

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-00238

*Work-Product*

**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

Between Jul 09 and Jul 11, while assigned to Kadena AB, Japan, the applicant requested to transfer his Montgomery GI Bill (MGIB) to TEB and transferred education benefits to his dependents. In 2019, the applicant attempted to reallocate education benefits to his dependents and discovered that his request to transfer the MGIB to TEB was never processed. On 4 Apr 22, after almost three years of attempting to locate the TEB application in his records, he was notified that AFPC was unable to locate the electronic records. He is requesting he be allowed to transfer his education benefits to his dependents, because the application was not processed through no fault of his own.

The applicant submitted a character statement from the Command Chief in his unit at Kadena AB, Japan. The Command Chief confirmed that she witnessed the applicant request to transfer his Montgomery GI Bill to TEB, and evenly distribute the eligible months between his dependent children.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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

On 31 Oct 16, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant retired after twenty-seven (27) years, eight (8) months, and ten (10) days of active 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 granting the application. The applicant is requesting to transfer education benefits to his dependents. He contends that he completed the application and SOU; however, by no fault of his own, the application and SOU were not processed. According to the Defense Manpower Data Center (DMDC), there is no record the applicant applied for TEB or completed an SOU. Based on documents 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. Though DMDC shows no record the applicant applied for TEB, based on the character statement provided by the applicant, it is feasible TEB application process issues faced by other applicants early in the program also affected processing of the member's application.

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 Feb 23 for comment (Exhibit D), but has received no response.

## **FINDINGS AND CONCLUSION**

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.
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. The Board concurs with the rationale and recommendation of AFPC/DP3SA and finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes, the witness statement provided by the applicant that confirms he attempted to make the transfer and finds that at the time the applicant initiated his application, the Post-9/11 GI Bill TEB was still being introduced and a lot of confusion surrounded the procedures for executing a transfer of benefits. Given that when the applicant would have completed the transfer, he would have incurred no military service obligation with the election of TEB, the Board believes that the preponderance of the evidence supports the applicant's claim. 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 1 August 2009, he transferred his Post-9/11 GI Bill Education Benefits to his eligible dependents, and the transfer was approved with no additional service obligation.

## **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-2023-00238 in Executive Session on 9 May 23:

, 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 19 Dec 22.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory opinion, AFPC/DP3SA, dated 9 Feb 23.  
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 22 Feb 23.

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