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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02044

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be allowed to transfer his Post-9/11 GI Bill Transfer of Education Benefits (TEB) to his dependents.

APPLICANT'S CONTENTIONS

He applied for TEB then deployed. When he inquired on the status of the TEB, he was informed the transfer did not take place, as he did not meet the retainability requirement. He tried to seek assistance from his first sergeant to correct the application; however, his first sergeant was sent home due to mental health issues. When he returned home from deployment, he sought help from AFPC. AFPC stated he did not sign the Statement of Understanding (SOU) and was sent emails, which he did not see because he had a different email account while deployed. Further, the stress of the deployment was hindering his day-to-day functionality. He has screen shots of the approved application and the AF Form 1411, *Extension of Enlistment in the Air Force* which reflects his intention to reenlistment to transfer benefits.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving staff sergeant (E-5).

On 26 October 2019, as noted in the documents provided by AFPC/DP3SA, the applicant applied for TEB and on 4 December 2019 the TEB application was rejected because he did not secure the required retainability or complete the SOU.

On 5 December 2019, as noted in the documents provided by AFPC/DP3SA, the applicant applied for TEB and on 23 January 2020, the TEB application was rejected because he did not secure the required retainability or complete the SOU.

According to the Military Personnel Data System (MilPDS), the applicant was deployed to an undisclosed location from 8 October 2019 to 12 June 2020.

According to a milConnect TEB Portal Inquiry dated 28 September 2020, provided by the applicant, his application status reflects "submitted" versus "approved." On the same date, as noted in the documents provided by AFPC/DP3SA, the applicant applied for TEB and on 30 October 2020, the TEB application was rejected because he did not secure the required retainability or complete the SOU.

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On 10 June 2021, according to AF Form 1411, *Extension of Enlistment in the Air Force*, the applicant requested his current enlistment he entered on 21 August 2013, for a period of four years and three months be extended a period of one month for the purpose of GI Bill or Continuation Pay. His DOS of 20 November 2023 was extended to 20 December 2023.

On 23 June 2021, as noted in the documents provided by AFPC/DP3SA, the applicant applied for TEB and on 26 July 2021, the TEB application was rejected because he did not secure the required retainability or complete the SOU. On this same date, the applicant signed an AF Form 4406, *Post-9/11 GI Bill Transfer of Educational Benefits Statement of Understanding*, the applicant acknowledged he would incur a service obligation of four years and an Active Duty Service Commitment (ADSC) would be updated in his records. The Active Duty Component date reflects 4 December 2023.

According to the Retrieval Applications Web (RAW), the applicant's Date of Separation reflects 20 December 2023. In addition, the applicant's Reenlistment Eligibility Status reflects 4K, *Medically Disqualified or Pending MEB/PEB Evaluation*.

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*, Enclosure 3, Paragraph 3, dated 31 May 2013 states: Any service member on or after 1 August 2009, who is entitled to the Post-9/11 GI Bill at the time of the approval of his or her request to transfer that entitlement under this section, may transfer that entitlement provided he or she has at least 10 years of service in the Military Services (active duty or Selected Reserve) on the date of approval, is precluded by either standard policy (Service or DOD) statute from committing to four additional years, and agrees to serve for the maximum amount of time allowed by such policy or statute. (Note that this provision uses the same language as AFI 36-2649, *Voluntary Education Program*, paragraph A13.18.1.1.2 paragraph 3.a.(2)). The effect of this paragraph is the elimination of the retainability requirement for members who have at least 10 years of service, who are subject to early separation due to policy or statute, and who agree (or would have agreed) to serve the maximum time allowed.

AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the application. The Defense Manpower Data Center (DMDC) records show the applicant applied for TEB on 26 October 2019, 5 December 2019, 28 September 2020, and 23 June 2021. The applications were rejected on 4 December 2019, 23 January 2020, 30 October 2020, and 26 July 2021, respectively, because he failed to secure the required retainability within the application period. The applicant required retainability to 25 October 2023, 4 December 2023, 27 September 2024, and 22 June 2025, respectively. The current date of separation (DOS) is 20 December 2023, secured on 10 June 2021. The applicant's application of contention was submitted on 28 September 2020 (in accordance with submitted supporting documents); however, the current DOS does not meet the retainability requirement for that application. The applicant states the application was approved and later rescinded; however, no application was approved and subsequently rescinded. The supporting document provided by the applicant reflects the application in a "submitted" not approved status.

In accordance with AFI 36-2649 AFGM2019-01, *Air Force Voluntary Education Program* (A13.18.1.1.1 and A13.20.1) and AFI 36-2670, *Total Force Development* (6.11.15.1.1.1. and 6.11.15.1.1.2.), members must be eligible to be retained for, secure, and agree to serve four

additional years from the date of election. Additionally, the milConnect “Message from Your Service Component” included in members supporting documents states, “*TEB applications WILL NOT be approved unless the member has or obtains retainability for 4 years from the date of application AND signs/submits the required TEB Statement of Understanding (SOU). Please validate all myPers email addresses, as you will receive initial notification of application receipt and further instruction via myPers Total Force Service Center (TFSC) email*” and “*All TEB requirements must be met within 30 calendar days of the initial TFSC notification, or the application will be rejected (disapproved). Once an application is rejected, members MUST reapply and secure retainability from the NEW date of application.*”

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice on the part of the Air Force. The applicant failed to secure retainability within the application period.

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 15 August 2023 for comment (Exhibit D), and the applicant replied on 23 August 2023. In his response, the applicant states he was deployed to [redacted] from October 2019 to June 2020 when he tried to fix the TEB application with his first sergeant. However, the first sergeant was sent home due to mental health issues. He returned home from deployment in June 2020 rather than March or April due to COVID-19. He sought help from his MPF to fix his application and took screenshots of the MPF fixing his TEB in 2020. The advisory reflects his original application date was in 2020. He would like to correct the application from his 2019 reenlistment. He has already served six years and reenlisted for four years; therefore, he could apply for TEB - moving his DOS to later this year. Currently, he has been “X” coded due to a Medical Evaluation Board (MEB) application and is no longer able to stay in the service.

The applicant’s complete response, with attachment, 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 AFPC/DP3SA against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant’s contentions. At the time the applicant applied for TEB on 5 December 2019, he was at a deployed location, and it is likely that he never received notification he needed to sign the SOU or his application had been rejected. Furthermore, the Board notes, the applicant extended his reenlistment to cover the three months remaining of his four-year service obligation. As such, the Board finds the failure to sign the SOU should be regarded as a procedural defect only and not as evidence of an intent to abandon the transfer request. Given the applicant has since fulfilled his four-year service commitment from the date he applied for TEB, 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 on 5 December 2019, his application to transfer his Post-9/11 GI Bill Educational Benefits to his eligible dependents was approved with a service obligation end date of 4 December 2023.

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-2023-02044 in Executive Session on 9 January 2024:

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

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 17 July 2023.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 3 August 2023.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 15 August 2023.
- Exhibit E: Applicant’s Response, w/atch, dated 23 August 2023.

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.

5/21/2024

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Board Operations Manager, AFBCMR

Signed by: Work-Product