

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 policies directed members to periodically check the status of their application. If the request was disapproved, members were required to take corrective action and reapply with a new service obligation end date. Moreover, there were provisions in these policies that indicated if a member was prohibited from completing their service obligation because of Navy or Department of Defense policy, or federal statute, the obligation would be adjusted to the maximum amount of time allowed by that policy or statute.

c. Reference (d) specified, that personnel in a limited duty status who required an additional service obligation for transferability must wait until a final determination of medical status was completed. However, Service members already designated for a medical discharge, and who have completed at least 10 years of service in the Armed Forces, may elect transferability with no additional service obligations; however, the election must be made prior to separation and the Sailor must be awarded an honorable discharge.

d. Petitioner's Active Duty Service Date was 26 July 1999.

e. On 3 November 2009, Petitioner's provider at Naval Hospital [REDACTED] Neurology Clinic comments indicates, "dictate MEB/PEB and recommend he decide on a treatment program".

f. Petitioner submitted Transfer of Education Benefits (TEB) application on 10 November 2009. The Service rejected the application indicating, Petitioner "has not committed to the required additional service time."

g. On 29 July 2010, Petitioner issued BUPERS Order: 2100 (Official Retirement Orders) transferring him to the Permanent Disability Retirement List (PDRL) effective 29 October 2010.

h. Petitioner transferred to the PDRL effective 29 October 2010 with 11 years, 3 months and 3 days of active duty service.

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 references (b) through (d). However, the timing of his TEB application was submitted while in a LIMDU status and the required NAVPERS 1070/613, Administrative Remarks was not entered in his ESR, thereby rendering him ineligible to transfer benefits on 10 November 2009. The Board found that had Petitioner received clear and timely guidance regarding the reason for his denied applications, he would have followed the proper steps to successfully transfer his benefits prior to transferring to the PDRL. Although Petitioner did not complete the proper administrative requirements, the Board felt that under these circumstances, relief is warranted.

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

RECOMMENDATION

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

Petitioner, in coordination with his command provided a copy of BUPERS Order: 2100 (Official Retirement Orders) dated 29 July 2010 to Commander, Navy Personnel Command (NAVPERSCOM) (PERS-314).

Petitioner elected to transfer unused education benefits to [REDACTED] /1-month, [REDACTED] /34 months, and [REDACTED] /1-month through the MilConnect TEB portal on 29 July 2010.

NAVPERSCOM (PERS-314) reviewed Petitioner's TEB application and it was approved on 29 July 2010 with an obligation end date of 28 October 2010 to align with his transfer to the PDRL.

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.

1/20/2022

[REDACTED]
Deputy Director

Signed by: [REDACTED]