



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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01020

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

On 14 Oct 22, the applicant was notified by the Department of Veterans Affairs (VA), that effective 28 Aug 13, education benefits for his dependent had been terminated because he failed to complete his military service agreement. The applicant submitted his DD Form 214, *Certificate of Release or Discharge from Active Duty*, from the US Army and the Air National Guard (ANG) as evidence that he was not discharged prior to the completion of his obligation.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air National Guard technical sergeant (E-6).

On 25 Aug 14, according to the applicant's DD Form 214, he was released from active duty for completion of required active duty training, after four-months and twenty-seven days.

On 1 Oct 16, according to NGB Form 22, *Report of Separation and Record of Service*, the applicant honorably separated after eleven years, nine months, and twenty-four days.

On 14 Oct 22, according to Department of Veterans Affairs letter, submitted by the applicant, his education benefits for his dependent were terminated effective 28 Aug 13 because he failed to complete his military service obligation.

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

AIR FORCE EVALUATION

NGB/A1Y recommends denying the applicants request to transfer educational benefits to his dependents. The applicant contends that he completed his military obligations and met the requirements to be eligible for TEB. On 22 Apr 13, the applicant transferred educational benefits to his dependents and agreed to an additional four-year service commitment that ended on 21 Apr 17. In accordance with DoDI 1341.13., paragraph 3.a. (1), "Members must be eligible to be

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retained for four-years from the date of election and not be precluded, prior to approval, by either standard policy (Service or DoD) or stature.” According to the applicant’s NGB Form 22, *Report of Separation and Record of Service*, on 1 Oct 16, the applicant separated from the Air National Guard. Based on documentation provided by the applicant and analysis of the facts, there is no evidence of error 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 10 Jul 23 for comment (Exhibit D), but has received no response.

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 NGB/A1Y and finds a preponderance of the evidence does not substantiate the applicant’s contentions. The Board found the applicant did not complete the four-year service obligation in accordance with DoDI 1341.13., paragraph 3.a. (1). and thus, not eligible to transfer education benefits to his dependents. 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 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-2023-01020 in Executive Session on 5 Dec 23:

[REDACTED], Panel Chair
[REDACTED] Panel Member

[REDACTED] **Docket Number BC-2023-01020**
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 28 Feb 23.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory Opinion, NGB/A1Y, dated 5 Jul 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 10 Jul 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.

[REDACTED]