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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00518

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COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

### APPLICANT'S REQUEST

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

### APPLICANT'S CONTENTIONS

She applied for TEB on 17 September 2020 and her request was denied because she did not commit to the required additional service time. She is currently serving under a six-year enlisted contract that was signed 4 June 2020 (three months prior to her TEB application). Therefore, she had five years and nine months of service time remaining at the time she submitted the application.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a currently serving Air Force Reserve (AFR) technical sergeant (E-6).

On 7 November 2012, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant enlisted for a period of six years in the AFR beginning in the pay grade of airman first class.

On 15 July 2018, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant reenlisted for a period of two years in the AFR beginning in the pay grade of staff sergeant.

On 4 June 2020, according to DD Form 4, *Enlistment/Reenlistment Document – Armed Forces of the United States*, the applicant reenlisted for a period of six years in the AFR beginning in the pay grade of technical sergeant.

On 17 September 2020, according to the Benefits for Education Administrative Services Tool (BEAST) print-out, provided by AFPC/DP3SA, the applicant applied for TEB. On 11 December 2020, her request was rejected because she did not commit to the required additional service time.

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

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## **APPLICABLE AUTHORITY/GUIDANCE**

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 August 2009, who is eligible for the Post-9/11 GI Bill, has at least six years of service in the Armed Forces 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/DP3SP recommends denying the application. 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 obtain the required retainability within the suspense date. The BEAST and myFSS systems indicate the applicant submitted a TEB request on 17 September 2020. The applicant's TEB request was processed on 2 October 2020. The applicant was notified via her af.mil email address to sign her TEB Statement of Understanding (SOU) and obtain the required retainability, but the applicant failed to complete this required form which caused the TEB request to be denied. On 11 December 2020, the applicant was notified her TEB request was denied and that she can reapply within the MilConnect website if she so chooses.

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 1 April 2024 for comment (Exhibit D), and the applicant replied on 11 April 2024. In her response, the applicant contended in May 2020, she reviewed the instructions to transfer her benefits found on the Department of Veteran Affairs (DVA) website to identify what was required to make the transfer to her children. Based on the requirements listed, she understood that she would not be able to transfer her benefits without reenlisting as she did not have four years retainability at the time due to her contract expiration date of 14 July 2020. On 4 June 2020, she obtained retainability by reenlisting for an additional six years solely for the purpose of TEB. She met all requirements documented on the DVA's website to transfer her benefits. There was no reasonable expectation for any additional requirements or follow up because a Statement of Understanding (SOU) is not listed as a requirement for members to transfer benefits. The BEAST document reflects a code of "C - Disapproved - SM has not committed to the required additional service time." There is no reason code to specify a disapproval of a TEB application for failure to sign a SOU. The code given is clearly an error. As a traditional reservist it is unjust and unreasonable to expect reservists to access military email outside of Unit Training Assembly (UTA) weekends. Further, there was no attempt to contact her via her personal contact information listed in the Defense Eligibility Enrollment Reporting System (DEERS).

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 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 17 September 2020. Her application was rejected because she 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 has continued to serve beyond the four-year service commitment from the date she originally applied for TEB, 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 on 17 September 2020, her application to transfer her Post-9/11 GI Bill Educational Benefits to her dependents was approved with a service obligation end date of 16 September 2024.

## 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-2024-00518 in Executive Session on 13 August 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 3 February 2024.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/DPAT, w/atchs, dated 26 March 2024.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 April 2024.
- Exhibit E: Applicant's Response, w/atchs, dated 11 April 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.

1/16/2025

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