



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

■
Docket No. 4595-21
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSNOTE 1780
(c) NAVADMIN 170/18
(d) NAVADMIN 236/18
(e) 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 [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 26 January 2022 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.

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

b. In accordance with references (b) and (c), 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. Furthermore, the policy directed members to periodically check the status of their application; a denied TEB application required member to take corrective action and reapply with a new service obligation end date.

c. Reference (d), updated the TEB process by establishing an online, self-service Statement of Understanding (SOU) that replaced the NAVPERS 1070/613, Administrative Remarks effective 1 October 2018.

d. Petitioner submitted TEB application on 21 May 2017. The Service rejected the application indicating, Petitioner "has not committed to the required additional service time." Required NAVPERS 1070/613, Administrative Remarks was not uploaded to Petitioner's ESR.

e. On 21 December 2020, Petitioner completed the online TEB SOU and submitted final TEB application. The Service rejected the application on 22 December 2020 indicating, Petitioner "has not committed to the required additional service time"; however, on 23 December 2021, the Service approved the TEB application with an obligation end date of 20 December 2024.

f. On 7 September 2021, Petitioner requested a Regular Retirement date of 1 June 2022.

g. On 15 November 2021, Petitioner issued BUPERS Order: 2861 (Official Modification to Retirement Orders) to be effective 1 June 2022.

h. On 7 January 2022, Petitioner notified the Board that his effective date of retirement changed to 1 March 2022.

i. In accordance with reference (e), Navy Personnel Command (PERS-311) adjusted Petitioner's obligation end date on 10 January 2022, to align with his mandatory retirement date of 1 June 2022 as a result of twice failing to select.

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; however, he failed to complete the administrative requirements in accordance with references (b) and (c). Although Petitioner did not complete the proper administrative requirements, the Board found that he provided sufficient evidence reflecting intent to transfer education benefits, and has continued to serve since submitting his initial TEB application; therefore, under these circumstances, relief is warranted.

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

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 21 May 2017 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]/15-months and [REDACTED]/15-months through the MilConnect TEB portal on 21 May 2017.

Commander, Navy Personnel Command (PERS-311) reviewed Petitioner's TEB application and it was approved on 21 May 2017 with a 4-year 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.

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.

2/11/2022

[REDACTED]
Deputy Director

Signed by: [REDACTED]