



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

[REDACTED]  
Docket No. 3561-16  
MAR 21 2017

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

Subj: REVIEW OF NAVAL RECORD ICO

[REDACTED] USN RET, [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) NPC memo 1780 PERS-314 dtd 9 Aug 16  
(5) DoDI 1341.13 dtd 31 May 2013  
(6) NAVPERS 1800/1 dtd 11 Apr 14

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] reviewed Petitioner's allegations of error and injustice on 13 January 2017 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.

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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 submitted his Transfer of Education Benefits (TEB) application on 14 January 2014, but his request was rejected because he didn't have sufficient time to complete additional service obligation. Note: the Petitioner had an approved retirement date of 1 August 2014, which was 10 months shy of statutory retirement. See enclosures (2) and (4).

e. Petitioner was retirement eligible on 5 June 2005. Per enclosure (5), for "individuals eligible for retirement on August 1, 2009, no additional service is required." However, it also states that "This subparagraph will no longer be in effect on August 1, 2013, and on or after that date all members must comply with subparagraphs 3.a.(1) or 3.a.(2) [4 additional years] of this enclosure to be eligible for transfer of unused education benefits to family members."

f. On 31 July 2014, Petitioner transferred to the retired list. See enclosure (6).

g. In correspondence attached as enclosure (4), Commander Navy Personnel Command (PERS-314) has recommended the request be denied. 38 U.S.C. §3319, NAVADMIN 187/09, and NAVADMIN 203/09 provided policies and procedures for Navy members to transfer their Post-9/11 GI Bill entitlement to eligible family members. Petitioner was not in full compliance with Title 38 or the NAVADMINs because he failed to transfer his education benefits to his dependents while on active duty. The Petitioner should have attempted TEB at the initiation of the program instead of waiting until immediately prior to retirement.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board carefully weighed the observations made in enclosure (4) regarding Petitioner's responsibility under the Post 9/11 GI Bill program. The Board found that had the Petitioner been given clear counselling about his obligation to transfer his benefits closer in time to the initiation of the Post 9/11 GI Bill transferability, he would have followed the proper steps to successfully transfer his benefits. The Board concluded that enclosure (5) was not intended to exclude members who were formerly exempt from the additional service requirement, rather, was drafted in a way to administratively close a provision once it became irrelevant due to the passing of time. Although the proper administrative requirements were not completed by the Petitioner, the Board felt that under these circumstances a measure of relief is warranted.

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[REDACTED] USN RET, [REDACTED]

RECOMMENDATION:

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

a. Petitioner elected to transfer unused educational benefits through the MILCONNECT Transfer of Educational Benefits (TEB) web application on 1 August 2009.

b. Petitioner, in coordination with his command, completed the Page 13 and submitted it to Commander, Navy Personnel Command (NPC) for inclusion in the Petitioner's Official Military Personnel File (OMPF). Petitioner did not incur an additional service obligation.

c. NPC reviewed the Petitioner's TEB application, and it was approved on 1 August 2009.

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. 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.

[REDACTED]  
Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED]  
Executive Director

Reviewed and approved/disapproved [REDACTED]

3/31/17