



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

██████████
Docket No. 3852-22
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSNOTE 1780
(c) NAVADMIN 236/18
(d) Title 38 U.S.C. Chapter 33

Encl: (1) DD Form 149 w/attachments
(2) Member Data Summary
(3) NAVPERS 1616/26 of 15 Jun 16
(4) Re-enlistment Request Form of 31 Oct 18
(5) NAVPERS 1070/601 of 27 Dec 18
(6) PERS-311 Verification of TEB email of 27 May 22

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 retroactive approval to transfer Post-9/11 GI Bill education benefits to eligible dependent daughter based on his 2018 reenlistment.

2. The Board, reviewed Petitioner's allegations of error and injustice on 1 June 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 (6), 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. 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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- b. Petitioner's Active Duty Service Date is 16 November 2010. See enclosure (2).
- c. Petitioner received a Periodic evaluation for the period of 10 December 2015 through 15 June 2016 recommending promotion and retention. See enclosure (3).
- d. On 31 October 2018, Petitioner requested to reenlist on 27 December 2018 for a term of 4 years for "Benefits of Rate." Petitioner's request to reenlist was approved on 14 November 2018. See enclosure (4).
- e. Petitioner reenlisted on 27 December 2018 for a term of 4 years for "Benefits of Rate." See enclosure (5).
- f. As of 27 May 2022, Petitioner has not submitted a Transfer of Education Benefits (TEB) application. See enclosure (6).

MAJORITY BOARD CONCLUSION

Upon review and consideration of all the evidence of record, the Board majority concluded Petitioner's request warrants favorable corrective action. In this regard, the Board majority determined Petitioner met the basic eligibility criteria to transfer Post-9/11 GI Bill education benefits but failed to complete the administrative requirements outlined in references (b)¹ and (c)². Although Petitioner did not complete the proper administrative requirements, the Board majority found that had he received appropriate counseling, he would have been able to transfer unused education benefits to his eligible dependent daughter as early as 27 December 2018. Therefore, the Board majority felt, under these circumstances, relief is warranted.

MAJORITY BOARD RECOMMENDATION

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

Petitioner, in coordination with his command completed the required TEB Statement of Understanding on 27 December 2018 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]/36-months, through the MilConnect TEB portal on 27 December 2018.

Commander, Navy Personnel Command (PERS-311) reviewed Petitioner's TEB application and it was approved on 27 December 2018 with a 4-year service obligation.

¹ 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. Additionally, enlisted personnel were required to have sufficient time on contract to meet the additional service requirement and complete/submit electronic transfer election using the TEB web application.

² Reference (c), updated the TEB process by establishing an online, self-service Statement of Understanding that replaced the NAVPERS 1070/613, Administrative Remarks effective 1 October 2018.

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That no further changes be made to Petitioner's naval record.

That a copy of this report of proceedings be filed in Petitioner's naval record.

MINORITY BOARD CONCLUSION

Upon review and consideration of all the evidence of record, the Board minority concluded Petitioner's request does not warrant favorable corrective action. In this regard, the Board minority determined the Navy Transferability of Post-9/11 GI Bill policies have been published since 2009 with various updates that clearly outlined the requirements and procedures to transfer education benefits. Additionally, Petitioner failed to provide evidence of reenlisting for the purposes of transferring education benefits. Therefore, the Board minority felt, under these circumstances, relief is not warranted.

MINORITY RECOMMENDATION

That the Petitioner's request be denied.

That a copy of this report of proceedings 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. The foregoing action of the Board is submitted for your review and action.

6/22/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Majority Board Recommendation (Grant Relief)

Reviewed and Approved Minority Board Recommendation (Deny Relief)

7/6/2022

[REDACTED]

Acting Assistant General Counsel (M&RA)

Signed by: [REDACTED]