



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

[REDACTED]
Docket No. 6059-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] [REDACTED] USNR RET,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DODI 1341.13
(c) Title 38 U.S.C. Chapter 33

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 benefits¹ to eligible dependent.

2. The Board, consisting of [REDACTED] and [REDACTED] reviewed Petitioner's allegations of error and injustice on 2 March 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. Petitioner's Pay Entry Base Date was 17 June 1985.

¹ 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.

In accordance with reference (b), Service member will be considered to have completed his or her previously approved TEB related service agreement upon twice failing to be selected for promotion as a commissioned officer in the active duty or Selected Reserve. However, officers offered selective continuation but who reject selective continuation will have the TEB rejected.

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- b. On 1 November 2009 Petitioner was commissioned in the United States Navy Reserve.
- c. Petitioner completed 20 total years of qualifying service on 26 July 2016.
- d. On 1 December 2017, "Post 9/11 4-year commitment" NAVPERS 1070/613, Administrative Remarks was entered into Petitioner's ESR.
- e. On 23 August 2018 Petitioner submitted transfer of education benefits (TEB) application and allocated unused education benefits to [REDACTED], [REDACTED] and [REDACTED]. The Service approved the request with an obligation end date of 22 August 2022.
- f. On 30 October 2020 Navy Personnel Command (PERS-911) notified Petitioner of his impending separation from the Navy Reserve effective 1 May 2021 unless authorized continuation; directions on applying for continuation and 15 March 2021 deadline were included.
- g. On 19 April 2021, PERS-911 informed Petitioner his continuation request was not received until 19 April 2021; after the 15 March 2021 deadline and after the 6 April 2021 Continuation Panel convened.
- h. Petitioner transferred to the Retired Reserve without pay effective 1 May 2021 as result of "twice failed of selection for 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 was approved to transfer Post-9/11 GI Bill education benefits, however, he failed to apply for continuation in a timely manner and was required to retire prior to completing his service obligation. Although Petitioner did not complete the proper administrative requirements, the Board found that he completed more than 11 years of qualifying service after the inception of the ability to TEB, thereby meeting the spirit and intent of reference (c). Therefore, the Board felt, under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner, in coordination with his command completed the required NAVPERS 1070/613, Administrative Remarks on 1 November 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 [REDACTED] through the MilConnect TEB portal on 1 November 2009.

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[REDACTED]

Commander, Navy Reserve Forces Command (N1) reviewed Petitioner's TEB application and it was approved on 1 November 2009 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.

3/24/2022

[REDACTED]

Deputy Director

[REDACTED]