

DEPARTMENT OF THE NAVY

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

> Docket No. 3468-24 Ref: Signature Date

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD USN

Ref: (a) Title 10 U.S.C. § 1552

(b) Title 38 U.S.C. Chapter 33 (c) BUPERSNOTE 1780

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 the Board for Correction of Naval Records (Board), requesting that that his naval record be corrected to establish eligibility to transfer Post-9/11 GI Bill education benefits to eligible dependent daughter effective 23 May 2010.
- 2. The Board, consisting of _______, and ______ reviewed Petitioner's allegations of error and injustice on 15 May 2024, 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 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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:
- a. 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.
 - b. Petitioner's Active Duty Service Date was 20 February 1996.

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c.	On 2 July 2004, Petitione	r married	and they had one child:	
	born on			

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- d. On 14 August 2007, Petitioner reenlisted for 3 years and thereafter extended for 2 months.
- e. On 23 May 2010, Petitioner submitted transfer of education benefits (TEB) application with less than 4 years remaining on contract and requested to transfer 12 months of benefits to his spouse. The Service rejected the application indicating Petitioner "has not committed to the required additional service time."
- f. On 12 October 2010, Petitioner extended for 6 months, reenlisted on 18 February 2011 for 5 years and subsequently extended for 1-month.
 - g. Petitioner transferred to the Fleet Reserve effective 1 March 2016.

CONCLUSION

Subi: REVIEW OF NAVAL RECORD

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. Petitioner met the basic eligibility criteria to transfer Post-9/11 GI Bill education benefits but failed to complete the administrative requirements outlined in references (c). Although Petitioner did not complete the appropriate administrative requirements, the Board concluded that had he received adequate counseling, he would have been able to transfer unused education benefits to eligible dependents upon reenlisting on 18 February 2011. Moreover, the Board determined Petitioner completed over 5-year of active duty after reenlisting on 18 February 2011, thereby meeting the spirit and intent of reference (b). Therefore, the Board determined that under this circumstance, partial relief is warranted.

RECOMMENDATION

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

Petitioner elected to transfer unused education benefits to _____/36 months through the MilConnect TEB portal on 18 February 2011.

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner's TEB application and it was approved on 18 February 2011 with a 4-year service obligation.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied because Petitioner did not have sufficient obligated service to garner TEB approval on 23 May 2010.

¹ Reference (c), the option to transfer a Service member's unused education benefits to an eligible dependent requires a 4-year additional service obligation at the time of election. Additionally, enlisted personnel are required to have sufficient time on contract to meet the additional service requirement prior to initiating their electronic transfer election. Furthermore, the policy directed members to periodically check the status of their application; a denied TEB application requires members to take corrective action and reapply with a new service obligation end date.

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

- 4. It is certified that a 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.
- 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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

