



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

JET  
Docket No. NR8899-14  
4 May 15

[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 27 April 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 1160 Ser 813/022 of 27 January 2015, 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.

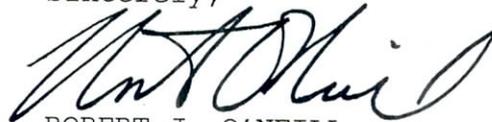
Under the governing regulations, to be eligible to transfer benefits, a member must be on active duty or in the selective reserve at the time of the election to transfer such benefits. This is an important feature of the law because the transferability provisions are intended as an incentive vice a benefit. Members who are retired are not eligible to transfer the benefits.

Your application claims "I was not counseled on the effects of my ability to transfer 9/11 education benefits prior to reenlistment. In particular the requirement to have 4 years on my EAOS remaining as

well as to apply within 30 days of the reenlistment date." The Board has determined, however, that you have provided no proof that you were miscounseled or misinformed regarding your reenlistment. You are now requesting that the Board change your reenlistment contract "from 36 months to 48 months." In reviewing your record, the Board noted that you reenlisted on 30 May 2014 for 3 years, and that you did not attempt to transfer your Post-9/11 GI Bill benefits until July 2014. The Board concurs with the advisory opinion that changing your reenlistment contract from 3 years to 4 years will not satisfy the service obligation for transferring your Post-9/11 GI Bill benefits since you attempted the transfer in July 2014 vice May 2014. The Board has determined and agrees with the advisory opinion, that if you wish to be eligible to transfer your Post-9/11 GI Bill benefits to your dependents, you must change the term of your reenlistment from 3 years to 5 years vice changing it from 3 years to 4 years. 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

Enclosure: CNPC memo 1160 Ser 813/022 of 27 Jan 15