



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03007

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be allowed to transfer his Post-9/11 GI Bill education benefits (TEB) to his eligible dependents.

APPLICANT'S CONTENTIONS

In Spring 2017, he attempted to transfer his education benefits (TEB) prior to his retirement on 1 Jun 17. The Air Force Personnel Center (AFPC) denied his request without taking into account his mandatory separation status. He attempted to correct it while he was still on active duty but AFPC failed to respond until after his retirement, at which time he thought there was no longer an appeal option.

AFI 36-2539, *Air Force Voluntary Education*, Paragraph A13.18.1.1.2 indicates retainability is not mandatory if the member "Has at least 10 years of service in the Armed Forces...is precluded by either Air Force policy...from committing to 4 additional years of service and agrees to serve for the maximum amount of time allowed by such policy or statute." However, AFPC incorrectly applied paragraph A13.18.1.1. criteria requiring him to serve another 4 years. However, under Selective Continuation, paragraph A13.18.1.2 should have applied.

If he had transferred benefits in 2012 or 2017, the result would have been the same. He did not transfer benefits early as the AFI clearly indicated he was exempt from retainability based on Selective Continuation and paragraph A13.18.1.1.2.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force major (O-4).

On 14 Jun 11, he was notified he was non-selected for promotion by the CY11A P0511A Lieutenant Colonel Central Selection Board (CSB). On 18 Jun 11, he acknowledged receipt.

On 14 Jun 12, he was notified he was non-selected for promotion by the CY12A P0512A Lieutenant Colonel CSB and that he was selected for continuation by the Major Selective Continuation Board. On that same date he acknowledged receipt.

On 22 Jun 12, according to *Statement of Acceptance/Declination for Initial Selective Continuation of Major with less than 18 years of Active Federal Military Service P0512A*, he accepted continuation on active duty until he qualified for retirement as an officer (20 years active military service and 10 years active commissioned service).

On 15 Jun 16, according to myPers Discussion Thread, provided by applicant, the Total Force Service Center informed the applicant his Mandatory Date of Separation (MDOS) is within 12 months and if he intends to retire he should submit his retirement application.

On 29 Jun 16, he submitted his retirement request for retirement effective on 1 Jun 17.

On 18 Jul 16, according to *Statement of Acceptance/Declination for Further Selective Continuation to 24 years Active Commissioned Service for Majors in a Critical Skill P0516B*, he declined the offer to accept continuation on active duty to 24 years Total Active Federal Commission Service (TAFMS).

On 17 Aug 16, the applicant was issued Special Orders Number [Work-Product] for approval of his retirement effective 1 Jun 17.

On 4 Apr 17, according to the applicant's *Benefits for Education Administrative Services Tool* (BEAST) record, he submitted his request to transfer his education benefits.

On 12 Apr 17, according to the myFSS request, he was informed to be approved for TEB, he was required to sign a statement of understanding (SOU) that he will incur a 4 year commitment. On 17 Apr 17 and 7 May 17, he was reminded of the requirement.

On 12 May 17, according to the myFSS Request, he was informed his TEB application had expired as he did not sign a SOU. On that same date, according to his BEAST record, his application was rejected for the reason "SM has not committed to the required additional service time."

On 31 May 17, his DD Form 214, *Certificate of Release or Discharge from Active Duty*, reflects he was honorably discharged and retired in the grade of major on 1 Jun 17 with the narrative reason "Maximum Service or Time in Grade." He was credited with 20 years and 3 days of active service.

On 27 Jun 17, according to myPers-Total Force Service Center email, provided by applicant, he was informed that due to his retirement and because he did not serve his maximum service time for his grade, he was unable to obtain TEB. The applicant was further advised he could appeal to the AFBCMR.

On 16 Aug 24, according to myFSS -Total Force Service Center email, provided by applicant, he was informed he was not eligible for the Admin Correction Request. The 10-year rule did not apply to members twice passed over for promotion.

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

APPLICABLE AUTHORITY/GUIDANCE

Department of Defense Instruction (DoDI) 1341.13, *Post-9/11 GI Bill*, 31 May 13, *Enclosure 3. 3. Transferability Of Unused Education Benefits To Family Members*. Subject to the provisions of this enclosure, the Secretary concerned, to promote recruitment and retention in the Uniformed Services, may permit an individual eligible for Post-9/11 GI Bill educational assistance to elect to

transfer to one or more of his or her family members all or a portion of his or her entitlement to such assistance.

a. Eligible Individuals. Any Service member on or after August 1, 2009, who is entitled to the Post-9/11 GI Bill at the time of the approval of his or her request to transfer that entitlement under this section, may transfer that entitlement provided he or she meets one of these conditions:

(1) Has at least 6 years of service in the Military Services (active duty or Selected Reserve), NOAA Corps, or PHS on the date of approval and agrees to serve 4 additional years in the Military Services, NOAA Corps, or PHS from the date of election.

(2) Has at least 10 years of service in the Military Services (active duty or Selected Reserve), NOAA Corps, or PHS on the date of approval, 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.

AFI 36-2649 Air Force Guidance Memorandum (AFGM)2016-01, *Air Force Voluntary Education Program*: A13.18. Transferability of unused benefits to dependents.

A13.18.1.1. Any member of the Armed Forces (active duty and/or Selected Reserve) on or after August 1, 2009, 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 the member meets one of the following:

13.18.1.1.1. Has at least 6 years of service in the Armed Forces (active duty and/or Selected Reserve, NOAA Corps, or PHS) on the date of application and agrees to serve 4 additional years in the Air Force from the date of request, regardless of the number of months transferred, or

A13.18.1.1.2. Has at least 10 years of service in the Armed Forces (active duty and/or Selected Reserve, NOAA Corps, or PHS) on the date of application, is precluded by either Air Force policy (e.g., High Year Tenure (HYT)), DoD policy or statute from committing to 4 additional years of service and agrees to serve for the maximum amount of time allowed by such policy or statute.

10 USC §637. Selection of regular officers for continuation on active duty

(a) (3) An officer who holds the regular grade of major or lieutenant commander who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes 24 years of active commissioned service unless he is promoted to the regular grade of lieutenant colonel or commander, respectively.

AIR FORCE EVALUATION

AFPC/DPPSA recommends denying the request. Based on documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice on the part of the Air Force. The applicant could not complete the required retainability for TEB approval as he applied and was disapproved for TEB after notification of non-selection for promotion and declining continuation to 24 years on active duty. He contends he requested a transfer of Post-9/11 GI Bill education benefits prior to retirement and it should have been approved, stating

“AFPC denied my attempts to transfer education benefits (TEB) to my dependents both while on active duty. I was/am eligible under AFI 36-2649, paragraph A12.18.1.1.2 that indicates retainability is not mandatory is the member has at least 10 years of service in the Armed Forces....is precluded by either Air Force policy...from committing to 4 additional years of service and agrees to serve for the maximum amount of time allowed by such a policy of statute. AFPC denied this request ...without taking into account my mandatory separation status beginning in 2012.”

The Defense Manpower Data Center (DMDC) records show the applicant applied for TEB on 11 Apr 17 and the application was rejected on 12 May 17 because he did not agree to the required 4-year obligation due to an approved retirement effective 1 Jun 17. For TEB approval, he required retainability to 10 Apr 21. On 18 Jul 16, the applicant acknowledged non-selection for promotion, declined continuation to 24 years of active duty, which would have been on 28 May 21. He chose to separate when he qualified for retirement on 31 May 17.

In accordance with (IAW) DoDI 1341.13, *Post-9/11 GI Bill*, Enclosure 3, paragraph 3.1.(1), and AFI 2649_AFGM2016-01, *Air Force Voluntary Education Program*, paragraph A13.18.1.1.1, members must agree to serve 4 additional years, and the service obligation is assessed from the date of request.

In addition, IAW DoDI 1341.13, Enclosure 3, paragraph 3.a.(2), and AFI 2649_AFGM2016-01, paragraph A13.18.1.1.2, TEB approval is allowed when a member must separate at a maximum retention control point required by statute or policy (i.e. High Year Tenure by enlisted grade, maximum time for commission by grade, or maximum age).

The applicant declined continuation to 24 years. To grant relief would be contrary to the criteria established 38 U.S.C. § 3319 and DoDI 1341.13, Enclosure 3.

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 21 Oct 24 for comment (Exhibit D), and the applicant replied on 1 Nov 24. In his response, the applicant contended the advisory failed to account for the timing of changes to the Air Force policy with respect to mandatory separations related to Selective Continuation of passed over officers. The Air Force policy of retiring Selectively Continued Officers at 20 years was established and clearly meets the technical language per AFI 36-2649, paragraph A13.18.1.1.2. The Air Force began using a 24-year Mandatory Separation policy as a result of pilot manpower shortages in 2016. He declined continuation to 24 years of service based on having already applied for and been approved for retirement under the 20-year mandate and expected the Air Force to “grandfather” and conduct all administrative actions pertinent to retirement IAW with policy established in 2012 when he was originally Selectively Continued.

In 2012, when he was selectively continued the Air Force chose to execute a 20-year Selective Continuation policy vice the 24-year allowable under law. He spent the next five years planning his family’s future based on that policy. For the Air Force to fail to honor the 20-year policy in the final months of an officer’s honorable 20 years of service, resulting in the termination of benefits the officer would have otherwise earned and received constitutes an egregious error. It is

an injustice to not grandfather personnel caught between policy changes. He requests the Board approve his request.

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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPPSA and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes the applicant failed to apply for the TEB benefit until approximately three months prior to his retirement. The applicant claims he was exempt from the TEB retainability requirement based on his mandatory separation and selective continuation status. Therefore, he did not need to transfer the benefits earlier since AFI 36-2539 indicated he was exempt. The Board disagrees. The applicant was offered selective continuation until 24 years of service; however, he declined to accept selective continuation to 24 years in lieu of voluntary retirement with 20 years of service. The Board finds DoDI 1341.13 and AFI 36-2649 are clear TEB approval requires the service member to serve four additional years and the service obligation is assessed from the date of request. Moreover, while the policy permits service members in some cases to be considered as having completed the service obligation should they be precluded from continued service due to Air Force policy and serve until the maximum retention period, the applicant did not accept continuation to 24 years but instead requested and was approved for voluntary retirement with 20 years of service. Therefore, the Board recommends against correcting the applicant's records.

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-2024-03007 in Executive Session on 6 Jun 25:

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Panel Chair

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Panel Member

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Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 20 Aug 24.

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

AFBCMR Docket Number BC-2024-03007

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Controlled by: SAF/MRB
CUI Categories: Work-Product
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

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Exhibit C: Advisory Opinion, AFPC/DPPSP, w/atchs, dated 23 Sep 24.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 21 Oct 24.
Exhibit E: Applicant's Response, w/atchs, dated 1 Nov 24.

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.

6/19/2025

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Board Operations Manager, AFBCMR

Signed by: USAF

AFBCMR Docket Number BC-2024-03007

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Limited Dissemination Control: N/A

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