

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00974
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

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

APPLICANT CONTENDS THAT:

He was not informed that he could apply for transfer of his Post 9/11 GI Bill benefits to his dependants prior to his retirement from Active Duty. Therefore he did not apply for the transfer of his Post 9/11 GI Bill benefits to his eligible dependants. The Department of Veterans Affairs (DVA) website directs Veterans who believe they were not properly notified of the transfer requirement to apply for Correction of Military Records to allow transfer of these benefits.

He was on terminal leave (Jun through Sep 2009) when the Post 9/11 GI Bill requirements were being published and disseminated. He was not notified of the eligibility requirements while he was on terminal leave and was not notified by anyone in his previous unit who could have advised him about the newly published requirements. His only communication with the DVA was related to his service connected disability.

In support of his request, the applicant provides a copy of his DD Form 214, *Certificate of Release or Discharge from Active Duty*.

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

STATEMENT OF FACTS:

The applicant retired in the grade of master sergeant (MSgt, E-7) effective 1 Oct 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:

HQ AFPC/DPSIT recommends denial. DPSIT states the applicant did not provide adequate justification/documentation. He received pre-separation counseling on 3 Apr 2008 prior to his retirement.

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 a DD Form 2648; 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.

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 member's request.

The complete DPSIT evaluation, with attachment, is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 1 May 2012, a copy of the Air Force evaluation was forwarded to the applicant for review and comment within 30 days. As of this date, no response has been received by this office (Exhibit D).

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 Docket Number BC-2012-00974 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 considered in AFBCMR BC-2012-00974:

- Exhibit A. DD Form 149, dated 15 Mar 2012. w/atch.
- Exhibit B. Letter, AFPC/DPSIT, dated 17 Apr 2012, w/atch.
- Exhibit C. Letter, SAF/MRBR, dated 1 May 2012.

Panel Chair