



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

[REDACTED]
Docket No. 5284-17
DEC 19 2017

[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 18 August 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. 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 was not able to complete the six year requirement due to circumstance that is beyond my control." The Board found that you retired from active duty on 30 June 2007, and the Post-9/11 GI Bill was not signed into law until 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. To have qualified to transfer your education benefits subject to a medical discharge, your Official Military Personnel File would have to show a medical discharge ordered from a Physical

Evaluation Board (PEB) and you would have had to serve a minimum of 10 years on active duty on or after 1 August 2009 and made the election to transfer the benefits prior to your discharge. None of these qualifications were met. The Board determined that as you were not on active duty on or after 1 August 2009, 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