



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

JET
Docket No. NR6879-14
16 Mar 15

[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 16 March 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 30 December 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.

The transfer of Post-9/11 GI Bill benefits requires military members, active and selective reserve, to log into the Transfer of Education Benefits (TEB) website and transfer the benefits. Evidence shows that you failed to take the steps necessary to transfer benefits. Your

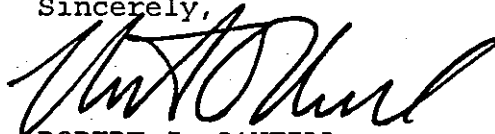
application claims, "I was not informed of the two year requirement to transfer my GI Bill would take effect at the time of transfer." In reviewing your record, however, the Board concurred with NAVADMIN 203/09 states "For those eligible for retirement on or after 1 August 2011 and before 1 August 2012, three years of additional service is required." Therefore since you did not have an additional three years of remaining service, you were ineligible to transfer your Post-9/11 GI Bill benefits. You also claim in your application that "there was no mention on extending enlistment during any training given on the subject. I was led to believe that transfer of benefit to dependents could be made at any time prior to retirement or discharge from service." However, the Board had determined that you have provided no proof that you were misled or given misinformation. The Board further found that whether as you claim you were never informed about the "two year requirement to transfer your GI Bill", information about the Post-9/11 GI Bill has been readily and publicly available, and you were not barred from using those available resources to educate yourself on your educational benefits.

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.

The Board members also considered your request for a personal appearance; however, they 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.

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 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 30 Dec 14