

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01734
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His Transfer of Education Benefits (TEB) date for the Post 9/11 GI Bill be adjusted to 6 Jun 2011.

APPLICANT CONTENDS THAT:

He was never notified via email the TEB Statement of Understanding (SOU) was in his virtual Military Personnel Flight (vMPF) record awaiting his signature to start his ADSC.

He was never notified via email that his application for TEB was denied.

On 10 Jun 2011, he submitted his request to transfer Post 9/11 GI Bill Benefits to his wife.

His wife called the Department of Veterans Affairs (DVA) and was told he had not signed the required forms and her benefits were denied. Until 6 Apr 2012, he thought the transfer had been accomplished and his ADSC had started.

He never received an email or any other notification; therefore, he was not aware the TEB SOU was in his vMPF until he called the Total Force Service Center (TFSC) on 9 Apr 2012.

He knew there was a four year ADSC with the transfer but was completely unaware there was a form to sign at the time of submission for approval. He thought it started with the transfer approval itself. He never saw the incident emails until the TFSC representative assisted him.

The applicant provides no documentation in support of his request. His complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant is serving in the Regular Air Force in the rank of lieutenant colonel (Lt Col, O-5).

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.
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AIR FORCE EVALUATION:

HQ AFPC/DPSIT recommends denial. DPSIT states 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 2009, 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 applicant was given adequate information and failed to follow through with the requirement to transfer benefits while on active duty.

The applicant's submission is not supported with evidence that he was a victim of an error or injustice. It appears the applicant never made the attempt to follow through with signing the SOU. He was sent an email on 13 Jun 2011 requesting he sign and return the SOU. On 6 Jul 2011, he was sent an email stating that his application for TEB had expired because he never submitted the signed SOU. He states that he never received an email from the TFSC; however the first process in the transfer of benefits is that members verify their email address. This is to ensure they receive email from the TFSC verifying that they have received their application for TEB. He states that he submitted his request to transfer benefits to his wife on 10 June 2011. On the Submit Transfer Request it states in bold letters: "Your transfer request is not final until you digitally sign AF Form 4406 in virtual MPF." He did indicate the transfer of 28 months, but failed to acknowledge the TEB and therefore failed to sign the SOU. He received a confirmation, but failed to follow through with the signing of a SOU.

The complete DPSIT evaluation, with attachments, is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

He whole-heartedly rejects what he considers the implied accusation that he lied or made false statements about the fact that he did not receive email notifications. He has served 17 years of service in the United States Air Force and as an officer takes integrity very seriously. He made it clear in his application that he did not (emphasis) receive any email notifications concerning his application. He reviewed the record of emails supposedly sent and vehemently asserts he did not receive these emails.

He was not subjected to an injustice due to "not receiving adequate counseling," as the opinion states. He is not claiming

"inadequate counseling." This was a failure of the notification system. Whether called an error or an injustice, the system broke down, and he feels it failed to properly notify him that he had a form ready to sign, and that his application was being cancelled.

He would have readily signed the SOU or corrected it if he knew there was a problem. He was not aware there was a problem until 9 Apr 2012, after his wife attempted to renew her benefit and it was rejected. He contacted the TFSC help line and was told there was a problem. This occurred ten months after he submitted the initial request to transfer benefits.

He emphatically rebuts the statement that he did not make a timely decision before separation or retirement. He specifically attempted to transfer his benefits on 10 Jun 2011, just 10 days after returning from his honeymoon. He was told by a fellow officer before he was married that there was a four year commitment to transfer benefits. Since he was retirement eligible on 12 June 2015, applying 10 June 2011, allowed him to serve his full 4-year commitment. He could not have applied any earlier than he did. Saying he did not plan early enough is absolutely ludicrous.

He refers to the evaluation statement that "On the Submit Transfer Request your transfer is not final till you digitally sign AF Form 4406 in virtual MPF." He admits that the form does reflect this and that he missed it. Inadequate counseling is not the issue. The failure of notification is the issue. Even if he had seen the aforementioned statement on the SOU, it is unlikely he would have remembered to look for an email that never showed up.

The advisory states it is advertised across the force, however, it does not mean it is understood by the force. They deal with this everyday so it is common knowledge to them. Airmen find themselves in an Air Force that does more online without direct face-to-face contact for service issues and live and work in a "self-service" environment. They may miss some of the details required. It is in these instances that protections such as the notifications should be in place. AFPC says they are in place. However in this instance, the system did not work and failed him.

His complete response 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 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; however, we do not find his assertions sufficiently persuasive to override the rationale provided by the Air Force office of primary responsibility (OPR). In this respect, we note the applicant's states the notification system failed to advise him of the status of his TEB request. However, after a careful review of the available evidence, it is our view the applicant failed to exercise reasonable diligence to ensure his request to transfer his benefits was finalized. 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 failed to sustain his burden of proof that he has been the victim of an error or injustice. Therefore, in the absence of evidence to the contrary or a showing the applicant was treated differently from others similarly situated, we find no basis to recommend granting the relief sought in the 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-2012-01734 in Executive Session on 13 Sep 2012, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 12 Jun 2012.
Exhibit B. Letter, AFPC/DPSIT, dated 21 May 2012, w/atchs.
Exhibit C. Letter, SAF/MRBR, dated 4 Jun 2012.
Exhibit D. Letter, Applicant, dated 13 Jun 2012.

Panel Chair