

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 February 2024

DOCKET NUMBER: AR20230004990

APPLICANT REQUESTS: Transfer Education Benefits (TEB) under the Post 9/11 G.I. Bill to his dependent children.

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, when he initially transferred his benefits, he only had one dependent. Since then, he has had two more and was not informed that each dependent had to have at least one month transferred upon his retirement in order to use the benefits.
2. A review of the applicant's available service record reflects the following:
  - a. On 21 August 2001, he enlisted in the Regular Army for a period of 4 years.
  - b. DD Form 214 (Certificate of Release or Discharge from Active Duty) ending 8 September 2008 reflects an honorable release from active duty to attend civilian school with assignment to Headquarters and Headquarters Company, 371st Sustainment Brigade, Kettering, OH. Item 12 (Record of Service) shows service from 21 August 2001 to 8 September 2008 for a net active service this period of 6 years, 10 months, and 18 days.
  - c. His record is void of his DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) showing his enlistment into the Ohio Army National Guard (OHARNG).
  - d. DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), dated 18 June 2009 shows he enlisted in the OHARNG on 9 September 2008 and extended his enlistment for a period of 1 year.
  - e. On 17 March 2010, he entered active duty.

f. DA Form 4836, dated 18 March 2010 shows he extended his enlistment with the OHARNG for a period of 3 years.

g. DA Form 4836, dated 27 September 2010 shows he extended his enlistment with the OHARNG for a period of 1 month and 22 days.

h. On 14 December 2022, the State of Ohio, Adjutant General's Department issued Orders Number 348-0001 reassigning him for separation processing and honorable retirement, effective 28 February 2023.

i. On 28 February 2023:

(1) The OHARNG issued orders for voluntary retirement.

(2) DD Form 214, ending 28 February 2023 reflects an honorable retirement and transfer to the U.S. Army Reserve Control Group (Retired Reserve). Item 12 (Record of Service) shows service from 17 March 2010 to 28 February 2023 for a net active service this period of 12 years, 11 months, and 14 days and total prior active service of 7 years, 1 month, and 3 days.

3. On 17 August 2023, the National Guard Bureau, Chief, Special Actions Branch, 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 transfer at least one month of benefits to their eligible dependents before separating from service. The applicant transferred benefits to his spouse and oldest child at the time but did not transfer any benefits to his youngest child before separating.

b. Due to the fact that he was not properly counseled on the requirement to transfer his benefits to all eligible dependents before separating from service, this office recommends the Board grant relief.

c. This opinion was coordinated with the Army National Guard Education Services Branch.

4. On 25 August 2023, the applicant was provided with a copy of the advisory opinion to provide a response. As of 31 December 2021, he did not respond.

BOARD DISCUSSION:

The Board carefully considered the applicant's request, supporting documents, evidence in the records, the applicant's statement, and the NGB advisory opinion, which recommended approval of the applicant's request due to the fact that he was not properly counseled on the requirement to transfer his benefits to all eligible dependents before separating from service. The Board concurs with the advisory opinion.

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 was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing the applicant timely filed his application to transfer at least 1 month of his educational benefits to his dependent children before his separation, and the Army approved the application.

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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 38, USC, section 3319 (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.

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//