



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

[REDACTED]
Docket No. 6223-21
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSNOTE 1780

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 dependent daughter.

2. The Board, consisting of [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 1 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. 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

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additional service obligation. Additionally, the election must be made prior to separation and the Sailor must be awarded an honorable discharge. The Service member must provide a copy of his medical retirement message to Commander, Navy Personnel Command (NAVPERSCOM) (PERS-314) before his retirement date.

c. Petitioner's Active Duty Service Date was 22 June 1995.

d. Petitioner submitted Transfer of Education Benefits (TEB) application on 6 March 2015. The Service rejected the application on 12 March 2015 indicating, Petitioner "has not committed to the required additional service time."

e. On 18 March 2015, Petitioner's medical retirement message released.

f. On 23 March 2015, Petitioner issued BUPERS Order: 0785 (Official Modification to Fleet Reserve Orders) with effective date of retirement as 21 June 2015

g. Petitioner transferred to the Temporary Disability Retired List (TDRL) effective 21 June 2015.

h. Petitioner transferred to the Permanent Disability Retired List effective 1 November 2018.

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 reference (b). However, there is no record of Petitioner providing NAVPERSCOM (PERS-314) with a copy of his medical retirement message prior to his transfer to TDRL. Although Petitioner did not complete the proper administrative requirements, the Board felt that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner elected to transfer unused education benefits to [REDACTED]/24-months through the MilConnect TEB portal on 6 March 2015.

Petitioner, in coordination with his command provided a copy of his medical retirement message dated 18 March 2015 to NAVPERSCOM (PERS-314).

NAVPERSCOM (PERS-314) reviewed the Petitioner's TEB application and it was approved on 18 March 2015 with no additional service obligation.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

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[REDACTED]

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

[REDACTED]