



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

JLP:ddj
Docket No: 5172-98
23 February 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 February 1999. 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 CMC memorandum 1560 MRV of 28 January 1999, 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 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



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1560
MRV

28 JAN 1993

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

1. Servicemembers who originally entered active duty between 1 Jan 77 and 30 Jun 85, were on active duty on 9 Oct 96, and were participants in VEAP, may be eligible for enrollment in the Montgomery GI Bill (MGIB) if electing prior to 9 Oct 97 under the provisions of Public Law 104-275.
2. To have been eligible, [REDACTED] would have had to have been on active duty and a participant in VEAP on 9 Oct 96. [REDACTED] separated from active duty on 6 Sep 83. Since he was not on active duty on the date of 9 Oct 96 the provisions of PL 104-275 would not pertain to him.
3. Additionally, he would have had to have been a participant in VEAP on 9 Oct 96; participant is defined by Code of Federal Regulations as one with a positive dollar balance in their VEAP account. The CH32 PARTICIPANT ACCOUNT SUMMARY provided with the case indicates that [REDACTED] received a refund of his VEAP contributions. Therefore he could not have been a participant.
4. The VEAP has a delimiting date of 10 year from date of separation from active duty. Since [REDACTED] separated from active duty on 6 Sep 83, if he had money remaining in his VEAP account 7 Sep 93, the Department of Veterans Affairs would have automatically disenrolled him and refunded his money, as his time limit to use the benefits had expired.
5. Based on the information that has been provided, this office recommends that no change be made to [REDACTED] record. Any further questions concerning his eligibility can be directed to my POC, [REDACTED] at DSN 278-9550 or commercial (703) 784-9550.

VERNON H. TAYLOR

Head, Voluntary Education Programs