

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 7891-22 Ref: Signature Date

Dear ,

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 22 March 2023. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies. In addition, the Board considered the advisory opinion by Commander, Navy Reserve Forces Command letter 5420 Ser N1/011 dated 6 January 2023 and your response to the opinion.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested to establish eligibility to transfer Post-9/11 GI Bill education benefits to your eligible dependents. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that pursuant to Title 38 U.S.C. § 3319, Navy Administrative messages and Bureau of Naval Personnel Notice (BUPERSNOTE) 1780 were published outlining eligibility, processing, service obligation, and reference information germane to transferring education benefits to eligible dependents. Specifically, BUPERSNOTE 1780 stipulated the ability to transfer education benefits (TEB) require members to be eligible for the Post-9/11 GI Bill. The criterion for Post-9/11 GI Bill requires individuals to serve a minimum of 90 aggregated days of qualifying active duty on or after 11 September 2001. Qualifying service for the Selected Reserve includes executing active duty orders under Title 10 U.S.C., sections 688, 12301(a), 12301(d), 12303(g),

12302, or 12304; execution of Annual Training orders is not qualifying active duty service. Additionally, the policy specified 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 for retirement on or after 1 August 2012.

A review of your record indicates a "2 Year Service Obligation for Transfer of Post 9-11 GI-Bill Benefits" NAVPERS 1070/613, Administrative Remarks was uploaded to your ESR on 2 July 2012. You earned 20 total years qualifying service on 1 January 2016 and submitted your TEB application on 17 November 2018; the Service initially approved the application with an obligation end date of 16 November 2022. On 25 September 2019, you were notified of your impending separation from the Navy Reserve effective 1 July 2020. As such, the Service adjusted your TEB obligation end date to 30 June 2020. However, the Board found that prior to your 1 July 2020 transfer to the Retired Reserve you only completed 62 days of qualifying active duty service; therefore, ineligible to transfer Post-9/11 GI Bill education benefits. The Board noted that although you may not have had opportunities to execute active duty orders during the COVID-19 pandemic, the Board could not find, nor did you provide evidence of any such restrictions prior to COVID-19.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

