

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1997-183

FINAL DECISION

██████████ Deputy Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on September 16, 1997, upon the Board's receipt of the applicant's application for correction.

This final decision, dated July 23, 1998, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, an ██████████; pay grade E-6) on active duty, asked the Board to correct his record to show that he was eligible for the VEAP (Post Vietnam Era Educational Assistance program) education program. The applicant claimed that from November 1, 1986, through March 31, 1987, [the extension period for VEAP enrollment], he was never counseled on his eligibility for the VEAP program.

The applicant enlisted in the Coast Guard on June 6, 1978, and has served continuously since that time. On October 18, 1996, the applicant asked the Commandant to make a determination on his eligibility for participation in the VEAP program. He told the Commandant that he believed that he was under the Post Vietnam Era Educational Assistance program and did not realize that he was under VEAP until August 1996. The applicant stated that there was no documentation in his record to show that he was counseled about VEAP.

On June 5, 1997, the Commandant disapproved the applicant's request to be enrolled in VEAP. The Commandant stated that VEAP participation was available to members who initially entered active duty between January 1, 1977, and June 30, 1985. There was an open season enrollment period from October 28 1986, until March 31, 1987. The Commandant stated that since the VEAP program expired on March 31, 1987, new enrollments in that program were not possible. He stated that the Coast Guard has no mechanism for allowing a member to enroll in a program that provides a financial benefit after the enrollment period has expired. He advised the applicant to apply to the BCMR if he believed that his record was in error or unjust.

Views of the Coast Guard

The chief counsel of the Coast Guard recommended that the applicant's request be denied because he had failed to show an error or injustice in his record.

The chief counsel stated that the Coast Guard makes information about educational opportunities available to members through a variety of means. Individual counseling, however, regarding VEAP eligibility and documentation of counseling are not required. The chief counsel stated that the applicant admitted that he was subject VEAP, which is an acronym for the Post Vietnam Era Educational Assistance Program.

With respect to the extension period for VEAP enrollment, the chief counsel stated that "while there is a statutory requirement for the Coast Guard to "carry out activities for the purpose of notifying to the maximum extent feasible, individuals [who are eligible to enroll in the program], there is no requirement to personally notify or counsel each member. (see note on section 309(c), (d) of Pub. L. 99-576 of 38 U.S.C. § 3201)." The chief counsel stated that although the applicant may not be able to recall it, he presumably received notice of this opportunity in 1986-87 through "all hands" announcements or other publications.

Applicant's Response to the Views of the Coast Guard

On March 20, 1998, a copy of the views of the Coast Guard was mailed to the applicant, with a request for a response. He did not submit a response.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's submissions and military record, the Coast Guard's submission, and applicable law:

1. The BCMR has jurisdiction over this matter pursuant to section 1552 of title 10, United States Code.
2. The application was timely.
3. The applicant has not shown by a preponderance of the evidence that the Coast Guard was required to personally counsel him on his eligibility for participation in the VEAP program. It stands to reason that there would not be an entry of this counseling in his service record, since documenting such counseling was not required.
4. Pursuant to a note on section 309 (c), (d) of Pub. L. 99-576 of title 38 United States Code, section 3201, the Coast Guard was required to notify to the maximum extent possible individuals who eligible to enroll in Post-Vietnam Era Education

Assistance Program. However, this statute did not require the Coast Guard to personally notify each servicemember.

5. Accordingly, the applicant's request for relief should be denied.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

The application of
military record is denied.

, USCG, for correction of his

