

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01611
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:

His service with the Maryland Air National Guard qualifies him for the Post-9/11 GI Bill.

In support of his request, the applicant provides excerpts from his military personnel record.

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

STATEMENT OF FACTS:

The applicant retired from the Maryland Air National Guard on 23 Jul 05 in the grade of master sergeant.

The remaining relevant facts pertaining to this application are contained in the letters prepared by the appropriate offices of the Air Force, which are at Exhibit B and C.

AIR FORCE EVALUATION:

NGB/A1YR is not authorized to recommend approval of the applicant's request based on the guidance provided that states, "Eligible Individuals:. Any member of the Armed Forces on or after August 1, 2009, who, at the time of approval of the individual's request to transfer entitlement to educational assistance under this section is eligible for Post 9/11 GI Bill" and "Time for Transfer. An individual approved to transfer entitlement to education assistance under this section may transfer such entitlement to the individual's family member only while serving in the Armed Forces."

The complete NGB/A1YR evaluation is at Exhibit B.

NGB/A1PS concurs with the evaluation from NGB/A1YR.

The complete NGB/A1PS evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant responded by stating that had he been notified and made aware that the transferability was only available while serving in the Armed Forces and prior to retirement, he would have transferred these benefits to his eligible dependents prior to his retirement.

The applicant's complete submission is at 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. 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 claim that he would have transferred these educational benefits to his dependents prior to his retirement; we note that he retired prior to the establishment of the Post 9/11 GI Bill program and thus does not qualify for these benefits. Therefore, we find no basis to recommend granting the relief sought in this application.

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-2012-01611 in Executive Session on 13 Nov 12, under the provisions of AFI 36-2603:

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 25 Apr 12, w/atchs.
- Exhibit B. Letter, NGB/A1YR, dated 5 Jun 12.
- Exhibit C. Letter, NGB/A1PS, dated 11 Jun 12.
- Exhibit D. Letter, SAF/MRBR, dated 19 Jun 12.
- Exhibit E. Letter, Applicant, dated 16 Jul 12.

Panel Chair

