



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

JET
Docket No. NR2476-14
10 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 10 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 CNPC Memo 1780 PERS-314 of 1 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. 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.

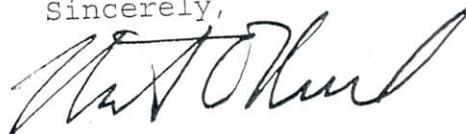
Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, essentially, that "I was not briefed or informed that I had to execute a Transfer of Education Benefits prior to leaving Active Duty. I was unable to attend TAP class due to schedule conflicts with my unit." However, on your Preseparation Counseling Checklist for Active Component Service Members (DD Form 2648, Jun 2005), Section IV, "[Please indicate (by checking YES or NO) whether you (or your spouse if applicable) desire counseling for the following services and benefits..." Block 13.a., and you checked off and signed the form indicating that you did not require counseling on "Education benefits (Montgomery GI Bill, Veterans Educational Assistance Program, Vietnam-era, etc.)".

Furthermore, NAVADMIN 203/09 states that "For those eligible for retirement after 1 August 2011 and before 1 August 2012, three years of additional service is required." Therefore since you did not have three additional years of remaining service, you were ineligible to transfer benefits in August 2011.

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 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,



ROBERT J. O'NEILL
Executive Director

Enclosure: CNPC Memo 1780 PERS-314 of 1 Jul 14