



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

JET
Docket No. NR5899-14
2 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 2 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 opinion furnished by CNPC memo 1780 PERS-314 of 31 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. 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, "I selected to transfer my Post 9/11 GI Bill benefits to my children and spouse when my command at the time first put out [t]he ability and option to do so back in June 2009 time frame." You further claim, "when it became an option to transfer the benefits I sat in with the Command Career Counselor and was under the impression that I had selected that option to select a percentage of those benefits with my wife and children." The Board concurred with the advisory opinion and 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.¹ The Board further concurred with the advisory that you have provided no proof that you entered the Transfer of Education Benefits (TEB) web site and transferred your benefits to your dependents in 2009 as you have claimed. On 11 August 2011 you submitted a TEB request; however, it was rejected that same day because you lacked the required obligated service. Had you logged back into the TEB system as instructed by the NAVADMIN 203/09, you would have realized your application was rejected and been able to take the necessary steps to correct the problem and secure an approval prior to retiring.

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

¹ (1) Ensure their spouse/eligible children are enrolled in DEERS prior to making election to transfer entitlement.

(2) Ensure their additional service obligation (officer and enlisted) is properly documented in their Electronic Service Record (ESR). They were advised requests will be disapproved for members whose ESR does not reflect the required additional service.

(3) Use the TEB web site (<https://www.dmdc.osd.mil/TEB>) which has been replaced by (<https://www.dmdc.osd.mil/milconnect>) and complete the electronic transfer application.

(4) Periodically check TEB for the status of their transfer application. If the application is disapproved, take corrective action and reapply.

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: CNPC memo 1780 PERS-314 of 31 Oct 14