



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

█
Docket No. 769-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █, USNR,
█

Ref: (a) Title 10 U.S.C. §1552
(b) NAVADMIN 203/09
(c) BUPERSNOTE 1780 of 7 Apr 10
(d) BUPERSNOTE 1780 of 15 Aug 14
(e) NAVADMIN 236/18
(f) Title 38 U.S.C. Chp 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 Bill¹ education benefits to eligible dependent.

2. The Board, consisting of █ 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. In accordance with references (b) and (c), the option to transfer a Service member's unused education benefits to an eligible dependent did not require additional years of service for

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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those eligible to retire on 1 August 2009. However, the provision for members who were retirement eligible during the period of 1 August 2009 through 1 August 2012 expired on 1 August 2013 per reference (d). This change required all service members to complete a 4-year additional service obligation regardless of retirement eligibility. 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 4-year additional service obligation prior to initiating their electronic transfer election. Furthermore, the aforementioned policies 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.

b. Reference (e), updated the transfer of education benefits (TEB) process by establishing an online, self-service Statement of Understanding that replaced the NAVPERS 1070/613, Administrative Remarks effective 1 October 2018.

c. Petitioner's Pay Entry Base Date is 29 January 1988.

d. Petitioner earned 20 total years of qualifying service on 14 May 2008 and was issued Notification of Eligibility to Receive Retired Pay at Age 60 and Participate in the Reserve Component Survivor Benefit Plan on 3 June 2008.

e. On 18 July 2018, two "Transfer of Post 911 G.I. Bill Benefits" NAVPERS 1070/613, Administrative Remarks were uploaded to Petitioner's ESR; only one was verified on 26 October 2021.

f. On 4 October 2021, Petitioner submitted TEB application. The Service rejected the application on 5 October 2021 indicating, Petitioner "needs to contact Service Representative to resolve status."

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 references (b) through (e). Although Petitioner did not complete the proper administrative requirements, the Board found that he continues to serve and completed more than 12 years of service after the inception of the ability to TEB, thereby meeting the spirit and intent of reference (f). Therefore, the Board felt, under these circumstances, relief is warranted.

RECOMMENDATION

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

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[REDACTED]

Petitioner elected to transfer unused education benefits to [REDACTED]/12-months, and [REDACTED]/12-months through the MilConnect TEB portal on 1 August 2009. Note: Petitioner allocated education benefits to [REDACTED]/11-months on 23 December 2020.

Commander, Navy Reserve Forces Command (CNRFC N1) reviewed Petitioner's TEB application and it was approved on 1 August 2009 without a service obligation in accordance with reference (b).

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.

4/5/2022

[REDACTED]

Deputy Director

[REDACTED]