



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

██████████
Docket No. 5201-22
Ref: Signature Date

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

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

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 w/ attachments
(2) BEAST Service Member History
(3) NSIPS Administrative Remarks Screen
(4) NSIPS Page 13, 11 Dec 14
(5) MNCC Trouble Ticket Response, 21 Jun 22
(6) DD Form 214

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 eligibility to transfer Post-9/11 GI Bill education benefits to eligible dependent.

2. A three-member panel of the Board, sitting in executive session, considered Petitioner's application on 27 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 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 submitted three transfer of education benefits (TEB) applications on 4 April 2014, 11 December 2014, and 26 January 2015. The Service rejected the applications indicating, Petitioner "has not committed to the required additional service time." At the time TEB applications were submitted, the required NAVPERS 1070/601, Administrative Remarks was not uploaded to Petitioner's Electronic Service Record (ESR). Enclosures (2) and (3).

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b. On 11 December 2014, "Officer Post 911 GIBILL," NAVPERS 1070/613, Administrative Remarks was uploaded to Petitioner's ESR, however, Navy Personnel Command (PERS-311) verified it was not uploaded until 16 December 2014. Enclosures (3) through (5).

c. Petitioner submitted final TEB application on 16 March 2015. The Service approved the application on 18 March 2015 with an obligation end date of 12 March 2019. See enclosure (2).

d. Petitioner transferred to the Retired List effective 1 April 2016 with 30 years, 10 months and 17 days of active duty service. Enclosure (6).

e. On or about 21 June 2022, PERS-311 corrected Petitioner obligation end date to align with his mandatory retirement date of 31 July 2016, however, because Petitioner voluntarily retired before his mandatory retirement date, he forfeited the ability to TEB. Enclosure (5).

f. Petitioner contends his initial TEB request was submitted on 4 April 2014, and the request was rejected because his ESR did not contain the required Page 13 entry agreeing to the additional service obligation. The rejected request was resubmitted on 11 December 2014, and again rejected for the same reason. A Page 13 entry for TEB purposes was submitted with a date of 11 December 2014, however, it was not entered into his ESR until 16 December 2014. Therefore, the Page 13 was not in his ESR at the time of the 11 December 2014 TEB request. The TEB submission history indicates that the rejected TEB request was resubmitted 26 January 2015, after the Page 13 was entered into NSIPS, but this request was erroneously rejected at that time. The Petitioner claims that "[t]his request should have been approved with notification of an obligation end date (OED) that coincided with the statutory limit 20160731 in accordance with TEB policy. The rejected TEB request was resubmitted again on 3/16/2015 and this time the request was approved and upon approval, one month of educational benefits were transferred to my spouse prior to his scheduled retirement of 20160331. Unfortunately, it was approved with a four-year obligation date of 20190312 vice the statutory limit date of 20160731." Enclosure (1).

BOARD CONCLUSION

Upon review and consideration of all the evidence of record, the Board concluded the Petitioner's request does not warrant favorable corrective action. In this regard, the Board determined that the Navy Transferability of Post-9/11 GI Bill policies clearly outlined the requirements and procedures to transfer education benefits. Petitioner submitted multiple TEB applications, thereby appearing to be aware of the process but failed to take corrective action in a timely manner, therefore, relief is not warranted.

BOARD RECOMMENDATION

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

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

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EXECUTIVE DIRECTOR CONCLUSION

Taking into account the findings of the Board, the Executive Director finds that corrective action is warranted in Petitioner's case, in consideration of reference (b).¹ The Executive Director concurred that references (c) and (d)² defined the requirements for members to transfer their education benefits. However, the Executive Director disagreed with the Board's recommendation that no further corrective action be taken. Petitioner met the basic eligibility criteria to transfer his Post-9/11 GI Bill education benefits to his eligible dependents, but did not complete the administrative requirements outlined in references (c) and (d) prior to submitting his TEB applications. Petitioner completed over 6 years of active duty service since the inception of the ability to TEB, thereby meeting the spirit and intent of reference (b). Additionally, had the Petitioner received suitable counseling, he could have extended his retirement an additional four months to coincide with his mandatory retirement date, thereby meeting the eligibility for the TEB.

EXECUTIVE DIRECTOR RECOMMENDATION

In view of the foregoing, the Executive Director recommends the following corrective action:

Petitioner elected to transfer unused education benefits to [REDACTED]/18-months through the MilConnect TEB portal on 1 August 2009.

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner's TEB application, and it was approved on 1 August 2009 without a service obligation in accordance with reference (b).

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.

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.

¹ Reference (b), 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.

² References (c) and (d), the option to transfer a Service member's unused education benefits to an eligible dependent did not require an additional service obligation for those eligible for retirement on 1 August 2009 provided the TEB application was submitted prior to 31 July 2013. However, all TEB applications submitted on or after 1 August 2013, required service members to incur a 4-year additional service obligation regardless of retirement eligibility. Reference (d) specified that all officers were required to have a NAVPERS 1070/613, Administrative Remarks, prepared by their command in the Navy Standard Integrated Personnel System ESR, agreeing to serve the required additional years of service prior to initiating their electronic transfer election. Furthermore, the policies directed members to periodically check the status of their application; a denied transfer of TEB application required the member to take corrective action and reapply with a new service obligation end date.

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5. The foregoing action of the Board is submitted for your review and action.

8/16/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Recommendation (Deny Relief)

Reviewed and Approved Executive Director Recommendation (Grant Relief)

9/23/2022

[REDACTED]

Assistant General Counsel (M&RA)

Signed by: [REDACTED]