

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01178

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His official records be corrected to show he transferred his Post-9/11 GI Bill benefits to his dependents.

APPLICANT CONTENDS THAT:

He is eligible to transfer his education benefits (TEB) under the Post-9/11 GI Bill according to the guidelines and his dependents are registered in the Defense Enrollment Eligibility Reporting System (DEERS).

In support of his request, the applicant provides 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 voluntarily retired from active duty on 1 Oct 09.

For the first time in history, 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 09, who is eligible for the Post-9/11 Bill, has at least six years of service in the Armed Force on the date of election, and agrees to serve a specified additional period in the Armed Forces on the date of election (if applicable), may transfer unused Post-9/11 benefits to their dependents pursuant to Service regulations (38 U.S.C. § 3319(b)(1)). The Department of Veterans Affairs (DVA), the Department of Defense, and the Military Services widely publicized the Post-9/11 GI Bill and the transferability feature. *The transfer 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 Reserve.

The remaining relevant facts pertaining to this application are contained in the letter prepared by the Air Force office of primary responsibility (OPR), which is attached at Exhibit C.

AIR FORCE EVALUATION:

AFPC/DPSIT recommends denial, indicating there is no evidence of an error or injustice. On 17 Nov 08, the applicant received pre-separation counseling, and indicated on his DD Form 2648, *Preseparation Counseling Checklist for Active Component Service Members*, that he did not want counseling for educational benefits prior to his retirement. The member is no longer on active duty and therefore is ineligible to transfer his benefits.

The complete AFPC/DPSIT evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 11 May 12 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 not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Sufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. While we note the steps the Air Force office of primary responsibility (OPR) indicates were taken to inform eligible personnel of this new benefit, we are aware that during the initial implementation of this program there were problems in getting information to eligible members. As such, it is likely the applicant was not timely made aware of his eligibility and the steps necessary to transfer his benefits to his dependents. Although the OPR points out the applicant declined counseling on educational benefits on his pre-separation checklist, we note this was well before information on the program was widely available.

Therefore, we believe it is in the interest of justice to correct his record as indicated below.

THE BOARD RECOMMENDS THAT:

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

The following members of the Board considered AFBCMR Docket Number BC-2012-01178 in Executive Session on 13 Nov 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 28 Feb 12, w/atck.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIT, dated 19 Apr 12 w/atck.
- Exhibit D. Letter, SAF/MRBR, dated 11 May 12.

Panel Chair