



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

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Docket No. 1001-23
Ref: Signature Date

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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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 22 February 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 to establish eligibility to transfer Post-9/11 GI Bill education benefits to your eligible dependents. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. 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 guidance updating the transfer of education benefits (TEB) published by Bureau of Naval Personnel Notice 1780, released on 7 April 2010, 15 August 2014 and 14 September 2015 outlined eligibility, processing, service obligation, and reference information germane to transferring education benefits to eligible dependents. Specifically, the policy indicated 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 were required to have a NAVPERS 1070/613, Administrative Remarks (Page 13), 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 TEB portal. Furthermore, the policies directed members to periodically check the status of their application; a denied TEB application required members to take corrective action and reapply with a new service obligation end date. The policy further stipulated that failure to complete the service agreement after transferring entitlement might result in an overpayment of educational assistance and subject to collection by the Department of Veteran Affairs.

A review of your record indicates you submitted TEB applications on 21 August 2012 and 5 November 2012, both applications were rejected for failure to have the required Page 13 uploaded to your ESR. On 15 November 2012, you signed the required Page 13 agreeing:

“I understand by signing this Page 13, I agree to complete four more years in the Armed Forces (Active or Selected Reserve) from the date I request transferability of Post 9-11, REAP or MGIB-SR education benefits to my dependents/family members. I understand that failure to complete this four year obligation may lead to an overpayment by the Department of Veterans Affairs that may be recouped for any payments made to dependents/family members.”

By signing the aforementioned Page 13, you acknowledged the consequences of not completing the 4-year requirement. Thereafter, your final TEB application was approved with an obligation end date of 15 November 2016. However, on 8 September 2015 you requested to resign your commission and discharged on 1 August 2016, thereby forfeiting your ability to transfer Post-9/11 GI Bill education benefits. Thus, the Board found no error or injustice to correct your record by adjusting your obligation end date to match your voluntary discharge.

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.

Sincerely,

3/2/2023

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Deputy Director

Signed by: ■