



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

JET
Docket No. NR6441-14
23 Feb 15



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 23 February 2015. 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 19 November 2014, 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.

Your application claims, "I was eligible to transfer to the Fleet Reserve February 25, 2011. I was stationed at the Navy Personnel Command (NPC) at the time the Post 9/11 GI [B]ill was enacted and consulted several individuals prior to electing to transfer to the Fleet Reserve." Petitioner further claims that "One of those individuals was a person responsible for the approval to transfer eligibility for all Navy members at NPC. This individual [REDACTED] ensured me that this decision would have no bearing on my ability to transfer benefits." However, the Board found that you have provided no proof that you were misled or given misinformation.

Your application further claims, "I am writing this notice of Disagreement based on the denial that I received from the Department of Veteran Affairs dated 26 August 2013. This letter states that I had an active duty date obligation end date of January 10, 2012 and that I was discharged with an effective date of May 31, 2011, and did not complete his obligation and therefore am not eligible to transfer my Post 9-11 GI Bill to my spouse." The Board members concurred with the advisory opinion, and took into consideration, that on 11 January 2010, you submitted your Transfer of Education Benefits (TEB) request agreeing to the terms of transferability.¹ Your TEB request was approved with an Obligated End Date (OED) of 10 January 2012, "which is clearly visible in the TEB application". On 31 May 2011 you voluntarily retired, transferring to the Fleet Reserve, before the OED of 10 January 2012 you agreed to when you transferred your Post-9/11 GI Bill benefits to your dependents.

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.

¹ "I understand and agree to remain in the Armed Forces for the period required. I understand that failure to complete that service may lead to an overpayment by the Department of Veterans Affairs for any payments made. (Service documentation will remain on file with the service)".

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

Sincerely,



ROBERT J. O'NEILL
Executive Director

Enclosure: CNPC memo 1780 PERS-314 of 19 Nov 14