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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02361

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

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

APPLICANT'S CONTENTIONS

Prior to his medical discharge he worked with his education office to transfer his Post-9/11 GI Bill benefits to his children; however, there is no record this occurred. Due to his Post-Traumatic Stress Disorder and medications, it has been difficult for him to keep up with all the paperwork and he requests this correction so his children can use the benefits he is entitled to.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a permanently disability retired Air Force staff sergeant (E-6).

On 1 Nov 95, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant entered into the Regular Air Force and on 28 Aug 14 he was honorably discharged with narrative reason for separation of "SEJ- Retirement Disability, Permanent, Enhanced." He was credited with 18 years, 9 months, and 28 days of net active service.

On 29 Aug 14, according to Special Order **Work-Product**, published 20 Jun 14, the applicant was to be permanently disability retired with a compensable percentage for physical disability of 80 percent.

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

APPLICABLE AUTHORITY/GUIDANCE

In accordance with DoD Instruction 1341.13, *Post-9/11 GI Bill*, Enclosure 3, and AFI 36-2649, *Voluntary Education Program*, Attachment 13, A13.18.1.1., members are eligible to transfer benefits if their service to the Armed Forces was on or after 1 Aug 09. Additionally, 38 U.S.C., Section 3319 (f)(1) states: "an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed."

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DoD Instruction 1341.13., further states in subparagraph 3 (g)(1) Except as provided in this section of this enclosure, if an individual transferring entitlement under this section fails to complete the service agreed to consistent with paragraph 3.a. of this enclosure in accordance with the terms of the agreement, the amount of any transferred entitlement that is used as of the date of such failure shall be treated as an overpayment of educational assistance and shall be subject to collection by VA. However, DoDI 1341.13 does state exceptions to this policy and the more recent versions of DoDI 1341.13, dated 12 Jul 18 and 1 Nov 23 clarifies the reasons that a member may retain their benefits even though they failed to complete their service obligation, provided they had an approved transfer and/or were not precluded from agreeing to a four-year service obligation at the time of their approval. It states that the service member will be considered to have completed their previously approved TEB-related service agreement upon: "Discharge or release from active duty or the Selected Reserve, with an honorable discharge, for an unfitting medical condition(s) incurred or aggravated in the line of duty as determined in accordance with DoDI 1332.18 (with a medical separation or retirement order)."

AIR FORCE EVALUATION

AFPC/DP3SA (Education Services) recommends denying the application. The applicant contends he completed the required documents for approval of his transferred educational benefits. He states, "Before my early medical discharge from JBMDL, I worked with the education office and filled out the form to have my Post-9/11 GI Bill transferred to my children, no record can be found of this occurring and the education benefits I am entitled to have not been transferred." The Defense Manpower Data Center (DMDC) shows no record the member applied for TEB. Without a request, eligibility for the program could not be established as DoDI 1341.13, *Post-9/11 GI Bill*, Enclosure 3 [3.a.(1)] and AFI 36-2306 AFGM2, *Voluntary Education Program*, Attachment 9 (A9.18.1.2.), cite the date of request as the date on which the appropriate service obligation would be applied. In accordance with DoDI 1341.13, Enclosure 3 [3.f.(1) and 3.h.] and AFI 36-2306 AFGM2 (A9.18.7.1., A9.18.9. and A9.20.1.3.) all requests for TEB must be submitted via the DMDC TEB web application while serving as a member of the Armed Forces. Additionally, based on the members Total Active Federal Military Service Date (1 November 2015), he would have incurred a four-year service obligation with TEB approval (A19.18.1.).

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 19 Sep 23 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 Board notes the applicant provided no evidence he made an election, committed to a four-year service obligation and had an approved TEB election prior to being notified of his medical retirement. Therefore, the board recommends against correcting the applicant's records.

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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 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-2023-02361 in Executive Session on 14 May 2024:

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

Exhibit A: Application, DD Form 149, dated 20 Jul 23.

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

Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 28 Aug 23.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 19 Sep 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.

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