



UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01285

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. Reserve Order Number Work-Product, dated 18 September 2019, be amended to reflect an effective retirement date of 12 February 2020 rather than 1 December 2019.
2. He be allowed to transfer his Post-9/11 GI Bill Transfer of Education Benefits (TEB) to his dependents.

APPLICANT'S CONTENTIONS

He fully entrusted the Work-Product unit to service his retirement application and related benefits. Unfortunately, the unit's retirement counseling and guidance never covered obligation end dates in conjunction with retirement effective dates. Their process did not guide him through this complicated process sufficiently. He was not advised that the two in a half month difference between his projected retirement date of 1 December 2019 and his TEB Obligation End Date of 11 February 2020 would jeopardize the transfer of his TEB to his dependents. If he had been made aware of this discrepancy he would have stayed on Guard and Selected Reserve status for the entire Obligatory Service Time. His Mandatory Separation Date was 1 June 2020 which provided him ample retainability to accrue the service time necessary to ensure the TEB to his dependents.

In support of his request, the applicant provides a supporting letter.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air National Guard colonel (O-6).

On 3 April 2016, AF Form 4406, *Post 9/11 GI Bill Transfer of Educational Benefits Statement of Understanding (SOU)*, the applicant acknowledged with the Reserve and Guard Component, that he would incur a service obligation of 4 years and a Selected Reserve Service Commitment (SRSC) would be updated in his records. The Air National Guard component date reflects 12 February 2020.

On 5 June 2019, according to NGB Form 22, *Report of Separation and Record of Service*, the applicant received an honorable character of service. The authority and reason reflect "Transfer to the USAF Retired List – AGR Only//20 years or more of TAFMS//Age 60, SPD: SBD." He served 42 years, 5 months, and 14 days total service for retired pay.

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According to Reserve Order Number [Work-Product] dated 18 September 2019, the applicant was placed on the USAF Retired List, Retired Reserve Section ZB and effective 1 December 2019, the applicant retired in the grade of colonel. The applicant served 42 years, 5 months, and 14 days of service per Title 10 and 43 years and 12 days of service for basic pay.

According to a MilConnect – TEB screenshot, dated 28 March 2021, provided by the applicant, his obligation end date reflects 11 February 2020.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibits C, H, and I.

AIR FORCE EVALUATION

NGB/A1PP recommends denying the request to amend his retirement date. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant signed an AF Form 4406, Statement of Understanding at the time of his transfer of GI Bill benefits acknowledging the fact his benefits may be lost and/or subject to recoupment by the Department of Veterans Affairs (DVA) if he did not complete the entire service obligation. Since the applicant did not fulfill this obligation, there is no injustice, and no amending of retirement date is necessary.

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 22 June 2022 for comment (Exhibit D), and on 18 July 2022, the applicant requested his case be administratively closed in order to submit additional evidence in support of his appeal (Exhibit E).

On 19 July 2022, the applicant's case was administratively closed, in accordance with his request (Exhibit F).

On 26 June 2023, the applicant requested his case be reopened. He states his service began in 1977 and he has deployed on many occasions in support of State and Federal missions including for 9/11, Operation SOUTHERN WATCH, Katrina Hurricane relief, the California Southern Border, and the California Paradise Wildfire relief. He retired after 42 years of honorable service. Since discovering this oversight in his record, he has been willing to do whatever is necessary to recover this benefit including moving his retirement date, serving additional time, or asking for forgiveness of the remaining days. His desire is that his daughter benefit from his 42 years of service by being able to use the TEB. She is currently a freshman in high school with an A average. Reinstatement of these benefits would allow her to extend her educational opportunities into college. The current loss of these benefits continues to be a grueling and stressful endeavor for his family. Further, he provided a memo from the [Work-Product] ANG/AAGA, dated 31 May 2023, indicating he recommends approval of the applicant's request. The applicant has been struggling to recover TEB for his daughter since discovering an oversight over two years ago. Before retirement, he transitioned his family from [Work-Product]. He could not find a position with the [Work-Product] Air National Guard, and based on the information received from his wing, he inadvertently retired 73 days before his TEB obligation date. The applicant's professional qualities, superb judgment,

and unwavering commitment to excellence demonstrate extraordinary dedication and loyalty to our country (Exhibit G).

ADDITIONAL AIR FORCE EVALUATION

NGB/A1YR recommends denying the request to amend his retirement date in order to receive TEB. The applicant applied for TEB on 17 February 2016 and signed a Statement of Understanding (SOU) in April 2016 with the Retention Office Manager with a service obligation of 12 February 2020. The applicant submitted for retirement with an effective date of 1 December 2019 - 2 months and 17 days before the obligation end date. The applicant was not separated for reasons listed on the SOU to change the obligation end date to retain TEB eligibility.

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. In accordance with DoDI 1341.13, paragraph 3.a. (1) "Members must be eligible to be retained for 4 years from the date of election and not be precluded, prior to approval, by either standard policy (Service or DoD) or stature." The Post 9/11 TEB is a retention tool that requires a service obligation. The applicant voluntarily separated before completing the four years of service obligation for the TEB. Since the applicant did not meet the service obligation, he is not eligible for TEB.

The complete advisory opinion is at Exhibit H.

NGB/A1PP recommends denying the request to amend his retirement date in order to receive TEB. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. In accordance with 10 U.S.C. 16163a, a member who wishes to transfer benefits to their dependent must have "completed at least six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the armed forces." The applicant signed an AF Form 4406, *Statement of Understanding*, at the time of his transfer of GI Bill benefits acknowledging his benefits may be lost and/or subject to recoupment by the Department of Veterans Affairs (DVA) if he did not complete the entire service obligation. The applicant had a mandatory separation date (MSD) of 1 June 2020 which provided the applicant adequate time to meet the service obligation. The applicant chose to retire in 2019, prior to his MSD and did not fulfill the terms of the obligation. Any adjustments to the applicant's service dates would violate the four-year service agreement as required per 10 USC 16163a (b)(1).

The complete advisory opinion is at Exhibit I.

APPLICANT'S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the advisory opinions to the applicant on 24 July 2023 for comment (Exhibit J). The applicant responded contending he unintentionally retired 73 days too soon to fulfill his obligation to receive TEB. He was informed by the **Work-...**ANG/HQ that a member moved their retirement date through ARPC with a memorandum of concurrence. ARPC acknowledged members have amended their retirement date to obtain the GI Bill with commander concurrence. He asks that the Board review the memorandum from the **Work-...**ANG/AAGA, dated 31 May 2023, recommending that the remaining 73 days be forgiven from his four year obligation, and he be granted relief to qualify for TEB.

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 NGB/A1PP and NGB/A1YR against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. In this regard, the applicant claims and the Board agrees that due to lack of proper counseling on how his selected retirement date, of 1 December 2019, could jeopardize his entitlement of the GI Bill education benefits to his dependents, he was not able to make a well-informed decision. The letter of support from his unit and the applicant's candid statement that he would have stayed on Guard and Selected Reserve status for the entire obligatory service time of 12 February 2020, should be regarded as an intent to not abandon his service obligation. Therefore, the Board finds that the applicant met the intent of the program and has fulfilled the military service obligation required for TEB. Accordingly, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 30 November 2015, 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 29 November 2019.

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-2022-01285 in Executive Session on 12 September 2023:

Work-Product

Panel Chair

Work-Product

, Panel Member

Work-Product

, Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 29 April 2022.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/A1PP, dated 7 June 2022.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 22 June 2022.
- Exhibit E: Letter, Applicant, dated 18 July 2022.
- Exhibit F: Letter, SAF/MRBC, dated 19 July 2022.
- Exhibit G: Letter, Applicant, dated 17 July 2023.
- Exhibit H: Advisory Opinion, NGB/A1YR, dated 7 June 2022 signed 27 July 2022.
- Exhibit I: Advisory Opinion, NGB/A1PP, dated 17 July 2023.
- Exhibit J: Notification of Advisory, SAF/MRBC to Applicant, dated 24 July 2023.
- Exhibit K: Applicant's Response, dated 19 August 2023.

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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.

9/15/2025

X Work-Product

Board Operations Manager, AFBCMR

Signed by: Work-Product

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