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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03389

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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 completed the TEB Statement of Understanding (SOU) in 2014 and 2017. It was later discovered the forms submitted were not signed. It does not make sense he would have submitted the forms twice for benefits and not signed either form. It is obvious his intention was to share his benefits with his dependents.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force Reserve (AFR) senior master sergeant (E-8).

On 4 November 2006, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant entered the Air National Guard in the pay grade of technical sergeant (E-6).

On 12 June 2007, according to NGB Form 22, *Departments of the Army and the Air Force National Guard Bureau, Report of Separation and Record of Service*, the applicant received an honorable character of service and transferred to the AFR in the grade of technical sergeant. He served 20 years, 1 month, and 18 days total service for pay. The Authority and Reason reflects "Transfer to the USAFR – Voluntary, SPD: MGQ." The applicant was credited with 11 years, 6 months, and 28 days of prior Reserve Component Service and 7 years, 11 months, and 11 days of prior Active Federal Service.

On 2 August 2009, according to DD Form 4, the applicant reenlisted for a period of six years in the pay grade of E-8.

On 20 May 2014, according to the Benefits for Education Administrative Services Tool (BEAST) print-out, provided by ARPC/DPAT, the applicant applied for TEB. On 9 July 2014, his request was rejected because he did not have the required retainability.

On 7 June 2015, according to DD Form 4, the applicant reenlisted for a period of five years in the pay grade of E-8.

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On 17 July 2017, according to the BEAST print-out, provided by ARPC/DPAT, the applicant reapplied for TEB. The applicant was provided multiple notifications to sign the TEB SOU and no response was received; therefore, on 16 March 2018 his request was rejected because he did not secure the required retainability.

On 2 October 2019, according to a Report on Individual Personnel, the applicant is currently in a Reserve retired status awaiting pay.

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 entitlement under this section, may transfer 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: 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

ARPC/DPAT recommends denying the application. The applicant's first TEB request occurred on 20 May 2014 and required he obtain retainability until 19 May 2018 and sign the TEB SOU in accordance with DoDI 1341.13. The TEB case was migrated from MilConnect to myPers on 8 June 2014. The suspense date to accomplish these tasks was 9 July 2014. The applicant requested a 30-day extension on 9 June 2014. The TEB request was denied on 9 July 2014. The second TEB request which occurred on 17 July 2017 also required the applicant obtain retainability and sign the TEB SOU. The technician notified the applicant on 16 August 2017 he needed to extend his enlistment to 16 July 2021 to meet the retainability requirements of the TEB. On 18 August 2017, the applicant acknowledged the retainability requirements and notified the technician he was unable to find the TEB SOU. The technician provided additional instructions and notified the applicant on where to find and how to complete the TEB SOU properly. On 30 August 2017, the technician followed up with the applicant and provided multiple notifications to sign his TEB SOU on 30 August 2017, 22 September 2017, 6 November 2017, 19 January 2018, and 23 February 2018. No response was received from the applicant regarding these notifications. Finally, the applicant was notified his request was denied on 16 March 2018.

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant did not complete the TEB SOU on both TEB requests.

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 8 January 2024 for comment (Exhibit D), but has received no response.

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. The Board found the applicant requested TEB on 20 May 2014 and reapplied on 17 July 2017. Both applications were rejected because he did not secure the required retainability and sign the TEB SOU. 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 continued to serve beyond the four-year service commitment from the date he originally 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 20 May 2014, his application to transfer his Post-9/11 GI Bill Educational Benefits to his dependents was approved with a service obligation end date of 19 May 2018.

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-2023-03389 in Executive Session on 13 August 2024:

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, Panel Chair

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, Panel Member

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, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 16 October 2023.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPAT, w/atchs, dated 4 January 2023[sic].
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 8 January 2024.

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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.

 Expired certificate

X *Work-Product*

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Board Operations Manager, AFBCMR

Signed by: *Work-Product*

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