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

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-02438

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**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 11 Mar 13, he applied for TEB and signed the Statement of Understanding (SOU). Over the years, he periodically checked the number of months he had transferred to his dependents and did not see any issue(s). His dependent is eligible to use the TEB benefits; however, his application has been rejected due to retainability. He was disappointed to learn this as he received no prior notification or explanation. When he applied for TEB he met all the criteria for transfer and thought his reenlistment would fulfill the retainability requirement. He earnestly seeks a resolution so his dependents can benefit from his Post-9/11 GI Bill as intended.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a retired Air Force technical sergeant (E-6).

On 18 Apr 12, according to AF Form 1411, *Extension or Cancellation of Extension of Enlistment in the Regular Air Force (REGAF)/Air Force Reserve (AF Reserve)/Air National Guard (ANG)*, the applicant extended his enlistment entered on 1 Feb 08 for a period of 17 months and was given an Expiration Term of Service (ETS) date of 31 Aug 14.

On 11 Mar 13, according to the applicant's Benefits for Education Administrative Services Tool (BEAST) record, provided by AFPC/DP3SA, he submitted his application for TEB. On the same date, he signed the Post-9/11 G.I. Bill Transfer of Educational Benefits Statement of Understanding, accepted a four-year service obligation with TEB approval, and acknowledged in Section II, paragraph 7, "I understand it is my responsibility to ensure I obtain the required retainability to fulfill the service obligation required."

On 12 Apr 13, the BEAST record, provided by AFPC/DP3SA, shows his application was disapproved for the reason he needed to contact Service Representative to resolve status.

On 9 Jul 14, according to the applicants DD Form 4, *Enlistment/Reenlistment Document, Armed Forces of the United States*, he reenlisted for a period of five years and one month. Block 7, *Previous Military Service upon Enlistment/Reenlistment*, reflects 13 years, 3 months, and 6 days.

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

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On 30 Sep 21, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, he was honorably retired and credited with 20 years, 5 months, and 28 days of total active service.

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

## **APPLICABLE AUTHORITY/GUIDANCE**

Air Force Instruction (AFI) 36-2306, *Voluntary Education Program*, 13 Aug 10, paragraph A9.18. *Transferability of unused benefits to dependents*, Eligibility. Any member of the Armed Forces (active duty and/or Selected Reserve) who meets Post-9/11 GI Bill eligibility requirements and at the time of the approval of the member's request to transfer entitlement to educational assistance: Has at least 6 years of service in the Armed Forces (active duty and/or Selected Reserve) on the date of election and agrees to serve 4 additional years in the Air Force from the date of request, regardless of the number of months transferred.

Directive-Type Memorandum (DTM) 09-003: Post-9/11 GI Bill, Attachment 2, 22 Jun 09, 3. *Transferability of Unused Education Benefits to Family Members*. Subject to the provisions of this attachment, the Secretary of the Military Department concerned, to promote recruitment and retention of members of the Armed Forces, may permit an individual described in paragraph 3.a. of this attachment, who is entitled to educational assistance under the Post-9/11 GI Bill, to elect to transfer to one or more of the family members specified, all or a portion of such individual's entitlement to such assistance. a. Eligible Individuals. Any member of the Armed Forces on or after August 1, 2009, who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, is eligible for the Post-9/11 GI Bill and: (1) Has at least 6 years of service in the Armed Forces (active duty and/or Selected Reserve) on the date of election and agrees to serve 4 additional years in the Armed Forces from the date of election;

## **AIR FORCE EVALUATION**

AFPC/DP3SA recommends denying the request. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice as the applicant did not secure the required retainability for TEB approval. Records reflect he applied for TEB and signed a SOU on 11 Mar 13 and his then date of separation was 31 Aug 14. However, his application was rejected on 12 Apr 13 as he failed to secure the required retainability within the application window. To grant relief would be contrary to the criteria established by 38 USC Section 3319 and DTM 09-003, Attachment 2.

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.

## **INDINGS 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. The Board found the applicant enrolled in TEB and signed the SOU agreeing to a four-year service commitment. While the applicant did not obtain the retainability at that time, he did in fact reenlist the following year for a period of over five years and thus completed the original service agreement he agreed to when he signed the SOU. As such, the Board finds that in this case, the applicant's failure to obtain the retainability prior to signing the SOU should be regarded as a procedural oversight, the applicant met the intent of the program and completed the required service commitment for TEB approval. Therefore, the Board recommends correcting the applicant's records as indicated below.
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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 11 Mar 13, he elected and was approved to transfer his Post-9/11 GI Bill Educational Benefits to his dependents with an obligation end date of 10 Mar 17.

**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-2023-02438 in Executive Session on 14 May 24:

- 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 27 Jul 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 11 Sep 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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 Board Operations Manager, AFBCMR  
 Signed by: Work-Product