



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

JET
Docket No. NR5036-14
9 Feb 15



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 9 February 2015. 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 7 Oct 14 and CNPC memo 1780 PERS-314 of 23 Dec 14, copies of which were previously furnished and 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 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, "On 2 August 2009, I signed a 1070/613 (Page 13) and also updated the system to transfer my POST 9-11 GI Bill entitlements to my dependents. After current review of my transfer eligibility, it was brought to my attention that the system didn't reflect the transfer and insisted on me re-'enrolling' in the transfer eligibility program again. The re-enrollment was completed in September of 2013. This request is submitted to change my record to reflect my original transfer date of 2 August 2009." Your application further claims that "Upon discovery that the website did not recognize my enrollment, I called and was briefed by VA.GOV rep that there was a program change during the time frame covering August through November 2009. I am not sure why my eligibility was removed by the Page 13 which I currently maintain shows that did document the proper steps to keep my eligibility date intact." 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. Some of those essential procedures stated "1. Ensure spouse/child(ren) is/are enrolled in DEERS prior to making election to transfer entitlement; 2. Ensure additional service obligation (officer and enlisted) is properly documented in electronic service record (ESR) prior to initiating transferability request; and 3. Complete electronic transfer election using TEB." The Board members further found that the only change which occurred to the program, occurred with the web portal during the July/August 2011 time frame, and did not affect the databases that contained the information. You also have not submitted any proof contrary to that fact.

Furthermore, the Board members took into consideration, that on 16 September 2013 you resubmitted your request to transfer your Post-9/11 GI Bill benefits to your dependents and was approved on 16 September 2013, subsequently acquiring an obligation end date of 15 September 2017. You will be required to remain on active duty until 15 September 2017 in order for your dependents to remain eligible for your entitlements. 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,



ROBERT J. O'NEILL
Executive Director

- Enclosures: 1. CNPC memo 1780 PERS-314 of 7 Oct 14
2. CNPC memo 1780 PERS-314 of 23 Dec 14