

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 December 2024

DOCKET NUMBER: AR20240003000

APPLICANT REQUESTS: correction of her record to show she transferred Post 9/11 GI Bill Transfer of Educational Benefits (TEB) to her dependent daughter.

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

- DD Form 149 (Application for Correction of Military Record)
- Tricare Eligibility Requirements
- TEB Post-9/11 GI Bill Information Flyer
- VA Form 21-674 (Request for Approval of School Attendance)
- MilConnect Screenshot
- DD Form 1172-2 (Application for Identification Card/Defense Enrollment Eligibility Reporting System (DEERS) Enrollment)
- Email Correspondence

FACTS:

1. The applicant states she was not properly counseled by her state education office on TEB for her dependent needing to be initiated prior to her 23rd birthday. Also, when she inquired on further for guidance on how to proceed, she was not provided accurate information on the process causing delay and lapse in timing of cutoff. All guidance she was previously provided and read states a dependent's eligibility ends on their 26th birthday. She recently found conflicting wording on the Veterans Affairs (VA) Education page, during her application for TEB regarding full time students at the age of 23 years old.

2. A review of the applicant's service record shows:

- a. She enlisted in the Army National Guard (ARNG) on 9 February 2002.
- b. On 11 June 2003, she was ordered to initial active duty for training. She was released from active duty training on 5 September 2003 and served 2 months and 25 days of active service.

c. On 15 March 2005, she was ordered to active duty under Title 32, USC, section 503 for Active Duty Training/Active Duty Special Work. She was honorably Released from Active Duty (REFRAD) on 16 February 2006. She completed 11 months and 2 days of active service.

d. On 7 February 2018, she was ordered to active duty in support of Operation Enduring Freedom (Spartan Shield). She was honorably REFRAD on 2 March 2019. She completed 1 year and 26 days of active service.

e. On 16 March 2023, the applicant executed an oath of extension in the ARNG for a period of 3 years, with a new expiration term of service date of 21 May 2026.

3. The applicant provides:

a. A printout of Tricare eligibility requirements, in which she highlighted the portion that discusses college students' eligibility for Tricare up to age 23.

b. TEB Post-9/11 GI Bill Information Flyer that discusses what TEB is, how to qualify, how to apply, and the benefits received.

c. VA Form 21-674 that was endorsed by the applicant on behalf of her dependent daughter to request approval of educational benefits.

d. MilConnect screenshot that shows the applicant's dependent daughter, Axx Mxxx, is ineligible for the Post-9/11 GI Bill, Chapter 33 benefits.

e. A blank DD Form 1172-2, that was endorsed by the applicant on 8 February 2024.

f. Email Correspondence dated 8 November 2023 between the applicant and a Massachusetts ARNG Education Services Specialist, making an appointment to discuss TEB, telephonically.

4. On 16 October 2024, in the processing of this case an advisory opinion was obtained from the National Guard Bureau, Chief, Special Actions Branch, that opined:

a. Title 38 USC, Section 3319(c)(2) defines "eligible dependent" for the purpose of transferring post-9/11 GI Bill education benefits as one who "has the meaning given the term "dependent" under subparagraphs (A), (I), and (D) of section 1072(2) of Title 10." Title 10 USC, Section 1072(2)(D)(ii) defines a dependent child as a person who is either under the age of 21, under the age of 23 and a full-time student, or is incapable of self-support because of a mental or physical incapacity.

b. The applicant first inquired about transferring her post-9/11 GI Bill education benefits on 4 November 2023. However, because her daughter turned 23 on 25 April 2023, (over six months earlier) she was ineligible to receive transferred benefits at that time.

c. Because the applicant's daughter was already 23 years old at the time she requested to transfer her post-9/11 GI Bill education benefits, and because this is a statutory requirement, we cannot recommend relief.

5. On 22 October 2024, the applicant's case was placed on hold for 14 days and she was provided a copy of the advisory opinion and afforded an opportunity to respond. The applicant did not provide a response.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board noted that for the purpose of Post 9/11 education benefits, the law defines a dependent child as a person who is either under the age of 21, under the age of 23 and a full-time student, or is incapable of self-support because of a mental or physical incapacity. The evidence in this case shows the applicant's daughter was already 23 years old at the time the applicant requested to transfer her post-9/11 GI Bill education benefits. Since this is a statutory requirement, the Board agreed with the NGB advisory official that relief cannot be granted since her daughter turned 23 in April 2023 and is ineligible to receive transferred benefits.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

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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. Public Law (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 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.

2. 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.

//NOTHING FOLLOWS//