

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20250007330

APPLICANT REQUESTS: correction of his records to show he is eligible to transfer his Post 9/11 GI Bill to his dependents.

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

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 pertinent part:
 - He was in Iraq and when he came home, he out-processed through Fort Dix, New Jersey
 - He was told his Post 9/11 GI Bill was transferred to his daughter
 - He found out, years later, it was never transferred
 - Many other Soldiers had the same problem
 - He spent 20 years in the Army and deployed twice
 - In 2009, when he came home, he transferred the benefit
 - He had more than 4 years remaining in service, so he met the intent of the law
 - He retired in 2020
3. The applicant's service record shows:
 - He was on active duty in the Army National Guard (ARNG) from 9 August 1993 through 24 November 1993
 - He was in the ARNG from 19 May 1993 through 18 May 1999
 - On 18 February 2005, he enlisted in the ARNG
 - He was on active duty, as a member of the ARNG, from 1 April 2007 through 18 September 2009, from 19 September 2008 through 28 October 2009 with service in Iraq from 16 January 2009 through 10 September 2009, and from

9 October 2012 through 2 October 2013 with service in Kuwait from
4 December 2012 through 16 August 2013

- On 4 March 2019, he was notified he had completed the required years of service and would be eligible for retired pay, upon application, at age 60
- On 5 April 2019, he requested voluntary retirement
- On 15 April 2019, he was honorably transferred to U.S. Army Reserve Control Group (Retired)
- There is no evidence, in his service record, that he transferred his benefits to his dependents

4. On 17 July 2025, the Chief, Education Services Branch, National Guard Bureau (NGB) provided an advisory opinion, which states in pertinent part:

- The applicant claims he transferred his Post-9/11 GI Bill benefits at the demobilization site, in 2009
- Though NGB is unable to locate a transfer request from him, during that period, they did locate a request he submitted on 29 August 2016
- The request was denied because he had an active flag in his record, at that time
- Because Post-9/11 GI Bill was so new, at the time the applicant initially became eligible, it is possible that his request was not properly submitted
- NGB recommended the Board grant full relief

5. On 17 July 2025, the advisory opinion was provided to the applicant to allow him the opportunity to respond. He 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 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. Upon review of the applicant's petition, available military records, and the National Guard Bureau Chief, Special Actions Branch advisory, the Board concurred with the advising official to grant approval, the NGB did locate a request he submitted on 29 August 2016. The request was denied because he had an active flag in his record, at that time. The Board found the applicant served as a member of the Army National Guard from 18 February 2005 to 15 April 2019 and was retired and placed in the U.S. Army Reserve Control Group (Retired). Therefore, the Board granted relief.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. 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 filed and the Army approved, in a timely manner, his application to transfer his unused education benefits to his eligible dependent(s), provided all other program eligibility criteria were met, in accordance with the Transfer of Education Benefits provisions of the Post-9/11 GI Bill.

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. Title 38, USC, section 3319 (Authority to transfer unused education benefits to family members) provides —
 - a. The Secretary concerned may permit an individual who is entitled to educational assistance under this chapter to elect to transfer to one or more of the dependents a portion of such individual's entitlement to such assistance, subject to the limitation under subsection. The purpose of the authority is to promote recruitment and retention in the uniformed services.
 - b. An individual transferring an entitlement to educational assistance under this section shall —
 - (1) designate the dependent or dependents to whom such entitlement is being transferred; and
 - (2) designate the number of months of such entitlement to be transferred to each such dependent.
 - c. 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. PL 110-252, as amended by PL 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.
 - a. PL 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.
 - b. 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 Report System (DEERS). Children lose eligible family member status upon turning age 21 or at marriage. Eligible family member status can be extended from age

21 to age 23 only if the child is enrolled as a full-time student and unmarried (verified by DEERS). Once the benefits are transferred, children may use the benefits up to age 26.

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.

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 (AR) 621-202 (Army Educational Incentives and Entitlements) establishes policy for educational incentives and entitlements authorized by PL. It provides Regular Army, Army National Guard, Army National Guard of the United States, and U.S. Army Reserve unique policies, procedures and responsibilities governing educational benefits for Soldiers of the Active and Reserve Components.

a. 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 Transfer of Education Benefits (TEB) website in the milConnect portal at <https://www.dmdc.osd.mil/milconnect>. 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 (PL 110-252) 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 Armed Forces. 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. Dependents gained after a Soldier is no longer on active duty or in the SELRES may not receive TEB.

b. Soldiers not eligible to transfer of unused benefits include Soldiers released from the Armed Forces prior to completion of an agreed upon ADO agreement for performance, conduct, and/or potential for advancement reasons including, but not limited to separation of the QMP.

6. PL 115-48, ("Colmery Act of 2017") states in Section 110(l) in the case of an individual who transfers entitlements to education assistance under this section who dies before the dependent to whom entitlement to education assistance is so transferred has used all of such entitlement, such dependent may transfer such entitlement to another eligible dependent in accordance with the provisions of this section.

//NOTHING FOLLOWS//