



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

JET
Docket No. NR0307-14
11 Aug 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 11 August 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 opinions furnished by CNPC Memo 1780 PERS-314 of 12 Mar 14 and CNPC Memo 1780 PERS-314 of 11 Jun 14, copies of which are 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 opinions. 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 "The record does not reflect the actions I took to assign "Transfer of Education" Benefits to my dependents. I completed all of the requirements while on active duty yet my dependents do not show on the VA's records". Furthermore, your application also claims that "I don't believe any blocks were missed on our final TEB submission". However, the screen shot of the Transfer of Education Benefits (TEB) application you printed prior to submitting your application clearly shows two warnings that the "Post-9/11 GI Bill Chapter 33" block was not checked as was required. The first warning at the top of the screen shot of the application had the warning "Election Type of Post-9/11 GI Bill Chapter 33 is required" before you get to anything else on the application. The next warning "Select the educational program from which to transfer benefits" is stated right above the "Post-9/11 GI Bill Chapter 33" box to be checked, and before the "List of Family Members" section. Neglect in checking this important box would have resulted in your application not being properly submitted.

The Board found that NAVADMIN 203/09 published in June 2009 provided the procedures members are required to follow to transfer the Post-9/11 GI Bill benefits to their family members. One of those essential procedures states "Members may check TEB periodically for status of their transfer application. If request is disapproved, member must take corrective action and reapply." According to Navy Personnel Command (NPC) PERS-314, "There is no record of NDCM Briggs submitting a TEB application attempting to transfer his Post-9/11 GI Bill entitlement." Furthermore, if after as you claim that you had submitted the TEB application, you had printed another screen shot, you would have noticed whether or not the status block on the application indicated that it had been submitted or if it still had the error messages as listed on the screen shot you submitted with your application. You have provided no proof that you completed and submitted the TEB application with all blocks checked as was required for the application to go through and be successfully submitted, and that it was not submitted because of a computer error.

The Board members also considered your request for a personal appearance; however, they found that the issues in the case were adequately documented and that a personal appearance would not

materially add to the Board's understanding of the issues involved. Thus, your request for a personal appearance has been denied.

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 D. ZSALMAN
Acting Executive Director

- Enclosures: 1. CNPC Memo 1780 PERS-314 of 12 Mar 14
2. CNPC Memo 1780 PERS-314 of 11 Jun 14