



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

JET  
Docket No. NR1676-13  
21 Oct 13

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 October 2013. 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 CNPC Memo 1780 PERS-314 dtd 7 May 13, a copy of which is attached.

The Post-9/11 Veterans Education Assistance Act (Post-9/11 GI Bill, Public Law 110-252) was signed into law on 30 June 2008 and became effective on 1 August 2009. General descriptions of the essential components of the new law were widely available beginning in summer 2008 and specific implementing guidance was published in the summer of 2009. Under the governing regulations, to be eligible to transfer benefits, a member must be on active duty or in the selected reserve at the time of the election to transfer. This is an important feature of the law because the transferability provisions are intended as an incentive vice a benefit. Members who are retired are not eligible to transfer such benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits while in the required status. Your application claims, essentially, that your failure should be excused because prior to your retirement you were informed that military

personnel must have been on active duty on August 1, 2009 so as to be entitled for Post-9/11 eligibility transferability to their dependents. You assert that this was the only requirement by then, and that you obligated for 1-month active duty to meet this qualification. You also stated the online application was only known to you in your attempt to apply for benefits now for your dependent - [REDACTED] who is now in college. However, your claim that the requirement to remain on active duty until at least [REDACTED] was the only requirement when you were retiring is false. Information was published in NAVADMINS 187/09 & 203/09 detailing the actions members were required to take to transfer their benefits to their dependents. Information which included accessing the Transferability of Educational Benefits (TEB) website to make the transfer, and how to make the transfer.

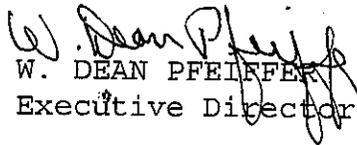
You also submitted correspondence from the Department of Veterans Affairs (DVA) which claims that "the Department of Defense has found that some Service members who retired between [REDACTED] [REDACTED] may not have known that the Post-9/11 GI Bill included the ability to transfer benefits to a spouse or dependent, or that the transfer had to be approved while the member of the Armed Forces". However, no proof was provided to support this claim. Sufficient published information existed to inform members of requirements to transfer Post-9/11 GI Bill benefits, and nothing prevented you from obtaining this information.

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: CNPC Memo 1780 PERS-314 dtd 7 May 13