

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-00528

XXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### APPLICANT'S REQUEST

He be allowed to transfer his Post-9/11 GI Bill education benefits (TEB) to his eligible dependents.

### APPLICANT'S CONTENTIONS

On 27 March 2017, he applied for TEB with assistance from the base education office. Upon completion of the application, he was informed he was required to reenlist for four (4) years within (30) thirty days of his submission. On 20 April 2017, he reenlisted and believed he completed the requirements. He is preparing to retire next year, and recently discovered that his application was denied. He was never notified of his application denial. He discovered the application was denied on 28 April 2017, eight (8) days after he reenlisted, while reviewing his benefits in milConnect.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an Air Force master sergeant (E-7).

On 27 March 2017, according to Defense Manpower Data Center (DMDC) records, myPers and TEB Incident Audit Log, the applicant applied for TEB.

On 28 March 2017, according to myPers and TEB Incident Audit Log, AFPC Total Force Service Center (TFSC) notified the applicant of receipt for his Post-9/11 G.I. Bill TEB and the requirement to sign the TEB SOU and acquire the appropriate retainability.

On 5 April 2017, according to AF Form 901, *Reenlistment Eligibility Annex to DD Form 4*, the applicant answered "yes" to question D in Section II. MPS Action; "The reason for this reenlistment is to qualify for transferability of Post 9/11 GI Bill."

On 12 April 2017, according to myPers and TEB Incident Audit Log, a reminder was sent to the applicant that his Post-9/11 G.I. Bill application would expire in 15 days.

On 20 April 2017, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant reenlisted for five (5) years and four (4) months.

On 22 April 2017, according to myPers and TEB Incident Audit Log, a reminder was sent to the applicant that his Post-9/11 G.I. Bill application would expire in five days.

On 27 April 2017, according to myPers and TEB Incident Audit Log, the applicant's application for TEB expired because he did not sign the TEB SOU or acquire the appropriate retainability through extension or reenlistment.

On 28 April 2017, according DMDC records, the applicant's TEB request was rejected and disapproved because he did not commit to the required additional service time.

On 8 February 2022, according to myPers, the applicant made an inquiry regarding the denial of his TEB application completed in 2017. He was unaware of the denial and requested it to be backdated since he completed the service commitment.

On 11 February 2022, according to myPers, Education Services informed the applicant that his re-enlistment did not adjudicate in MilPDS before the TEB application window closed.

According to the applicant's "Report on Individual Personnel," the applicant currently has a Total Active Federal Military Service Date (TAFMSD) of 1 April 2003 and has completed 19 years of creditable service.

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

### **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 applicant did not secure the required retainability or complete and submit the required TEB SOU within the application window. In accordance with Air Force Instruction (AFI) 36-2649\_AFGM2016-01, *Air Force Voluntary Education Program*, a member must secure retainability and complete the required TEB SOU within 30 days of the Initial Total Force Service Center Notification. The applicant's myPers incident and audit log reflects he received messages at his @ us.af.mil email account.

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 15 March 2022 for comment (Exhibit D), but has received no response.

### **FINDINGS AND CONCLUSION**

1. The application was 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 the victim of an error or injustice. While the Board notes the recommendation of AFPC/DP3SA against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. In this regard, the applicant applied to transfer his education benefits on 27 March 2017 and reenlisted for the purpose of the TEB on 5 April 2017, thus obtaining the four-year military service obligation required for transfer. Thereafter, he served four years on active duty, completed his obligation for transfer, and fulfilled his service commitment to the Air Force. As such, despite the applicant's failure to sign the SOU, the Board finds the applicant met the intent of the program and his failure to sign the SOU should be regarded as a procedural defect only and not as evidence of an intent to abandon the transfer request. Therefore, the Board recommends correcting the applicant's records as indicated below.

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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 27 March 2017, he elected and was approved to transfer his Post-9/11 GI Bill Educational Benefits to his eligible dependents with an obligation end date of 26 March 2021.

**CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-00528 in Executive Session on 17 May 2022 and on 11 October 2022:

- , Panel Chair
- , Panel Member
- , Panel Member

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

- Exhibit A: Application, DD Form 149s, w/atchs, dated 11 February 2022.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 4 March 2022.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 15 March 2022.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

**X**

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Board Operations Manager, AFBCMR