

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01983

COUNSEL: NONE

XXXXXXXXXXXXXXXXXXXX

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

He be allowed to transfer his Post-9/11 GI Bill benefits to his spouse.

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APPLICANT CONTENDS THAT:

He was not informed of the Post 9/11 GI Bill Transfer of Education Benefits (TEB). He retired effective 1 August 2009, but if he had received this information during his attendance at the Transition Assistance Program (TAP), he would have transferred his benefits at that time.

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

The applicant's complete submission is at Exhibit A.

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STATEMENT OF FACTS:

The applicant is a former member of the Regular Air Force who was released from active duty effective 31 July 2009, in the grade of senior master sergeant (E-8), and retired effective 1 August 2009.

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

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AIR FORCE EVALUATION:

AFPC/DPSIT recommends denial. DPSIT states that the applicant retired effective 31 July 2009. The program for TEB started 1 August 2009. The applicant states he was not advised of the TEB at the time of his attendance of the TAP; however, no guidance was available at the time of his briefing on 5 November 2008. Since Title 38, United States Code, Chapter 33, Section

[REDACTED]

3319(f)(1), states that "an individual.....may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed," they can only recommend denial. They find no injustice to the extent that the applicant did not receive adequate counseling as required by law and Department of Defense regulation.

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

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 18 June 2012, for review and comment within 30 days (Exhibit C). As of this date, this office has received no response.

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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 warranting corrective action regarding the applicant's Transfer of Educational Benefits. We note the comments of the Air Force office of primary responsibility; nonetheless, we find the applicant was not properly briefed on the extension requirements for his entitlement to the benefits of the TEB. We believe if he would have known of the extension requirements, he would have requested the one-month extension needed. Since Air Force members similarly situated to the applicant were provided the opportunity to extend their service solely to qualify to transfer their benefits, we find the evidence provided sufficient to resolve any doubt in favor of the applicant and believe it is in the interest of justice to grant the requested relief. Therefore, based on the evidence presented, we recommend the applicant's record be corrected as indicated below.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that:

- a. On 31 July 2009, he was not relieved from active duty, but was continued until 31 August 2009.



b. On 1 August 2009, he elected to transfer his Post 9/11 GI Bill Educational Benefits.

c. On 31 August 2009, he was relieved from active duty and retired effective 1 September 2009.

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The following members of the Board considered AFBCMR Docket Number BC-2012-01983 in Executive Session on 11 February 2013, under the provisions of AFI 36-2603:

XXXXXXXXXXXXXXXXXXXXX, Panel Chair  
XXXXXXXXXXXXXXXXXXXXX, Member  
XXXXXXXXXXXXXXXXXXXXX, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered for AFBCMR Docket Number BC-2012-01983:

- Exhibit A. DD Form 149, dated 12 May 12.
- Exhibit B. Letter, AFPC/DPSIT, dated 22 May 12.
- Exhibit C. Letter, SAF/MRBR, dated 18 Jun 12.

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Acting Panel Chair

