

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01737
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:

He was not aware or briefed that the transfer of benefits had to take place while he was still on active duty.

He still has a large portion of his entitlement left and has finished his degree, and would like his family to be able to further their education.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant retired in the grade of master sergeant effective 1 Jun 10 after serving 22 years, 3 months, and 14 days of active duty service.

Additional relevant facts pertaining to this application, extracted from the applicant's military records, are contained in the letter prepared by the appropriate office of the Air Force at Exhibit B.

AIR FORCE EVALUATION:

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

DPSIT states in part, 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 GI Bill, 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 (if applicable), may transfer unused Post-9/11 benefits to their dependents pursuant to Service regulations. 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 Air Force issued AFI 36-2306, *Voluntary Education Program*, on 23 Jul 09, which was subsequently replaced with AFI 36-2306, Attachment 9. Paragraph A9.4.3.15.4., requires pre-separation counseling, documented on DD Form 2648, *Pre-Separation Counseling Checklist*. However, the Air Force did not engage in a Service-wide effort to seek out members who were already on terminal leave, or who had already completed their pre-separation counseling, in order to provide them with additional counseling on the Post-9/11 GI Bill.

On 24 Nov 09, the applicant attended a pre-separation briefing and indicated he wanted counseling on Education Benefits concerning the GI Bill. He was also scheduled for a Veterans Affairs (VA) Benefits Briefing on 4 Dec 09. The applicant had ample time from his pre-separation briefing and the time of his retirement on 31 May 10, to sign up for the benefit to transfer his benefits to his dependents. A member's failure to act in a timely manner is not a basis for approval on the part of the Air Force.

If the Board finds there was an injustice to the extent that the member did not receive adequate pre-separation counseling, as required by law and DoD regulation, and was not personally notified about the need to transfer while serving in the Armed Forces, then approval is in order.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 4 Jun 12, a copy of the Air Force evaluation was forwarded to the applicant for review and comment within 30 days. To date, a response has not been received (Exhibit C).

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.

3. Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice. While the majority of the Board notes the steps the Air Force office of primary responsibility indicates were taken to inform eligible personnel of this new benefit, it appears that through no fault of the applicant he was not timely made aware of the steps necessary to transfer his benefits to his dependents. In addition, the majority of the Board does not find it reasonable that he would have knowingly elected not to pursue use of this important entitlement for his dependents. Therefore, we recommend the records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that on 31 May 2010 he elected to transfer his Post 9/11 GI Bill Educational Benefits.

The following members of the Board considered AFBCMR Docket Number BC-2012-01737 in Executive Session on 13 Sep 12, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

By a majority vote, the Board recommended approval of the application. Mr. Russell voted to deny the applicant's request and elected not to submit a minority report. The following documentary evidence pertaining to Docket Number BC-2012-01737 was considered:

Exhibit A. DD Form 149, dated 15 Apr 12.
Exhibit B. Letter, AFPC/DPSIT, dated 21 May 12.
Exhibit C. Letter, SAF/MRBR, dated 4 Jun 12.

Panel Chair