

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00707
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 retired from the Air National Guard (ANG) on 24 Aug 2009.

At the end of Aug 2009, he heard from a friend that the Air Force announced the transferability option under the Post 9/11 GI Bill which allows Service members to transfer unused benefits to their spouses or dependent children. This was the first time he heard about the benefit.

He was on active duty from 8 Dec 2001 to 20 Nov 2002, and again from 3 Mar 2003 to 1 Mar 2004 and qualified for the benefit.

He would like to help his daughter who is attending college to become a Doctor of Veterinary Medicine.

He contacted the Department of Veterans Affairs (DVA) who informed him he qualified for Post 9/11 GI Bill benefits; however his ANG base had to initiate the paperwork. When he contacted the Retention Office Manager (ROM), he was told he was not eligible to transfer benefits since he was retired.

He asked the DVA to call and explain the regulations to his base. The DVA representative advised him that there was a great deal of confusion, since this was a new benefit. However, they could not contact all bases to explain the benefit.

On 1 Sep 2011, President Obama announced that the DVA would make education benefits retroactive to 1 Aug 2009. He once again contacted the RMO and was instructed on how to complete the required paperwork.

On 7 Nov 2011 the DVA sent a letter that restored his education benefits. When he attempted to transfer the Post 9/11 GI Bill to his daughter he was sent a DVA letter disapproving the claim.

In support of his request the applicant provides copies of a personal statement, a DVA Certificate of Eligibility letter, and DVA Disapproval letter.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

On 24 Aug 2009, the applicant retired from the Air National Guard (ANG) in the grade of master sergeant (MSgt, E-7).

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:

NGB/A1YR recommends approval. A1YR states they contacted the ROM at the applicant's former Wing to obtain additional information. The ROM stated he out processed one month prior to his retirement date of 24 Aug 2009, and did not receive a Post-9/11 GI Bill briefing from their office. Wing personnel were briefed on the Post 9/11 GI Bill the first week in Oct 2009, which was nearly two months after he retired.

The complete A1YR evaluation is at Exhibit C.

NGB/A1PS concurs with A1YR and recommends approval of the applicant's request to change his eligibility to transfer his Post 9/11 GI Bill benefits to his dependent.

The complete A1PS evaluation is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 18 May 2012, copies of the Air Force evaluations were forwarded to the applicant for review and comment within 30 days. To date, a response has not been received (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 an error or injustice. After a thorough review of the facts and circumstances of this case, we believe the applicant has suffered an injustice. In this respect, we note that the Retention Office Manager states the applicant out-processed his unit one month prior to his retirement in Aug 09 and Post 9/11 briefings were not provided by his wing until Oct 09. Therefore, 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 dependent. In view of the above and in the interest of justice, we find the evidence presented sufficient to grant the requested relief. Accordingly, we 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 23 Aug 2009 he elected to transfer his Post 9/11 GI Bill Educational Benefits.

The following members of the Board considered AFBCMR Docket Number BC-2012-00707 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 5 Feb 2012, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, NGB/A1YR, dated 1 May 2012.
- Exhibit D. Letter, NGB/A1PS, dated 9 May 2012.
- Exhibit E. Letter, SAF/MRBR, dated 18 May 2012.

Panel Chair