



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

█
Docket No. 10347-23
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO █, USNR,
XXX-XX-█

Ref: (a) Title 10 U.S.C. § 1552
(b) MILPERSMAN 1780-11

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 his eligible dependents effective 12 October 2022.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 10 January 2024 and pursuant to its regulations, determined that the corrective action indicated below should be taken on 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. 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. The 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 (b) the option to transfer a Service member's unused education benefits to an eligible dependent requires, completion of at least 6 years on active duty and/or Selected Reserve (SELRES); and agreement to serve at least four additional years on

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USNR,
XXX-XX-[REDACTED]

active duty and/or SELRES at the time of election. Enlisted personnel are required to complete the online, self-service Statement of Understanding (SOU) and have sufficient time on contract to meet the additional service requirement prior to initiating their electronic transfer election, but no more than 30 calendar days following execution of a 4-year reenlistment and or extension. Additionally, the policy directed members to periodically check the status of their application; a denied transfer of education benefits (TEB) application requires members to take corrective action and reapply with a new service obligation end date.

c. On 6 May 2016, Petitioner enlisted in the Naval Reserve for 8 years of which 6 years was an active duty obligation. Petitioner entered active duty on 12 October 2016; end of active obligated service 11 October 2022.

d. On 6 September 2022, Petitioner signed NAVPERS 1070/601, Immediate Reenlistment Contract for 4 years in the Navy Reserve with an effective date of 12 October 2022.

e. On 14 September 2022, Petitioner submitted TEB application with 28 days remaining on active duty contract. The Service rejected the application on 15 September 2022 indicating, Petitioner “does not have 6 years in Armed Forces.”

f. On 11 October 2022, Petitioner released from active duty and transferred to the Navy Reserve with 6 years, 00 months, and 00 days total active duty service.

g. On 13 October 2022, Petitioner completed the required SOU and submitted TEB application. The Service rejected the application indicating, Petitioner “has not committed to the required additional service time.” At this time Navy Standard Integrated Personnel System had not been updated to reflect Petitioner’s gain to SELRES with 4-year reenlistment.

h. On 25 October 2022, Petitioner gained to SELRES unit effective 12 October 2022.

i. On 15 December 2022, Petitioner issued Inactive Duty Training (IDT) Orders assigning him to SELRES unit effective 12 October 2022. The amplifying remarks on the orders indicate, “The effective date of your Navy Reserve affiliation in a drill pay status (SELRES) is 10/12/2022. Member affiliated via CTO [Career Transition Office] and has been placed IAP [In Assignment Processing].”

j. On 26 December 2022, Petitioner submitted TEB application with less than 4 years remaining on contract. The Service rejected the application on 5 January 2023 indicating, Petitioner “has not committed to the required additional service time.”

k. Petitioner’s first IDT period with SELRES unit was on 7 January 2023.

l. Petitioner submitted TEB applications on 5 March 2023, 2 April 2023, 24 April 2023 and 9 August 2023 with less than 4 years remaining on contract. The Service rejected the applications indicating, Petitioner “has not committed to the required additional service time.”

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USNR,
XXX-XX-[REDACTED]

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 GI Bill education benefits in accordance with reference (b). However, the Board determined there was a delay in the Navy Reserve gaining Petitioner to SELRES with 4-year reenlistment, resulting in his 13 October 2022 TEB application being denied. The subsequent TEB applications were rejected because Petitioner had less than 4 years remaining on contract. Although the proper administrative requirements were not completed, the Board concluded Petitioner did not have control of when his SELRES gain was completed and/or when he was issued IDT orders. Therefore, the Board determined that under this circumstance, 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 12 October 2022 and submitted it to Commander, Navy Personnel Command for inclusion in the Petitioner's Official Military Personnel File.

Petitioner elected to transfer unused education benefits to [REDACTED]/1-month, and [REDACTED]/18 months through the MilConnect TEB portal on 12 October 2022.

Commander, Navy Reserve Forces Command (NIC2) reviewed Petitioner's TEB application, and it was approved on 12 October 2022 with a 4-year service obligation.

That 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.

1/16/2024

[REDACTED]