



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00163

Work-Product

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 eligible dependents.

APPLICANT'S CONTENTIONS

In August 2009, while on active duty, he applied to have his GI Bill benefits transferred to his children; however, when his son was applying for college, he discovered that his request had been denied. He believes this has to do with his Permanent Change of Station (PCS) move that occurred during the same time period and a change in e-mail domains. In this regard, he was assigned to the Defense Information Systems Agency (DISA), was given a DISA.MIL domain, and his AF.MIL domain was unable to default to the new domain. As such, he never received notification by e-mail or by written correspondence stating he did not have the required retainability and was unaware his request had been denied. Nevertheless, he later ended up extending his enlistment and retired approximately four years and three months after originally requesting the benefits. Thus, he would have had the required retainability and requests reinstatement of his transfer of benefits he earned over his 20-year career.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 1 May 09, according to DD Form 4/1, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant reenlisted for a period of four years and one month. His previous military service upon reenlistment reflects 15 years, 7 months, and 15 days.

On 24 Jun 09, according to AF Form 899, *Request and Authorization for Permanent Change of Station – Military*, Special Order Number [Work-Product] was published and authorized the applicant a PCS assignment from the [Wo...] Communication Squadron, [Work-Product] Air Force Base (AFB), VA to the Air Force Element (AFELM) JT TAC [Wo...] Agency, [Work-Product], AZ with a report no later than date of 15 Jul 09.

On 21 Aug 09, according to the Benefits for Education Administrative Services Tool (BEAST) print-out, provided by AFPC/DP3SA, the applicant applied for the transfer of education benefits and on 14 Aug 10 his application was rejected because he had not committed to the required additional service time.

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

On 27 Feb 13, according to AF FM 1411, *Extension or Cancellation of Extensions of Enlistment in the Regular Air Force (REGAF) Air Force Reserve (AF Reserve/Air National Guard (ANG))*, the applicant extended his 1 May 09 reenlistment for a period of four months for the purpose of High Year of Tenure (HTY).

On 30 Sep 13, DD Form 214, *Certificate of Release or Discharge from Active Duty*, shows the applicant was honorably discharged from the Regular Air Force with a narrative reason for separation of “Vol Retirement: Maximum Service or Time in Grade.” He was credited with 20 years and 15 days of net 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

For the first time in history, service members enrolled in the Post-9/11 GI Bill Program are able to transfer unused educational benefits to their dependent spouses or children. Any member of the Armed Forces, active duty or Selected Reserve, officer or enlisted, on or after 1 Aug 09, who is eligible for the Post-9/11 GI Bill, has at least six years of service in the Armed Forces on the date of election, and agrees to serve 4 additional years in the Armed Forces from the date of election; or has at least 10 years of service on the date of election, is precluded by either standard policy (Service or DoD) or statute from committing to 4 additional years, and agrees to serve for the maximum amount of time allowed by such policy or statute, can transfer their unused Post-9/11 GI Bill educational benefits to their dependents (Title 38 USC, Chapter 33, § 3319(b)(1)). Title 38 USC, Chapter 33, § 3319(f)(1) adds that the transfer of such entitlement can only be done while serving as a member of the armed forces when the transfer is executed.

AIR FORCE EVALUATION

AFPC/DP3SP recommends denying the application. The applicant contends he did not receive notification to secure retainability to gain TEB approval. He states, “I had PCSd... in July 2009... My email at the time was on the DISA.MIL domain and my AF.MIL email was unable to default to that domain. I believe an email was sent to my AF.MIL account stating I did not have enough retainability at that time, but I never received that email, because of the domain discrepancy.” According to the Defense Manpower Data Center (DMDC) record, the applicant applied for TEB on 21 Aug 09, but was rejected because he failed to secure the required retainability within the application period.

In accordance with Directive-Type Memorandum (DTM) 09-003: *Post-9/11 GI Bill*, Attachment 2 [3.a.(1)] and AFI 36-2306_AFGM1, *The Education Services Program* [18.a.(2) and 20.a.(1)], members must secure 4 years of retainability from the date of request via extension or reenlistment to meet TEB requirements. Based on the applicant’s Total Active Federal Military Service Date of 16 Sept 93, to secure TEB approval, he required retainability to 20 Aug 13. On the date of application rejection, the applicant’s date of separation was 31 May 13. Furthermore, his request to extend the enlistment to 30 Sept 13 was submitted in Feb 2013, over 3 years later.

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 21 Aug 13 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. Although the application was not timely filed within the three-year limitation period established by 10 U.S.C § 1552 (b), the timeliness is waived in the interest of justice.
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/DP3SP against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant’s contentions. In this regard, the Board notes when the applicant applied for the transfer of benefits in 2009 the Post-9/11 TEB program was being introduced and a lot of confusion surrounded the procedures for executing a transfer of benefits. Given the applicant re-enlisted for four years and one month on 1 May 09 and then applied on 21 Aug 09, the Board finds that the applicant would have only required an additional 3-4 months of retainability to successfully execute the transfer. In this regard, the applicant required a similar extension for the purpose of retirement at 20 years of service and the Board believes it to be reasonable that had he been aware of the need for his service extension when he applied, he would have certainly committed to a four-month extension to successfully execute the transfer of benefits. In addition, based on his 30 Sep 13 date of separation he would have ultimately fulfilled the four-year military service obligation from the date he attempted to transfer. 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 the APPLICANT be corrected to show that on 21 August 2009, he elected to transfer his Post-9/11 GI Bill Education Benefits to his eligible dependents, incurring thereby a four-year active duty service commitment; he satisfied the service commitment on 20 August 2013, before his 1 October 2013 retirement.

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-2023-00163 in Executive Session on 14 May 2024:

- Work-Product** III, 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/atc, dated 29 Dec 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 16 Aug 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Aug 23.

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.

1/16/2025

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[Redacted]

[Redacted]

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