



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

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Docket No. 2961-24
Ref: Signature Date

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Dear █

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 12 September 2024. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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. In addition, the Board considered the advisory opinion contained in Navy Personnel Command letter 5730 PERS-91 of 9 May 24, which was provided to you for comment.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested that your record be corrected to reflect your service from 9 March 1993 and retirement due to High Year Tenure (HYT) to mitigate your Post-9/11 GI Bill debt. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that per Military Personnel Manual Article 1160-120, the HYT gate for Selected Reserve (SELRES) Sailors in paygrade E-7 is 24 years length-of-service from the pay entry base date. SELRES personnel who reach the HYT gate and do not have an approved SELRES waiver, must be removed from SELRES by the end of the month in which the HYT date occurs. Bureau of Naval Personnel Notice 1780 specified the option to transfer a Service member's unused education benefits to an eligible dependent

required a 4-year additional service obligation at the time of election for those eligible to retire on or after 1 August 2012. However, there was a provision in the policy for active duty and SELRES personnel with at least 10 years of service in the Armed Forces on the date of election to serve a lesser obligation if they were precluded from committing to a 4-year service obligation as a result of standard policy (Navy or Department of Defense) or federal statute but agreed to serve the maximum amount of time allowed by such policy or statute.

A review of your record indicates that you enlisted in the Naval Reserve on 9 March 1993 for 8 years and entered the Delayed Entry Program. On 27 April 1993, you were discharged from the Delayed Entry Program and entered active duty, establishing your pay entry base date. You were released from active duty on 26 April 1999 and transferred to the Navy Reserve to complete your military service obligation. On 21 June 2014, you reenlisted for 4 years and submitted your initial transfer of education benefits (TEB) application; the Service rejected the application and directed you to contact the Service Representative. A copy of the required NAVPERS 1070/613, Administrative Remarks was not uploaded to your electronic service record. On 2 July 2014, you signed the "4 Year Service Obligation for Transfer of Post 9-11 GI Bill Benefits" NAVPERS 1070/613, Administrative Remarks acknowledging the consequences of not completing your TEB service obligation would lead to overpayment by the Department of Veterans Affairs that may be recouped for any payments made to your dependents. You resubmitted your TEB application on 3 July 2014 and the Service approved your application with an obligation end date of 3 July 2018. Thereafter, you transferred to the Retired Reserve without pay effective 1 April 2017 with 24 qualifying years of service toward non-regular retirement.

The Board found that in accordance with the aforementioned policies you would have reached your HYT gate on 27 April 2017 and would not have been required to leave the SELRES until 30 April 2017. As a result of not serving the maximum time allowed by policy, you forfeited the ability to TEB, thereby incurring a debt for payments made to your daughter. The Board determined that under these circumstances a change to your record is not warranted.

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,

10/24/2024

