



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

[REDACTED]
Docket No. 5970-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MEMBER [REDACTED]
[REDACTED], USNR, XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSNOTE 1780
(c) DODI 1341.13, Chg 1

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 his eligible dependents.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 8 December 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 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

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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.

c. Reference (c), indicates the Service member will be considered to have completed his or her previously approved TEB-related service agreement upon discharge or release from active duty or the Selected Reserve, with an honorable discharge, due to twice failing to be selected for promotion as a commissioned officer on active duty or Selected Reserve.

d. Petitioner's Active Duty Service Date was 15 August 2009.

e. Petitioner submitted TEB applications on 8 September 2016, 23 April 2017 and 27 October 2017, the Service rejected the applications indicating, Petitioner "has not committed to the required additional service time."

f. On 5 April 2018, "Four Year Service Obligation for Transfer of GI Bill Benefits" NAVPERS 1070/613, Administrative Remarks was signed by Petitioner; uploaded to Petitioner's official military personnel file but was not entered in his ESR.

g. On 16 April 2018, Petitioner submitted final TEB application; the Service rejected the applications indicating, Petitioner "has not committed to the required additional service time."

h. On 19 September 2018, Petitioner issued BUPERS Order: [REDACTED] (Official Separation Orders).

i. On 28 February 2019, Petitioner discharged for "Non-Select Permanent Promotion."

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 education benefits but failed to complete the administrative requirements outlined in reference (b). The Board concluded Petitioner may have lacked understanding of the TEB process but attempted to correct his mistakes on several occasions prior to his involuntary discharge date. Although Petitioner did not complete the proper administrative requirements, the Board felt his initial TEB application of 8 September 2016 and completion of the maximum active service time allowed after twice failing selection for promotion meets the requirements of reference (c); therefore, under these circumstances, relief is warranted.

RECOMMENDATION

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

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[REDACTED], USNR, XXX-XX-[REDACTED]

Petitioner, in coordination with his command completed the required NAVPERS 1070/613, Administrative Remarks on 8 September 2016 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] / 14-Months and [REDACTED] /14-Months through the MilConnect TEB portal on 8 September 2016.

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner's TEB application and it was approved on 8 September 2016 with a 4-year service obligation. Note: PERS-314 is directed to ensure Petitioner's obligation end date is adjusted to align with his involuntary discharge date of 28 February 2019.

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.

1/14/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]