

Docket No. 1368-21 Ref: Signature Date

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

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

- Ref: (a) Title 10 U.S.C. § 1552 (b) NAVADMIN 203/09 (c) DODI 1341.13
- 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 **Constant**, **Constant**, **Constant**, reviewed Petitioner's allegations of error and injustice on 13 October 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.

b. In accordance with reference (b), the option to transfer a service member's unused education benefits to an eligible dependent did not require an additional service obligation for those eligible to retire on 1 August 2009 provided they completed the electronic transfer election

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prior to 1 August 2013. Effective 1 August 2013, all service members incurred a 4-year additional service obligation regardless of retirement eligibility per reference (c). References (b) and (c) also indicated if the transferor failed to complete the agreed additional service obligation required for transferability under the Post 9/11 GI Bill, the right to the transferred entitlement was forfeited.

c. Petitioner submitted TEB application on 13 April 2014.

d. On 30 May 2014, Petitioner signed "Reenlistment for GI Bill Transferability" NAVPERS 1070/613, Administrative Remarks and it was entered into his electronic service record.

e. The Service approved Petitioner's TEB application on 13 April 2015 with an obligated end date (OED) of 29 February 2016; mandatory retirement date (MRD).

f. Petitioner transferred to the Retired List effective 1 December 2015.

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 was approved to transfer Post-9/11 GI Bill education benefits with an OED that aligned with his MRD; however, he retired prior to 29 February 2016. Although Petitioner did not complete the proper administrative requirements, the Board determined, Petitioner provided sufficient evidence of retiring due to Command/organization needs and felt that had he received clear counseling on the effects of retiring prior to his OED, he would have continued to serve until his MRD. Therefore, under these circumstances, relief if warranted.

RECOMMENDATION

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

Petitioner, in coordination with her command completed the required NAVPERS 1070/613, Administrative Remarks on 1 August 2009 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 Korrin M. Danko/36-months through the MilConnect TEB portal on 1 August 2009.

Commander, Navy Personnel Command (PERS-314) reviewed the Petitioner's TEB application and it was approved on 1 August 2009 without an additional service 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.

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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.

