



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

JLP:ddj

Docket No: 772-00

24 October 2000

YNI [REDACTED] USN
[REDACTED]
[REDACTED]

Dear PETTY OFFICER [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 October 2000. 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 BUPERS memorandum 1780 PERS 604 of 17 April 2000, 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 this connection, the Board substantially concurred with the comments contained in the advisory opinion. 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,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1780
PERS-604
17 Apr 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO YN1 [REDACTED]
[REDACTED] USN, [REDACTED]

Ref: (a) CNPC memo 5420 PERS-00ZCB of 30 Mar 00
(b) Title 38, United States Code, Chapter 32
(c) BUPERS memo 1780 Pers-06L2R of 1 Mar 96

1. The following is provided in response to reference (a):

a. A review of YN1 [REDACTED]'s supporting documentation indicates that he did sign the Post-Vietnam Era Veteran's Educational Assistance Program (VEAP) Statement of Understanding (DD Form 2057) dated 23 July 1979, which stated, "I understand I can enroll in the program at any time during my service on active duty."

b. Per reference (b), the law governing VEAP, a person entering military service on or after 1 January 1977, and before 1 July 1985, shall have the right to enroll in VEAP at any time during such person's service on active duty before 1 July 1985. A second opportunity existed for members who initially failed to enroll before 1 July 1985. Members were allowed to enroll during a VEAP "open period" from 28 October 1986 through 31 March 1987.

c. By law there were no new enrollments allowed beyond the 31 March 1987 date established by Congress. The fact that a Department of Defense form says that YN1 [REDACTED] can enroll at any time while on active duty does not override an act of Congress or provide authority where none exists.

d. The individual cited by YN1 [REDACTED], who was approved for VEAP enrollment by this office, petitioned and was subsequently enrolled in VEAP prior to the legality of the action being clearly defined. This office acted in good conscience when allowing the member to enroll in VEAP, believing that based on the aforementioned statement of understanding in DD Form 2057 he was entitled to VEAP benefits. Due to a clarification on this issue from Navy legal, reference (c), this office can not allow new enrollments for VEAP Era members who feel they were miscounseled.

2. If YN1 [REDACTED] has any further questions concerning his VEAP eligibility, he may contact a MGIB/VEAP Customer Service Representative at 1-800-962-1425.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO YN1 [REDACTED]
[REDACTED] USN, [REDACTED]

3. PERS-604's point of contact is EM1(SW) [REDACTED] who can be reached at (DSN) 882-4262 or (C) 901-874-4262.

[REDACTED]

Commander, U.S. Navy
Deputy Director, Navy Drug &
Alcohol, Fitness, Education and
Partnerships Division (PERS-60)
Acting