



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

■
Docket No. 7819-22
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 38 U.S.C. Chapter 33
(c) NAVADMIN 203/09
(d) BUPERSNOTE 1780, 7 Apr 10

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 benefits¹ to eligible dependents.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 26 October 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. Petitioner's Active Duty Service Date was 4 April 1994.

b. Petitioner submitted transfer of education benefits (TEB) application on 11 December 2009. The Service rejected the application indicating, Petitioner "had not committed to the required additional service time."

¹ 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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c. Petitioner was assigned to Airborne Command and Control Squadron 120 for temporary duty from 5 December 2009 through 3 January 2010.

d. Petitioner's official military personnel file contains a NAVPERS 1070/613, Administrative Remarks dated 11 December 2009, signed by Petitioner agreeing to the four additional years required to TEB – it was witnessed by the Linguist Officer in Charge/Assistant J1 for [REDACTED]
[REDACTED]

e. On 29 December 2012, Petitioner was assigned to [REDACTED] for duty.

f. On 21 May 2013, [REDACTED] uploaded a backdated "Montgomery GI Bill – Selected Reserve (MGIB-SR) Statement of Understanding" NAVPERS 1070/613, Administrative Remarks dated 11 December 2009 to Petitioner's Electronic Service Record (ESR).

g. Petitioner submitted second TEB application on 22 May 2013. The Service rejected the application indicating, Petitioner "had not committed to the required additional service time."

h. On 28 May 2013, [REDACTED] uploaded two additional backdated NAVPERS 1070/613, Administrative Remarks dated 11 December 2009.

i. Petitioner submitted final TEB application on 30 May 2013. The Service approved the application with an obligation end date of 29 May 2017.

j. Petitioner transferred to the Retired List effective 1 May 2014.

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 met the basic eligibility criteria to transfer Post-9/11 GI Bill education benefits but initially failed to complete the administrative requirements outlined in references (c) and (d).² Petitioner was subsequently approved to TEB in accordance with reference (d), however, he voluntarily transferred to the Retired List before completing his TEB service obligation. Although Petitioner did not complete the proper administrative requirements, the Board concluded that he completed over 4 years of active duty service after his initial TEB application, thereby meeting the spirit and intent of reference (b). Therefore, the Board felt under these circumstances, relief is warranted.

² 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, 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 policy directed members to periodically check the status of their application; a denied TEB application required member to take corrective action and reapply with a new service obligation end date.

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[REDACTED]

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 11 December 2009, and submitted to Commander, Navy Personnel Command for inclusion in the Petitioner's Official Military Personnel File.

Petitioner elected to transfer unused education benefits to [REDACTED]/12-months, [REDACTED]/12-months, and [REDACTED]/12-months through the MilConnect TEB portal on 11 December 2009.

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner's TEB application and it was approved on 11 December 2009 with a 4-year 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.

11/4/2022

[REDACTED]

Deputy Director

[REDACTED]