



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

[REDACTED]
Docket No. 6403-17
MAR 12 2018

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) NAVADMIN 203/09 dtd 11 Jul 09

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 5 February 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), personnel that become retirement eligible after 1 August 2009 and before 1 July 2010, have a 1-year additional service obligation from the time of election. Additionally, personnel in this category were not required to complete a NAVPERS 1070/613, Administrative Remarks acknowledging their understanding of transferability of Post-9/11 GI Bill education benefits.

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d. Petitioner submitted his Transfer of Education Benefits (TEB) application on 10 November 2009, and was approved the same day with a 1-year service obligation end date of 9 November 2010 per reference (b).

e. Petitioner completed 20 total years qualifying service on 12 May 2010.

f. Petitioner voluntarily transferred to the Retired List effective 30 September 2010.

g. Per enclosure (1), Petitioner contends the Navy failed to provide him with statutorily required counseling regarding benefits or notice of additional service obligation. As a result of being unaware, he retired and incurred a \$44,465.40 debt for education benefits used by his son, [REDACTED] for not completing the 1-year service obligation.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. Petitioner was approved to transfer Post-9/11 GI Bill education benefits; however he retired a little over 1-month prior to completing his service obligation. Although the proper administrative requirements were not completed by the Petitioner, the Board found that had the Petitioner been given clear counseling from his command regarding transfer of Post-9/11 GI Bill education benefits service obligation, he would have elected to request transfer to the Retired List after his service obligation end date vice 30 September 2010.

RECOMMENDATION

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

Petitioner elected to transfer unused education benefits to his eligible dependents through the MilConnect TEB portal on 1 October 2009.

Commander, Navy Personnel Command (PERS-314) reviewed the Petitioner's TEB application, and it was approved on 1 October 2009.

Petitioner's transfer of Post-9/11 GI Bill obligation end date is 30 September 2010.

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

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[REDACTED]

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