

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00706  
COUNSEL: NONE  
HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

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

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APPLICANT CONTENDS THAT:

He retired from Fairchild AFB on 1 Nov 09; however, during his transition there was no information available to let him know that he had to be on active duty when he made his Transfer of Benefits (TEB) election. The emphasis placed on the program during his Transition Assistance Program (TAP) briefings was 10-15 years, Basic Allowance for Housing (BAH) benefits, and the TEB; however, the Veterans Affairs (VA) representative noted that not everything had been funded for this Bill.

In support of his request, the applicant provides a copy of his out-processing checklist and copies of his AF IMT 988, *Leave Request/Authorization*.

His complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

The applicant retired from the Regular Air Force in the grade of master sergeant (E-7) on 1 Nov 09.

The remaining relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air Force, which is at Exhibit B.

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AIR FORCE EVALUATION:

AFPC/DPSIT recommends denial. Post 9/11 GI Bill, Chapter 33, became effective 1 Aug 09 based on Post 9/11 Veteran Education Act of 2008. The Public Law states in part, that "an individual may transfer such entitlement only while serving as a member of

the Armed Forces when the transfer is executed." Articles were published that explained the program benefits and requirements. This communication plan was carefully implemented because there is no provision in the law or DoD policy for a waiver if a member retires without transferring the benefits. The opportunity to transfer is not an entitlement and is in fact intended as a retention tool in exchange for additional service. Every effort was made, even before the program became available, to convey information to eligible members.

In this case, the applicant did not provide adequate justification or documentation to show that an error or injustice occurred. The applicant did receive pre-separation counseling on 16 Apr 09; however, he indicated on the pre-separation from that he did not want counseling for educational benefits prior to his retirement. He had every opportunity to ask questions as to how to transfer his TEB to his dependents, but failed to do so.

The AFPC/DPSIT complete evaluation, with attachment, is at Exhibit B.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant waived his education benefits briefing for the Montgomery GI Bill, not the pending program, since the details of the benefits for the new program were changing on a daily basis. He was very familiar with the Montgomery GI Bill. Counseling was not provided for any portion of the Post-9/11 GI Bill due to the lack of information or facts regarding the program. Further, the briefer would not discuss the speculated benefits of the new program because he did not want to be held liable for misinformation. The Veteran Affairs (VA) representative could not provide specifics because the details of the program had not been worked out. The VA discussed the TEB; however, they did not mention that the benefits transfer had to happen prior to his effective date of separation.

The applicant's complete submission is at Exhibit D.

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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, we elect to resolve any doubt in this matter in behalf of the applicant and recommend the records be corrected as indicated below.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 31 October 2009, he elected to transfer his Post 9/11 GI Bill Educational Benefits:

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The following members of the Board considered AFBCMR Docket Number BC-2012-00706 in Executive Session on 13 Sep 12, 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 considered:

- Exhibit A. DD Form 149, dated 30 Jan 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSIT, dated 13 Mar 12.
- Exhibit C. Letter, SAF/MRBR, dated 27 Mar 12.
- Exhibit D. Letter, Applicant, undated.

Panel Chair