

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230010825

APPLICANT REQUESTS: restoration of his transfer of education benefits (TEB) for his children.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Letter
- Email TEB Submission Instructions
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Email Post 9/11 GI Bill Service Obligation Date Correction

FACTS:

1. The applicant states:

a. He is being denied his GI Bill benefit due to not being able to complete the four-year service requirement after he transferred the benefit to his children. He filed for transfer in 2013 originally, but was not notified of completion until he tried to transfer again in August 2018, which would make his four-year obligation expire in August 2022.

b. In February 2019, he was informed that the Army would not let him serve past his 20-year mark through the Qualitative Management Program (QMP) process. His benefit transfer was not rejected until October 2020, but he was never notified of the rejection. The reason he did not complete the service requirement was not because he was choosing to leave the Army early, but he was being forced to retire.

c. When he was notified of the QMP, he was never informed he would not meet the requirement for his TEB. U.S. Army Human Resources Command (AHRC) told him they could see his logins prior to 2018, but could not see where he elected his TEB. He only learned his benefit was rejected when his daughter applied for the benefit as she started college.

d. He is requesting to have his TEB restored so that his children have a way to pay for college. He had originally attempted to TEB in 2013, but never received notification whether it was successful or not. Every time he logged into milConnect, he would click the transfer button to attempt to get some indication that his request had been completed. He became indefinite in service to the Army in 2012, so he knew he could meet the service requirement of four years from the date of transfer.

e. Finally, in 2018, he received notification that his TEB had been approved, and he needed to service until August 2022 to receive his benefits. In February 2020, he had been notified that he was being selected for the QMP, which forced him to retire at the end of the month once he completed 20 years of service, May 2021.

f. He applied for retirement and was approved without being notified that he would lose his TEB. His DD Form 214 states in block 18 (Remarks) that he was eligible to receive all of his Federal benefits.

g. The email he received from AHRC on 28 August 2023, says that his application was rejected in October 2020. He was never notified of this rejection. When he went through the Transition Assistance Program process in Okinawa as well as his out-processing from active service, he was still never informed he would lost his TEB.

h. He is not sure why or how his benefits had not been transferred to his children, when he tried from 2013 to when the record shows the transfer in 2018, but he is asking for the transfer date to be corrected so that his children have a way to pay for their education without having to assume considerable debt to begin their adult lives.

2. The applicant provides the following documents:

a. Email from AHRC, 30 August 2018, stating his TEB had been approved with an incurred TEB obligation until 28 August 2022. If he did not fulfill the full obligation, his request would be disapproved. Department of Veterans Affairs (VA) would recoup all funds that had been paid towards dependent benefits, and future dependent requests for benefits would be disapproved.

b. Email from AHRC, 28 August 2023, states his approved TEB request of 29 August 2018 was approved and he was assigned a four year additional service obligation (ASO) of 28 August 2022. His TEB was placed in a rejected status on 14 October 2020 as he had been selected for QMP on 12 June 2020. A review of his milConnect record by the Defense Manpower Data Center (DMDC) indicates that although he accessed the milConnect website on 12 July 2013, no record of any previously submitted TEB request could be located. If he had a screenshot of a previous TEB submission, he could provide it to AHRC for review.

3. The applicant's service record contains the following documents:

a. DD Forms 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the Regular Army and entered Active Duty (AD) on 22 May 2001. He remained in the Regular Army through immediate reenlistments.

b. DD Form 93 (Record of Emergency Data), 6 October 2020, shows he is married and has two dependent daughters born on 1 March 2005 and 27 April 2006.

c. DD Form 214, shows he was honorably transferred to U.S. Army Reserve Control Group (Retired) on 31 May 2021. He had 20 years and 9 days of net active service.

d. DA Form 5016 (Chronological Statement of Retirement Points), 4 June 2024, shows he was in the Regular Army from 16 May 2001 through 30 May 2021. He had 20 years of qualifying service for retirement.

e. The applicant's service record was void of documentation showing TEB.

4. On 19 February 2024, the Chief, Education Incentives Branch, AHRC, provided an advisory opinion, which states:

a. AHRC recommended disapproval of the applicant's request for the Post 9/11 GI Bill TEB. Servicemembers (SM) earn the Post 9/11 GI Bill because of their qualifying AD service; however, the ability to TEB to eligible dependents is neither a reward for service nor a transition benefit but a retention incentive (much like a specialty skills bonus) requiring the fulfillment of a by-law mandatory four-year ASO. Eligibility to participate in the TEB retention incentive is based on service in AD or Selected Reserve, on or after 1 August 2009, having at least 90 days of qualifying AD service, attaining a minimum of six years of qualifying service, having no current negative action flags, and being able to commit to the four-year ASO.

b. The only way to request Post 9/11 GI Bill TEB is via the DMDC maintained milConnect website. If approved to participate in the retention incentive, the milConnect system will assign the SM an obligation end date, which is automatically calculated from the initial request and signifies the four-year ASO end date. Additionally, SMs must allocate a minimum of one month of benefits to each eligible dependent before leaving the service, otherwise they will lose eligibility to do so after transitioning.

c. Finally, SMs must honorably complete the ASO or they will lose TEB eligibility. The Post 9/11 GI Bill TEB retention incentive is an integral part of the Army's talent management initiative, so is used for the express purpose of recruitment and retention. Consequently, Public Law (PL) 110-252 makes no provisions for waiving these requirements.

d. AHRC does not recommend administrative relief based on Soldiers receive counseling on all GI Bills, including the Post 9/11 GI Bill benefit and its TEB incentive, at various venues throughout their career, upon demobilization or release from AD, and during the last year before separation or retirement. Soldiers have had access to and received counseling on GI Bill benefits through Soldier For Life - Transition Assistant Program since 2002 online and in person. Eligibility criteria could have also been obtained by consulting Department of Defense (DoD) Type Directive Memorandum 09-003 Post 9/11 GI Bill, Attachment 2, paragraph 3a(3), dated 22 June 2009; paragraph 17a(4) of the U.S. Army Post 9/11 GI Bill Policy Memorandum, dated 10 July 2009; Army Regulation (AR) 621-202 (Army Educational Incentives and Entitlements), dated 26 September 2017; DoD, Department of the Army, and AHRC websites; and social media posts across multiple platforms.

e. A Soldier should not be granted relief based on unawareness of the law, program, rules, or procedures unless they left the service during the implementation phase (first 90 days) of the program. The Army, DoD, and VA initiated a comprehensive public campaign plan that generated major communications through military, public, and social media venues on the Post 9/11 GI Bill and subsequent TEB. This information and the previously mentioned resources were available to the applicant, prior to his retirement.

f. The applicant submitted a request for TEB on 29 August 2018. His request was approved on 30 August 2018 and he was automatically assigned the by law required four year ASO ending on 28 August 2022. On 12 June 2020, AHRC was notified the applicant had an approved retirement due to his election for the QMP. Effective 1 May 2021, the applicant was placed on the U.S. Army Retired List.

g. While the applicant was in service, numerous Post 9/11 GI Bill TEB information sources were available to him after the TEB incentive was implemented in 2009. In addition, information provided before and after the program's start date was highly publicized. Finally, the VA website, Military Personnel messages, and many news articles were released regarding eligibility for the Post 9/11 GI Bill TEB. In short, he could have used the DoD, Army, and VA resources available to him to ensure his compliance with all program participation requirements, to include his ASO.

h. In correspondence with the Board, the applicant stated, "I filed for transfer in 2013 originally, but was not notified of completion until I tried to transfer again in August 2018, which would make my four years of service needed August 2022." On 28 August 2023, the applicant contacted AHRC regarding his TEB. AHRC contacted DMDC to determine if a previous TEB request was submitted by the applicant. The DMDC system records a date/time stamp every time a Soldier's TEB milConnect website account is accessed. DMDC confirmed that the applicant's milConnect access

record did not support a submission and/or approval of a TEB request in 2013 or at any other time until 2018. DMDC verified his submission in 2018 as his only one. This is the reason why the applicant never received a notification of completion to his alleged 2013 TEB request.

i. His statement, "every time I logged into milConnect, I would click the transfer button to attempt to get some indication that my request had been completed" is incorrect as clicking the transfer link in milConnect is not sufficient to complete the transfer process. The applicant would have had to allocate benefits to each eligible dependent, acknowledge nine separate statement by checking them off and the click a submit button. All this would have triggered a notification that he submitted a TEB request and would have resulted in an adjudication for his request and notification, just like he received in 2018.

j. The applicant also states, "in February 2019, I was informed that the Army would not let me serve past my 20-year mark through the QMP process...the reason I did not complete the service requirement was not because I was choosing to leave the Army early, but I was being forced to retire." The applicant's selection for QMP was based on an adverse incident in his military record. As a result, the applicant submitted a voluntary retirement in lieu of QMP request on 1 May 2020, which was approved by AHRC on 12 June 2020. Consequently, AHRC placed his TEB in a rejected status in accordance with AR 621-202 (Army Education Incentives and Entitlement), dated 26 September 2017, chapter 4-15b3(a) it stipulates that "Soldiers released from the Armed Forces prior to completion of an agreed upon ASO agreement for performance, conduct, and/or potential for advancement reasons including, but not limited to separation under the provisions of QMP" are not eligible for the TEB program. Again, please note that a Soldier earns the Post 9/11 GI Bill because of their AD service; however, TEB is a retention incentive, not a Soldier's entitled benefit.

k. Even though the applicant is no longer eligible to participate in the TEB program, his military service may make his dependents eligible for other types of assistance. AHRC enclosed a document that contains numerous agencies that may assist. Additionally, the Post 9/11 GI Bill benefits are available to the applicant.

5. On 6 March 2024, the advisory opinion and attachments were provided to the applicant to allow him the opportunity to respond. He did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and U.S. Army Human Resources Command – Education Incentives Branch advisory opinion, the Board concurred with the advising official recommendation for disapproval finding the applicant submitted his request for TEB August 2018 which was approved and assigned by law the four (4) year ASO ending August 2022. The opine noted, the applicant had an approved retirement due to his selection for qualitative management program (QMP).

2. The Board agreed, based on the advising opine, there is insufficient evidence in accordance with public law that allows restoration of the applicant's transfer of education benefits (TEB) for his children. The Board noted the DMDC system records a date/time stamp every time a Soldier's TEB milConnect website account is accessed. DMDC confirmed that the applicant's milConnect access record did not support a submission and/or approval of a TEB request in 2013 or at any other time until 2018. DMDC verified his submission in 2018 as his only one. This is the reason why the applicant never received a notification of completion to his alleged 2013 TEB request. Based on the advising opine and the preponderance of evidence, the Board determined restoration of his transfer of education benefits (TEB) for his children in accordance with public law is without merit. Therefore, the Board denied relief.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

[REDACTED]

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) 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.

2. 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.

3. 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.

4. 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.

//NOTHING FOLLOWS//