



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

[REDACTED]
Docket No. 5943-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] [REDACTED], USN RET,
XXX-XX-[REDACTED]

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

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

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 24 August 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 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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET,
XXX-XX-[REDACTED]

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 transfer of education benefits (TEB) application required members to take corrective action and reapply with a new service obligation end date.

- c. Petitioner's Active Duty Service Date was 25 January 1993.
- d. On 31 October 2008, Petitioner reenlisted for a term of 3-years.
- e. Petitioner submitted TEB application on 8 December 2009. The Service rejected the application indicating, Petitioner "has not committed to the required additional service."
- f. On 1 August 2011, Petitioner reenlisted for a term of 2 years.
- g. Petitioner submitted second TEB application on 15 August 2012. The Service rejected the application indicating, Petitioner "has not committed to the required additional service."
- h. On 15 October 2012, Petitioner reenlisted for a term of 4 years.
- i. Petitioner submitted final TEB application on 24 October 2012. The Service approved the application with an obligated end date of 14 October 2016.
- j. Petitioner transferred to the Fleet Reserve effective 1 November 2015.

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 voluntarily transferred to the Fleet Reserve before completing his TEB service obligation. Although Petitioner did not complete the proper administrative requirements, the Board concluded that he completed over 5 years of active duty service after submitting his initial TEB application on 8 December 2009, thereby meeting the spirit and intent of reference (b). Therefore, the Board felt under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner reenlisted on 1 August 2011 for a term of "6 years" vice "2 years" and reenlistment dated 15 October 2012 for a term of 4 years is null and void.

Petitioner elected to transfer unused education benefits to [REDACTED]/1-month and [REDACTED]
[REDACTED]/35-months through the MilConnect TEB portal on 1 August 2011.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET,
XXX-XX-[REDACTED]

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner's TEB application and it was approved on 1 August 2011 with a 4-year service obligation.

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.

9/14/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]