



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JLP:yrj
Docket No: 6617-01
9 July 2002

[REDACTED]

Dear [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 9 July 2002. 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 NPC memorandum 1780 PERS-604 of 3 June 2002, 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
3 Jun 02

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

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

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
[REDACTED]

Ref: (a) CNPC memo 5420 PERS-00ZCB of 16 May 02
(b) Title 38, United States Code, Chapter 32
(c) Title 38, United States Code, Chapter 34

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

a. Recommend the Board deny [REDACTED] request to enroll in an educational benefit program. Eligibility to federal education benefit programs is determined by the member's initial entry onto active duty other than for training. The program available to [REDACTED] when he entered active duty (other than for training) on 27 September 1977 was the Veterans Educational Assistance Program (VEAP). Per reference (b), VEAP was available to members who entered the military for the first time between 1 January 1977 and 30 June 1985. It was closed to new enrollments on 30 June 1985, but reopened for five months from 28 October 1986 to 31 March 1987. Members who did not enroll before these deadlines lost their eligibility. [REDACTED] did not enroll in VEAP upon entry to active duty nor during the open period and is not entitled to enrollment now.

b. [REDACTED] states he was told if he enlisted before 1 January 1977, he would receive the education benefit program available at that time. We cannot comment on what he was or was not told at that time. The education program available prior to 1 January 1977 was the Vietnam Era GI Bill (VEGIB) Program. Per reference (c), in order for members like [REDACTED] who enlisted under the Delayed Enlistment Program prior to 1 January 1977 to be eligible for the VEGIB Program, they must have:

(1) Served 181 or more days of active duty for training (ACDUTRA), which began after 31 January 1955 and before 1 January 1977, and then later

(2) Served on active duty for at least 12 continuous months.

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[REDACTED] ACTDUTRA was 5 months and 23 days which is less than the required 181 days, and it did not begin prior to 1 January 1977. Therefore, [REDACTED] was not eligible for the VEGIB Program.

c. Since [REDACTED] was not eligible for the VEGIB Program and did not participate in VEAP, he is not entitled to enrollment in either of these programs.

2. PERS-604's point of contact is Ms. [REDACTED] who can be reached at (DSN) 882-4260 or (C) 901-874-4260.

[REDACTED]
Federal Education Programs
Branch (PERS-604)