did not meet the requirements for the remaining years which was 3 years. He was under the 3 years required for his Retention Control Point (RCP) as a staff sergeant (SSG), when the program finally updated; he was unable to transfer the benefits to his dependents. When he was promoted to sergeant first class (SFC), he was attending the Guidance Counselor Operations Course. At that time, he had less than 3 years remaining in the service, since it took him over his RCP. He was informed by numerous employees at the education offices that he did not have enough time remaining in the service to transfer his benefits. He would like to transfer his education benefits to his children so they may attend college and pursue their goals and dreams.
3. A review of the applicant's service records reflect the following:
 - a. He enlisted in the Regular Army on 19 August 1993.

b. He was promoted to sergeant first class, effective 1 February 2016.

c. He retired on 31 January 2019.

4. In the processing of this case, an advisory opinion was obtained on 26 March 2025, from the Chief, Education Incentives Branch, Army Human Resources Command. The advisory official recommended disapproval of the applicant's request based on the following:

a. Soldiers receive counseling on all GI Bills, including the PGIB benefit and its TEB incentive at various venues throughout their career (in/out-processing at Education Centers), upon demobilization or release from Active Duty, and during the last year before separation or retirement Transition Assistance Program (TAP). Soldiers have had access to and received counseling on GI Bill benefits through Soldier for Life– TAP (i.e., Army Career and Alumni Program XXI or TAP XXI) since 2002, both on-line and in-person.

b. A Soldier should not be granted relief based on unawareness of the law, program rules, or procedures unless they left the service during the implementation phase (first 90 days) of the program. The information mentioned in paragraph 1 was available to SFC(Retired (R)) C_ prior to his retirement from the Regular Army on 31 January 2019. SFC(R) C_ was eligible to transfer his PGIB benefits to his dependents when the program first became available on 1 August 2009, because he had met the PGIB eligibility requirement of at least 90 days of active-duty service and he had obtained the by law-required minimum of 6-years of service to participate in the TEB program. Even though beginning with 1 August 2009, then-SSG C_ was eligible to request TEB and had eligible dependents listed in milConnect, he failed to visit the milConnect website to submit a TEB request. A review of SFC(R) C_ milConnect access history shows that he never attempted to access milConnect until 11 September 2013, at which point he had 20 years of service and was less than 3 years away from his mandatory retirement due to his RCP for his then-current rank of SSG.

c. The timeline that SFC(R) C_ laid out in his application to the Army Review Boards Agency (ARBA) is correct and matches the timeline laid out in paragraph b. However, his ineligibility for the TEB retention incentive is not an error as he stated in his ARBA application, but due to his failure to act in a timely manner. SFC(R) C_ never actually visited the milConnect website, nor submitted a TEB request during the entire time he was eligible, which spanned approximately 3 years from approximately August 2009 to August 2012. After August 2012, SFC(R) C_ continually encountered insufficient retainability issue due to his pending RCP. Again, SFC(R) C_ inability to participate in the TEB retention incentive is not an error on the part of the Army but the result of the Service Member waiting too long to investigate this retention incentives program.

5. In response, on 16 April 2025, he stated:

a. He noticed a few things that were incomplete from his record. He was in the Recruiting Command from December 2002 to 31 January 2019. He did not receive counseling on education incentives while he was assigned to Recruiting Command. Upon his promotion to SFC, he was unable to extend for the minimum needed contract years to transfer his education benefits due to the RCP at that time. The letter he received states that his RCP was 26 years. However, at the time of his promotion, the RCP was 24 years. He was allowed to go past 24 years because the Army recognized that he would not have 3 years at his new rank of SFC.

b. The PGIB would be split amongst his children. He recently received a 100% permanent and total disability rating from the Veterans Affairs, which will help him with some, but not all, of the cost of putting his children through college. If it is at all possible for the Board to correct this error on his part, it would be greatly appreciated and would go a long way to assist his children in their careers and educational goals.

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 U.S. Human Resources Command, Chief Education Incentives Branch stating the applicant’s ability to participate in the TEB retention incentive is not an error on the part of the Army but the result of the Service Member waiting too long to investigate this retention incentives program. The Board noted that the program has been available for years and found no mitigating or extenuating circumstances that would excuse his lack of timeliness for submitting his TEB. Therefore, the Board determined there was no error or injustice to grant an exception to policy for enrollment in the TEB and denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING

XX XX XX 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.

X//signed//

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, 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, 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 G.I. 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 an 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 U.S. Code, section 12732. Use which ever computation establishes 20 years regardless of which component the Soldier is in at the time of electing to transfer benefits.

- Soldiers eligible for retirement on or before 1 August 2009, no additional service is required
- Soldiers with an approved retirement date on or after 1 September 2009, but on or before 1 June 2010, no additional service requirement
- Soldiers who attain 20 years of service on or after 2 August 2009 and before 2 August 2010, one year of additional service from the date of request is required
- Soldiers who attain 20 years of service on or after 2 August 2010 and before 2 August 2011, two years of additional service from the date of request are required
- Soldiers who attain 20 years of service on or after 2 August 2011, and before 2 August 2012, three years of additional service from the date of request are required
- Paragraph 17a(4) does not apply to any Soldier who retired on or before 1 August 2009 unless recalled to active duty and serving on or after 1 August 2009 and before 2 August 2012
- 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
- Paragraph 17a(4) expires on 2 August 2013

c. Procedures: All requests and transactions will be completed through the TEB Web application: [www. https://milconnect.dmdc.osd.mil](https://milconnect.dmdc.osd.mil), where an individual must request to transfer their educational benefits to dependents, states the system (milConnect) calculates the Obligation End Date (OED) from the date the individual submits the TEB request. The OED cannot be backdated. It further states:

"You must remain in the Armed Forces until your OED. If you do not, you lose your eligibility to transfer benefits. If the Department of Veteran Affairs (DVA) has already processed a payment for transferred benefits, an overpayment will occur and may create a debt against your account. You are responsible for the debt and may be subject to recoupment. Please read "What causes Debts with VA Educational Programs?" on the VA's site.

d. Failure to Complete Service Agreement. Except as provided below, if a Soldier transferring entitlement under this section fails to complete the service agreed to by the Soldier under paragraph 17a in accordance with the terms of the agreement of the

Soldier under that paragraph, the amount of any transferred entitlement that is used by a dependent of the Soldier as of the date of such failure shall be treated as an overpayment of educational assistance and will be subject to collection by DVA.

Exceptions:

- The death of the Soldier
- Discharge or release from active duty for a medical condition which preexisted the service of the Soldier and was not service connected
- Discharge or release from active duty for hardship
- Discharge or release from active duty for a physical or mental condition not a disability and that did not result from the Soldier's own willful misconduct, but did interfere with the performance of duty
- The DVA has agreed to not recoup paid benefits or revoke transferred benefits for Soldiers who have agreed to an additional service commitment and who did not complete the agreed upon service due to separation for medical disability or through a service force shaping initiative

//NOTHING FOLLOWS//