



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

[REDACTED]  
Docket No. 501-17

DEC 14 2017

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 September 2017. The names and votes of the members of the panel will be furnished upon request. 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. The advisory opinion provided in HQMC memo 7220 MPO dated 2 August 2017 was sent to you on 29 August 2017 for an opportunity to comment prior to being considered by the Board. A copy of this advisory opinion is again enclosed. After the 30 day period for comment expired without a response, the case was presented to the Board.

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 this connection, the Board substantially concurred with the comments contained in the advisory opinion. On 1 August 2009, 38 U.S.C. §3319 established transferability of Post-9/11 GI Bill educational benefits. To successfully transfer benefits, a service member must be on active duty at the time of the transfer and commit to the additional period of service. You became eligible to retire on 6 December 2010. Per the law and applicable regulations, when a service member becomes retirement eligible during the period between of 1 August 2010 through 1 August 2011, as you did, the service member must agree to an additional two years of service. The Board for Correction of Naval Records does not have the authority to waive service obligation periods associated with the transfer of education benefits, rather, only has the authority to backdate a transfer of education benefits (TEB) requests. However, a TEB request cannot be backdated prior to 1 August 2009. Because the Board cannot backdate a TEB request two years prior to your date of retirement without violating the law, the Board cannot provide the requested relief. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence 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,

A black rectangular redaction box covering the signature of the Executive Director.

Executive Director

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