



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

JET  
Docket No. NR4117-13  
16 Dec 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 16 December 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 17 Sep 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. Your application claims, essentially, that your failure should be excused since you will have completed five years of additional service since initially submitting your request to transfer your Post-9/11 GI Bill benefits to your

dependents on 20 October 2009. When you initially attempted to transfer your Post-9/11 GI Bill benefits to your dependents on 20 October 2009, your request was rejected because you did not have enough obligated service time listed in your Electronic Service Record (ESR). You have stated that you on 17 December 2010 you agreed to serve an additional four years and, upon your retirement on 31 December 2014, you will have served a total of an additional five years. However, when you agreed to extend you did not immediately attempt to resubmit your request to transfer your Post-9/11 GI Bill benefits. When you next attempted to transfer your Post-9/11 on 17 January 2013, you then had less than two years remaining on your contract so your request to transfer was again rejected. According to Commander, Navy Personnel Command (PERS-314) you now have an approved retirement date of 31 December 2014, and are therefore ineligible for transferability of the Post-9/11 GI Bill. Had you followed up on your application after it was rejected in October 2009, you would have been able to complete any actions necessary to effect the transfer of benefits.

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 17 Sep 13