



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2023-02886

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

The applicant applied to transfer his Post-9/11 GI Bill benefits to his dependents and recently discovered the applications were rejected in May 2013, because he did not have six years of service in the Armed Forces and in Aug 2013 because he did not secure the required four-year service commitment. He is aware that he is ineligible to submit a new application because he has less than four years until his High Year of Tenure (HYT). The applicant has exhausted all other avenues and is requesting to transfer his benefits to his dependents because he was never notified the May 13 and Aug 13 applications were rejected.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force staff sergeant (E-5).

On 24 Jul 07, the applicant entered the Regular Air Force.

On 11 Jul 11, according to DD Form 4/1, *Enlistment/Reenlistment Document Armed Forces of the United States*, the applicant reenlisted for a period of four years and established 10 Jul 15, as his Expired Time of Service (ETS).

On 14 May 13, according to the Benefits for Education Administrative Services Tool (BEAST) print-out, provided by AFPC/DP3SA, the applicant applied for TEB, but his application was rejected on 23 Jul 13. Additionally, it shows on 16 Aug 13, he applied for TEB a second time, but his application was rejected on 25 Sep 19.

On 16 Sep 13, according to AF Form 1411, *Extension or Cancellation of Extensions of Enlistment in the Regular Air Force (REGAF)/Air Force Reserve (AF Reserve)/Air National Guard (ANG)*, the applicant established 10 Sep 15 as his new ETS when he extended the enlistment period for two months for the purpose of "Retainability in place for Base of Preference (BOP)."

According to the Military Personnel Data System (MilPDS), the applicant's current ETS reflects 6 Dec 24 and his HYT date reflects 24 Jul 27.

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POC: SAF.MRBC.Workflow@us.af.mil

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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

For the first time in history, service members enrolled in the Post-9/11 GI Bill Program are able to transfer unused educational benefits to their dependent spouses or children. 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

AFPC/DP3SA recommends denying the applicants request to transfer education benefits to his dependents. Based on documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant contends he was unaware of issues with his application for TEB and never received notification that he did not meet the requirements. According to DMDC the applicant applied for TEB on 16 Aug 13, but on 25 Sep 13 the application was rejected because he failed to secure the retainability within the application period. At that time, the applicant had a date of separation of 10 Sep 15 but required retainability to 15 Aug 17. In accordance with Department of Defense Instruction (DoDI) 1341.13, *Post-9/11 GI Bill*, Enclosure 3 [3.a.(1)] and AFI 36-2306_AFGM2, *Voluntary Education Program* (A9.18.1.2. and A9.20.1.), members must secure and agree to serve an additional four-year service commitment from the date of request.

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 26 Sep 23 for comment (Exhibit D) but has received no response.

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 AFPC/DP3SA against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. In this regard, the applicant attempted to transfer his Post-9/11 GI benefits on 14 May 13; however, he was a month short of the six years of service required to execute the transfer of benefits. As a result, the applicant reapplied again on 16 Aug 13, but it appears his request was denied as he did

not obtain the required retainability. While it is unclear if the applicant made a conscious decision at that time, not to commit to a four-year service obligation, he contends that he never received notification that his request was denied. Nevertheless, the applicant continued to serve and reapplied again on 15 Aug 23; however, due to the applicant's current HYT of 24 Jul 27 he was 21 days short of being able to complete the four-year military service obligation. However, the Board is of the opinion that the applicant has served ten years beyond when he initially applied to transfer his benefits and given that he is only 21 days shy of having the four years of retainability from when he reapplied on 15 Aug 23, the Board believes he ultimately met the intent of the program and has provided the years of service to qualify for the transfer of benefits. 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 August 2013, he elected and was approved to transfer his Post-9/11 GI Bill Educational Benefits to his eligible dependents with an obligation end date of 15 August 2017.

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-2023-02886 in Executive Session on 9 Jan 24:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 30 Aug 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 26 Sep 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 3 Oct 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.

3/28/2024

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