

IN THE CASE OF: ██████████

BOARD DATE: 11 January 2024

DOCKET NUMBER: AR20230003867

APPLICANT REQUESTS: transfer of education benefits (TEB) under the Post 9/11 G.I. Bill to his spouse.

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

FACTS:

1. The applicant states, in pertinent part, while attempting to transfer his education benefits to his spouse via the milConnect website, he was denied showing he had to complete the transfer while still in service. He was told that the benefits could be transferred at any time and was misled about the required timeframes.

2. A review of the applicant's available service record reflects the following:

a. On 10 June 2004, he enlisted in the Regular Army for a period of 6 years.

b. A DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 9 June 2010 reflects an honorable release from active duty for completion of required active service and transfer to the U.S. Army Reserve Control Group (Reinforcement). Item 12 (Record of Service) shows service from 10 June 2004 to 9 June 2010 for a net active service this period of 6 years.

c. On 15 October 2015, he enlisted in the ██████████ Army National Guard (█████ ARNG) for a period of 6 years.

d. A National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) reflects an honorable discharge from the ██████ ARNG with service from 15 October 2015 to 14 October 2021 for net service this period of 6 years.

3. On 17 July 2023, the Chief, Education Services Branch, NGB, provided an advisory opinion recommending approval of the applicant's request stating, in effect:

a. Title 38 United States Code (USC), section 3319 requires service members to

request TEB prior to separating from service. The applicant initially gained eligibility for the Post 9/11 GI Bill in 2004 while serving on active duty and had been eligible for TEB since the start of the program on 1 August 2009. Though he was eligible since 1 August 2009, there is no evidence he requested TEB prior to separating from the ARNG in 2021.

b. Because he was not properly counseled on the requirement to transfer his benefits prior to separating from service, the office recommends the Board grant relief.

4. On 5 August 2023, the applicant was provided with a copy of the advisory opinion to provide a response. To date, he has not responded.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief warranted.

2. The Board concurred with the conclusion of the advisory official that the evidence indicates the applicant was not properly counseled on the requirements for TEB. Had the applicant requested the transfer upon enlistment for 6 years in the ARNG in 2015, he would have met all service requirements for this retention incentive and his request would have been approved. Based on a preponderance of the evidence, the Board determined the applicant’s record should be corrected to show he requested TEB upon enlistment in the ARNG in 2015.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

■	■	■	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 he applied for TEB upon enlistment in the ■ ARNG on 15 October 2015.

4/1/2024

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. Public Law 110-252 (Authority to Transfer Unused Education Benefits to Family Members) states that an individual transferring an entitlement to educational assistance under this section shall designate the dependent or dependents to whom such entitlement is being transferred, designate the number of months of such entitlement to be transferred to each such dependent and specify the period for which the transfer shall be effective for each dependent. 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.

2. On 10 July 2009, the Army released the Post-9/11 GI Bill Implementation Policy that identified and established responsibilities, eligibility criteria, benefits, and detailed guidance on the administration of the program.

a. Transferability of Unused Benefits to Dependents. For the purposes of transferability, Armed Forces include all active duty service and all Selected Reserve service regardless of branch of service or component. Soldiers whose request to transfer benefits is approved will incur an additional service obligation in accordance with the below policy. Soldiers are expected to serve the additional service obligation.

b. Eligibility.

(1) Any Soldier of the Armed Forces who fulfills Post 9/11 GI Bill eligibility

requirements and who, at the time of the approval of the Soldier's request to transfer entitlement to educational assistance does not have an adverse action flag, is eligible for the Post 9/11 GI Bill, and

(2) Has at least 6 years of service in the Armed Forces on the date of election and agrees to serve 4 additional years from the date of request, regardless of the number of months transferred, or

(3) Has at least 10 years of service in the Armed Forces on the date of election and if cannot commit to 4 additional years due to a Retention Control Point (RCP) or Mandatory Retirement Date (MRD), must commit to serve for the maximum amount of time allowed by either RCP or MRD as of the date of request, regardless of the number of months transferred.

(4) Is or will become retirement eligible during the period from 1 August 2009, through 1 August 2013 and agrees to serve the additional period, if any, specified below. For the purposes of this paragraph, a Soldier is considered to be retirement eligible if he or she has completed 20 years of active Federal service or 20 qualifying years as computed under Title 10 USC, section 12732.

- Soldiers eligible for retirement on or before 1 August 2009, no additional service is required
- Soldiers with an approved retirement date on or after 1 September 2009, but on or before 1 June 2010, no additional service requirement
- Soldiers who attain 20 years of service on or after 2 August 2009 and before 2 August 2010, one year of additional service from the date of request is required
- Soldiers who attain 20 years of service on or after 2 August 2010 and before 2 August 2011, two years of additional service from the date of request are required
- Soldiers who attain 20 years of service on or after 2 August 2011, and before 2 August 2012, three years of additional service from the date of request are required

(5) If a Soldier transferring entitlement fails to complete the service agreed to by the Soldier in accordance with the terms of the agreement of the Soldier, the amount of any transferred entitlement that is used by a dependent of the Soldier as of the date of such failure shall be treated as an overpayment of educational assistance and will be subject to collection by Department of Veterans Affairs. Future entitlements will be terminated.

3. Army Regulation 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 Selected Reserve.

//NOTHING FOLLOWS//