

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01921

XXXXXXXXXX

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

While on active duty he fulfilled several Active Duty Service Commitments (ADSC's). He inquired about transferring his benefits in 2013; however, he was told by Air Force personnel that he could not have concurrent service obligations and he would have to complete the current ADSCs before he was able to add another four-year commitment to transfer benefits. He had chosen to separate from active duty after his ADSCs were fulfilled in July 2018 with the intent to enter the Air Force Reserves (AFRes) to serve the additional four years. However, due to his Department of Veterans Affairs (DVA) service-related disabilities he was unable to transition into the AFRes due to a break in service.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force major (O-4).

On 3 June 2009, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant entered active duty. On 1 July 2018, the applicant received an honorable character of service in the grade of major. He served 9 years and 29 days of total active service and credited with 10 months and 22 days of foreign service. Type of Separation reflects "Resignation" and Narrative Reason for Separation reflects "Completion of Required Active Service."

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

APPLICABLE AUTHORITY/GUIDANCE

Directive-Type Memorandum (DTM) 09-003: *Post 9/11 GI Bill*, Attachment 2, paragraph 3.a: Eligible Individuals. Any member of the Armed Forces on or after August 1, 2009, who, at the time of the approval of the individual's request to transfer entitlement to education assistance under this section, is eligible for the Post-9/11 GI Bill, and

(3)(a) For those individuals eligible for retirement on Aug 1, 2009, no additional service is required.

AFI 36-2306, Voluntary Education Program, dated 13 Aug 10, Attachment 9. A9.18. Transferability of unused benefits to dependents.

A9.18.7. Time for Transfer, Revocation, and Modification.

A9.18.7.1. Time for Transfer. A member approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the Armed Forces when the transfer is executed.

A9.18.9. Transfer of Benefits Procedures. All requests and transactions will be completed through the TEB Web application at <https://www.dmdc.osd.mil/TEB/>. Airmen are responsible for correcting inaccurate information. Airmen may request certification of Post-9/11 GI Bill eligibility from the DVA's website prior to requesting to transfer of benefits.

A9.18.9.3. Once certifying officials have approved a request to transfer benefits, Airmen may print a hard copy of the certified TEB request for their personal records. Additional service commitments will be recorded in the appropriate personnel system(s). Additional service commitments resulting from transferring unused Post-9/11 GI Bill benefits begin on the date of request and are served concurrent with any other additional service commitment in effect at the time of the transfer or incurred at any time after the request to transfer benefits. Transfer of Post-9/11 GI Bill benefits, in and of itself, will not limit any other reenlistment option or incentive to which a member may be eligible.

A9.20. AFPC/DPS Specific Procedures (Active Duty) – Transfer of Benefits Option Responsibilities:

A9.20.1. MEMBERS MUST:

A9.20.1.3. Apply for this option through DMDC's (TEB) website (<https://www.dmdc.osd.mil/TEB/>).

AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the application. The Defense Manpower Data Center (DMDC) shows no record the applicant applied for TEB. Without a request, eligibility for the program could not be established, as DoD Instruction 1341.13, Post-9/11 GI Bill (Enclosure 3, 3.a.) and AFI 36-2306_AFGM2, Voluntary Education Program (A9.18.9.3.), cite the date of request as the date on which the appropriate service obligation would be applied. In accordance with AFI 36-2306_AFGM2 (A9.18.7.1., A9.18.9. and A9.20.1.3.), all requests for TEB must be submitted via the DMDC TEB web application while on active duty. Additionally, IAW AFI 36-2306_AFGM2 (A9.18.9.3.) "Additional service commitments resulting from transferring unused Post-9/11 GI Bill benefits...are served concurrent with any other additional service commitment in effect at the time of the transfer or incurred at any time after..." A review of the applicant's myPers incident history and Air Force Automated Education Management System counseling notes show no record of counseling regarding TEB.

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. DMDC shows no record the member applied for TEB.

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 26 August 2022 for comment (Exhibit D), and the applicant responded indicating there is no official record of TEB because when he inquired about his benefits in 2013, he was told that it could not run concurrently with his

HPSP and his Active Duty Emergency Medicine Residency commitment. Therefore, he did not officially apply for TEB because he did not want to incur an additional four-year ADSC to add on to his other ADSCs. He was misinformed about the benefits, and it has cost his kids to lose educational benefits. He served on active duty for over nine years, if he had been given the correct information and applied for TEB in 2013, he would have fulfilled the four-year concurrent ADSC by 2017 prior to his separation.

The 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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP3SA and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the applicant contends that he was misinformed he could not have concurrent service obligations, he has provided no evidence to support this contention. The OPR states and the Board concurs that without a request, eligibility for TEB cannot be established. Therefore, the Board 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 evidence did not demonstrate material error or injustice, 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-01921 in Executive Session on 6 December 2022 and 5 December 2023:

, Panel Chair
, Panel Member
, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 1 May 2022.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atch, dated 23 August 2022.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 26 August 2022.
- Exhibit E: Applicant's Response, dated 2 February 2023.

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