



Work-Product

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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01007

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

His DD Form 214, *Certificate of Release or Discharge from Active Duty*, dated 2 Jul 97, Block 15a, *Member Contributed to Post-Vietnam Era Veterans' Educational Assistance Program*, be changed to reflect: YES

### APPLICANT'S CONTENTIONS

He has the contract and pay stubs which show he contributed to the *Post-Vietnam Era Veterans' Educational Assistance Program* (VEAP); however, due to his DD Form 214, Block 15a being checked "No," instead of "Yes," he is unable to use his educational benefits.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a former Air Force senior airman (E-4).

On 22 Aug 90, according to the applicant's DD Form 4, *Enlistment/Reenlistment Document Armed Forces of the United States*, he enlisted in the Regular Air Force.

On 31 Aug 90, according to DD Form 2366, *Veterans' Educational Assistance Act of 1984 (New GI Bill) (Chapter 30, Title 38, U.S. Code)*, he enrolled in the New GI Bill. Section 2a, reflects the following statement: I am eligible for the New GI Bill based on my initial entry on active duty on or after July 1, 1985.

On 2 Jul 97, according to his DD Form 214, he was honorably discharged and credited with 6 years, 10 months, and 11 days of active service. Block 15a, *Member Contributed to Post-Vietnam Era Veterans' Educational Assistance Program*, reflects "No."

On 27 Dec 23, a printout from the applicant's Benefits for Education Administrative Service Tool (BEAST), Person Education Benefits Summary, MGIB CH30 (Basic & Kicker) Detail View, reflects: Enrollment Action Date 22 Aug 90; and Basic Pay Reduction Amount \$1,200.

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

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Controlled by: SAF/MRB  
CUI Categories: Work-Product  
Limited Dissemination Control: N/A  
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## APPLICABLE AUTHORITY/GUIDANCE

38 U.S. Code Chapter 32 – *Post -Vietnam Era Veterans' Educational Assistance*, § 3221 – Eligibility: (a) Each person entering military service *on or after January 1, 1977, and before July 1, 1985*, shall have the right to enroll in the educational benefits program provided by this chapter (hereinafter in this chapter referred to as the “program” except where the text indicates otherwise) at any time during such person’s service on active duty before July 1, 1985. When a person elects to enroll in the program, such person must participate for at least 12 consecutive months before disenrolling or suspending participation.

Department of Defense Directive (DoDD) 1322.16, *Montgomery GI Bill (MGIB) Program*, 18 Jun 02, 5.3.2. Ensure all eligible active duty enlisted Service members are aware they are automatically eligible for educational assistance under the MGIB Program, and will have their pay reduced by \$1,200 dollars (\$100 a month for the first 12 months of service) unless they elect not to receive such benefits.

5.3.3. The DD Form 2366, “*Montgomery GI Bill Act of 1984 (MGIB)*,” shall be used for enrollment or disenrollment.

## AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the request. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant’s DD Form 214 is correct. VEAP (Chapter 32), is applicable to member’s entering military service on or after 1 Jan 77 and before 1 Jul 85 and as the applicant entered active service on 22 Aug 90 he was ineligible for VEAP. However, the applicant enrolled and contributed to the Montgomery GI Bill program (Chapter 30) as documented on his DD Form 2366, *Veterans' Educational Assistance Act of 1984 (New GI Bill) (Chapter 30, Title 38, U.S. Code)*, dated 31 Aug 90. Further, Defense Manpower Data Center (DMDC) records reflects that he contributed the required \$1,200. Lastly, the Department of Veterans Affairs limits MGIB (Chapter 30) usage to 10 years after last release from active duty.

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 8 Jan 24 for comment (Exhibit D), but has received no response.

## FINDINGS AND CONCLUSION

1. The application was not 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. The applicant’s entry into military service postdated the closeout of VEAP thus rendering him ineligible. However, the applicant enrolled and contributed to the MGIB program. The Board finds the applicant’s DD Form 214 is correct as published and notes DD Form 214s do not contain a section/block in which MGIB participation is noted. Therefore, the Board recommends against

correcting the applicant’s records. The Board also 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)*. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.

**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-2023-01007 in Executive Session on 11 Jun 24:

- Work-Product Panel Chair
- Work-Product Panel Member
- Work-Product Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 2 Feb 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atch, dated 28 Dec 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 8 Jan 24.

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.

7/30/2024

X Work-Product  
 Work-Product  
 Board Operations Manager, AFBCMR  
 Signed by Work-Product