

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 March 2025

DOCKET NUMBER: AR20240007463

APPLICANT REQUESTS:

- correction of his record to reflect his eligibility for the Transfer of Education Benefits (TEB) to his family members under the Post-9/11 GI Bill
- a personal appearance before the Board via video or telephone

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), ending 31 December 2022

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, in effect:

- he served over 18 years and he believes it is unfair to him and his dependent that he was denied the ability of TEB
- an age restriction (mandatory removal date) waiver was not afforded to him to complete the required time in service.

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

- He enlisted in the U.S. Army Reserve (USAR) on 29 August 2008 for a term of 6 years
- On 13 October 2011, the applicant entered active duty in support of Operation Enduring Freedom
- Orders 286-0240 issued on 12 October 2012 released him from active duty, effective 22 November 2012

- His DD Form 214 effective 22 November 2012 shows he was honorably released from active duty after having served in Afghanistan from 10 December 2011 through 10 October 2012 and completed 1 year, 1 month, and 10 days of net service this period
- Orders Number R-07-384758 dated 24 July 2013 ordered him to active duty in the Active Guard/Reserve (AGR) with a report date of 29 August 2013, for a term of 3 years
- On 8 March 2016 he reenlisted in the USAR for a term of 4 years with an active duty obligation
- On 7 July 2020 he reenlisted indefinitely in the USAR with an active duty obligation
- Orders Number 0004147205.00 added him to the Permanent Disability Retirement List (PDRL), effective 1 January 2023
- His DD Form 214 effective 31 December 2022 shows he was honorably retired and completed 9 years, 4 months, and 2 days of net active service this period
- DA Form 5016 (Retirement Accounting Statement) dated 27 September 2024 shows he has completed 18 years, 4 months, and 3 days of service qualifying for retirement

4. On 18 March 2025, the U.S. Army Human Resources Command, Chief, Education Incentives Branch, provided an advisory opinion recommending disapproval and stating in pertinent part:

a. The applicant was eligible to transfer his Post 9/11 GI Bill (PGIB) when he attained the minimum required six years of service on 4 October 2010 and he could have requested TEB at any point between 4 October 2010 and 10 May 2017. During this period the applicant was able to meet all TEB program participation requirements and could have been approved if he had submitted a TEB request. Effective 31 December 2022, the applicant was placed on the U.S. Army Retired List. A review of milConnect, which has been the system of record since the implementation of the TEB program, shows that he submitted a TEB request on 12 June 2019. This TEB request was rejected on 21 June 2019 because the applicant did not have sufficient time left in the Army to meet the PL 110-252 required four-year Additional Service Obligation (ASO). At the time of his TEB request the applicant had an Expiration Term of Service (ETS) date of 7 March 2020. On 7 July 2020, the applicant reenlisted for indefinite status up to his Maximum Years of Service of 11 May 2021, which was his 60th Birthday. The applicant did not submit another TEB request after this reenlistment and therefore his TEB request from June 2019 remained in a disapproved status. Had the applicant submitted another TEB request after his 7 July 2020 reenlistment, this new TEB request would have also been rejected since this reenlistment did not provide him with sufficient time to serve the by-law required four-year ASO. On 14 December 2021, the applicant was referred to the Integrated Disability Evaluation System (IDES). Once a Service Member enters the IDES process, he becomes ineligible for the TEB program

unless he is found fit-for-duty and serves the by-law required 4-year ASO. This requirement stems from Army Regulation 621-202 (Army Educational Incentives and Entitlements), paragraph 4-15a.(2)(b) and Department of Defense Instruction 1341.13 (Post 9/11 GI Bill), change 1, effective 12 July 2018, Enclosure 3, Paragraph 3 a.(1)(b), which in turn are based on a stipulation in PL 110-252 (as codified by 38 USC Ch. 33). At the point, the applicant entered the IDES process he was already past his MRD of 11 May 2021. On 1 March 2022, the applicant received an Extension to his MRD up to 31 August 2022 to facilitate ongoing medical care. On 24 August 2022, he received another extension to his MRD to 31 December 2022 to complete the medical retirement process.

b. While the applicant was in Service, numerous PGIB TEB information sources were available to him after the TEB incentive became available in 2009. In addition, information provided before and after the program's implementation was highly publicized. Finally, the DVA website, Military Personnel messages and many news articles were released regarding eligibility for the PGIB TEB. In short, he could have used the DoD, DA and DVA resources available to him to ensure his compliance with all program participation requirements, to include the required additional service obligation.

5. On 19 March 2025, the applicant was provided with a copy of the advisory opinion for comment or rebuttal.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the findings and recommendation outlined in the HRC advisory opinion, as well as the lack of any rebuttal of those findings submitted by the applicant, the Board concluded there was insufficient evidence of an error or injustice warrants a change to the applicant's military service record.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

//SIGNED//

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. Army Regulation (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
2. 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 SELRES.

3. On 22 June 2009, the Department of Defense (DOD) established the criteria for eligibility and transfer of unused educational benefits to eligible family members. An eligible individual is any member of the armed forces on or after 1 August 2009 who, at the time of the approval of the individual's 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; or

b. Has at least 10 years of service in the armed forces (active duty and/or 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;

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 duty or 20 qualifying years of reserve service.

d. A Soldier must also agree to serve the prescribed Active Duty Service Obligation based on the time in service the Soldier had on 1 August 2009.

4. Department of Defense Instruction 1341.13 (Post-9/11 GI Bill), establishes policy, assigns responsibilities, and prescribes procedures for implementing DoD authorities and responsibilities for Chapter 33 of Title 38, USC, also known and referred to in this issuance as the "Post-9/11 GI Bill." Establishes policy for the use of supplemental educational assistance (referred to in this issuance as "kickers") for Service members with critical skills or specialties, or for members serving additional service pursuant to Section 3316 of Title 38, USC. Establishes policy for authorizing the transferability of educational benefits (TEB) in accordance with Section 3319 of Title 38, USC.

Paragraph 3.3b (4) The member transferring educational benefits must agree to serve 4 additional years in the Military Services, NOAA Corps, or USPHS Corps from the date of election, with no break in active or Selected Reserve service for greater than 24 hours. Eligibility does not guarantee approval. Members must be eligible to be retained

for 4 years from the date of election and not be precluded, before approval, by either standard Service or DOD policy or statute. Members who have qualified for retirement and who wish to transfer benefits will incur a 4-year additional service obligation.

//NOTHING FOLLOWS//