



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. 1404-23
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.

A three-member panel of the Board, sitting in executive session, considered your application on 10 May 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.

You requested to establish eligibility to transfer Post-9/11 GI Bill education benefits to your eligible dependents prior to 31 July 2013. 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 Administrative messages and Bureau of Naval Personnel Notices 1780 published Navy guidance on eligibility, processing, service obligation, and reference information germane to transferring education benefits to eligible dependents. Specifically, the policies indicated the option to transfer unused education benefit to an eligible dependent required a 4-year additional service obligation at the time of election for all transfer of education benefits (TEB) applications submitted on or after 1 August 2013. 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. When submitting an application via the MilConnect 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.” Furthermore, the policy specified that a denied TEB application required members to take corrective action and reapply with a new service obligation end date.

A review of your record indicates you were apprehended by civil authorities for driving under the influence on 5 December 2013. You submitted your first TEB application on 10 January 2014. The Service rejected the TEB application on 13 January 2014 indicating, you had not committed to the required additional service time; a copy of the required Page 13 was not uploaded to your ESR. On 14 January 2014, you signed the Page 13 agreeing:

“I understand by signing this PG 13, I agree to complete four more years in the armed forces from the date I request transferability of Post 9-11 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. On 17 January 2014, you received non-judicial punishment for the misconduct incident that occurred on 5 December 2013; you were awarded punitive letter of reprimand, recommended removal from the Captain/O-6 selection list and to show cause for retention. Thereafter, you resubmitted your TEB application and it was approved with an obligation end date of 16 January 2018. However, you voluntarily transferred to the Retired List effective 1 September 2015, 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 backdating your application prior to 31 July 2013.

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,

5/17/2023

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Deputy Director
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