



FOR OFFICIAL USE ONLY – PRIVACY ACT OF 1974

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2017-01984

COUNSEL: NONE

HEARING: NO

Analyst's Note: Potentially Untimely. Section 1552 of Title 10, United States Code, requires applicants to file within three years of an alleged error or injustice. According to the federal courts, the three-year period does not start until the applicant has left active service. In this case, the applicant failed to apply to the Board within the required time, but listed a date of discovery of less than three years before the date of application. Panel members should determine if the claimed date of discovery is reasonable; if it is, then the application is timely; if not, then the application is not timely filed. The law also states the Board may excuse an untimely application in the interest of justice. Panel members should determine if the interest of justice requires waiving the three-year requirement.

APPLICANT REQUESTS THAT:

He be allowed to transfer his Post-9/11 GI Bill education benefits (TEB) to his dependent daughter.

APPLICANT CONTENDS THAT:

He logged on to the education website and transferred 30 months of the GI Bill to his daughter, on or about 9 November 2009. The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

The applicant is a retired Air Force technical sergeant. The applicant's Total Active Federal Military Service Date (TAFMSD) is 22 May 1986. The applicant was relieved from duty and retired, effective 30 April 2010. For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION:

AFPC/DP3SA recommends denying the application. Since the program inception, the application process has been electronic. The Defense Manpower Data Center (DMDC) shows no record the applicant applied for TEB; therefore, his eligibility could not be established. The complete advisory is at Exhibit C.

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APPLICANT’S REVIEW OF AIR FORCE EVALUATION:

The Board sent a copy of the Air Force evaluation to the applicant on 4 May 18 for comment (Exhibit D), but has received no response.

THE BOARD CONCLUDES THAT:

1. The application was not timely filed.
2. The applicant exhausted all available avenues of non-judicial relief before applying to the Board.
3. After thoroughly reviewing all Exhibits, it is the Board’s opinion that the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP3SP and finds that a preponderance of the evidence does not substantiate the applicant’s contentions. Without a request, eligibility for the program could not be established, as DoDI 1341.13.3a and AFI 36-2306_AFGM1, 18.i.(3) cite the date of request as the date on which the appropriate service obligation would be applied (AFI 36-2306_AFGM1, 18.a.). The Board also notes the applicant did not file the application within three years after the alleged error or injustice was discovered, or should have been discovered, as required by Title 10, United States Code, Section 1552, and Air Force Instruction 36-2603, Air Force Board for Correction of Military Records (AFBCMR). While the applicant asserts a date of discovery less than three years before the Board’s receipt of the application, the Board does not find the assertion reasonable. The Board finds the application untimely and concludes it would not be in the interest of justice to excuse the delay. Therefore, the Board recommends against correcting the applicant’s records.

THE BOARD RECOMMENDS THAT:

The applicant be informed the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

CERTIFICATION:

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, Air Force Board for Correction of Military Records (AFBCMR), paragraph 1.5, considered Docket Number BC-2017-01984 in Executive Session on 2 Aug 18:

Panel Chair
Panel Member
Panel Member

All members voted not to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, dated 11 April 17.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DP3SA, dated 5 March 18.
- Exhibit D: Notification of Advisory, SAF/MRBC to applicant, dated 4 May 18.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings required by AFI 36-2603, paragraph 4.11.9.

X
