



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

█
Docket No. 7544-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, USN RET,
XXX-XX █

Ref: (a) Title 10 U.S.C. § 1552
(b) NAVADMIN 203/09
(c) BUPERSNOTE 1780 of 7 Apr 10
(d) Title 38 U.S.C. Chapter 33

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214 of 30 Sep 16
(3) History of Assignments
(4) NAVPERS 1070/613 of 24 Feb 10
(5) BEAST Screen
(6) NSIPS Administrative Remarks Screen
(7) NSIPS Administrative Remarks of 15 Nov 13

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, reviewed Petitioner's allegations of error and injustice on 8 February 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 enclosures (1) through (7), relevant portions of Petitioner's naval records, 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 Active Duty Service Date was 19 May 1994. See enclosure (2).

b. Petitioner assigned to █ from
28 March 2007 through 16 April 2010. See enclosure (3).

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c. On 24 February 2010, Petitioner signed Eligibility for Transfer of Post-9/11 GI Bill Benefits¹ NAVPERS 1070/613, Administrative Remarks issued by [REDACTED]. This NAVPERS 1070/613, Administrative Remarks was not uploaded to Petitioner's official military personnel file (OMPF) or ESR. See enclosure (4).

d. Petitioner submitted Transfer of Education Benefits (TEB) application on 9 November 2013. The Service rejected the application on 12 November 2013 indicating, Petitioner "has not committed to the required additional service time"; ESR does not reflect the required NAVPERS 1070/613, Administrative Remarks. See enclosures (5) and (6).

e. On 15 November 2013, "Post 911 GI Bill Transferability to Dependents" NAVPERS 1070/613, Administrative Remarks was uploaded to Petitioner's ESR. See enclosure (7).

f. Petitioner resubmitted TEB application on 15 November 2013. The Service approved the application with an obligation end date of 14 November 2017. See enclosure (5).

g. Petitioner transferred to the Retired List effective 1 October 2016 with 22 years, 4 months and 12 days of active duty service. See enclosure (2).

BOARD CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded Petitioner's request does not warrant favorable corrective action. In this regard, the Board determined that the Navy Transferability of Post-9/11 GI Bill policies clearly outlined eligibility, processing, service obligation, and reference information germane to transferring education benefits to eligible dependents. Moreover, Petitioner signed the required NAVPERS 1070/613 on two occasions acknowledging the requirement to complete 4 years of active duty service from the date he requested to TEB but voluntarily retired before completing his TEB obligation. Therefore, the Board felt, relief is not warranted.

BOARD RECOMMENDATION

That the Petitioner's request be denied.

EXECUTIVE DIRECTOR CONCLUSION

Taking into account the findings of the Board, the Executive Director finds that corrective action is warranted in Petitioner's case, in consideration of reference (d). The Executive Director concurred that references (b) and (c) defined the requirements for members to transfer their education benefits. However, the Executive Director disagreed with the Board's

¹ 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 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 policy 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.

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recommendation that no further corrective action be taken. Petitioner met the basic eligibility criteria to transfer Post-9/11 GI Bill education benefits to his eligible dependents, but failed to complete the administrative requirements outlined in reference (b) to successfully TEB. In this regard, the Executive Director noted that although Petitioner did not complete the proper administrative requirements, but by signing, the "Eligibility for Transfer of Post-9/11 GI Bill Benefits" NAVPERS 1070/613, Administrative Remarks issued by [REDACTED] on 24 February 2010 and completing over 6 years of active duty service thereafter, met the spirit and intent of reference (d).

In view of the above, the Executive Director recommends the following corrective action.

EXECUTIVE DIRECTOR RECOMMENDATION

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

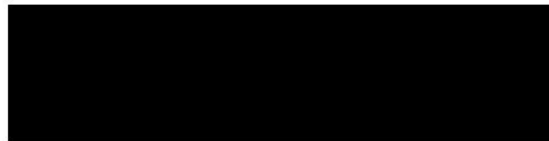
Petitioner, in coordination with his command, completed the required NAVPERS 1070/613, Administrative Remarks on 24 February 2010 and submitted it to the Commander, Navy Personnel Command for inclusion in Petitioner's OMPF.

Petitioner elected to transfer unused education benefits to [REDACTED]/1-month, [REDACTED]/34-months, and [REDACTED]/1-month through the MilConnect TEB portal on 24 February 2010.

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner's TEB application, and it was approved on 24 February 2010 with a 4-year service obligation.

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. The foregoing action of the Board is submitted for your review and action.

3/14/2022



Executive Director

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From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Recommendation (Deny Relief)

Reviewed and Approved Executive Director Recommendation (Grant Relief)

3/30/2022

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]