



Department of Defense policy required that all Service members who wish to transfer education benefits to family member obligate for an additional 4 years of service regardless of their time in service or retirement eligibility.

A review of your record reflects that you transferred to the Retired List on 31 August 2015 with 24 years, 6 months, and 3 days of total active service. Your final statement of service indicates you completed 25 years, 6 months, and 7 days of total active service and eligible for a regular retirement on 24 February 2010. As such, a 1-year additional active service obligation would have been required for a TEB application submitted prior to 1 August 2013. Your TEB application of 17 January 2014 was approved with an obligation end date of 16 January 2018. This obligation was agreed to by you upon signing NAVPERS 1070/613, Administrative Remarks, 4-year Service Obligation for Transfer of Post 9-11 GI-Bill Benefits, of 14 January 2014 stating, "I understand by signing this PG 13, I agree to complete four more years in the armed forces from the date I request transferability of Post 9-11 education benefits to my dependents/family members. I understand that failure to complete this four year obligation may lead to an overpayment by the Department of Veterans Affairs that may be recouped for any payments made to my dependents/family members." The Board determined the forfeiture of your TEB approval was appropriate with your voluntary transfer to the Retired List on 31 August 2015, as you voluntarily agreed to transfer your unused Post-9/11 GI Bill education benefits to your dependents in exchange for 4-additional years of service from the time of election. You then voluntarily retired with 2 years, 6 months, and 16 days of the 4-year service obligation you agreed to. Therefore, the Board determined that a change to your record is not warranted.

The Board in its review considered the numerous previous Board decisions you submitted as precedent. However, the Board found that although there may be some similarity, the cases had unique circumstances for the Board to consider. For example, Docket Number 3080-22, Petitioner was an enlisted Reservist that was transferred from a Selected Reserve to a Voluntary Training Unit (VTU) as a result of reaching their high year tenure gate before their TEB obligation end date. Department of Defense (DOD) Instruction 1341.13 dated 31 May 2013 made provisions that indicated if a Service member with 10 years of service was prohibited from completing their TEB service obligation as a result of Service or DOD policy, or federal statute, the obligation would be adjusted to the maximum amount of time allowed by that policy or statute. In this case the Board elected to back-date the TEB application to align with Petitioner's previous 4-year reenlistment instead of directing the Service to align their obligation end date with their required transfer to the VTU. Docket Number 3745-22, Petitioner completed 20 years of active duty service in 2010, issued official retirement orders and then submitted TEB application prior to 1 August 2013. The Board granted relief after considering that the Service erred by approving Petitioner's TEB application despite having orders indicating they would not complete the associated obligation. Furthermore, the Board also considered the remaining previous Board decisions you provided, however found that these cases were based on reserve Service member requirements; Service members not being properly counseled; Service members not completing the proper administrative requirements; and Service members being involuntarily separated, which none of these examples were your situation. Lastly, the Board did not believe the examples you provided to be similar, because in your case, you clearly agreed to complete four more years and fully understood that your failure to complete said obligation would result in the forfeiture of your TEB, but you chose to voluntary retire anyway.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

9/10/2024

