



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

[REDACTED]
Docket No. 295-17
DEC 11 2017

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

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

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NAVADMIN 187/09 of 26 Jun 09
(3) NAVADMIN 203/09 of 11 Jul 09
(4) NPC memo 1780 PERS-311 dtd 20 Jul 17

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to establish eligibility to transfer Post 9/11 GI Bill benefits to his dependents.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 5 October 2017 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 your application, together with all material submitted in support thereof, relevant portions of your 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, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The Post-9/11 Veterans Education 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 a provision for qualifying service members to transfer educational benefits to dependents. General descriptions of the essential components of the new law were widely available beginning in summer 2008 but specific implementing guidance was not published until summer 2009.

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c. The Navy's guidance implementing the Post-9/11 GI Bill was published by NAVADMIN 187/09, released on 26 June 2009, and NAVADMIN 203/09, released 11 July 2009. Under the guidance, "active duty sailors that separate, retire, transfer to the Fleet Reserve or who are discharged prior to 1 August 2009 are not eligible to elect transferability." See enclosures (2) and (3).

d. Petitioner attempted to transfer his education benefits (TEB) on 30 November 2010, however, his request was denied because the commitment to additional obligated service was not in his electronic service record (ESR). Petitioner subsequently completed a Page 13 committing to the additional service period on 13 December 2010 and uploaded it in his ERS, however, he did not know that he had to go back into the MilConnect system and resubmit his TEB request. When Petitioner realized his mistake, he resubmitted his TEB request on 23 January 2017, which was approved with an obligation end date (OED) of 22 January 2021. See enclosures (1) and (4).

e. In correspondence attached as enclosure (4), Commander, Navy Personnel Command (PERS-314) has recommended the request be denied. 38 U.S.C. §3319, NAVADMIN 187/09, and NAVADMIN 203/09 provided policies and procedures for Navy members to transfer their Post-9/11 GI Bill entitlement to eligible family members. Petitioner was not in full compliance with Title 38 or the NAVADMINs because he failed to successfully transfer his education benefits to his dependents during the TEB request that he submitted on 30 November 2010. Specifically, Petitioner did not sign a Page 13 committing to the additional service obligation or upload the document in his ESR *prior* to submitting the TEB request. Further, Petitioner never checked back in the MilConnect system to check the status of his TEB request. The period of additional service begins after the TEB request has been approved. PERS-314 highlighted that the Petitioner is not retirement eligible until May 2024, so he can continue to serve until he reaches the OED established after the approval of his 23 January 2017 TEB request.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board carefully weighed the observations made in enclosure (4) regarding Petitioner's responsibility under the Post 9/11 GI Bill program. The Board found that had the Petitioner been given clear counselling from his command about his obligation to sign a Page 13 committing to the additional service obligation and upload the document in his ESR *prior* to submitting the TEB request, he would have followed the proper steps to successfully transfer his benefits. The Board felt that it would be an injustice to deny the Petitioner's 30 November 2010 TEB request due to a minor processing error. Although the proper administrative requirements were not completed by the Petitioner, the Board felt that under these circumstances a measure of relief is warranted.

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[REDACTED]

RECOMMENDATION:

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

Petitioner elected to transfer unused educational benefits through the MilConnect Transfer of Educational Benefits (TEB) web application on 30 November 2010.

NPC reviewed the Petitioner's TEB application, and it was approved on 30 November 2010. Petitioner incurred a 4-year additional service obligation.

Upon completion of the above changes, COMNAVPERSCOM (PERS 314) will execute an approved Transferability of Educational Benefits (TEB) application reflecting the transfer information.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that 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.

[REDACTED]

Lo Recorder

5. The foregoing action of the Board is submitted for your review and action.

[REDACTED]

Executive Director

Reviewed and approved/~~disapproved~~.

[REDACTED]