



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

[REDACTED]
Docket No. 3080-22
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, XXX-XX-[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSNOTE 1780
(c) Title 38 U.S.C. Chap 33
(d) BUPERSINST 1001.39F

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 reflect transferring to the Retired Reserve effective 24 October 2019 vice 1 October 2019 to complete transfer of Post-9/11 GI Bill education benefits service obligation.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 18 May 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. 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

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time of election for those eligible to retire on or after 1 August 2012. The policy required enlisted Selected Reserve members to have a NAVPERS 1070/613, Administrative Remarks, prepared by their command in the Navy Standard Integrated Personnel System Electronic Service Record (ESR), and have sufficient time on contract to meet the additional service requirement prior to initiating their electronic transfer election in the MilConnect Transfer of Education Benefits (TEB) portal.

- c. Petitioner's Pay Entry Base Date was 19 April 1993.
- d. On 4 November 2012, Petitioner reenlisted for a term of 4 years.
- e. Petitioner earned 20 total years of qualifying service (TYQS) on 22 January 2013 and issued Notification of Eligibility (NOE) to Receive Retired Pay At or After Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RCSBP) on 10 May 2013.
- f. On 17 October 2015, Petitioner reenlisted for a term of 4 years.
- g. On 17 October 2015, "MGIB Transfer of Education Benefits" NAVPERS 1070/613, Administrative Remarks was entered into Petitioner's ESR.
- h. On 25 October 2015, Petitioner submitted TEB application. The Service approved the application on 26 October 2015 with an obligation end date of 24 October 2019.
- i. Petitioner transferred to Voluntary Training Unit 1325 effective 1 May 2017.
- j. Petitioner transferred to the Retired Reserve without pay effective 1 October 2019.

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 transferred to the Retired Reserve 24 days before completing his TEB service obligation. Although Petitioner did not complete the proper administrative requirements, the Board concluded that he completed over seven TYQS in a Selected Reserve status after the inception of the ability to TEB, thereby meeting the spirit and intent of reference (c). Therefore, the Board felt under these circumstances, partial 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 4 November 2012, and submitted it to Commander, Navy Personnel Command for inclusion in the Petitioner's Official Military Personnel File.

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Petitioner elected to transfer unused education benefits to [REDACTED]/20 months and [REDACTED]/12 months through the MilConnect TEB portal on 4 November 2012.

Commander, Navy Reserve Forces Command (N1) reviewed Petitioner's TEB application and it was approved on 4 November 2012 with a 4-year service obligation.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied. In accordance with reference (d), the effective date of retirement for members of the Navy Reserve under age 60 who are eligible for non-regular service retired pay at or after age 60 shall be the first of the month.

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.

6/15/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]