



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

JET
Docket No. NR9487-13
21 Apr 14

[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 21 April 2014. 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 CNRFC Memo 5420 Ser N1/126 of 7 Feb 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 substantially 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.

The transfer of Post-9/11 GI Bill benefits requires military members, active and selective reserve, to log into the Transfer of Education Benefits (TEB) website and transfer the benefits. Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, essentially, that prior to retiring you went online and thought you had transferred your benefits to your spouse. While you did go online and initiate a transfer request, you failed to follow up online on the status of your request. Your application also claims that "nothing online told me my Page 13 was missing." In accordance with NAVADMIN 203/09, "Members may check TEB periodically for status of their application. A. If request is disapproved, member must take corrective action and reapply." You have also not provided any proof that you previously submitted a Page 13 obligating for the additional service obligation.

Furthermore, NAVADMIN 203/09 also states that "For those eligible for retirement on or after 1 August 2010 and before 1 August 2011, two years of additional service is required." Therefore since you did not have an additional two years of remaining service, you were ineligible to transfer benefits in September 2011. Accordingly, your application has been denied. 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 and material evidence or other matter not previously considered by the Board. 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 D. ZSALMAN
Acting Executive Director

Enclosure: CNRFC Memo 5420 Ser N1/126 of 7 Feb 14