



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

[REDACTED]
Docket No. 9319-22
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. Chap 33
(c) 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 his eligible dependent children.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 4 January 2023 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 reference (c), 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. Additionally, enlisted personnel were required to have sufficient time on

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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 the member to take corrective action and reapply with a new service obligation end date.

- c. Petitioner's Active Duty Service Date was 24 November 1997.
- d. On 4 June 2010, Petitioner reenlisted for a term of 3 years.
- e. Petitioner submitted TEB application on 20 January 2011. The Service rejected the application on 21 January 2011 indicating, Petitioner "has not committed to required additional service time."
- f. On 7 May 2013 a 21-month extension to Petitioner's 4 June 2010 reenlistment was submitted into the corporate system.
- g. On 16 December 2013, Petitioner reenlisted for a term of 4 years.
- h. Petitioner submitted second TEB application on 22 January 2014. The Service approved the application with an obligation end date of 15 December 2017.
- i. Petitioner transferred to the Fleet Reserve effective 1 December 2017.

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 7-years of active duty service after submitting his initial TEB application, 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's NAVPERS 1070/601, Immediate Reenlistment Contract dated 4 June 2010 is amended to reflect reenlisting for a term of "4 years" vice "3 years."

Petitioner elected to transfer unused education benefits to [REDACTED] 18-months and [REDACTED] 18-months through the MilConnect TEB portal on 4 June 2010. Note: Petitioner adjusted the months of allocation to reflect [REDACTED]/12-months, [REDACTED]/12-months, and [REDACTED]/12-months prior to transferring to the Fleet Reserve.

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[REDACTED]

Commander, Navy Personnel Command (PERS-311) reviewed Petitioner's TEB application and it was approved on 4 June 2010 with a 4-year service obligation. Note: PERS-311 will ensure Petitioner's Benefits for Education Administrative Services Tool Family Member History is updated with the aforementioned approved allocation of education benefits.

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.

1/12/2023

[REDACTED]

Deputy Director

[REDACTED]