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## UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02307

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COUNSEL: NONE

HEARING REQUESTED: YES

### APPLICANT'S REQUEST

He be allowed to transfer his Post 9/11 GI Bill Transfer of Education Benefits (TEB) to his dependents.

### APPLICANT'S CONTENTIONS

His application was not approved while he was serving. As such, he is now having difficulties in enrolling his child into a university. He was informed the disapproval was due to retainability; however, he was at his 20 years of service for retirement. Moreover, he was on terminal leave at the time of the denial electronic mail notification; therefore, he was unable to respond and rectify the situation. While he is 100 percent disabled the benefits for disability cannot be utilized because the transfer did not occur during his service.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air Force technical sergeant (E-6).

On 4 September 2019, according to the Benefits for Education Administrative Services Tool (BEAST), the applicant elected to transfer his Post 9/11 GI Bill benefits to his dependents.

On 5 September 2019, per documentation from the Air Force Personnel Center (AFPC) Total Force Service Center (TFSC), the applicant was advised to disregard the initial TEB notification if he had an approved retirement because that would make him ineligible.

On 15 September 2019, according to AFPC TFSC, the applicant was reminded that his Post 9/11 GI Bill TEB application would expire in 10 calendar days. To gain approval, the applicant had to agree to a four (4) year active-duty service commitment from the date of the application. He would be ineligible for TEB if he could not meet the required commitment.

On 16 September 2019, according to AFPC TFSC and the BEAST, the applicant's request was rejected because he failed to secure retainability within the required application period.

On 31 October 2019, the applicant was relieved from active duty and retired, effective 1 November 2019, with a narrative reason for separation of "*Sufficient Service for Retirement*." He was credited with 20 years and 25 days of total active service.

**AFBCMR Docket Number BC-2023-02307**

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

### **APPLICABLE AUTHORITY/GUIDANCE**

In accordance with Air Force Instruction (AFI) 36-2649, *Voluntary Education Program*, and Department of Defense Instruction (DoDI) 1341.13, *Post-9/11 GI Bill*, a member may transfer unused benefits to dependents if on the date of application the member has at least 6 years of service in the Armed Forces (active duty and/or Selected Reserve, NOAA Corps, or PHS) and agrees to serve 4 additional years in the Air Force from the date of request, regardless of the number of months transferred. Upon receipt of the Initial Notification email from the TFSC, the member must: a) obtain retainability to meet the eligibility requirements; and b) sign the TEB Statement of Understanding (SOU).

### **AIR FORCE EVALUATION**

AFPC/DP3SA recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice on the part of the Air Force. The entire record was considered, including the applicant's submissions and all pertinent materials. The member could not secure the required retainability due to a pending retirement.

The complete advisory opinion is at Exhibit C.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 14 September 2023 for comment (Exhibit D) but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with AFPC/DP3SA and recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice on the part of the Air Force. The entire record was considered, including the applicant's submissions and all pertinent materials. The member could not secure the required retainability due to a pending retirement. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

**RECOMMENDATION**

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

**CERTIFICATION**

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-02307 in Executive Session on 9 May 2024:

Work-Product	, Panel Chair
Work-Product	Work-Prod... Panel Member
Work-Product	Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 13 July 2023.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 7 September 2023.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 14 September 2023.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

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Board Operations Manager, AFBCMR  
Signed by: USAF