



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

[REDACTED]
Docket No. 8163-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USNR, XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) DoD Instruction 1341.13, 31 May 13
(c) 10 U.S.C. § 1145

Encl: (1) DD Form 149 w/enclosures
(2) DD Form 214
(3) NAVPERS 1000/4 Officer Appointment Acceptance and Oath of Office
(4) PERS-97 e-mail, 17 Oct 22

1. Pursuant to the provisions of reference (a) Section 1552, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board) requesting correction of his Officer Appointment Acceptance and Oath of Office.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 19 January 2023, and pursuant to its regulations, determined 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 records, and applicable statutes, regulations, and policies.

3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Petitioner resigned his regular commission effective 30 September 2022 at the completion of his required active service, and was appointed as an officer in the Naval Reserve on 3 October 2022. Enclosures (2)-(3).

b. Petitioner contends that, upon separation from active duty, he was required to transition into the Naval Reserve without a break in service due to the service commitment he incurred after transferring his Post 9/11 education benefits to his children. Due to an administrative error made by the Navy Personnel Command (NPC), he was not scrolled in time for him to transition to the Reserve Active Status List (RASL) on 1 October 2022, the day following the date upon which he was to separate from active duty. For officers who are separating from active duty and transferring to the RASL, NPC's consistent practice has been to transition officers from active duty to the RASL to ensure they do not incur a break in service.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USNR, XXX-XX-[REDACTED]

c. In support of his contentions, Petitioner submitted enclosure (4), e-mail correspondence from Deputy Division Director, Career Transition Office (PERS 97) confirming the error and advising Petitioner to seek relief from the Board for Correction of Naval Records.

d. Subject to the provisions contained in reference (b), the option to transfer a Service member's unused education benefits to an eligible dependent requires an additional four-year service obligation at the time of election. However, reference (b) provides that active-duty and Selected Reserve personnel with more than 10 years of service in the Military Services on the date of election may serve a lesser obligation if they are precluded from committing to a 4-year obligation as a result of standard policy (Service or Department of Defense) or federal statute.

e. Pursuant to reference (g), the Transitional Assistance Management Program (TAMP) may cover members and eligible family members if separating from regular active duty service and the member agrees to become a member of the Selected Reserve of a Reserve Component. TAMP provides 180 days of premium-free transitional health care benefits after regular TRICARE benefits end. The Service member must become a Selected Reservist the day immediately following release from regular active duty to qualify.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief. The Board determined that due to no fault of his own, Petitioner's appointment in the Navy Reserve was not approved prior to his separation date, or in time to prevent a three-day gap in service, which adversely affected some of his benefits eligibility. The Board also noted that NPC's consistent practice has been to transition officers from active duty to the RASL to ensure they do not incur a break in service.

The Board thus concluded that Petitioner's appointment acceptance date shown on his NAVPERS 1000/4 at enclosure (2) shall be adjusted to the date immediately following the date of his separation from active duty, and that their records reflect continuous service during his transition from the Active-Duty List (ADL) to the RASL.

Furthermore, NPC will ensure that an audit is conducted of Petitioner's record and that appropriate adjustments are made to his transfer of Post-9/11 GI Bill education benefits obligation end date and TAMP record, as applicable.

RECOMMENDATION

In view of the above, the Board recommends the following corrective action.

Petitioner's naval record be corrected by modifying his appointment acceptance date in the Navy Reserve to the date immediately following the date of his discharge from active duty, so his record reflects continuous service from the ADL to the RASL.

Note: This change authorizes NPC to make appropriate adjustments to Petitioner's transfer of Post-9/11 GI Bill education benefits obligation end date and TAMP record, as applicable.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USNR, XXX-XX-[REDACTED]

No conclusion, recommendation, or provision in this decision is to be interpreted as expressly or impliedly granting any other rights, privileges, or standing to change, modify, or correct any additional military record that is not included in the corrected record necessary to effectuate the specific relief in this case.

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.

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

2/24/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]