

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2011-05109  
COUNSEL: NONE  
HEARING DESIRED: NO

---

APPLICANT REQUESTS THAT:

He be allowed to transfer his Post-9/11 GI Bill benefits to his dependent.

---

APPLICANT CONTENDS THAT:

He started terminal leave at the end of Jun 2009 and did not receive information about the DoD Policy, dated 22 Jun 2009 providing guidance on transferability.

Prior to his retirement ceremony on 25 Jun 2009 he was actively completing all necessary appointments for separation from active duty. He started terminal leave and had no official access to information concerning the Post 9/11 GI Bill. In addition, no one on the installation attempted to contact him concerning this very important information.

He recently became aware that transferability of the GI Bill was only allowed while he was on active duty. If he had known about the transferability rules at the time he would have certainly applied.

He earned his undergraduate and graduate degrees while on active duty and had every intention of transferring his Post 9/11 GI Bill benefit to his daughter. In light of the policy timing and his retirement time frame he urges the Board to allow him to transfer this benefit to his dependent daughter.

The applicant's complete submission is at Exhibit A.

---

STATEMENT OF FACTS:

The applicant began terminal leave on 25 Jun 2009 and retired in the grade of senior master sergeant effective 30 Sep 2009.

Post 9/11 GI Bill: Any member of the Armed Forces (active duty or Selected Reserve, officer or enlisted) on or after 1 Aug 2009, who is eligible for the Post 9/11 GI Bill, and:

- Has at least six years of service in the Armed Forces on the date of election and agrees to serve four additional years in the Armed Forces from the date of election.
  - Has at least 10 years of service in the Armed Forces (active duty and/or selected reserve) on the date of election, is precluded by either standard policy (service or DoD) or statute from committing to four additional years, and agrees to serve for the maximum amount of time allowed by such policy or statute, or
  - Is or becomes retirement eligible during the period from 1 Aug 2009, through 1 Aug 2013. A service member is considered to be retirement eligible if he or she has completed 20 years of active duty or 20 qualifying years of reserve service.
    - For those individuals eligible for retirement on 1 Aug 2009, no additional service is required.
    - For those individuals who have an approved retirement date after 1 Aug 2009, and before 1 Jul 2010, no additional service is required.
    - For those individuals eligible for retirement after 1 Aug 2009, and before 1 Aug 2010, one year of additional service after approval of transfer is required.
    - For those individuals eligible for retirement on or after 1 Aug 2010, and before 1 Aug 2011, two years of additional service after approval of transfer are required.
    - For those individuals eligible for retirement on or after 1 Aug 2011, and before 1 Aug 2012, three years of additional service after approval of transfer required.
-

AIR FORCE EVALUATION:

AFPC/DPSIT recommends denial. DPSIT states if the Board finds there was an injustice to the extent that the member did not receive adequate pre-separation counseling, as required by law and DoD regulation, and was not personally notified about the need to transfer while serving in the Armed Forces, the Board may approve the applicant's request.

DPSIT states in part, service members enrolled in 38 U.S.C., Chapter 33 (Post 9/11 Educational Assistance), 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 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 a specified additional period in the Armed Forces from the date of election (if applicable), may transfer unused Post 9/11 benefits to their dependents pursuant to Service regulations. The transfer of Post 9/11 GI Bill benefits must be initiated while the member is serving in the Armed Forces, which is defined as limited to those on active duty or in the Selected Reserves.

The Air Force issued AFI 36-2306, *Voluntary Education Program*, on 23 Jul 2009, which was subsequently replaced with AFI 36-2306, Attachment 9. Paragraph A9.4.3.15.4, requires pre-separation counseling, documented on DD Form 2648, *Pre-Separation Counseling Checklist*. However, the Air Force did not engage in a Service-wide effort to seek out members who were already on terminal leave, or who had already completed their pre-separation counseling, in order to provide them with additional counseling on the Post 9/11 GI Bill.

The complete DPSIT evaluation is at Exhibit C.

---

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

His retirement ceremony took place on 25 Jun 2009 and subsequently he began terminal leave. He did not return to his military organization until his final out-processing appointment. The effective date of his retirement from active duty was 1 Oct 2009. Three to four weeks prior to his retirement ceremony he was out-processed and no longer had access to his Air Force network. He was aware that he would be eligible to transfer his Post 9/11 GI Bill benefits because he would still be on active duty as of 1 Aug 2009 as specified in the initial announcements, but the very specific rules governing transferability were still being determined. Due to starting terminal leave and not having access to information flowing

through official Air Force communications he was unaware that transferability to dependents had to be completed while on active duty. He was unaware of the specific requirement until he completed the application for transferability on 19 Oct 2011.

None of the information he received prior to his retirement provided the specific requirement that transferability had to occur while the member was on active duty. In Feb 2010, he applied for his own Post 9/11 GI Bill benefits through the Veterans Online Application (VONAPP) process. On 9 Mar 2010 he received his Certificate of Eligibility to receive benefits. Even at this time, he was unaware that he would not be able to transfer his education benefits to his daughter. His process of understanding was very simple (a) he was on active duty on 1 Aug 2009, therefore eligible for transferability, (b) he received his Certificate of Eligibility, and (c) his daughter was registered in the Defense Enrollment Eligibility Reporting System (DEERS) since 2005. Based on his service records and these three facts, he assumed he would be able to transfer benefits at any time. He was totally unaware that his window to transfer benefits had closed. On 19 Oct 2011, he completed the application to transfer his Post 9/11 GI Bill benefits to his dependent daughter through the VONAPP process. He submitted the application, but the results returned an ineligible response. After exhaustive research he finally found the specific requirement that "transferability to dependents had to occur while the member was on active duty."

His complete response, with attachments, is at Exhibit E.

---

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice. While we note the steps the Air Force office of primary responsibility indicates were taken to inform eligible personnel of this new benefit, it appears that through no fault of the applicant he was not timely made aware of his eligibility and the steps necessary to transfer his benefits to his dependents. In addition we find no basis to question the applicant's account in this matter and do not find it reasonable that he would have knowingly elected not to pursue use of this important entitlement. Therefore, in the interest of justice, we find the evidence sufficient to grant the requested relief and recommend his records be corrected as indicated below.

---

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 30 Sep 2009 he elected to transfer his Post 9/11 GI Bill Educational Benefits.

---

The following members of the Board considered AFBCMR Docket Number BC-2011-05109 in Executive Session on 13 Sep 2012, under the provisions of AFI 36-2603:

Panel Chair  
Member  
Member

All members voted to correct the records, as recommended. The following documentary evidence was:

- Exhibit A. DD Form 149, dated 21 Dec 2011.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIT, dated 1 Feb 2012.
- Exhibit D. Letter, SAF/MRBR, dated 10 Feb 2012.
- Exhibit E. Rebuttal, Applicant, dated 27 Feb 2012, w/atchs.

Panel Chair