



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

■
Docket No. 914-23
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. Chapter 33
(c) NAVADMIN 203/09
(d) NAVADMIN 235/11
(e) MILPERSMAN 1160-120

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 by changing his retirement date to match his high year tenure (HYT).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 22 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. Petitioner entered active duty service on 6 August 1988, and advanced to Naval Diver Senior Chief Petty Officer (NDCS)/E-8 on 16 September 2007. Petitioner later reenlisted on 19 October 2009 for a term of 3 years and thereafter, executed a 22-month extension.

b. Petitioner submitted transfer of education benefits (TEB) application on 8 April 2014. The Service rejected the application on 10 April 2014 indicating, Petitioner "has not committed to the required additional service time."

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c. On 29 July 2014 Petitioner executed a 1-month extension, and transferred to the Fleet Reserve on 31 August 2014 with over 25 years of active duty service.

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 met the basic eligibility criteria to transfer Post 9/11 education benefits to eligible dependents but failed to complete the administrative requirements outlined in reference (c). Although Petitioner did not complete the proper administrative requirements, the Board concluded that had he received proper counseling, he would have been able to TEB without incurring an additional service obligation from 1 August 2009 through 31 July 2013. Additionally, Petitioner completed over 5-years of active duty service from the inception of the ability to TEB, thereby meeting the spirit and intent of reference (b). However, the Board was not amenable to change Petitioner's transfer to the Fleet Reserve on 31 August 2014 to his 8 September 2014 HYT date. Therefore, the Board felt under these circumstances, partial relief is warranted.

RECOMMENDATION

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

Petitioner elected to transfer unused education benefits to [REDACTED] /1-month through the MilConnect TEB portal on 1 August 2009.

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner's TEB application and it was approved on 1 August 2009 without an additional service obligation.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied.

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.

3/4/2023

[REDACTED]

Deputy Director

[REDACTED]