



**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00279

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be allowed to transfer his Post-9/11 GI Bill education benefits (TEB) to his eligible dependents.

APPLICANT'S CONTENTIONS

In 2010, the applicant, who had over twenty-three years of service, was notified that he would receive a retirement date after the Air Force shortened the High Year Tenure (HYT) for all ranks. Additionally, he was advised to attend the Transition Assistance Program (TAP) briefing at the local education office within six-months. While attending TAP, the applicant was informed of a two year service commitment associated with TEB. When he inquired about the inability to complete the two-year service commitment due to his HYT, he was informed there was no waiver for the service commitment. Despite being informed by the education office of his ineligibility for TEB, the applicant attempted to transfer education benefits to his dependents and notified that he was ineligible due to retainability. The applicant believes that he earned the benefit after serving twenty-four years and is requesting to transfer education benefits to his dependents to assist his daughter with college expenses.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force master sergeant (E-7).

According to a report pulled from the Military Personnel Data System (MilPDS), the applicant's Total Active Federal Military Service Date (TAFMSD) reflects 30 Jan 87 and a HYT effective date of 30 Nov 11. Based on his TAFMSD, the applicant would have become retirement eligible on 1 Feb 07 and therefore would have required no active duty service commitment with TEB approval.

On 30 Nov 11, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant retired from active service after twenty-four years, ten months, and one day.

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



APPLICABLE AUTHORITY

In accordance with Directive-Type Memorandum (DTM) 09-003, dated 22 Jun 09 DoD Instruction 1341.3, *Post-9/11 GI Bill Program*, dated 31 May 13, members are eligible to transfer benefits if their service to the Armed Forces was on or after 1 Aug 09. If that member became retirement eligible during the period from 1 August 2009, through 31 July 2012 and agreed to serve the additional period, if any, specified in the following subparagraphs before 1 August 2013 (the date that this subparagraph became no longer in effect), then that member was considered to have an approved transfer provided they fulfilled their service commitment:

- For individuals eligible for retirement on 1 August 2009, no additional service is required.

AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the application. The applicant contended on 1 Apr 10, he attempted to apply to transfer education benefits to his dependents; however, he was denied because of a HYT restriction. Furthermore, the applicant noted when he logged in to complete the application, he was notified of his ineligibility due to retainability. The Defense Manpower Data Center (DMDC) shows no record the applicant applied for TEB. Additionally, the applicant's HYT of 30 Nov 11 prevented him from completing the required two-year service commitment. Based on documentation provided by the applicant, there is no evidence or injustice on the part of the Air Force.

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 31 Mar 23 for comment (Exhibit D), and the applicant replied on 5 Apr 23. In his response, the applicant contends during a TAP briefing, the base education office informed him there was no waiver or guidance that permitted him to transfer education benefits to his dependents after the Air Force changed the HYT requirement. In addition, the applicant provides a screen snapshot from milConnect indicating that he attempted to transfer his benefits and also states that the system shows no record of his attempt to transfer, because it wouldn't even allow him to apply.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find it in the interest of justice to waive the three-year filing requirement.
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. The Board notes the screenshot from milConnect provided by the applicant; however, the date of the screenshot is not clear and according to the Defense Manpower Data Center there is no record of a request for TEB in 2010. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 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-2023-00279 in Executive Session on 12 Jun 23:

[REDACTED] Panel Chair
[REDACTED] Panel Member
[REDACTED] Panel Member

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

- Exhibit A: Application, DD Form 149, dated 10 Jan 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 22 Mar 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 31 Mar 23.
- Exhibit E: Applicant's Response, w/atch, dated 5 Apr 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.

