

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1998-110

FINAL DECISION

Chairman:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14, United States Code. It was commenced on August 17, 1998, upon the BCMR's receipt of the applicant's request for correction of her military record.

This final decision, dated June 30, 1999, is signed by three duly appointed members who were designated to serve as the Board in this case.

REQUEST FOR RELIEF

The applicant asked "to participate in the Montgomery G.I. Bill education program." She stated that she applied "to restart [her] VEAP [Veterans Educational Assistance Program] allotment in June of 1996, which was prior to the October 1996 deadline." The applicant asked the Coast Guard (CG) to correct an error that was allegedly made by two Coast Guard offices in June 1996. She applied then to restart her VEAP allotment, but the staff did not know how to restart a VEAP account. If the staff had known how to restart an account, she would have had contributions in her education account by the October 1, 1996. A balance by that date "would have made her eligible to convert to . . . MGIB."

The applicant enlisted in the CG in February 1978, contributed \$2,700 to the VEAP program, and planned to retire on September 1, 1998. In 1988, she requested

tuition assistance, but the education officer denied her request "because [she] had participated in VEAP. "

The education officer told the applicant that if she withdrew her VEAP contributions, "the Coast Guard would pay for her full tuition." The applicant alleged that she listened to the education officer's recommendation "and withdrew her VEAP contributions." In December 1996, she learned "of the conversion from VEAP to the Montgomery GI Bill." The education officer replied to her inquiries about the conversion from VEAP by supplying her a copy of the applicable ALDIST, ALDIST 001/97.

The applicant, on March 25, 1997, received a form letter response from the Commandant "denying [her] request" for conversion from VEAP to MGIB.

Request to Board

The applicant asked the Board to "review [her] case and the documentation [she] has provided and approve her request to convert from the VEAP education program to the MGIB program." She stated that "[I]n good faith [she] attempted to reinstate her VEAP allotment in June 1996." The applicant intends to continue with her education following her retirement.

VIEWS OF THE COAST GUARD

The Chief Counsel of the Coast Guard issued an advisory opinion recommending to the Board that this application be denied.

This case presents a fact pattern similar to that shown by many applications dealing with the conversion from VEAP to MGIB in 1996-97. This was the conversion of VEAP eligible members to MGIB eligible members.

On March 25, 1999, the Commander of the Coast Guard Personnel Command (CGPC) said that the CG was "in error in their attempt to 'reactivate'" her VEAP program. When the applicant decided to replace VEAP with MGIB, the CG was unable to complete the transaction (replacement of the required \$2,700.)

Notwithstanding the finding of error by CGPC, the Chief Counsel of the Coast Guard recommended that the Board dismiss the case for lack of jurisdiction and because the BCMR can not grant effective relief.

It is beyond the jurisdiction of both the Coast Guard and the Board to

"correct" this account so as to make applicant eligible for the MGIB conversion. Moreover . . . the Board lacks authority to allow Applicant to participate in a program which has statutorily expired, and is administered by the DVA [Department of Veterans Affairs].

The Chief Counsel recommended that the applicant apply to the DVA for equitable relief.

COAST GUARD POLICY

On April 21, 1999, Rear Admiral Thomas J. Barrett, USCG, testified before a congressional committee on Coast Guard views with respect to the MGIB and its relation to building a ready Coast Guard that will meet the challenges of the next century.

The Admiral testified that "today's Coast Guard has to vie for personnel in an increasingly tight national labor market. . . . To remain marketable, the Coast Guard" must continue to provide a good quality of life, including the opportunity to gain education.

The Admiral further testified "that today's youth rank education and training opportunities as their primary reason for entering the services."

He concluded his prepared remarks by telling the Subcommittee members that their efforts to improve the Montgomery G.I. Bill will help the Coast Guard recruit and retain the top quality personnel necessary to meet our commitments to the American people in the 21st century.

FINDINGS AND CONCLUSIONS

The Board makes the following findings of fact and conclusions of law on the basis of the application and military record of the applicant, the advisory opinions in other submissions of the Coast Guard, and applicable law

1. The Board has jurisdiction to determine the issues in this proceeding under section 1552 of title 10, United States Code. The application was timely.
2. The application presents difficult questions with respect to educational benefits for Coast Guard veterans.
3. On the one hand, Rear Admiral Thomas Barrett told a congressional

committee how important educational benefits and the Montgomery GI Bill were to the future of the Coast Guard. On the other hand, on March 25, 1999, the Commander of the Coast Guard Personnel Command (CGPC) said that the Coast Guard "was in error in their attempt to 'reactivate' her educational benefit program.

4. The Board is directed to correct errors (10 U.S.C. § 1552) in military records of the Coast Guard.

5. The CGPC said the Coast Guard was "in error in their attempt to reactivate her VEAP account."

6. Accordingly, the application should be granted to correct the error admitted by the Coast Guard.

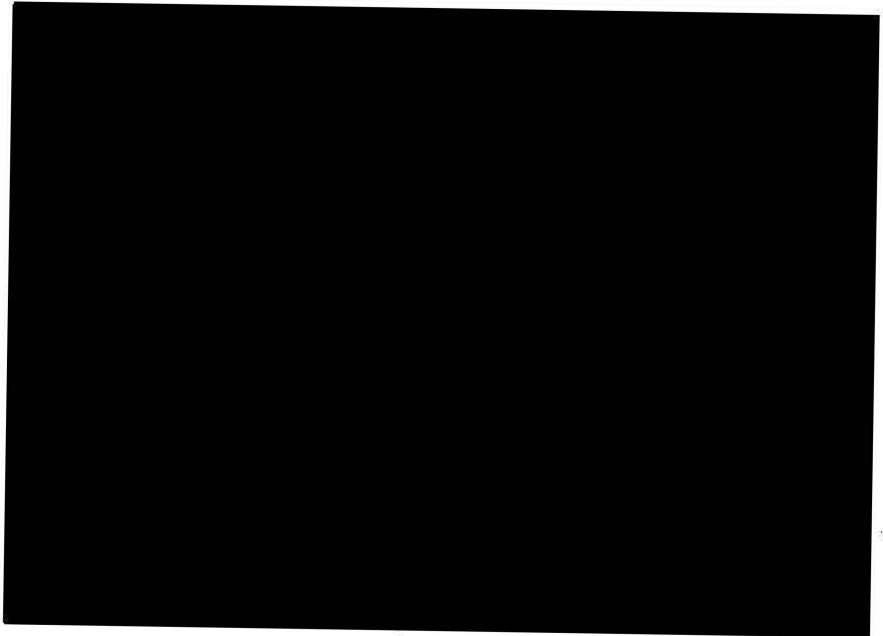
ORDER AND SIGNATURES ON FOLLOWING PAGE

ORDER

The application to correct the military record of
is granted.

The Coast Guard shall correct its records to reflect that the applicant converted her VEAP account to a MGIB account on September 30, 1996. The Coast Guard shall offer the applicant the opportunity to deposit the minimum amount necessary for a qualifying balance, and if she deposits such sum, the Coast Guard shall correct its records to show that said sum was in her VEAP account at the time of conversion.

The Coast Guard shall forward a copy of this final decision to the appropriate office at the DVA.



other/deny/MGIBill VEAP