



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

JET
Docket No. NR5905-13
22 Nov 13

[REDACTED]

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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 22 November 2013. 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 HQMC Memo 7220 MPO dtd 27 Jun 13 and Email dtd 22 Aug 13, copies of which is attached.

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 such benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits while in the required status. You claim that in August 2009 while you were still on active duty, you transferred your Post-9/11 GI Bill benefits to your dependents.


However, there is no evidence to corroborate your claim. The only evidence of you entering the Transfer of Education Benefits (TEB) website is a print out from the TEB web application showing you entered website on May 1, 2013 in an attempt to transfer the benefits to your dependents. No other evidence exists that shows your claim that you entered the TEB website prior to May 1, 2013 and transferred/attempted to transfer your Post-9/11 GI Bill benefits.

In your current status as an Individual Ready Reservist, you are not eligible to transfer Post-9/11 GI Bill benefits to your dependents. In order to transfer Post-9/11 GI Bill benefits, members must be in an active duty or selective reserve status. You will, however, qualify to transfer the Post-9/11 GI Bill benefits to your dependents once you complete a qualifying period of active duty.

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: 1. HQMC Memo 7220 MPO dtd 27 Jun 13
2. Email dtd 22 Aug 13