



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

[REDACTED]
Docket No. 5695-17
FEB 13 2018

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

Subj: REVIEW OF NAVAL RECORD ICC [REDACTED] USNR,
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) NAVADMIN 203/09 dtd 11 Jul 09
(c) NPC ltr 1820 PERS-912E/dcb of 2 Jan 14
(d) MILPERSMAN 1160-120 dtd 1 Jul 12

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 this Board requesting, in effect, that the applicable naval record be corrected to establish eligibility to transfer Post-9/11 GI Bill education benefits to his eligible dependents.
2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 12 January 2018 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 records, 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 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.
 - c. In accordance with reference (b), the option to transfer a service member's unused education benefits to an eligible dependent requires an additional 4-year service obligation at the time of election for those that are eligible for retirement on or after 1 August 2012. Additionally, these policies indicate members are directed to check the status of their application and if the

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request is disapproved, members must take correction action and reapply to transfer Post-9/11 GI Bill education benefits. Furthermore, there are provisions in the aforementioned policies that indicate if a member is prohibited from completing their service obligation as a result of Navy, Department of Defense policy or federal statute the obligation will be adjusted to the maximum amount of time allowed by that policy or statute.

d. Petitioner submitted his Transfer of Education Benefits (TEB) application on 31 July 2013, but in accordance with reference (b) his request was rejected for insufficient time on contract to complete the required additional service obligation. Note: Petitioner's expiration of obligated service was 9 December 2013 at the time of this request to transfer benefits.

e. Petitioner reenlist in the Navy Reserve on 12 September 2013 for a term of 4-years.

f. Petitioner submitted a manual NAVPERS 1070/613, Administrative Remarks dated 12 September 2013 acknowledging his understanding of the obligated service required to transfer Post-9/11 GI Bill education benefits to eligible dependents. No evidence of the NAVPERS 1070/613, Administrative Remarks could be located in the Petitioner's Official Military Personnel File.

g. Petitioner submitted a second TEB application on 18 September 2013, but his request was denied as a result of the NAVPERS 1070/613, Administrative Remarks not being completed in his electronic service record as required by reference (b).

h. Per reference (c), on 12 August 2012 the Petitioner completed 20 total years qualifying service to retire.

i. Petitioner reached his high year tenure gate on 6 October 2014 and was transferred from a Selected Reserve assignment to a Voluntary Training Unit (VTU) (subset of the Individual Ready Reserve) effective 1 November 2014 in accordance with reference (d).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. Petitioner met the basic eligibility criteria to transfer Post-9/11 GI Bill education benefits to eligible dependents; however, he failed to complete the required administrative requirements outlined in reference (b) prior to submitting his TEB application. The Board found that had the Petitioner been given clear and timely guidance regarding the reasons for his denied applications, he would have followed the proper steps to successfully transfer his benefits. Although the proper administrative requirements were not completed by the Petitioner, the Board felt that under these circumstances, a measure of relief is warranted.

RECOMMENDATION

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

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[REDACTED]

Petitioner, in coordination with his command completed the required NAVPERS 1070/613, Administrative Remarks on 12 September 2013 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 his eligible dependents through the MilConnect TEB portal on 18 September 2013.

Commander, Navy Reserve Forces Command reviewed the Petitioner's TEB application, and it was approved on 18 September 2013.

Petitioner's transfer of Post-9/11 GI Bill obligation end date is 31 October 2014. Note: In accordance with references (b), Petitioner's obligation end date was adjusted to align with his required transfer to the VTU effective 1 November 2014.

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

4. 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]

Recorder

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED]

Executive Director