



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

JET  
Docket No. NR7986-14  
6 Apr 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) OSD DTM 09-003 of 22 Jun 09  
(5) CNPC memo 1780 PERS-314 of 16 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 Post 9/11 GI Bill benefits to his dependents.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 6 April 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 August 11, 2010, I requested that my Post 9/11 GI Bill benefits be transferred. I was led to believe that my benefits would be approved once I reenlisted and would be informed if disapproved for any reason. I made this request of transfer with the full intent of serving four additional years and have done so, reenlisted on 24 May 2011 for four years." His application further claims "While I was attending TAPS, I noticed that my claim had been rejected. I understood that I had to serve four years after my request to receive benefits, and I have done this." The Board found that when Petitioner reenlisted, it was nine months after his initial submission of the Transferability of Educational Benefits (TEB).

e. In correspondence attached as enclosure (5), Commander Navy Personnel Command (PERS-314) has recommended the request be denied. Office of the Secretary of Defense, Directive Type Memorandum (DTM) 09-003 of 22 June 2009 provided policies and procedures for Navy members to transfer Post-9/11 GI Bill entitlements to eligible family members. See enclosure (4). Petitioner resubmitted his TEB request on 11 April 2014; however, his request was again rejected for insufficient obligated service. Petitioner submitted a request for retirement and was approved for retirement on 31 May 2015. Since Petitioner has an approved retirement date of 31 May 2015, Petitioner cannot commit to serve the required four additional years of obligated service.

#### 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 (5) regarding Petitioner's responsibility. The Board found that had Petitioner not failed to log back into the TEB web site to 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 Board further took into consideration that per the DTM 09-003 of 22 June 2009, the service obligation requirement starts from the date the request is approved. That although Petitioner reenlisted on 24 May 2011, eight months after his initial TEB submission, Petitioner did not resubmit his TEB request within that time frame. The following factors militated in favor of relief: That even though the record is clear that there is no error, the Board felt that there was an injustice to the Petitioner.

Petitioner requested to transfer his Post-9/11 GI Bill benefits on 11 August 2010, making the request with the full intent of serving four more years. Petitioner reenlisted on 24 May 2011 for four more years and served the four years of additional service, despite not resubmitting his TEB request. 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 successfully submitted an online TEB request to transfer his Post-9/11 GI Bill benefits to his dependents, on or about "25 May 2011".

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

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

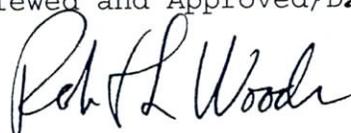
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings 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/Disapproved: <sup>RSW</sup>

  
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