

DEPARTMENT OF THE NAVY

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

> Docket No. 7497-23 Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD , USN,

Ref: (a) Title 10 U.S.C. § 1552

(b) Title 38 U.S.C. Chapter 33

(c) BUPERSNOTE 1780

(d) NAVADMIN 236/18

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 dependent children.
- 2. The Board, consisting of allegations of error and injustice on 20 September 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 Subject'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. This 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), generally, an individual who serves a minimum of 90 aggregated days of qualifying active duty on or after 11 September 2001, and receives an

honorable discharge will be eligible for educational assistance under the Post-9/11 GI Bill. The option to transfer a Service member's unused education benefits to an eligible dependent requires 6 years of service on active duty and/or the Selected Reserve and agreement to serve four additional years on active duty and/or the Selected Reserve from the date of election. 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, agreeing to serve the required additional years of service prior to initiating their electronic transfer election.

- c. Petitioner' served in the U.S. Marine Corps from 1 January 2010 to 1 July 2014.
- d. On 2 July 2014, Petitioner accepted a regular commission in the U.S. Navy for service in the Uniformed Services University of Health Services.
- e. On 13 February 2017, "Post 9-11 GI Bill" NAVPERS 1070/613, Administrative Remarks was uploaded to Petitioner's Electronic Service Record.
- f. On 18 May 2018, Petitioner completed course of education with the Uniformed Services University of Health Services and accepted a regular commission as a Lieutenant/O-3 on 19 May 2018.
 - g. On 4 June 2018, Petitioner entered active duty.
- h. Petitioner submitted transfer of education benefits (TEB) application on 22 April 2020. The Service rejected the application indicating, Petitioner "had not committed to the required additional service time." There is no record of Petitioner completing the required TEB Statement of Understanding (SOU).
- i. On 3 July 2023, Petitioner placed in Accounting Category Code 355 (temporary duty medical board or physical evaluation board).
- j. Petitioner submitted two additional TEB applications on 13 July 2023 and 21 July 2023. The Service rejected both applications indicating, Petitioner "had not committed to the required additional service time." There is no record of Petitioner completing the required TEB SOU.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded that Petitioner met the basic eligibility criteria to transfer Post-9/11 GI Bill education benefits but failed to complete the administrative requirements outlined in reference (d). Additionally, the Board determined Petitioner's record indicates he has three times failed to select to higher grade and currently undergoing Physical Evaluation Board processing, rendering him ineligible to TEB. Although

¹ Reference (d), updated the TEB process by establishing an online, self-service SOU that replaced the Page 13 effective 1 October 2018 and required completion by all Sailors prior to submitting a TEB application.

Petitioner did not complete the appropriate administrative requirements, the Board determined Petitioner acknowledged the service requirement by completing the Page 13 on 13 February 2017, submitted his initial TEB application shortly after completing 6 years of active duty service and continues to serve on active duty, thereby meeting the spirit and intent of reference (b). Therefore, the Board agreed that under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner, in coordination with his command completed the required TEB SOU on 22 April 2020, and submitted it to Commander, Navy Personnel Command for inclusion in Petitioner's Official Military Personnel File.

Petitioner elected to transfer unused education benefits to and through the MilConnect TEB portal on 22 April 2020.

Commander, Navy Personnel Command (PERS-311) reviewed Petitioner's TEB application and it was approved on 22 April 2020 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.

