



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02981

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

APPLICANT'S REQUEST

He be allowed to transfer his Post-9/11 GI Bill Transfer of Education Benefit (TEB) to all of his eligible dependents.

APPLICANT'S CONTENTIONS

When he transferred his GI Bill TEB, he remembers splitting his benefits between his spouse and daughters, but for some reason only his spouse has the benefit. He does not know what occurred, or if it was an error on his part, but he would like his daughters to be able to use the TEB benefit.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force senior master sergeant (E-8).

On 27 Mar 13, according to the applicant's Benefits for Education Administrative Services Tool (BEAST) record, he submitted his application for TEB. On that same date, his request to transfer 24 months of his benefit to his spouse was approved.

On 3 May 13, according to his BEAST record, his application for TEB was approved with a service obligation end date of 26 Mar 17.

His BEAST record TEB Surrogate, undated, contains the following statement "Your current service Obligation End date is 20170326. Your current service indicates you have fulfilled the service obligation required to retain your transferred benefits for your eligible dependents." It further reflects a list of family members and their eligibility. Only his spouse's eligibility reflects "Eligible."

On 31 May 21, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was honorably retired and credited with 24 years, 1 month, and 15 days of total active service, to include 7 years, 2 months, and 7 days of Foreign Service.

APPLICABLE AUTHORITY/GUIDANCE

Air Force Guidance Memorandum (AFI 36-2306_AFGM2) to AFI 36-2306, *Voluntary Education*, 13 Aug 10, (Incorporating Change 1, 12 Dec 11), A9.18.7.2.2. A member may add new dependents, modify entitlement for existing dependents, or revoke entitlement while serving in the Armed Forces.

AFBCMR Docket Number BC-2023-02981

Work-Product

Work-Product

A9.18.7.2.3. A Veteran may modify entitlement or revoke entitlement among only those dependents who were designated to receive transferred benefits prior to separating from the Armed Forces. Veterans who transferred entitlement prior to separating or retiring from the Armed Forces may not add new dependents after separation or retirement.

Directive Type Memorandum (DTM) 09-003: *Post GI Bill*, 22 Jun 09, (Incorporating Change 2, 14 Sep 11), Attachment 2, 3.g, *Time for Transfer, Revocation, and Modification*, (2)(a) 1. An individual may add new dependents, modify the number of months of the transferred entitlement for existing dependents, or revoke transfer of entitlement while serving in the Armed Forces. 2. An individual may not add dependents after retirement or separation from the Armed Forces, but may modify the number of months of the transferred benefit or revoke transferred benefits after retirement or separation for those dependents who had received transferred benefits prior to separation or retirement.

AIR FORCE EVALUATION

AFPC/DP3SA recommends denying the request. The applicant applied for TEB on 27 Mar 13; it was approved on 3 May 13, and he retired effective 1 Jun 21. In accordance with DTM 09-003 and AFI 36-2306_AFGM2, members may only add new dependents only while serving as a member of the Armed Forces. As such, dependents may not be added after retirement.

Therefore, based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice on part of the Air Force. When the member retired, dependents with zero months allocated became ineligible. To grant relief would be contrary to the criteria established by law and/or Department of Defense guidance: 38 USC §3319 - *Authority to transfer unused education benefits to family members*; and DTM 09-003.

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 23 Oct 23 for comment (Exhibit D), and the applicant replied on 22 May 24 (Exhibit E). In his response, the member provides a memorandum from his group commander requesting favorable consideration from the Board, stating the applicant made an error believing that once he transferred his GI Bill TEB benefits to his wife, he could in the future move it to his daughters. This error was made shortly after he returned from a deployment and was trying to retire during the middle of the COVID-19 pandemic.

FINDINGS AND CONCLUSION

1. The application was 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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP3SA and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board thanks the service member for his years of honorable service; however, the Board notes that while on active duty, he only transferred his TEB benefit to his spouse and had ample opportunity to check on the status of his TEB benefit and update dependents eligibility prior to his retirement. Therefore, the Board recommends against correcting the applicant's records. The Board also notes

the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-02981 in Executive Session on 11 Jun 24:

Work-Product	Panel Chair
Work-Product	Panel Member
Work-Product	Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, dated 8 Sep 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 2 Oct 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Oct 23.
- Exhibit E: Applicant Response to Advisory, dated 22 May 24.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

7/30/2024

X	Work-Product
Work-Product	
Board Operations Manager, AFBCMR	
Signed by:	Work-Product