

**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

---

Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2023-012**

  
DC2 (Retired)

---

**FINAL DECISION**

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the applicant's completed application on January 25, 2023, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated July 25, 2024, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT'S REQUEST AND ALLEGATIONS**

The applicant, who was medically retired in 2020 as a Damage Controlman Second Class (DC2/E-5), asked the Board to correct his record to show that he transferred his unused education benefits under the Post-9/11 Veterans Educational Assistance Act of 2008 (Post-9/11 GI Bill)<sup>1</sup> to his dependents prior to his retirement. He alleged that he first submitted his request to transfer the benefits on June 25, 2013, but that it was rejected because he had not met the six-year service requirement.

The applicant stated that he submitted a second transfer request on May 25, 2016, but alleged that he was never informed by the Coast Guard that the request had also been rejected. He stated that he only learned about the second failed transfer attempt when his son was denied education benefits in November 2022. The applicant contended that if he had been told that his application had been rejected again, then he would have reapplied for the benefit transfer when he enlisted in the Coast Guard Reserve on July 1, 2016. Finally, the applicant argued that his medical retirement from the Reserves in 2020 should have satisfied the four-year obligated service requirement.

---

<sup>1</sup> The Post-9/11 GI Bill provides financial support for education and housing to individuals with at least 90 days of aggregate service after September 10, 2001, or individuals discharged with a service-connected disability after 30 days. An individual must have received an honorable discharge to be eligible for the Post-9/11 GI Bill. <https://www.va.gov/education/about-gi-bill-benefits/post-9-11/> (last visited on July 15, 2024).

## **SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard on June 3, 2008. On June 25, 2013, he attempted to transfer his unused Post-9/11 GI Bill benefits to his dependents but his application was rejected on August 6, 2013, because he did not have the minimum required six years of active service. On May 15, 2016, he submitted another transfer request but it was rejected because he did not have the required four years of remaining obligated service. There is nothing in his official military record to show that he was counseled about the Post-9/11 GI Bill program before his discharge from active duty, nor is there anything in his record to show that he was advised that his second application had been rejected due to his lack of the required obligated service.

The applicant was honorably discharged from active duty on July 1, 2016, and enlisted in the Selected Reserve (SELRES) on that same day for a term of four years. He was medically retired as of April 17, 2020.

## **VIEWS OF THE COAST GUARD**

On September 11, 2023, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion and adopted the findings and analysis in a memorandum submitted by the Commander, Personnel Service Center (PSC). PSC recommended that the Board deny relief because although the Coast Guard cannot conclusively prove that the applicant was notified in writing of the second rejection, the applicant did not present evidence that the Coast Guard committed an error by rejecting his application for the transfer of his unused education benefits. Finally, PSC argued that that the applicant had another chance to re-apply for benefit transfer when he joined the Reserves but failed to do so.

## **APPLICABLE LAW AND REGULATIONS**

Department of Defense Instruction (DoDI) 1341.13, Post-9/11 GI Bill (May 31, 2013) establishes policy, assigns responsibilities, and prescribes procedures for implementing DoD authorities and responsibilities for Chapter 33 of Title 38, United States Code (U.S.C.), also known as the “Post-9/11 GI Bill.” The Instruction applies to the Coast Guard by agreement with the Department of Homeland Security (DHS).

Enclosure 2.4.g. The Secretary concerned shall direct pre-separation or release from active duty counseling on Post-9/11 GI Bill benefits to active duty members and members of the Reserve Components with qualifying active duty service and document this counseling accordingly.

Enclosure 3.3. Transferability of Unused Education Benefits to Family Members, provides that the Secretary concerned may permit an individual eligible for Post-9/11 GI Bill educational assistance to elect to transfer to one or more family members all or a portion of his or her entitlement to such assistance.

3.a. Eligible Individuals. As relevant here, any service member on or after August 1,

2009, who is entitled to the Post-9/11 GI Bill at the time of the approval of his or her request to transfer that entitlement under this section, may transfer that entitlement provided he or she has at least 6 years of service in the Military Services (active duty or Selected Reserve), on the date of approval and agrees to serve 4 additional years in the Military Services from the date of election.

3.f.1. Time for Transfer. An individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement to the individual's family member only while serving in the Military Services (active duty or Selected Reserve), National Oceanic and Atmospheric Administration Commissioned Officer Corps (NOAA Corps), or Public Health Service (PHS). An individual may not add family members after retirement or separation from the Uniformed Services.

3.g. Failure to Complete Service Agreement.

(1) Except as provided in this section of this enclosure, if an individual transferring entitlement under this section fails to complete the service agreed to consistent with paragraph 3.a. of this enclosure in accordance with the terms of the agreement, the amount of any transferred entitlement that is used as of the date of such failure shall be treated as an overpayment of educational assistance and shall be subject to collection by VA.

...

(3) The transferor is also considered to have completed his or her service agreement as a result of being discharged for a disability or a reduction in force or force shaping.

The Coast Guard Post 9/11 and Montgomery Bill Educational Assistance Programs Manual, COMDTINST M1780.3 (June 2020), establishes Coast Guard policy concerning the implementation of the Post 9/11 and Montgomery GI Bill Educational Assistance Programs.

Chapter 4.C. Transferability of Unused Education Benefits to Family Members provides that eligible service members may request to transfer one or more of the service member's family members all or a portion of their entitlement to Post-9/11 GI Bill educational assistance.

4.c.8 Failure to Complete Service Agreement.

a. Except as provided in this Section, if an individual transferring entitlement fails to complete the service agreed to consistent with Chapter 4.C.2 of this Manual, the amount of any transferred entitlement that is used as of the date of such failure must be treated as an overpayment of educational assistance and will be subject to collection by the VA.

b. Chapter 4.C.8.a. of this Manual will not apply to an individual who fails to complete the service agreement due to the following reasons:

...

(5) Discharge or release from active duty or the Selected Reserve, with an honorable discharge, for an injury or disability found to be in the line of duty based on the results of Medical Evaluation Board and Disability Evaluation System processing where a member was found unfit for duty (with a medical separation or retirement order).

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On September 28, 2023, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. The Board did not receive a response.

### **FINDINGS AND CONCLUSIONS**

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice. 10 U.S.C. § 1552(b); 33 C.F.R. § 52.22. The applicant discovered that his dependents were unable to use his education benefits when his son applied for educational assistance and was rejected in November 2022. He filed this application with the Board in January 2023. As such, the application is timely.
3. The applicant alleged that the second rejection of his application to transfer his educational benefits in 2016 is an error and injustice in his record. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust. 33 C.F.R. § 52.24(b). Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties correctly, lawfully, and in good faith.
4. The Board finds that since the applicant applied to transfer his education benefits to his dependents in June 2013 and May 2016, he clearly knew about the program requirements. The program allows members with six years of service to transfer their education benefits to their dependents if they have four years of obligated service remaining to run, and that includes service in the SELRES. The JAG recommended denying relief because the applicant did not have four years of obligated service remaining when he submitted his second transfer request in May 2016, and the JAG noted that the applicant failed to make a third transfer request after he enlisted in the SELRES in 2016.
5. The Board finds that the applicant's first transfer request in June 2013 was properly rejected because he had not completed the required six years of active service, as required by DoDI 1341.13. His second transfer request was also properly rejected because he did not have four years remaining on his enlistment. There is nothing in the record to show that he

was informed of the second rejection, and the JAG admitted that it cannot prove that the applicant was notified of the second rejection. Further, per the Coast Guard, an acceptance or approval email notification is not sent upon a successful transfer of education benefits. The Board finds this lends credence to the applicant's claim that he believed he had successfully transferred his education benefits to his dependents in 2016. Since he did not know that his second request had been rejected until his son was denied education benefits in 2022, the Board finds the greater weight of the evidence reflects the applicant was unaware that he should have submitted a third transfer request after he enlisted in the SELRES in 2016.

6. The Board finds that if the applicant had been properly notified that his second transfer request had been rejected, he would have submitted a third transfer request upon enlisting in the SELRES, because at that point he met the requirements for the benefit transfer. Specifically, he had more than six years of active service and had agreed to serve four years in the SELRES. The DoDI provides that a member may apply for the transfer if they have at least six years of service in the Armed Forces (active duty and/or Selected Reserve) on the date of election and agrees to serve four additional years in the Armed Forces from the date of election. Moreover, because he had already submitted two transfer requests, the Board finds it highly likely that the applicant would have submitted a third request if he had known that his second request had been rejected.

7. The applicant has proven by a preponderance of the evidence that the Coast Guard failed to notify him that his second transfer request had been rejected. Accordingly, the Board recommends the Coast Guard to correct the member's record to show that he applied for the benefit transfer on July 1, 2016 — the day he enlisted in the SELRES, and that it was received and processed by the appropriate office in a timely fashion.

8. The record shows that the applicant did not complete four years of service after he enlisted in the SELRES because he was medically retired due to a permanent physical disability. However, both the DoDI and the Coast Guard Manual specifically provide that members who will be considered to have completed their service agreement for purposes of transfer of their educational benefits if, like the applicant, they were discharged for disability.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

ORDER

The application of DC2 [REDACTED] [REDACTED] [REDACTED] USCGR (Retired), for correction of his military record is granted. The Coast Guard shall correct his record to show that on July 1, 2016 he submitted an application to transfer his Post-9/11 GI Bill education benefits and it was accepted by the Coast Guard. The Coast Guard shall assist him with the paperwork necessary to accomplish these corrections.

July 25, 2024

[REDACTED] [REDACTED] [REDACTED]  
Digitally signed by [REDACTED]  
Date: 2024.07.29 14:55:44 -04'00'

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]  
Digitally signed by [REDACTED]  
Date: 2024.07.29  
15:11:10 -04'00'

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]  
Digitally signed by [REDACTED]  
Date: 2024.07.30  
09:16:44 -04'00'

[REDACTED] [REDACTED]