



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

■  
Docket No. 3987-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,  
[REDACTED]

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

Encl: (1) DD Form 149  
(2) DD Form 214, 19 Jun 15  
(3) NAVPERS 1070/601, 19 Mar 04  
(4) NAVPERS 1070/621, 21 Apr 09  
(5) BEAST Service Member History  
(6) NSIPS Contract Information  
(7) NAVPERS 1070/601, 10 May 12  
(8) NAVPERS 1070/621, 7 Aug 12  
(9) DD Form 215, 4 Nov 15

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 her naval record be corrected to establish eligibility to transfer Post-9/11 GI Bill<sup>1</sup> education benefits to eligible dependent daughter, [REDACTED].

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's application on 6 July 2022. The names and votes of the panel members will be furnished upon request. Petitioner allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of enclosures (1) through (9), 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, she exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

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<sup>1</sup> The Post-9/11 Veterans Educational Assistance Act (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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- a. Petitioner's Active Duty Service Date was 19 September 1994. See enclosure (2).
- b. On 19 March 2004, Petitioner reenlisted for a term of 6 years and subsequently executed an 8-month extension. See enclosures (3) and (4).
- c. Petitioner submitted transfer education benefits (TEB) applications on 13 August 2009 and 16 September 2010. The Service disapproved both applications indicating, Petitioner "has not committed to the required additional service time." See enclosure (5).
- d. On 26 October 2010, Petitioner reenlisted for a term of 3 years. See enclosure (6).
- e. On 10 May 2012, Petitioner reenlisted for a term of 3 years for "Benefits of Rate" and thereafter executed a 4 month extension. See enclosures (7) and (8).
- f. Petitioner transferred to the Fleet Reserve effective 1 September 2015 with over 20 years of active duty service. However, on 4 November 2015, Petitioner was issued DD Form 215, Correction to DD Form 214, Certificate of Release or Discharge from Active Duty indicating her transfer to Fleet Reserve was effective 1 October 2015, and she completed over 21 years of active duty service. See enclosures (2) and (9).

#### MAJORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Majority concluded Petitioner's request does not warrant favorable corrective action. In this regard, the Majority determined the Navy's transferability of Post-9/11 GI Bill policies clearly outlined the requirements and procedures to TEB. Petitioner failed to have 4 years on contract at the time of elections and never attempted to obtain the required obligated service by reenlisting for four or more additional years, thereby never establishing eligibility to transfer Post-9/11 GI Bill education benefits. Therefore, the Majority felt, under these circumstances, relief is not warranted.

#### MAJORITY RECOMMENDATION

In view of the foregoing, the Board Majority recommends that no corrective action be taken on Petitioner's naval record.

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

#### MINORITY CONCLUSION

Upon review and consideration of all the evidence of record, the Board Minority concluded Petitioner's request warrants favorable corrective action. In this regard, the Minority determined Petitioner met retention intent by serving more than 4 years from the date of her initial TEB submission. The Minority felt, Petitioner might have lacked understanding of the correct procedures to obtain the required service obligations at the time of applications<sup>2</sup>, therefore, under these circumstances, relief is warranted.

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<sup>2</sup> The transferability of Post-9/11 GI Bill education benefits was newly established during this time frame.

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## MINORITY RECOMMENDATION

In view of the foregoing, the Minority recommends the following corrective action:

Petitioner reenlisted on 26 October 2010 for a term of “5 years” vice “3 years.” Note: Petitioner’s 10 May 2012 reenlistment for 3 years and her 4-month extension is void.

Petitioner elected to transfer unused education benefits to [REDACTED], through the MilConnect TEB portal on 26 October 2010.

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner’s TEB application and it was approved on 26 October 2010 with a 4-year service obligation.

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

## EXECUTIVE DIRECTOR CONCLUSION AND RECOMMENDATION

Taking into account the findings of the Board Majority and Minority, the Executive Director finds that corrective action is warranted in Petitioner’s case, in consideration of reference (b)<sup>3</sup>. The Executive Director concurred that references (c) and (d)<sup>4</sup> defined the requirements for members to transfer their education benefits. However, the Executive Director disagreed with the Board Majority recommendation that no further corrective action be taken. Petitioner met the basic eligibility criteria to transfer Post-9/11 GI Bill education benefits to her dependent daughter, but failed to complete the administrative requirements outlined in references (c) and (d). In this regard, the Executive Director agreed with the Board Minority’s conclusion and recommendation.

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.

7/21/2022

[REDACTED]

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<sup>3</sup> Reference (b), the ability to TEB to eligible dependents is a recruiting and retention tool that became effective 1 August 2009.

<sup>4</sup> References (c) and (d), 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, enlisted personnel were required to have sufficient time on contract to meet the additional service requirement prior to initiating their electronic transfer election. Furthermore, the policy directed members to periodically check the status of their application; a denied TEB application required members to take corrective action and reapply with a new service obligation end date.

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From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Majority Recommendation (Deny Relief)

Reviewed and Approved Minority and Executive Director Recommendation (Grant Relief)

9/10/2022

