



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

MEH  
Docket No. 354-10  
1 Nov 10

[REDACTED]

[REDACTED]

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

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 November 2008. 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 opinions furnished by SJA memo of 21 May 10, a copy of which is attached.

The Board also considered your request for a personal appearance, however it found that the issues in the case were adequately documented and that a personal appearance would not materially add to the Board's understanding of the issues involved. Thus, your request for a personal appearance has been denied.

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 provided by the Naval Academy SJA's office. The Board found there was no injustice in the decision to disenroll you from the Naval Academy and there was no error or injustice in the decision to require full reimbursement for the educational costs expended on your behalf.

The Board found that the regulations governing your attendance at the Naval Academy provide that a Midshipman who fails to complete the program requirements shall, at the discretion of the Secretary of the Navy, either serve on active duty for a specified period or reimburse the United States for the educational assistance it has provided towards the Midshipman's education.

In such cases, the Secretary of the Navy has the discretion to render a case-by-case determination as to whether the reimbursement requirement and/or the enlisted service requirement should be waived due to mitigating circumstances.

In your case, [REDACTED] Assistant Secretary of the Navy (Manpower and Reserve Affairs), acting on behalf of the Secretary of the Navy, approved your disenrollment from the Naval Academy and directed repayment of educational assistance on 9 March 2005. The Board found no compelling reason to disturb [REDACTED] decision.

The Board gave due consideration to the evidence and arguments made in your application, including your arguments that your disenrollment for "insufficient aptitude" (vice "unsatisfactory conduct") was erroneous. However, after review of all the evidence, the Board found that your disenrollment was just, under the circumstances, and any such error, if it exists, would not create an injustice in the decision to require full reimbursement of educational costs. You received substantial education at government expense before your disenrollment. You were disenrolled for legitimate reasons before completing your Naval Academy education. After your disenrollment, you were able to graduate from the University of Texas and find meaningful employment. You have benefitted and been enriched from the education you received at government expense while the government has not received the benefit of your service after your disenrollment. The Board finds that, in light of the educational benefit you received, the regulations implementing the Naval Academy program, and the terms of your agreement, it is not an error or an injustice for the Secretary of the Navy to require reimbursement of the costs expended by the United States for your education. The Board also finds that a waiver of the reimbursement of those costs is not warranted under the circumstances. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

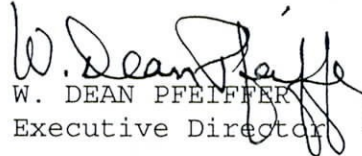
It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board.<sup>1</sup> In this regard, it is also important to keep in mind that a presumption of regularity attaches to all official records.

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<sup>1</sup> The Board notes that you have expressed interest in possible future service in the United States Marine Corps. Should you elect, in the future, to serve on active duty in any of the branches of the armed forces, you should reapply to this Board for further consideration.

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