



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

JET
Docket No. NR4914-14
4 Dec 14

[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 4 December 2014. 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 CNPC memo 1780 PERS-314 of 26 Sep 14, 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 making this determination, the Board 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 selective 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. Information about the Post-9/11 GI Bill has been readily and publicly available, and you could have used available resources to educate yourself on your educational benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, essentially, that "On March 7, 2014 I discovered my request to transfer Post 9/11 benefits to my dependents was rejected based on insufficient obligated service time. In August 2011, NAVADMIN 235/11 changed this requirement and established a deadline for transfer of eligibility of August 1, 2013. At no time between the issue of NAVADMIN 235/11 was I made aware of this major change to Navy policy. Consequently I submitted my request, iaw NAVADMIN 203/09, six weeks (September 2013)." However, you also stated "I understand that it was not required that I be formally made aware of the NAVADMIN 235/11."

Furthermore, the Board found that information about the 1 August 2013 changes to the Post-9/11 GI Bill were readily and publicly available, and you could have used available resources to educate yourself on your educational benefits allowing you to transfer those benefits well before the 1 August 2013 deadline.¹ You attempted to transfer your TEB in September 2013 which under the new policy required you to obligate for four additional years of service. However, you had an approved retirement date of 30 November 2014 and were therefore ineligible under the new 1 August 2013 policy.

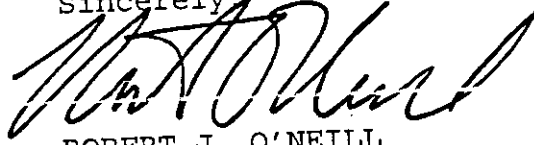
Under these circumstances, the Board found that no relief is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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 evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in this case. 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

¹ NAVADMIN 235/11 published 041615Z AUG 11, paragraph 4.B. Beginning 1 August 2013, DoD Policy requires that all service members who wish to transfer their education benefits to a family member obligate for an additional four years of service regardless of their time in service or retirement date.

the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. J. O'Neill", written in dark ink.

ROBERT J. O'NEILL
Executive Director

Enclosure: CNPC memo 1780 PERS-314 of 26 Sep 14