



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

JET
Docket No. NR0773-14
12 Nov 14

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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 12 November 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 opinions furnished by CNPC memo 1780 PERS-314 of 14 Feb 14, CNPC memo 1780 PERS-314 of 2 Jun 14 and CNPC memo 1780 PERS-314 of 25 Aug 14, copies of which are 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 such benefits. This is an important feature of the law because the

transférability provisions are intended as an incentive vice a benefit. Members who are retired are not eligible to transfer the benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, that "I started my housing hunting/job hunting on 3Aug2009, my terminal leave started on 24Aug2009, and my retirement date was 31Nov2009. Because my retirement date followed so closely behind the release of the Post 9/11 GI Bill memo (22Jun2009), the memo was not well known at my command and key points of the memo were not disseminated to me before my retirement." However, the Board found that whether as you claim information about the Post-9/11 GI Bill was not disseminated to you or the command before your retirement, 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.

Petitioner also claims that "Per OSD DTM 09-003 of 22 Jun 09, Attachment 1, paragraph 3.b., it was the responsibility of the Secretary of the Navy to "ensure" that all eligible active duty members were aware of the Post 9/11 GI Bill." The Navy ensured this by publishing NAVADMIN 187/09 and NAVADMIN 203/09, and even went so far as to publish information in the remarks section of the October 2009 Leave and Earnings Statement, which stated "Are you interested in transferring your Post-9/11 GI Bill education benefits to your family members? Read NAVADMIN 203/09 for details."

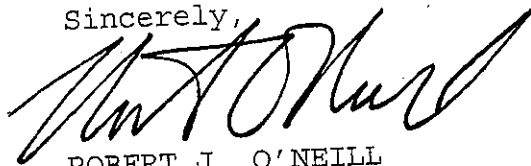
Information regarding the process of transferring the Post-9/11 GI Bill benefits to dependents was widely available, and though you were on house hunting, job hunting then terminal leave, you were not barred from using those resources.

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

- Enclosures: 1. CNPC memo 1780 PERS-314 of 14 Feb 14
2. CNPC memo 1780 PERS-314 of 2 Jun 14
3. CNPC memo 1780 PERS-314 of 25 Aug 14