



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

JET
Docket No. NR6468-14
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 opinion furnished by CNPC memo 1780 PERS-314 of 3 Nov 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 such benefits. 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 your education benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, "I believe the Veteran Affairs (VA) record to be in error and unjust due the revision to the Post-9/11 GI Bill Benefits, Transfer of Entitlement (TOE) to dependents, revision in December 2009. I strongly feel that my TOE should be grandfathered into the policy based on eligibility at the time of retirement and not subject to the policy change after September 2009." The Board found that there was not revision to the Post-9/11 GI Bill law or policy in December 2009 as you claim. Members cannot be grandfathered into the Post-9/11 as there are procedures members must follow as outlined in the NAVADMIN 203/09 published 11 July 2009.

Furthermore, the Board found that per the guidelines as put forth in NAVADMIN 203/09¹, there is no evidence that you entered the TEB website to transfer your 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. 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

¹ PART II - Process to Transfer Post-9/11 GI Bill, Reserve Education Assistance Program (REAP) Chapter 1607, and Montgomery GI Bill-Selected Reserve (MGIB-SR) Chapter 1606 Entitlements.

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.
3. Complete electronic transfer election using TEB.

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 3 Nov 14