

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01366

COUNSEL: NONE

HEARING DESIRED: NO

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THE APPLICANT REQUESTS THAT:

His transfer of Post 9/11 GI Bill educational benefits date of 5 May 11 be changed to 1 Aug 09.

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THE APPLICANT CONTENDS THAT:

He was not notified or briefed on the Transfer of Educational Benefits (TEB) until May 11. Upon his return from his overseas assignment he received the briefing and signed up. He is retiring due to health reasons and is not able to fulfill his active duty service commitment (ADSC); however, he really needs this benefit for his dependents.

In support of his appeal, the applicant provides copies of email threads and service information concerning his education benefits.

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

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STATEMENT OF FACTS:

The applicant was relieved from active duty, on 31 Aug 12, with a reason for separation of Voluntary Retirement: Sufficient Service for Retirement.

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AIR FORCE EVALUATION:

AFPC/DPSIT recommends denial, stating, in part, the application is not supported with evidence that the applicant was a victim of an error or injustice. He states that he was not notified or briefed of his entitlement all the time he was stationed in Japan. However, he never made attempts to ask questions even though he was taking courses from the Education Center. During his assignment to Japan, the applicant had ample opportunity to inquire, but failed to do so. There is no justification for the adjustment of his ADSC.

The Air Force, in implementing its guidance, developed a communication plan that used the Air Force Personnel Center

Commander and the Education and Training Section at each installation to serve as spokespersons to communicate the Post-9/11 GI Bill transfer-to-dependent program using internal media, internal communication tools, and external trade publications. There were various news articles about the Post-9/11 GI Bill to be eligible to transfer benefits.

Members may have had the impression that being on active duty or in the Selected Reserve (SELRES) on the effective date of the law, 1 Aug 09, was sufficient to "vest" them with the right to transfer benefits at some time in the future. Had those members sought clarification from an educational counselor, read the DoD or Air Force guidance that was very clear on that point, or taken other measures to make timely decisions before their separation or retirement, they could have initiated a timely transfer of benefits.

The Department of Veterans Affairs (DVA), the DoD and the Military Services widely publicized the Post-9/11 GI Bill and the transferability feature. DoD developed a special website, hosted by Defense Manpower Data Center (DMDC), to facilitate the transfer of educational benefits. The website system was operational on 27 June 2009 for the purpose of accepting transfer of benefits applications. The DTM and Air Force Instruction state the transfer must be made while the member is serving in the Armed Forces. Both documents were published on government-hosted websites prior to 1 Aug 09, the effective date of the Post-9/11 GI Bill.

The complete AFPC/DPSIT evaluation, with attachments, is at Exhibit C.

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APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

The applicant notes had the briefing occurred a year and a half earlier, he would have applied then and feels that he has met the retention goals because he has put in a full three years since Aug 09. Just because he was taking courses at the education office, that has nothing to do with being briefed on the policy. He had taken courses since 2005 and may have gone in the education office a total of five times to out-process and to discuss his courses.

The applicant's complete response is at Exhibit E.

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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. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. After a

thorough review of the evidence of record, we do not find persuasive evidence that his Post 911 GI Bill Transfer of educational benefits date is in error. While the applicant believes he was not properly briefed on the requirements to transfer his educational benefits to his dependent while assigned to Japan, he has not provided sufficient evidence to supports his contentions. In our view, to deliberately change his TEB effective date without sufficient evidence would be improper and afford him rights not available to others similarly situated. As such, 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. In the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.

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THE BOARD DETERMINES THAT:

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

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The following members of the Board considered AFBCMR Docket Number BC-2012-01366 in Executive Session on 13 November 2012, under the provisions of AFI 36-2603:

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 10 Apr 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIT, dated 9 May 12, w/atchs.
- Exhibit D. Letter, SAF/MRBR, dated 18 May 12.
- Exhibit E. Letter, Applicant, dated 8 Jun 12.

Panel Chair