



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

[REDACTED]
Docket No. 295-22
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. §1552
(b) BUPERSNOTE 1780
(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 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 1 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 28 June 1990.

b. Petitioner earned 20 total years of qualifying service on 28 May 2010 and was issued Notification of Eligibility to Receive Retired Pay at Age 60 and Participate in the Reserve Component Survivor Benefit Plan on 9 October 2012.

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.

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c. On 3 November 2011, Petitioner submitted TEB application. The Service rejected the application on 4 November 2011 indicating, Petitioner “has not committed to the required additional service time.”

d. On 13 July 2014, “MGIB-SR Statement of Understanding” NAVPERS 1070/613, Administrative Remarks was uploaded to Petitioner ESR and verified on 16 June 2015; however, the required Post-9/11 GI Bill NAVPERS 1070/613, Administrative Remarks outlined in reference (b) is not captured in Petitioner’s ESR.

e. Petitioner transferred to the Retired List effective 1 June 2019 as result of non-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 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)². Although Petitioner did not complete the proper administrative requirements, the Board found that he completed more than 7 years of qualifying service after submitting his TEB application, 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 3 November 2011 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], [REDACTED] and [REDACTED] through the MilConnect TEB portal on 3 November 2011.

Commander, Navy Reserve Forces Command (N1) reviewed Petitioner’s TEB application and it was approved on 3 November 2011 with a 1-year service obligation.

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

² In accordance with reference (b), the option to transfer a Service member’s unused education benefits to an eligible dependent required a 1-year additional service obligation at the time of election for those eligible to retire on or after 1 August 2009 and before 1 August 2010. 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; a denied transfer of education benefits (TEB) application required member to take corrective action and reapply with a new service obligation end date.

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4. It is certified that 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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

4/6/2022

[REDACTED]
Deputy Director
[REDACTED]