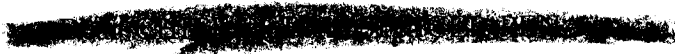




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JLP:lc
Docket No: 2354-01
23 October 2001



This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 October 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by NPC memorandum 1780 PERS-604 of 10 July 2001, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1780
PERS-604
10 JUL 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
[REDACTED]

Ref: (a) CNPC memo 5420 PERS-00ZCB of 14 Jun 01
(b) Title 38, United States Code, Chapter 32
(c) Veterans Improvement Act of 1996 (PL 104-275)
(d) Veterans Benefits and Health Care Improvement Act of
2000 (PL 106-419)

1. The following is provided in response to reference (a):

a. The Veterans Educational Assistance Program (VEAP) is a voluntary contributory program in which Navy matches each dollar contributed by the member with two dollars. VEAP participants may contribute a maximum of \$2,700 for a total return of \$8,100 in educational benefits. Section 3223 of reference (b) provides the option for participants to disenroll from VEAP by requesting a refund of contributions.

b. Reference (c) provided the opportunity for active duty VEAP participants to enroll in the Montgomery GI Bill (MGIB) Program provided they were on active duty and had contributions in a VEAP account on 9 October 1996 (date of enactment). It did not provide a conversion option for members like MSC [REDACTED] who chose to disenroll from VEAP and withdrew their contributions. Navy does not have the authority to waive these requirements.

c. A review of MSC [REDACTED] record indicates he did not have contributions in his VEAP account on the date of enactment of PL 104-275; therefore, he was not eligible for conversion to the MGIB Program. PERS-604 sent enrollment packages only to those VEAP participants who were eligible for conversion to the MGIB Program. MSC [REDACTED] would not have received an enrollment package since he was not eligible to convert.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
MSC [REDACTED], USN, [REDACTED]

d. Per reference (d), MSC [REDACTED] is now eligible to convert to the MGIB Program; however, he is required to pay \$2,700 for enrollment. MSC [REDACTED] has until 31 October 2001 to elect to enroll or decline enrollment in the MGIB Program. If MSC [REDACTED] chooses not to enroll in the MGIB Program per reference (d), he retains VEAP as his educational benefits program. MSC [REDACTED] may recontribute up to \$2,700 to his VEAP account at any time prior to separation from active duty.

2. PERS-604's point of contact is MS2(SW) [REDACTED] who can be reached at (DSN) 882-4244 or (C) 901-874-4244.

[REDACTED]

Commander, U.S. Navy
Director, Navy Drug & Alcohol,
Behavioral Health, Federal
Education, & Partnerships
Division (PERS-60)