



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

[REDACTED]  
Docket No. 5042-17

JAN 12 2018

[REDACTED]  
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 U.S.C. § 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 December 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.

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. 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 their education benefits.

Your application claims "I retired in July 2008 after 20 years of active duty service. At that time, only the serve member could utilize their 911 GI Bill benefits. It was only after my retirement that was determined that service members, serving on active duty after 1 August 2009, could transfer their benefits to their dependents for educational opportunities." Your application further claims "At the time of my retirement, there was 'discussion', but no final determination

on whether (or if) the 911 GI Bill benefits could be transferred to dependents.” The Board found that you retired from active duty on 30 June 2008, and the Post-9/11 GI Bill was signed into law on 30 June 2008 and did not become effective until 1 August 2009. One of the main requirements of transferability is that members must be on active duty at the time they transfer their Post-9/11 GI Bill benefits. The Board determined that you were not on active duty on or after 1 August 2009, therefore, you are not eligible to transfer your Post 9/11 GI Bill benefits. 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,

  
Executive Director