



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

JET  
Docket No. NR5317-14  
20 Jan 15

[REDACTED]

[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 20 January 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 opinion furnished by CNPC memo 1780 PERS-314 of 30 Oct 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 their education benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims that "In July 2009 I transferred portions of my Post 911 GI Bill to my spouse and my son. My spouse started using her benefits right away, but at the time my son was only in middle school so I didn't really follow up on the benefits that I transferred to him." You have provided no evidence to substantiate that you transferred portions of your Post-9/11 GI Bill to your wife and another portion to your son while you were still on active duty.

The Board concurred with the comments of Navy Personnel Command's (PERS-314) advisory opinion, that "A review of [REDACTED] record shows that he only designated a number of months or a period of use for his dependent [REDACTED]. All other dependents have "zero" for number of months and do not have a transfer begin or end date." The Board further 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." You stated in your application that "I was under the impression that I did everything right with the transfer request, but had no communication with TEB." Had you logged back into the TEB system to verify that both your wife and your son were properly enrolled, you would have realized that the transfer to your son was not properly executed as you had expected. You would have that time up until you retired to correct the problem.

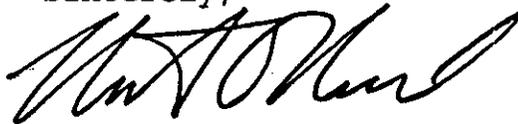
Under these circumstances, the Board found that no relief is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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 was also denied.

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

Enclosure: CNPC memo 1780 PERS-314 of 30 Oct 14