

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01846
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His Transfer of Education Benefits (TEB) for his Post-9/11 GI Bill benefits be back dated to 28 Jul 11 and he be allowed to transfer his benefits to his dependents.

APPLICANT CONTENDS THAT:

He extended his enlistment on 22 Mar 12 so that he could transfer his education benefits.

In support of his request, the applicant provides a copy of his TEB Ineligibility Notification and a copy of his AF Form 1411, *Extension or Cancellation of Extensions of Enlistment in the Regular Air Force (REGAF)/Air Force Reserve (AF RESERVE)/Air National Guard (ANG)*.

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

STATEMENT OF FACTS:

The applicant is currently serving on active duty 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 is at Exhibit B.

AIR FORCE EVALUATION:

AFPC/DPIT recommends denial stating that the Post 9/11 GI Bill, Chapter 33, became effective 1 Aug 09 based on Post 9/11 Veteran Education Act of 2008. The Public Law states in part, that "an individual may transfer such entitlement only while serving as a member of the Armed Forces when the transfer is executed." Articles were published that explained the program benefits and requirements. This communication plan was carefully implemented

because there is no provision in the law or DoD policy for a waiver if a member retires without transferring the benefits. The opportunity to transfer is not an entitlement and is in fact intended as a retention tool in exchange for additional service. Every effort was made, even before the program became available, to convey information to eligible members.

In this case, the applicant's request is not supported with evidence that he was a victim of an error or injustice. It looks like the applicant never made the attempt to follow through with signing the Statement of Understanding (SOU). The applicant was sent an e-mail on 29 Jul 11 requesting him to sign and return the SOU. However, on 12 Aug 11, the applicant was sent another e-mail stating that his application for TEB had expired because he never submitted the signed SOU and/or got the required retainability within the required 14 days. On 22 Mar 12, the applicant extended enlistment; however, his application was denied because a new extension was required. The applicant submitted a new TEB application; however, he now needs to extend to 7 May 16.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 19 Jun 12 for review and comment within 30 days. As of this date, this office has received no response.

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 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. Therefore, in the absence of evidence to the contrary, 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-2012-01846 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 3 Apr 12, w/atchs.
- Exhibit B. Letter, AFPC/DPSIT, dated 22 May 12, w/atchs.
- Exhibit C. Letter, SAF/MRBR, dated 19 Jun 12.

Panel Chair

