



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

JLP:ecb  
Docket No: 6434-03  
15 October 2003

[REDACTED]

Dear [REDACTED]


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 15 October 2003. 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 PERS memorandum 1780 PERS-604 dated 26 August 2003, 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  
26 Aug 03

### 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 21 Aug 03  
(b) Veterans Improvement Act of 1996 (PL 104-275)  
(c) Veterans Benefits and Health Care Improvement Act of  
2000 (PL 106-419)  
(d) CNO WASHINGTON DC 031700Z May 01 (NAVADMIN 105/01)  
(e) Title 38, United States Code, Chapter 32

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

a. Reference (b) offered Montgomery GI Bill (MGIB) Program enrollment to active duty members with money in a Veterans Educational Assistance Program (VEAP) account on 9 October 1996 (date of enactment). [REDACTED] VEAP record reflects he did not have money in his VEAP account and was not eligible to convert to the MGIB Program during this conversion period. Since [REDACTED] was not eligible, he would not have been notified of the conversion opportunity.

b. Per reference (c), an individual who was a VEAP participant on or before 9 October 1996 and served continuously from that date through at least 1 April 2000 was allowed an opportunity to convert from VEAP to the MGIB Program. Opportunity for eligible personnel to convert ended 31 October 2001. Following enactment of reference (c), Navy attempted widest dissemination of the opportunity for eligible personnel to convert to the MGIB Program. This included NAVADMIN 105/01 (reference (d)), notification on all Leave and Earnings Statements from January through May 2001 with final notice in September 2001 and individual letters.

c. Recommend denial of [REDACTED] request for conversion from VEAP to MGIB Program. He was not eligible during the first opportunity. For the second opportunity, by federal law, the

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[REDACTED]

deadline to convert was 31 October 2001. A notification letter was sent to [REDACTED] at the UIC on record at that time with the Defense Manpower Data Center (64122). Many eligibles did not receive their letter from PERS-604; some were due to change of duty stations, some were marked "undeliverable" and some were apparently not delivered for unknown reasons. Other notification was provided in ample time for members who didn't receive a letter to contact PERS-604 about their eligibility before the legislated deadline. Innumerable members who did not receive a letter contacted PERS-604 or their personnel offices to verify their eligibility and once their eligibility was confirmed, they were enrolled. Lack of notification of the conversion opportunity does not constitute a right to convert after the legislated deadline.

d. Since [REDACTED] is a VEAP participant and did not convert to the MGIB Program, he retains VEAP as his educational benefit program. Per reference (e), while [REDACTED] is on active duty, he can contribute up to \$2,700 to his VEAP account.

2. PERS-604's point of contact is Mr. [REDACTED] who can be reached at (DSN) [REDACTED] or (C) [REDACTED].

[REDACTED]  
Head, Retired Activities and  
GI Bill Programs Branch  
(PERS-604)