



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

JET  
Docket No. NR3895-14  
4 Dec 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 4 December 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 22 Sep 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.

Your application claims, essentially, that "In 2010, converted and transferred my Post 9/11 GI Bill to my dependents. Shortly thereafter, I received an approval letter from my branch of service. I retired on 30 April 2012...I submitted paperwork to the VA to receive a Certificate of Eligibility for my daughter. It was denied. According to my approval letter from my service, my obligation date is May of 2025, which would give me 33 years of service. I called MMEA this morning (February 10, 2014) to have this error corrected." You further state that "Because of what's at stake, had I known this, I would have not retired when I did, and would have simply remained on Active Duty and additional year." The Board agreed with the advisory and the correction they made to correct your obligated end date from 1 May 2025 to 10/11 July 2013 as it should have when your Transfer of Education Benefits (TEB) was originally approved.

The Board further found that on 10 March 2011 you submitted your retirement paperwork; then on 8 April 2011 you signed a Post-9/11 GI Bill Statement of Understanding acknowledging that if "I am eligible for retirement on or after August 1, 2011 and before August 1, 2012, 3 years of additional service is required." Regardless of the mistake that was made with your obligated end date, when you submitted your retirement paperwork and signed the Post-9/11 GI Bill Statement of Understanding acknowledgement, you knew or should have known that you had a three-year obligation that you had to meet in order to successfully transfer your Post-9/11 GI Bill benefits to your dependents.

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 cursive script, appearing to read "R. J. O'Neill".

ROBERT J. O'NEILL  
Executive Director

Enclosure: HQMC memo 7220 MPO of 22 Sep 14