

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00761
COUNSEL: NONE
HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

His Post-9/11 GI Bill related Active Duty Service Commitment (ADSC) be removed.

APPLICANT CONTENDS THAT:

His request to waive his ADSC of 2 Feb 10 would allow him to retire after completing his current ADSC, which expires on 30 Nov 12. He revoked his Post-9/11 GI Bill transfer to his daughter; his daughter is eight years old and has not used any portion of the education benefit. He has not entered into the new ADSC and is aware of the effects a waiver of his ADSC has on the Post-9/11 GI Bill transferability option.

In support of his request, the applicant provides a copy of his letter to AFPC/DPSOR and a copy of his personal data sheet.

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

STATEMENT OF FACTS:

The 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.

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.

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.

Based on the information reported in the Transfer of Education Benefits (TEB) and counseling notes in the Right Now Technology (RNT) by the Total Force Service Center (TFSC) personnel, he was provided with instructions/requirements that he needed to accomplish prior to his TEB application being approved. The applicant signed a Statement of Understanding (SOU) agreeing to the obligated service required to participate in the transfer of benefit option under the Post-9/11 GI Bill. He signed the SOU and his TEB benefits were approved on 7 Jan 11. Additionally, the SOU clearly states that the member will incur a service obligation period of four years. The member's ADSC waiver request is not in the best interest of the Air Force.

The complete DPSIT evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant received an assignment to Holloman AFB, NM; however, he is currently fighting for custody of his daughter and the assignment comes at an inopportune time. It is in the best interest of the Air Force and his daughter to approve his request, which will allow him to retire upon completion of 20 years of service. It also helps reduce the overall end-strength of the Air Force. His commander recommends approval.

The applicant's complete submission, with attachment, is at Exhibit

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinion and recommendation

of the Air Force office of primary responsibility and adopt its rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. While we note the applicant's contentions and the support provided by his commander; however, he has not provided sufficient evidence to support that he was treated any differently than other members in a similar situation. Therefore, in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered AFBCMR Docket Number BC-2012-00761 in Executive Session on 13 Sep 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 12 Mar 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSIT, dated 20 Mar 12.
- Exhibit C. Letter, SAF/MRBR, dated 27 Mar 12.
- Exhibit D. Letter, Applicant, dated 16 Apr 12.

Panel Chair