



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

■  
Docket No. 388-24  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) Title 38 U.S.C. Chapter 33  
(c BUPERSNOTE 1780

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 effective 21 June 2010.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 17 January 2024 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 (c), an individual who serves a minimum of 90 aggregate days of qualifying active duty after 10 September 2001, and receives an honorable discharge will be eligible for educational assistance under the Post-9/11 GI Bill. However, Service academy

statutory contract period of 5 years is excluded for purposes of accruing service for Post-9/11 GI Bill eligibility. The policy further stipulates that the option to transfer a Service member's unused education benefits to an eligible dependent requires them to have served at least 6 years active duty and/or Selected Reserve service and agrees to serve at least four additional years in the Armed Forces at the time of election. 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. Additionally, the policy directed members to periodically check the status of their application; a denied transfer of education benefits (TEB) application requires member to take corrective action and reapply with a new service obligation end date. Moreover, Service members may transfer up to 36-months or remaining months of eligibility, whichever is less.

c. On 1 July 1997, Petitioner became a midshipman in the U.S. Naval Academy (USNA) and graduated on 24 May 2001.

d. On 25 May 2001, Petitioner accepted active duty commission and entered active duty. Petitioner completed USNA service obligation on 24 May 2006.

e. On 21 June 2010, Petitioner signed "POST 9-11 GI BILL PG 13" NAVPERS 1070/613, Administrative Remarks. The NAVPERS 1070/613, Administrative Remarks was not uploaded to Petitioner's ESR.

f. On 24 May 2012, Petitioner completed 6 years of active duty service.

g. On 31 October 2021, Petitioner transferred to the Retired List with 20 years, 5 months, and 6 days of total active duty service.

h. Petitioner's Benefits for Education Administrative Services Tool record reflects he was paid 15-month of education benefits; last payment made on 3 February 2022.

## 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 was statutorily obligated to serve 5 years active duty service for graduating from the USNA beginning 25 May 2001. This statutory obligated active duty service ended 24 May 2006, and Petitioner began qualifying active duty service to garner the ability to transfer unused education benefits on/after 25 May 2012. However, Petitioner did not meet the TEB prerequisite on 21 June 2010 when he signed the required NAVPERS 1070/613, Administrative Remarks. Additionally, Petitioner's record does not indicate he ever submitted a TEB application via MilConnect. Although Petitioner did not complete the appropriate administrative requirements, the Board concluded that had he received adequate counseling, he would have been able to transfer unused education benefits to eligible dependents upon completing his statutory service obligation on 24 May 2012. The Board determined Petitioner continued to serve over 11 years of active duty service after signing the NAVPERS 1070/613, Administrative Remarks and over 9 years of active duty service after

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[REDACTED]

completing his statutory service obligation, thereby meeting the spirit and intent of reference (b). Therefore, the Board determined that under these circumstances, partial 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 NAVPERS 1070/613, Administrative Remarks on 26 May 2012 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]/11-months and [REDACTED]/10-months through the MilConnect TEB portal on 26 May 2012.

Commander, Navy Personnel Command (PERS-311) reviewed Petitioner's TEB application, and it was approved on 26 May 2012 with a 4-year service obligation.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied in accordance with reference (c). Petitioner had not completed 6 years in the Armed Forces on 21 June 2010.

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.

2/1/2024

[REDACTED]