



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

■
Docket No. 424-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN,
XXX XX [REDACTED] RET

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 eligible dependents.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 15 February 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 for those eligible to retire on or after 1 August 2012. Additionally, all officers

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were required to have a NAVPERS 1070/613, Administrative Remarks, prepared by their command in the Navy Standard Integrated Personnel System Electronic Service Record (ESR), agreeing to serve the required additional years of service prior to initiating their electronic transfer election via the MilConnect Transfer of Education Benefits (TEB) portal. However, Selected Reserve (SELRES) members who voluntarily transfer to the Individual Ready Reserve (IRR), including the Voluntary Training Unit (VTU), prior to completing their service agreement forfeit the right to TEB.

c. Petitioner's Pay Entry Base Date was 27 February 1996.

d. Petitioner served in the U.S. Army Reserve prior to accepting his Navy Reserve commission on 22 February 2010. Thereafter, Petitioner was assigned to a SELRES unit on 30 March 2010.

e. On 10 April 2010, Petitioner signed "Post 911 GI Bill Transfer to Dependents" NAVPERS 1070/613, Administrative Remarks and it was uploaded to his ESR.

f. Petitioner submitted TEB application on 2 July 2012. The Service approved the application with an obligation end date of 2 July 2016.

g. On 1 April 2015, "Transfer from Selected Reserve (SELRES) Status Counseling" NAVPERS 1070/613, Administrative Remarks was uploaded to Petitioner's ESR indicating he was advised of the affects to his pay and benefits [Post 9/11 Transferability] upon leaving the SELRES.

h. On 1 June 2015, Petitioner was assigned to Navy Reserve Volunteer Training 7070 at his own request and subsequently transferred to the IRR effective 21 October 2015.

i. On 4 April 2018, Petitioner issued Notification of Eligibility (NOE) to Receive Retired Pay at or after Age 60 and Participate in the Reserve Component Survivor Benefit Plan (RC-SBP) indicating completion of 20 qualifying years of service.

j. Petitioner transferred to the Retired Reserve without pay effective 1 January 2019.

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 VTU before completing his TEB service obligation. Although Petitioner did not complete the proper administrative requirements, the Board concluded that he completed over 5-years of SELRES service after completing the required NAVPERS 1070/613, Administrative Remarks on 10 April 2010, thereby meeting the spirit and intent of reference (b). Therefore, the Board felt under these circumstances, relief is warranted.

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RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner elected to transfer unused education benefits to [REDACTED]/1-month,
[REDACTED]/12-months, [REDACTED]/11-months, and [REDACTED]
[REDACTED]/12-months through the MilConnect TEB portal on 10 April 2010.

Commander, Naval Reserve Forces Command (N1) reviewed the Petitioner's TEB application and it was approved on 10 April 2010 with a 4-year service 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.

2/23/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]