



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. 8200-23
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 November 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 correction of your naval record to reflect you signed a statement of understanding to transfer Post-9/11 GI Bill education benefits on 28 July 2010 to garner transfer of education benefits (TEB) approval from 2010. 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 (NAVADMIN) message 187/09 released on 26 June 2009 and NAVADMIN 203/09 released on 11 July 2009 published Navy guidance implementing the transfer of Post 9/11 GI Bill education benefits. Thereafter, Bureau of Naval Personnel Notice (BUPERSNOTE) 1780 promulgated on 7 April 2010 with various updates before your transfer to the Retired List. These policies outlined eligibility, processing, service obligation, and reference information germane to transferring education benefits to eligible dependents. Specifically, BUPERSNOTE 1780 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, 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 policy directed members to periodically check the status of their application; a denied TEB application required the member to take corrective action and reapply with a new service obligation end date. Moreover, failure to complete the additional service obligation on active duty/or Selected Reserve forfeits the ability to TEB.

A review of your record reflects that you submitted TEB application on 28 July 2010; the Service rejected the application on 29 July 2010 indicating, "SM [service member] has not committed to the required additional service time." A copy of the required NAVPERS 1070/613, Administrative Remarks was not upload to your ESR and/or your official military personnel file. On 29 September 2014, "Transfer of Post 911 G.I. Bill Benefits to Dependents" NAVPERS 1070/613, Administrative Remarks was uploaded to your ESR, you resubmitted TEB application and it was approved with an obligation end date of 28 September 2018. The Board determined the MilConnect TEB portal provides your obligation end date and when approved to TEB, the MilConnect TEB portal generates a congratulatory letter for the service member that outlines date of request, obligation end date, and list the allocation of education benefits. You voluntarily transferred to the Retired List effective 1 October 2016, thereby forfeiting the right to transfer unused education benefits.

The Board denied your original request for relief (Docket No.8426-17) on 17 June 2018 based on you receiving sufficient notice of the service obligation associated with your 2014 TEB application approval and that you had not provided evidence in support of why you voluntarily retired without completing your TEB obligation. This Board could not find, nor did you provide evidence of you signing the required NAVPERS 1070/613, Administrative Remarks in 2010 and found that your reason for voluntarily retiring before your 28 September 2018 TEB obligation end date was a personal decision that did not meet the criteria to adjust your TEB obligation. Additionally, you failed to provide the Board with supporting documentation that substantiates your claim of attempting to resolve this matter while on active duty. On the contrary, the submission for relief on 15 September 2017 appears to be your first attempt at addressing this matter. Because of the aforementioned circumstances, the Board determined that there was insufficient evidence to overturn the previous Board's decision, therefore a change to your record is not warranted.

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,

12/1/2023

