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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01096

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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 2000, the applicant transferred from active duty to the Air Force Reserve as an Individual Mobilization Augmentee (IMA) Reservist. He was aware of the TEB program, and understood as an IMA, he was required to complete ninety-days of active duty above his Annual Training (AT) and Individual Duty Training (IDT) requirement to be eligible. The applicant notes the demands of his family and civilian job allowed for him to meet his annual requirements and slowly accumulate the additional ninety-days of active duty. On 12 Jul 19, the service requirement for TEB was changed to four-years. In addition to the change in service commitment, a six-month grace period was allowed, and the additional service requirement would be waived for applicants with a pending retirement or Mandatory Separation Date (MSD). The applicant spoke with multiple senior Air Force leaders who informed him that they successfully transferred education benefits to their dependents after receiving a waiver for the additional service commitment. Within the six-month grace period, the applicant completed the remaining active duty days, above his annual requirements, so that he could reach ninety-days and submitted the application to TEB to his dependents. The applicant was notified that his application was rejected because of his 1 Jun 22 MSD. The applicant inquired with the Air Reserve Personnel Center (ARPC) and discovered he misunderstood the six-month grace period. In fact, the 12 Jan 20 date was the date of rescinding the sixteen-year maximum in service rule and not an additional six-months to apply for TEB based on the previous rules of the program. The applicant's MSD has since been extended to 1 Jun 23, which places him six-months short of the required four-year service commitment he would have incurred with his TEB application. The applicant believes that his unit is willing to extend his MSD by an additional six-months so that he can reach the required four-year service commitment. However, the program requires the applicant to be eligible for the four-year service commitment when submitting the application. The applicant is requesting he be allowed to transfer education benefits to his dependents because he misunderstood the change in the TEB program that allowed for an additional six-months of eligibility until it was too late.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force Reserve colonel (O-6).

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On 25 Feb 00, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant separated with eight-years, nine months, and twenty-one days of active service.

On 25 Feb 00, according to AF Form 973, *Request and Authorization for Change of Administrative Orders*, dated 8 Feb 00, the applicant was released from active duty and transferred to the Air Force Reserve via Palace Front assignment.

According to report pulled from Military Personnel Data System, the applicant's Mandatory Retirement Date reflects 1 Jun 23.

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

APPLICABLE AUTHORITY:

AFI 36-2649_AFGM 2018-01, *Voluntary Education Program*, dated 5 Jun 18 and AFI 36-2670, *Total Force Development*, dated 29 Sep 20 state that generally, to be eligible for the Post-9/11 GI Bill, Airmen must serve on active duty on or after 11 September 2001, for at least 30 continuous days when there is a discharge due to a service-connected disability; or, an aggregate period ranging from 90 days to 36 months or more.

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 Force 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

ARPC/DPAT recommends denying the applicants request to transfer education benefits to his dependents, because the applicant did not meet the eligibility requirements at the time of the application. On 24 Sep 19, the applicant initiated a TEB application. According to AFI 36-2649, paragraph A13.5. *Post-9/11 GI Bill Eligibility*; "The term Armed Services does not include the Individual Ready Reserve unless otherwise noted. The DVA is responsible for determining Post-9/11 education benefits. Generally, to be eligible for the Post-9/11 GI Bill, Airmen must serve on active duty on or after 11 September 2001, for at least 30 continuous days when there is a discharge due to a service-connected disability; or, an aggregate period ranging from 90 days to 36 months or more." The application was disapproved because he had not completed ninety-days of active duty service at the time of the application. On 15 Jul 20, the applicant applied for TEB again. The application was disapproved again, because the applicant had an MSD of 1 Jun 22 and was unable to meet the four-year service commitment at the time of application. Based on the documentation provided by the applicant, and analysis of the facts, there is no evidence of error or injustice.

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 May 23 for comment (Exhibit D), and the applicant replied on 26 May 23. In his response, the applicant contended that he was aware of the requirement and had a plan to complete the additional ninety-days of active duty prior to his MSD. However, he misunderstood DoDI 1341.13 Change 1, and to no avail, completed the remaining twenty-nine days needed to complete the ninety-day requirement. The applicant believes there is an injustice because the change policy inadvertently weeds him out of the eligibility to TEB to his dependents. With thirty-three years of total service, the applicant agrees with strict adherence to the service commitment for service members at much less years in service. However, he also believes that a grandfather policy should be put in place that would allow senior Reservists to earn the benefit based on meeting the requirement prior to retirement. The applicant is requesting to adjust his TEB application date to reflect 31 May 19 with a service obligation of 1 Jun 23.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was 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 ARPC/DPAT and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board found the applicant applied for TEB and was denied on two separate occasions. The first time it was denied because the applicant was not eligible for the Post 9/11 GI Bill benefits in his own right as he had not yet accumulated ninety-days of aggregate active-duty service. In this regard, the applicant contends that there should be a grandfather policy for senior Reservists to obtain the Post-9/11 GI Bill without 90 days of service. While the Board notes the applicant's contentions, the Board is unable to deliberate on whether an error or injustice exists, because the GI Bill program and the policies surrounding eligibility fall under the authority of the DVA and is therefore not within the scope of the Board's review. Furthermore, the Board notes that when the applicant reapplied for the second time his MSD prevented him from meeting the four-year service commitment. As such, the Board does not find the applicant's situation unique compared to other similarly situated Air Force Reservists and notes that the purpose of the TEB program is to promote recruitment and retention of service members. Therefore, the Board recommends against correcting the applicant's records.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, 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-2023-01096 in Executive Session on 7 Nov 23:

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 3 Apr 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPAT, w/atchs, dated 1 May 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 10 May 23.
- Exhibit E: Applicant Response, w/atch, 26 May 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.

12/10/2024

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