

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01816

XXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

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 Certificate of Eligibility (COE) is dated 15 November 2010. He has earned the benefits and believes he performed the steps necessary to transfer the benefits to his children on 18 July 2011. He never felt compelled to verify until he was prepared to use the benefit. He accessed the MilConnect system to check on the benefit and discovered that the transfer was never completed, and the Total Force Service Center (TFSC) closed out the request. He cannot say for certain if he signed a Statement of Understanding (SOU) but recalls receiving confirmation that the TEB was approved; however, he does not have a record to substantiate this. He further states, he has continuously served the Air Force as either a traditional drilling reservist or active guard/reserve since 17 October 1991. He is currently on active duty as an AGR and has fulfilled the four years of continued service nearly three times over since initiating the TEB in 2011.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving Air Force Reserve lieutenant colonel (O-5).

The Benefits for Education Administrative Services Tool (BEAST) reflect the applicant elected to transfer his Post 9/11 GI Bill benefits to his dependents on 18 July 2011 and the request was denied on 3 November 2011. The applicant submitted another request for TEB on 6 July 2022 and the request was rejected on 25 July 2022.

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

AIR FORCE EVALUATION

ARPC/DPAT recommends denying the application. The Benefits for Education Administrative Services Tool (BEAST) History indicates the applicant submitted a TEB request on 18 July 2011. The request was rejected on 3 November 2011 with coded reason that the applicant needed to contact a Service Representative to resolve status. On 6 July 2022, another TEB request was submitted, and rejected on 25 July 2022, because of his Mandatory Separation Date (MSD) 1 July 2024, thus, is not eligible to reapply for TEB in accordance with DODI 1341.13 (31 May 2013) Incorporating Change 1, 12 July 2018. An ARMS and MyPers review concluded no evidence of a signed agreement to serve the additional incurred four-year service commitment in accordance with Post-9/11 Veterans Education Assistance Act of 2008, Public Law 110-252-

June 30, 2008: (b) ELIGIBLE INDIVIDUALS. An individual referred to in subsection (a) is any member of the Armed Forces who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least – “(1) 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; or (2) the years of service as determined in regulations pursuant to section (k). The first correspondence noted in MyPers regarding TEB eligibility was on 30 June 2022, inquiring on the 2011 TEB denied status, as the applicant stated he was approved. Additionally, the eligibility requirements for TEB submission on 18 July 2011, falls under Public Law 110-252, 30 June 2008. The DODI 1341.13 (31 May 2013) instruction became effective on 31 May 2013, which is after the applicant's original TEB submission that is in dispute.

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice because MyPers indicates there was no response from the applicant for 10 years regarding TEB eligibility status, and no evidence of an agreement to commitment to the four years of military service at the time of application per law.

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 6 September 2022 for comment (Exhibit D), and the applicant replied on 3 October 2022. In his response, the applicant contended

on 18 July 2011, he submitted a request to transfer his benefits. He was serving on active duty as an AGR with a published separation date of 28 February 2021 at the time of TEB submission. He extended his term of active duty out to his MSD (30 June 2024). He has been a member of the Air Force without interruption since October of 1991. He states there was no mention of a four-year service commitment SOU in the 3 November 2011 rejection. The absence of the SOU does not indicate that it was an outstanding requirement at the time or even that it was never received. He believes ARPC/DPAT does not have a record of the SOU; however, there is also no record they requested it, or conversely that he did not provide a copy. He was unaware of a denial notice. If he had known, he would have followed-up. Regarding the subsequent TEB request made on 6 July 2022, that request was made in desperation during his investigation of the newly discovered 2011 denial on the advice of ARPC through correspondence that occurred between 30 June 2022 and 11 July 2022. He further states, he has served more than 11 additional years of continuous service, above and beyond the required TEB service obligation.

The applicant's complete response is at Exhibit E.

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 ARPC/DPAT against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. The Board found that when the applicant submitted his request in July 2011, he has continuously served the Air Force and has fulfilled the four years of continued service obligation nearly three times over since initiating the TEB in 2011. 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.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 18 July 2011, his application to transfer his Post-9/11 GI Bill Educational Benefits to his eligible dependents was approved with a service obligation end date of 17 July 2015.

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-2022-01816 in Executive Session on 8 November 2022:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 6 July 2022.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, ARPC/DPAT, w/atchs, dated 18 August 2022.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 6 September 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

Board Operations Manager, AFBCMR