


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-081


OS3/E-4 (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 March 13, 2024, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated February 27, 2025, 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 2021 as an Operations Specialist Third Class (OS3, E-4) after serving more than ten years on active duty in the Coast Guard, asked the Board to correct his record to show that he reallocated his unused education benefits under the Post-9/11 Veterans Education Act of 2008 (Post-9/11 GI Bill)¹ to his wife, daughter, and son. Specifically, the applicant asked that his current benefit allocation be changed so that his spouse receives 34 months, his son receives 1 month, and his daughter receives 1 month.

The applicant stated that he successfully transferred all of his education benefits to his daughter prior to his separation from the Coast Guard, but that due to the COVID pandemic, a hospital stay, cancellation of TAPs² classes, and other problems associated with the pandemic, he

¹ 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, http://GIbill.va.gov/benefits/post_911_GIbill/index.html (last visited on April 12, 2023).

² The Transition Assistance Program (TAP) prepares service members separating or retiring from the Coast Guard for their transition to civilian life. All eligible members are required to begin transition process 365 days prior to separation/retirement and must complete the following mandatory components 1) Self-assessment, 2) Individual initial counseling, 3) Pre-separation Counseling and 4) TAP, encompassing core curriculum. <https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-Human-Resources-CG->

was unable to change the allocation to include his wife and son. He stated that following his separation he met with several DVA representatives, DoD representatives, and the Coast Guard's GI Bill Program Manager in an attempt to change the allocation, but was told that submitting an application to the Board was the only way to make changes to his allocation.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on December 7, 2010 and was separated due to a permanent disability on May 8, 2021 and the record shows that his request to transfer 36 months of his Post-9/11 GI Bill benefits to his daughter was approved on September 17, 2017, and that he was obligated to serve on active duty until May 1, 2021, to effectuate the transfer. He completed the required obligated service to make the transfer.

VIEWS OF THE COAST GUARD

On January 31, 2025, a judge advocate (JA) 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 stated that the application is timely and recommended that the Board grant relief in the interest of justice due the financial hardship the applicant's decisions have caused his family. PSC added that it finds the applicant's claim credible that he would have transferred benefits to his other family members had he received counseling upon separation from the service.

APPLICABLE LAW AND REGULATIONS

Directive Type Memorandum (DTM) 09-003, June 22, 2009

On June 22, 2009, the Department of Defense (DoD) set forth the policies and procedures for carrying out the Post-9/11 GI Bill in DTM 09-003. The DTM states that it is effective immediately and is applicable to the Office of the Secretary of Defense and the Military Departments including the Coast Guard by agreement with the Department. It states that the effective date of the Post-9/11 GI Bill is August 1, 2009. The regulation defined "Military Services" as the Army, Navy, Air Force, Marine Corps, and Coast Guard.

Paragraph 3.g. of Attachment 1 (Responsibilities) to the DTM states that it is the responsibility of the Secretary to "[p]rovide 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."

Paragraph 3 of Attachment 2 (Procedures) to the DTM states the following about transferring educational benefits to dependents:

TRANSFERABILITY OF UNUSED EDUCATION BENEFITS TO FAMILY MEMBERS. Subject to the provisions of this attachment, the Secretary of the Military Department concerned, to promote recruitment

and retention of members of the Armed Forces, may permit an individual described in paragraph 3.a. of this attachment, who is entitled to educational assistance under the Post-9/11 GI Bill, to elect to transfer to one or more of the family members specified, all or a portion of such individual's entitlement to such assistance.

a. Eligible Individuals. Any member of the Armed Forces on or after August 1, 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, and

(1) Has at least 6 years of service in the Armed Forces (active duty and/or Selected Reserve) on the date of election and agrees to serve 4 additional years in the Armed Forces from the date of election, or ...

Paragraph 3.g.(1) of Attachment 2 (Time of Transfer) states that 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 as a member of the Armed Forces. The DTM's glossary defines "member of the Armed Forces" as a member serving on active duty or in the Selected Reserve and expressly excludes retired members.

Department of Defense Instruction (DoDI) 1341.13

DoDI 1341.13 was issued on May 31, 2013, and establishes policy, assigns responsibilities, and prescribes procedures for implementing DoD authorities and responsibilities for the Post-9/11 GI Bill. Enclosure (2), Paragraph 4.g states that the service must provide and document pre-separation counseling on Post-9/11 GI Bill benefits. It also incorporated and cancelled DTM 09-003 and revised the counseling requirements articulated in the DTM 09-003. Specifically, it removed the requirement to "provide ... individual pre-separation or release from active-duty counseling" and replaced it with "direct pre-separation counseling..."

Change 1 to DoDI 1341.1, November 8, 2023

Change 1 states that the Military Departments will not automatically approve a member's request to elect to transfer benefits. Before approving an individual's request to elect to transfer benefits, the Secretary of the Military Department concerned must determine whether the Service member is eligible for retention under the Military Department or Service retention policies (e.g., high-year tenure) and is not precluded by either DoD, Military Department, Service policy, or statute from being retained for 4 additional years from the date of election.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 7, 2025 the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. He replied on February 20, 2025 and stated that he agreed with the Coast Guard's recommendation.

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.³ The applicant was separated from active duty in the Coast Guard on May 8, 2021, and submitted his application to the Board on February 21, 2024. Therefore, the Board finds that the application is timely.
3. The applicant alleged that his inability to reallocate his education benefits prior to his separation 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.⁴ 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."⁵
4. The Board finds that the applicant properly transferred his education benefits to one of his dependents in September 2017, but was unaware that he could change the benefit allocation prior to his separation because the unavailability of TAP counseling and other problems stemming from the COVID epidemic. The record also shows that he made several attempts to reallocate his benefits after his separation but was unable to do so.
5. The Board finds that if the applicant had been properly counseled regarding his Post 9/11 GI Bill benefits prior to his separation, then he would have been advised that he could change the allocation of his education benefits to other members of his immediate family.
6. The applicant has proven by a preponderance of the evidence that the Coast Guard failed to counsel him about his opportunity to change the allocation of his education benefits prior to his separation from the Coast Guard. Accordingly, the Board recommends the Coast Guard correct the member's record to show that on May 7, 2021, he submitted a request to reallocate his unused education benefits as follows: 34 months to his spouse; 1 month to his daughter; and 1 month to his son.

(ORDER AND SIGNATURES ON NEXT PAGE)

³ 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

⁴ 33 C.F.R. § 52.24(b).

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

The application of OS3 [REDACTED], USCG (Retired), for correction of his military record is granted. The Coast Guard shall correct his record to show that on May 7, 2021, he submitted a request to allocate his Post-9/11 GI Bill education benefits as follows: 34 months to his spouse; 1 month to his daughter; and 1 month to his son. The Coast Guard shall assist him with the paperwork necessary to accomplish these corrections.

February 27, 2025

