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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER: BC-2023-01438**

[REDACTED]

**COUNSEL: NONE**

**HEARING REQUESTED: NO**

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**APPLICANT'S REQUEST**

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

**APPLICANT'S CONTENTIONS**

In Jul 18, he transferred his education benefits to his dependents and incurred a service commitment to May 22. In Mar 22, he voluntarily separated from the Air Force Reserve (AFR) without being notified of any potential issues with the transfer. On 12 Nov 20, 4 Nov 21, 27 Jan 22, and 1 Mar 22, he received notifications from the Department of Veterans Affairs (DVA), that his spouse was entitled to receive 90 percent of the benefits payable under the TEB program. However, on 21 Nov 22, he was notified by the DVA, that benefits for his spouse would be terminated on 18 Nov 22, because he failed to complete the military service commitment for TEB. In addition to terminating the benefit, he was notified of his responsibility to repay a debt of \$30,868.91 because the service obligation was not met prior to the notification received by the DVA on 24 May 22. Furthermore, an additional financial hardship was created when the DVA discontinued the disbursement for Basic Allowance for Housing (BAH). He contacted the DVA, who informed him his spouse was ineligible for TEB because he had roughly two months on his service commitment when he separated. As such, he is requesting the remaining 53 days of his military service commitment be waived so he can retain the benefits. He contends there is an error or injustice because his spouse would not have received more than three years of benefits if he did not have the retainability when he signed up for TEB.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former AFR technical sergeant (E-6).

On 17 Mar 16, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant reenlisted in the AFR for six years with an expiration term of service (ETS) of 16 Mar 22.

On 6 Jul 18, according to AF Form 4406, *Post-9/11 GI Bill Transfer of Education Benefits Statement of Understanding*, the applicant agreed to a service commitment of 8 May 22.

On 16 Mar 22, according to Reserve Order Work-Pro..., dated 4 Apr 22, the applicant was honorably discharged from the AFR.

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[REDACTED]

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

### **APPLICABLE AUTHORITY/GUIDANCE**

DoDI 1341.13, *Post-9/11 GI Bill*, Incorporating Change 1, 8 Nov 23

#### 3.3. Transferability of Unused Education Benefits to Family Members

##### b. General Eligibility

(4) The member transferring educational benefits must agree to serve 4 additional years in the Military Services, NOAA Corps, or USPHS Corps from the date of election, with no break in active or Selected Reserve service for greater than 24 hours, other than to participate in CIP. This includes the Selected Reserve of the Ready Reserve Corps of the USPHS Corps. Eligibility does not guarantee approval. Members must be eligible to be retained for 4 years from the date of election and not be precluded, before approval, by either standard Service or DoD policy or statute. Members who have qualified for retirement and who wish to transfer benefits will incur a 4-year additional service obligation.

##### h. Failure to Complete Service Agreement.

(1) If an individual transferring entitlement fails to complete the service agreed to consistent with the terms of the agreement, including any Service member requesting release from a military service obligation, the amount of any transferred entitlement that is used as of the date of such failure, or release, will be treated as an overpayment of educational assistance and will be subject to collection by the VA.

### **AIR FORCE EVALUATION**

ARPC/DPAT recommends denying the applicants request to waive the remaining two months of his service commitment so he can transfer education benefits to his dependents. Based on documentation provided by the applicant and analysis of the facts, there is no error or injustice on the part of the Air Force. The applicant contends he was unaware of the requirement to serve an additional 53 days to fulfill the service obligation. Additionally, he contends his spouse should not have been able to utilize the education benefits, which incurred a debt with the DVA, if the initial retainability requirements were not met. On 6 Jul 18, the applicant completed the TEB SOU and acknowledged a service obligation to 8 May 22. On 4 Apr 22, the applicant's voluntary separation was approved effective 16 Mar 22. According to DoDI 1341.13, Incorporating Change 1, dated 12 Jul 18, the applicant is no longer eligible to transfer education benefits as he did not fulfill the required four-year service obligation commitment. Additionally, because the applicant did not complete the service commitment, the amount of transferred entitlement that was used by his dependent is treated as an overpayment and subject to collection by the DVA.

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 24 Jul 23 for comment (Exhibit D), and the applicant replied on 13 Aug 23. In his response, the applicant contended that he signed the TEB SOU acknowledging the requirement to extend his service commitment. However, he believed the extension was automatic and there were no further actions required on his part.

[REDACTED]

Furthermore, he was never notified his separation conflicted with the service commitment date required to retain the transfer of his education benefits. He was later notified his enlistment was due to expire, and he attempted to extend the enlistment for one year. However, he separated after his leadership denied the one-year extension and informed him to either reenlist or separate. Finally, he contends that he should not have been allowed to separate prior to the fulfillment of his service commitment, and had he been informed of the potential DVA debt he has now incurred, he would have reenlisted.

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 the victim of an error or injustice. While the Board notes the recommendation of ARPC/DPAT against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant’s contentions. In this regard, the Board finds when the applicant applied for the transfer of education benefits to his dependents, he should have been required to obtain four years of retainability from the date of approval. Instead, his application was approved with an ETS of 16 Mar 22, when he required a ETS of 8 May 22 or later. Furthermore, the Board notes the applicant’s spouse had already started utilizing the transferred benefits and finds it reasonable to assume had he been aware that he would lose his benefits and incur a debt, he surely would have extended his current enlistment in the Air Force Reserve by two months. Given the applicant served 3 years and 10 months of his 4-year military service obligation and the fact his application was approved without the required retainability, the Board finds the applicant was not properly counseled and met the intent of the program. However, instead of waiving the 53 days of his military service commitment, the Board finds it more fitting to backdate his date of transfer, which will allow him to complete the required four-year service obligation. Therefore, the Board recommends correcting the applicant’s records as indicated below.

**RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 16 March 2018, he elected to transfer his Post-9/11 GI Bill educational Benefits; thereby, incurring a four-year military service obligation; and on 15 March 2022 he satisfied the service commitment, before his 16 March 2022 separation from the Air Force Reserve.

**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-2023-01438 in Executive Session on 13 Feb 24:

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

[REDACTED]

[REDACTED]

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 1 May 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPAT, w/atchs, dated 29 Jun 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 24 Jul 23.
- Exhibit E: Applicant's Response, w/atchs, dated 13 Aug 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.

3/11/2024

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