

DEPARTMENT OF THE NAVY

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

> Docket No. 9467-22 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 25 January 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.

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 retroactive approval to transfer Post-9/11 GI Bill education benefits to your dependent daughter. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded the ability to transfer Post-9/11 GI Bill education benefits to eligible dependents is a recruiting and retention tool that became effective 1 August 2009 in accordance with Title 38 U.S.C. § 3319. Pursuant to this law, Navy Administration (NAVADMIN) message 187/09, released on 26 June 2009 and NAVADMIN 203/09, released on 11 July 2009, published Navy guidance implementing the transfer of Post-9/11 GI Bill education benefits. Subsequently, Bureau of Naval Personnel Notice 1780 promulgated on 7 April 2010. The aforementioned policies outlined eligibility, processing, service obligation, and reference information germane to transferring education benefits to eligible dependents prior to retirement. Specifically, the policies outlined the ability to transfer a Service member's unused education benefits to an

eligible dependent required a 3-year additional service obligation at the time of election for those eligible to retire on or after 1 August 2011, and before 1 August 2012. Additionally, the policies outlined the consequences of failing to complete the obligation. Moreover, when submitting an application via the MilConnect Transfer Education Benefits (TEB) portal, all service members must acknowledge a series of requirements before proceeding with their application. Included in these requirements is "I understand and agree to remain in the Armed Forces for the period required. I understand that failure to complete that service may lead to an overpayment by the Department of Veterans Affairs for any payment made."

A review of your record indicates that you requested to TEB on 31 March 2011. The Service approved your application with an obligation end date of 30 March 2014. However, you voluntarily transferred to the Retired List effective 1 July 2012, thereby forfeiting the right to transfer unused education benefits.

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.

