

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03324

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be allowed to transfer his Post-9/11 GI Bill educational benefits (TEB) to his eligible dependents.

APPLICANT'S CONTENTIONS

The applicant contends that he completed paperwork to transfer TEB to his dependents while out-processing for retirement. The applicant states the program was new, so he submitted a paper application because the process was not automated at the time. The applicant's dependent was seven years old when he transferred the benefits, and recently discovered the transfer to his dependent was not reflected in the system after they graduated from high school. He is a 100% disabled veteran, and is requesting he be allowed to transfer his TEB to his dependent because it is the only means to send them to college.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force master sergeant (E-7).

On 17 Apr 09, the applicant's retirement application shows that his commander approved his 1 Feb 10 request for retirement.

On 31 Jan 10, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant retired from active service after twenty years, two months, and three days.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

APPLICABLE AUTHORITY

In accordance with Directive-Type Memorandum (DTM) 09-003, dated 22 Jun 09 DoD Instruction 1341.3, *Post-9/11 GI Bill Program*, dated 31 May 13, members are eligible to transfer benefits if their service to the Armed Forces was on or after 1 Aug 09. If that member became retirement eligible during the period from 1 August 2009, through 31 July 2012 and agreed to serve the additional period, if any, specified in the following subparagraphs before 1 August 2013 (the date that this subparagraph became no longer in effect), then that member was considered to have an approved transfer provided they fulfilled their service commitment:

- For those individuals who have an approved retirement date after August 1, 2009, and before July 1, 2010, no additional service is required.

AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the application. The applicant contends he transferred educational benefits to his dependent prior to his retirement. However, DMDC shows no record the member applied for TEB. There is no evidence of an error or injustice on the part of the Air Force.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 2 Nov 21 for comment (Exhibit D), but has received no response.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. While the Board notes the comments of AFPC/DP3SA recommending relief be denied, the Board finds a preponderance of the evidence substantiates the applicant's contentions. The Board notes that his retirement date of 1 Feb 10, was approved on 17 Apr 09 and based on the guidance at that time, he was eligible to transfer his TEB at the start of the program on 1 Aug 09 without incurring an additional service obligation. Furthermore, at the time the applicant said he applied for the Post-9/11 GI Bill TEB, the program was still being introduced and a lot of confusion surrounded the procedures for executing a transfer of benefits. Given that the applicant would have incurred no additional service obligation with TEB approval and the fact that the program had just been introduced, we find the evidence sufficient to substantiate his contentions. Therefore, the Board recommends the applicant's records be corrected as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show that on 1 August 2009 he transferred his Post-9/11 GI Bill Educational Benefits to his dependents and the transfer was approved with no additional service commitment.

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-2021-03324 in Executive Session on 15 Mar 22:

, Panel Chair
, Panel Member
, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 10 Sep 21.

Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 29 Oct 21.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Nov 21.

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

X

Board Operations Manager, AFBCMR