

DEPARTMENT OF THE NAVY

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

> Docket No. 3430-21 Ref: Signature Date

Dear

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 9 February 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested to establish retroactive eligibility to transfer Post-9/11 GI Bill education benefits to eligible dependents effective September 2010. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that Bureau of Naval Personnel Notice 1780 outlined eligibility, processing, service obligation, and reference information germane to transferring education benefits to eligible dependents. Specifically, the policy indicates the option to transfer a Service member's unused education benefits to eligible dependents required a 4-year additional service obligation at the time of election for those eligible to retire on or after 1 August 2012. 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. Furthermore, the policy directed members to periodically check the status of their application; a denied transfer of education benefits (TEB) application required members to take corrective action and reapply with a new service obligation end date.

The Board could not find, nor did you provide evidence of you signing the required NAVPERS 1070/613, Administrative Remarks or of you submitting an electronic transfer request via the MilConnect TEB portal in September 2010. A review of your record reflects that you submitted two TEB applications on 15 May 2014 and 8 December 2014. The Service rejected both applications indicating, you had "not committed to the required additional service time." On 12 December 2014, you signed "Post 9-11 (Officers)" NAVPERS 1070/613, Administrative Remarks and submitted your final TEB application on 15 December 2014. In both instances, you acknowledged the 4-year additional service obligation from the date of election. Your TEB application was approved with an obligation end date of 14 December 2018. However, you transferred to the Retired List effective 1 January 2015, thereby forfeiting your ability to TEB.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

