

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00409

COUNSEL: NONE

HEARING DESIRED: NO

THE APPLICANT REQUESTS THAT:

He be entitled to the Post 9/11 GI Bill educational benefits.

THE APPLICANT CONTENDS THAT:

He was not aware and at the time of retirement he was given erroneous information and therefore would like the opportunity to complete this transfer.

In support of his appeal, the applicant provides a copy of his DD Form 214, *Certificate of Release or Discharge from Active Duty*, issued in conjunction with his 1 Apr 10 retirement; Department of Veterans Affairs (DVA) Transfer of Educational Benefits (TEB) package and other supporting documents.

The applicant's complete submission, with attachment, is at Exhibit A.

STATEMENT OF FACTS:

The applicant was relieved from active duty, on 31 Mar 10, with a reason for separation of Voluntary Retirement: Sufficient Service for Retirement.

Post-9/11 GI Bill: Any member of the Armed Forces (active duty or Selected Reserve (SelRes), officer or enlisted) on or after 1 Aug 09, who is eligible for the Post-9/11 GI Bill, and:

- 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.
- Has at least 10 years of service in the Armed Forces (active duty and/or SelRes on the date of election, is precluded by either standard policy (service or Department of Defense (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 09 through 1 Aug 13. 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 09, no additional service is required.
- For those individuals who have an approved retirement date after 1 Aug 09, and before 1 Jul 10, no additional service is required.
- For those individuals eligible for retirement after 1 Aug 09, and before 1 Aug 10, 1 year of additional service after approval of transfer is required.
- For those individuals eligible for retirement on or after 1 Aug 10, and before 1 Aug 11, 2 years of additional service after approval of transfer are required.
- For those individuals eligible for retirement on or after 1 Aug 11, and before 1 Aug 12, 3 years of additional service after approval of transfer are required.

AIR FORCE EVALUATION:

AFPC/DPSIT recommends denial, stating, in part, the member did not provide adequate justification/documentation. The applicant contends that the personnel representative at his unit erroneously stated that there would be an additional service commitment. Although the member may have received the incorrect information of an additional service commitment there was no follow up with the Education Center to ascertain whether this information was indeed correct or incorrect. Had the applicant gone to the Point of Contact (POC) for the Education Center he would have received proper counseling and been able to apply for the benefit. Education personnel were given guidance through the Directive-Type Memorandum (DTM) 09-003, dated 22 Jun 09. He did receive pre-separation counseling 13 May 2009, member indicated on his pre-separation form, DD Form 2648, that he did want counseling for educational benefits prior to his retirement.

He states that "it was implied member would be grand-fathered to the newer 9-11 GI Bill at a later date;" however, there is nothing in the law that would indicate that to be the case. There is no record of member applying for the benefit through

the "Virtual Military Personnel Flight (vMPF). The applicant also references the VA website. If the member had read on the VA website when he switched from MGIB to Post 9/11 that the option to transfer to dependents was available by clicking on the Official DoD TEB Website link (www.defense.gov) it would have lead him to the DMDC website link for Transfer of Education Benefits.

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, the Board may approve the member's request.

The Air Force, in implementing its guidance, developed a communication plan that used the Air Force Personnel Center Commander and the Education and Training Section at each installation to serve as spokespersons to communicate the Post-9/11 GI Bill transfer-to-dependent program using internal media, internal communication tools, and external trade publications. There were various news articles about the Post-9/11 GI Bill to be eligible to transfer benefits. Notably, since 1 August 2009, the Air Force approved over 50,000 transferability applications.

The Department of Veterans Affairs (DVA), the DoD and the Military Services widely publicized the Post-9/11 GI Bill and the transferability feature. DoD developed a special website, hosted by Defense Manpower Data Center (DMDC), to facilitate the transfer of educational benefits. The website system was operational on 27 June 2009 for the purpose of accepting transfer of benefits applications. The DTM and Air Force Instruction state the transfer must be made while the member is serving in the Armed Forces. Both documents were published on government-hosted websites prior to 1 Aug 09, the effective date of the Post-9/11 GI Bill.

The complete AFPC/DPSIT evaluation, with attachments, is at Exhibit C.

APPLICANT'S REVIEW OF THE AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to the applicant on 30 Apr 12 for review and response. As of this date, no response has been received by this office (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. Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice. While we note 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 properly counseled regarding the steps necessary to transfer his benefits to his dependents. We do not find it reasonable that he would have knowingly elected not to pursue use of this important entitlement. As such, in the interest of justice we find the evidence is sufficient to resolve any doubt we have in this matter in behalf of the applicant. 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 March 2010, he elected to transfer his Post 9/11 GI Bill Educational Benefits.

The following members of the Board considered AFBCMR Docket Number BC-2012-00409 in Executive Session on 13 September 2012, under the provisions of AFI 36-2603:

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 1 Feb 12, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPSIT, dated 29 Mar 12, w/atchs.
- Exhibit D. Letter, SAF/MRBR, dated 30 Apr 12.

Panel Chair