



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

JET
Docket No. NR2358-14
30 Sep 14

[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 30 September 2014. 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 HQMC memo 7220 MPO of 18 Jul 14, 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 making this determination, the Board concurred with the comments contained in the advisory opinion. 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 selective 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.

Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, essentially, that "While still on active duty in the Selective Marine Corps Reserve, I went to the TEB Website, and chose to transfer my education benefits to each of my children...After making that selection I was not aware of any further follow up that should have occurred." However, you offer no proof such as a screen shot that you entered the system and transferred your benefits as you claim. In your application you also claim "While I do not recall any confirmation of approval, I also never received a denial of benefits until my son was enrolled in college and the benefits were denied." That is a true statement in that if you have not entered the TEB website to transfer your benefits and been approved or have been rejected and receive a rejected message where you can print the screenshot, you will not receive any other notification.

MARADMIN 421/09 states in para. "3. Complete electronic transfer election using TEB" and para. "3.E. Members may check TEB periodically for status of their application." There is no evidence that you entered the TEB website to transfer your benefits. Information about the Post-9/11 GI Bill has been readily and publicly available, and you could have used available resources to educate yourself on your educational benefits.

Under these circumstances, the Board found that no relief is warranted. 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 evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in this case. 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,

A handwritten signature in black ink, appearing to read "R. J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL
Executive Director

Enclosure: HQMC memo 7220 MPO of 18 Jul 14