

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 March 2025

DOCKET NUMBER: AR20240007520

APPLICANT REQUESTS: overturn the decision to deny the Transfer of Education Benefits (TEB) of Post 9/11 GI Bill to her dependent.

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

FACTS:

1. The applicant states when the program was released, she never received the policy guidance; consequently, she was never notified that she was required to have 4-years of eligibility of service remaining on her enlistment contract to TEB the Post 9/11 GI Bill to her son. Her son will be continuing his education in the fall and this benefit would help her and her son financially. She has 18-months of educational benefits which she would like to transfer to her son. She has served over 18-years and was undergoing a medical evaluation board for a medical retirement and the correction of her record should be made because she was not aware of the Post 9/11 GI Bill policy.

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

a. On 1 September 2006, the applicant enlisted in the Army National Guard of the United States (ARNGUS).

b. DD Forms 214 (Certificate of Release or Discharge from Active Duty) shows she was ordered to active duty for initial active duty for training and twice for operational support.

c. The applicant extended in the ARNGUS on:

- 14 September 2011 for 6-years for a new Expiration Term of Service (ETS) of 31 August 2018
- 9 March 2018 for 6-years for new ETS of 31 August 2024
- 13 September 2023 for 1-year for a new ETS of 31 August 2025

d. On 3 May 2024, the informal Physical Evaluation Board found the applicant physically unfit for retention and recommended she be placed on the Permanent Disability Retired List (PDRL) with 50 percent disability for post-traumatic stress disorder.

e. On 15 May 2024, Orders Number 8148321, issued by the Alabama ARNG, the applicant was placed on the PDRL, effective 10 June 2024, in the grade of E-5 with 17-years of total service and 4-years, 1-month, and 6-days of active Federal service.

f. On 9 June 2024, the applicant was honorably released from the ARNGUS and assigned to the U.S. Army Reserve Control Group (Retired Reserve) due to a permanent disability. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows the applicant completed 17-years, 9-months, and 9-days of service.

3. On 8 February 2025, in the processing of this case, the NGB provided an advisory opinion regarding the applicant's request for the TEB of her Post 9/11 GI Bill to her dependent. The advisory official recommended disapproval of her request. In 2012, the applicant became eligible to transfer her Post 9/11 GI Bill benefit. On 2 April 2024, she submitted a request to transfer that benefit; however, because she was being evaluated by a medical evaluation board for fitness for duty, she was unable to extend her enlistment to meet the required 4-year service obligation and her request was denied.

4. On 13 February 2025, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment.

5. On 4 March 2025, the applicant responded by providing a character reference from Major (MAJ) M- B-, the battalion Executive Officer of the Alabama ARNG 22nd Recruiting and Retention Battalion. MAJ M- B- stated the applicant is a Title 5 employee with his battalion, she has the upmost character and demonstrates consummate traits of integrity daily. He served as the Education Officer for the ALARNG during the period of March 2019 through August 2020. He attests there were a significant number of Soldiers who did not receive the information that he published regarding the TEB of Post 9/11 GI Bill benefits. He provided the applicant's plea for the approval of her request to be allowed to TEB her Post 9/11 GI Bill to her dependent. Through him, she stated she was not aware of any policy changes when she tried to transfer her benefits to her son who is now attending the University of Alabama. She was an ARNG Soldier who drilled once a month, in this capacity, a lot of policies were not pushed down to the Soldier level. Unfortunately, this caused miscommunication. She did not receive any written policy or regulation that stated she was required to have 4-years remaining on her enlistment contract at the time she transferred her benefits. During her over 18-years of service, she sacrificed many things to be the best she could be and to mentor Soldiers who were likely to follow in her footsteps. She is watching her son grow and do

amazing things at college, she knows this because she paved the way for him to be successful. The 18-months of educational benefits would allow him to consistently grow and become the best person he can be for his generation. She is asking the Board to consider granting her request so her son can continue his educational pathway to be successful in school without the worry of a debt.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation showing the applicant submitted a request to transfer her educational benefits PRIOR to the MEB/PEB proceedings, and findings of the MEB/PEB preventing the applicant from completing the required 4-year ADSO, the Board concluded an injustice was present warranting relief by showing the applicant submitted a timely submission to transfer her educational benefits.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by showing the applicant completed a timely submission to transfer her educational benefits to her dependents and completed her 4-year ADSO requirement.

2. Prior to closing the case, the Board noted the administrative notes below from the analyst of record and recommended those changes also be completed to more accurately reflect the military service of the applicant.

//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.

ADMINISTRATIVE NOTES:

1. Reference the enclosed request for correction of military records from the subject individual to correct her DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending May 23, 2007, by: deleting item 24 (Character of Service): Uncharacterized and adding Honorable.

2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.

- DD Form 214 service ending May 23, 2007
- Army Regulation 635-8 (Personnel Separations – Separation Processing and Documents)

3. Please correct the applicant's DD Form 214 by deleting and adding the items shown in paragraph 1 above. Provide the applicant a copy of the corrections. Please ensure that the corrections are recorded in the applicant's official military personnel record.

REFERENCES:

1. Public Law 110-252 establishes legal limitations on the transferability of unused Post-9/11 GI Bill benefits. Further, section 3020 Public Law 110-252, 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 on or after 1 August 2009. To transfer education benefits, a Service Member must be on active duty or a member of the Selected Reserves in order to transfer benefits, have completed at least six years of qualifying service with at least 90 days of a qualifying period of service, have no negative action flag, and agree to serve at least four more years as a member of the Armed Forces, or the years of service as determined by the Secretary.
2. On 22 June 2009, 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; or
 - 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.
3. The policy further states the Secretaries of the Military Departments will provide active duty participants and members of the reserve components with qualifying active duty service individual pre-separation or release from active duty counseling on the benefits under the Post-9/11 GI Bill and document accordingly and maintain records for individuals who receive supplemental educational assistance under Public Law 110-252, section 3316.
4. Title 38, USC, section 3319 (Authority to transfer unused education benefits to family members), (f) (Time for Transfer; Revocation and Modification), (1) (Time for transfer), subject to the time limitation for use of entitlement under section 3321, and except as provided in subsection (k) or (l), 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. (h) (5)

(Limitation on age of use by child transferees), (A) In general. A child to whom entitlement is transferred under this section may use the benefits transferred without regard to the 15-year delimiting date specified in section 3321, but may not, except as provided in subparagraph (B) or (C), use any benefits so transferred after attaining the age of 26 years.

//NOTHING FOLLOWS//