



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

MEH
Docket No. 5402-11
18 Jul 11

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your 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 18 July 2011. 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 memo 1780 PERS-314B of 2 Jun 11, 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. 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 selected 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.


Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, essentially, that your failure should be excused because you were erroneously informed by the Navy College Office that you were "good to go" after converting your Montgomery GI Bill to the Post-9/11 GI Bill, and were not told you had to make the transfer while on active duty. You have not submitted evidence to support this claim.

As your command did not have a dedicated Command Career Counselor you relied on the Navy College Office for educational needs. In the Board's view, your lack of knowledge of the transfer procedures does not excuse your failure to make a timely application. Persons who deal with the government are expected to know the laws and regulations that govern those relations. It is the duty of persons dealing with the government to make themselves aware of their entitlement to benefits. Nothing prevented you from learning about this program and meeting the eligibility requirements. The information was widely available. You could have easily found information regarding your eligibility yourself or asked the service's benefits managers.

Under these circumstances, the Board found that no relief is warranted. Accordingly, your application, and your request for a personal appearance before the Board, have 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 also 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