



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
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ARLINGTON, VA 22204

JET
Docket No. NR6633-14
16 Mar 15

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NAVADMIN 187/09 of 26 Jun 09
(3) NAVADMIN 203/09 of 11 Jul 09
(4) CNPC memo 1780 PERS-314 of 12 Jan 15

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to establish eligibility to transfer Post9/11 GI Bill benefits to his dependents.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 16 March 2015 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. 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. The bill provides financial support for education and housing for service members with at least 90 days of service on or after 11 September 2001. The act also includes a provision for qualifying service members to transfer educational benefits to dependents. General descriptions of the essential components of the new law were widely available beginning in summer 2008 but specific implementing guidance was not published until summer 2009.

c. The Navy's guidance implementing the Post-9/11 GI Bill was published by NAVADMIN 187/09, released on 26 June 2009, and NAVADMIN 203/09, released 11 July 2009. Under the guidance, "active duty sailors that separate, retire, transfer to the Fleet Reserve or who are discharged prior to 1 August 2009 are not eligible to elect transferability." See enclosures (2) and (3).

d. Petitioner's application claims that on 20 January 2010 he signed a Page 13 (see enclosure (1)) agreeing "to complete four more years in the armed forces from the date that I request transferability of Post-9/11 GI Bill education benefits to my dependents." However, Petitioner claims that the Page 13 never made it into his Electronic Service Record (ESR) when he originally signed it in January 2010. Petitioner attempted to transfer his Post-9/11 GI Bill benefits on 8 September 2010, however, the request was rejected for lack of obligated service.

e. Petitioner's Page 13 signed 20 January 2010, was uploaded into the Navy Standard Integrated Personnel System (NSIPS) on 7 June 2013. Petitioner resubmitted his Transferability of Education Benefits (TEB) request to transfer his Post-9/11 GI Bill benefits to his dependents on 1 July 2013, and it was approved with an obligation end date of 30 June 2017. Petitioner is requesting "that my official record be corrected to show this Page 13 as submitted into my record on or near the date on which it was signed (i.e., in Jan 2010)." He also claims that "The error prevented the 4-year "clock" to start in 2010, so that if I retire from the Navy in 2014 as planned, I will not be considered eligible to transfer the benefits even though I actually satisfied the agreement."

f. In correspondence attached as enclosure (4), Commander Navy Personnel Command (PERS-314) has recommended the request be denied. NAVADMIN 203/09 provided policies and procedures for Navy members to transfer their Post-9/11 GI Bill entitlement to eligible family members.¹ Petitioner was in full compliance with NAVADMIN 203/09 and had "an approved TEB request dated 1 Jul 2013 with an obligation end date of 30 June 2017, but since [REDACTED] retired 30 September 2014, his dependents are no longer entitled to his GI Bill benefits."

CONCLUSION

Upon review and consideration of all the evidence of record, on balance, the Board concludes that Petitioner's request warrants favorable action. The Board carefully weighed the observations made in enclosure (4) regarding Petitioner's responsibility. The Board found that had Petitioner failed to log back into the TEB web site to

¹ (2) Ensure their additional service obligation (officer and enlisted) is properly documented in their Electronic Service Record (ESR) **before** submitting a request. Because officers' service is indefinite, and they do not have contracts, their four-year commitment is recorded on an Administrative Remarks, NAVPERS 1070/613 (Page 13) in the ESR. They are advised requests would be disapproved for members whose ESR does not reflect the required additional service.

verify that his dependents were properly enrolled, he would have realized that the transfer of benefits to his dependents was not properly executed as he had expected. He could have then taken the necessary steps to correct the problem. The following factors militated in favor of relief: The Board found that the Navy failed to ensure the Page 13 signed by the Petitioner on 20 January 2010, was properly entered into NSIPS. Therefore, even though the record is clear that Petitioner did not become eligible to transfer his Post-9/11 GI Bill benefits until 1 July 2013, with obligation end date of 30 June 2017, then later becoming ineligible when he voluntarily retired on 30 September 2014, the Board felt that under these circumstances a measure of relief is warranted.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. Petitioner's Page 13 signed 20 January 2010, was entered into NSIPS on "20 January 2010" vice "7 June 2013".

b. Petitioner successfully submitted an online TEB request to transfer his Post-9/11 GI Bill benefits to the dependents, on "8 September 2010" vice "1 July 2013".

c. Petitioner's TEB request was approved with an obligation end date of "8 September 2014" vice "30 June 2017".

d. Upon completion of the above changes, COMNAVPERSCOM (PERS-314) will execute an approved Transferability of Educational Benefits (TEB) application reflecting the transfer information.

e. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



DAVID J. CASH
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.



ROBERT J. O'NEILL
Executive Director

Reviewed and Approved:

~~Reviewed and Disapproved:~~ *RW*

3/26/15



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