



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

■
Docket No. 5142-20
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USN RET,
XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSNOTE 1780
(c) NAVADMIN 236/18
(d) DODI 1341.13 of 12 Jul 18
(e) NAVADMIN 178/19
(f) NAVADMIN 006/20

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to establish eligibility to transfer Post-9/11 GI Bill education benefits to eligible dependents.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 30 June 2021 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, relevant portions of Petitioner's naval record, 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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. The Post-9/11 Veterans Educational 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 provision for qualifying service members to transfer education benefits to their eligible dependents. General descriptions of the essential components of the law were widely available beginning in summer 2008 but specific implementing guidance was not published until summer 2009.

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b. In accordance with reference (b), the option to transfer a Service member's unused education benefits to an eligible dependent required a 4-year additional service obligation at the time of election. Additionally, all officers were required to have a NAVPERS 1070/613, Administrative Remarks, prepared by their command in the Navy Standard Integrated Personnel System Electronic Service Record (ESR), agreeing to serve the required additional years of service prior to initiating their electronic transfer election via the MilConnect Transfer of Education Benefits (TEB) portal. Reference (c), updated the TEB process by establishing an online, self-service Statement of Understanding that replaced the NAVPERS 1070/613, Administrative Remarks effective 1 October 2018.

c. Reference (d), promulgated that effective 12 July 2019, service members with more than 16 years of total creditable service in the Military Services will not be eligible to transfer education benefits to eligible family members. Subsequently, reference (e) extended the effective date to 12 January 2020 but thereafter reference (f) authorized service members over 16 years of service to continue eligibility and TEB to their dependents.

d. On 30 August 2013, Petitioner married and acquired a dependent step-child as well.

e. On 12 July 2018, Petitioner signed "Post-9-11 GI Bill Transfer of Education Benefits Statement of Understanding" NAVPERS 1070/613, Administrative Remarks and it was entered into his ESR.

f. Petitioner submitted TEB application on 13 July 2018. On 23 July 2018, the Service rejected the application indicating Petitioner had not committed to the required additional service time.

g. Petitioner's TEB application was resubmitted on 17 January 2020. On 21 January 2020, the Service rejected the application indicating Petitioner had not committed to the required additional service time.

h. Petitioner transferred to the Retired List effective 1 October 2020 as result of reaching "maximum service or time in grade".

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. Petitioner met the basic eligibility criteria to transfer Post-9/11 GI Bill benefits to his eligible dependents in accordance with reference (b). However, because of a temporary restriction for service members with more than 16-years of service outlined in reference (c), Petitioner's TEB application was denied. Although the aforementioned restriction was later rescinded by reference (f), Petitioner retired without garnering approval to transfer his education benefit. Although the proper administrative requirements were not completed, the Board found Petitioner provided sufficient evidence reflecting intent to transfer educational benefits, and served to his statutory limit; therefore, under these circumstances, relief is warranted.

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RECOMMENDATION

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

Petitioner, in coordination with his command completed the required NAVPERS 1070/613, Administrative Remarks on 1 September 2013, and submitted it to Commander, Navy Personnel Command for inclusion in the Petitioner's Official Military Personnel File.

Petitioner elected to transfer unused education benefits to [REDACTED]/3-Months, [REDACTED] 3-Months, and [REDACTED] 24-Months through the MilConnect TEB portal on 1 September 2013.

Commander, Navy Personnel Command (PERS-314) reviewed the Petitioner's TEB application and it was approved on 1 September 2013 with a 4-year obligation.

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

4. It is certified that a 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.
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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

8/2/2021

[REDACTED]

Deputy Director

Signed by [REDACTED]