

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01574
COUNSEL: NONE
HEARING DESIRED: NO

THE APPLICANT REQUESTS THAT:

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

THE APPLICANT CONTENDS THAT:

After two years in the program, he did not realize that he was not eligible for the transfer of education benefits (TEB) portion of the program. The only reason he converted his Montgomery GI Bill over to the Post 9/11 GI Bill was for the TEB benefits.

In support of his appeal, the applicant provides copies of information from the Department of Veterans Affairs (DVA) website and letters concerning his education benefits.

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

STATEMENT OF FACTS:

The applicant was relieved from active duty, on 31 Jan 08, with a reason for separation of Voluntary Retirement: Sufficient Service for Retirement.

Post-9/11 GI Bill: Any member of the Armed Forces (active duty or Selected Reserve (SelRes), officer or enlisted) on or after 1 Aug 09, who is eligible for the Post-9/11 GI Bill, and:

- Has at least 6 years of service in the Armed Forces on the date of election and agrees to serve a specified additional period in the Armed Forces from the date of election.
- Has at least 10 years of service in the Armed Forces (active duty and/or SelRes on the date of election, is precluded by either standard policy (service or Department of Defense (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 09 through 1 Aug 13. 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 09, no additional service is required.
- For those individuals who have an approved retirement date after 1 Aug 09, and before 1 Jul 10, no additional service is required.
- For those individuals eligible for retirement after 1 Aug 09, and before 1 Aug 10, 1 year of additional service after approval of transfer is required.
- For those individuals eligible for retirement on or after 1 Aug 10, and before 1 Aug 11, 2 years of additional service after approval of transfer are required.
- For those individuals eligible for retirement on or after 1 Aug 11, and before 1 Aug 12, 3 years of additional service after approval of transfer are required.

AIR FORCE EVALUATION:

AFPC/DPSIT recommends denial, stating, in part, the program was not in effect during this time period. Service member provides no evidence of error or injustice on the part of the United States Air Force.

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.

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.

APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

The applicant states that since he was able to transfer his Montgomery GI Bill and enrolled in the Post 9-11 program he should be eligible. The Air Force provided unfair and misleading information concerning Post 9-11 transferability by stating that enrolled members were eligible to transfer benefits and did not clearly state that prior retirees were not eligible. The applicant also provides highlighted copies from the "official website" that mislead him into believing that the transferability rules applied to him.

His complete response is at 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. 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 to include the copies of the official website he provides; however, we agree with the opinion and recommendation of the Air Force office of primary responsibility (OPR) and adopt its rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. We note the applicant argues that the Air Force provided unfair and misleading information and did not clearly state that retirees were not eligible. However, we do not find his arguments sufficiently persuasive to override the rationale provided by the Air Force OPR. In this respect, we note that DPSIT has stated the Transfer of Education Benefits (TEB) program was implemented on 1 Aug 09 and required a member be on active duty at the time of transfer. The extracts from the official website he provides also clearly state requests to transfer benefits must be made while in the Armed Forces. Since the applicant was already in a retired status, he is not eligible for the program. Therefore, absent evidence that he was denied rights to which he was

entitled, we find no basis to recommend granting the relief sought in this application.

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.

The following members of the Board considered AFBCMR Docket Number BC-2012-01574 in Executive Session on 13 November 2012, under the provisions of AFI 36-2603:

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-01574 was considered:

- Exhibit A. DD Form 149, dated 6 Apr 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIT, dated 10 May 12.
- Exhibit D. Letter, SAF/MRBR, dated 4 Jun 12.
- Exhibit E. Letter, Applicant, dated 27 Jun 12.

Panel Chair