

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01851
COUNSEL: NONE
HEARING DESIRED: NOT INDICATED

APPLICANT REQUESTS THAT:

He be allowed to transfer 36 months of his Post 9/11 Montgomery GI Bill (MGIB) benefit to his daughter.

APPLICANT CONTENDS THAT:

He was unaware that he had to transfer his education benefits while still on active duty.

The applicant does not provide any evidence in support of his appeal.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant is a former member of the Regular Air Force who retired effective 1 July 2003 in the grade of major (O-4).

The remaining relevant facts, extracted from the applicant's military service records, are reflected in the evaluation by the Air Force office of primary responsibility at Exhibit B.

AIR FORCE EVALUATION:

AFPC/DPSIT recommends denial. DPSIT states that one of the requirements to be eligible to use the Post 9/11 MGIB TEB program was for the member to be on active duty on 1 August 2009, the effective date of the Post 9/11 MGIB TEB program. The applicant retired effective 1 July 2003, before the effective date of the Post 9/11 MGIB TEB program.

The complete AFPC/DPSIT evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

He is deeply disappointed by the recommendation made by the Air Force office of primary responsibility. He was advised to participate in this program when he came onto active duty. Funds were taken from his wages, but significant restrictions have prevented him from being able to utilize the money, which is rightfully his. He just recently learned of the TEB program through the members of his local American Legion Hall. He has unsuccessfully made attempts to utilize these funds over the years.

The applicant's complete rebuttal 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 was advised to participate in this program when he came onto active duty; it appears that he is actually referring to the MGIB as he retired prior to the establishment of the Post 9/11 GI Bill program and thus does not qualify to transfer these benefits to his dependents. Therefore, we find no basis to recommend granting the relief sought in this application.
4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

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-2012-01851 in Executive Session on 8 January 2013, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

The following documentary evidence was considered in connection with AFBCMR Docket Number BC-2012-01851:

- Exhibit A. DD Form 149, dated 11 Apr 12.
- Exhibit B. Letter, AFPC/DPSIT, dated 31 May 12.
- Exhibit C. Letter, SAF/MRBR, dated 19 Jun 12.
- Exhibit D. Letter, applicant, dated 6 Jul 12.

Panel Chair