



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

■
Docket No. 7694-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ■■■■■■■■■■, USN ■■■■■■■■■■,
■■■■■■■■■■

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 38 U.S.C. Chapter 33
(c) Bureau of Naval Personnel Notice 1780, 7 Apr 10
(d) Military Personnel Manual 1160-120, 29 Oct 11

Encl: (1) Department of Defense Form 149 w/attachments
(2) DD Form 214, Certificate of Release or Discharge from Active Duty, 28 Jun 12
(3) Department of Defense Person Search (DPS) Screens, 7 Oct 24
(4) Naval Personnel Form 1070/601, Immediate Reenlistment Contract, 22 Oct 07
(5) Naval Personnel Form 1070/621, Agreement to Extend Enlistment, 12 Sep 11
(6) Benefits for Education Administrative Services Tool – Service Member History,
7 Oct 24
(7) Benefits for Education Administrative Services Tool – Family Member History,
7 Oct 24

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, hereinafter referred to as the Board, requesting that his naval record be corrected to establish his eligibility to transfer his Post-9/11 GI Bill education benefits to eligible dependents.

2. The Board reviewed Petitioner's allegations of error and injustice on 9 October 2024, and, pursuant to its governing policies and procedures, determined that the corrective action indicated below should be taken on Petitioner's record. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval records; and applicable statutes, regulations, and policies.

3. Having reviewed all that evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found as follows:

a. Before applying to the Board, Petitioner exhausted all administrative remedies available under existing law and regulations with the Department of the Navy.

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

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. On 7 April 2010, the Navy published reference (c) to implement and provide information to Navy personnel regarding the Post 9/11 GI Bill Educational Assistance Program. Reference (c) announced the eligibility criteria to transfer Post-9/11 GI Bill education benefits to eligible dependents and the administrative requirements for doing so. In relevant part, the eligibility criteria required the individual to be serving in the Armed Forces as of 1 August 2009 with at least six years of service and agree to serve at least three additional years in the Armed Forces from the date of election for those eligible for retirement on or after 1 August 2011 and before 1 August 2012. The relevant administrative requirement to transfer Post-9/11 GI Bill education benefits was for the Sailor to ensure the required, additional Armed Forces service obligation is reflected in the Electronic Service Record (ESR) prior to making election to transfer Post-9/11 GI Bill entitlement. Applications from members whose ESR does not reflect the required additional service obligation will be disapproved. The member will then be required to reapply for transferability and their additional service obligation will be calculated from the date their reapplication is approved. Members are directed to periodically check the MilConnect Transfer of Education Benefits (TEB) portal for status of their application. Additionally, there was a provision in the policy that authorized members with at least 10 years of service that were prohibited from completing their service obligation as a result of Navy or Department of Defense policy, or federal statute, the obligation was adjusted to the maximum amount of time all by that policy or statute.

d. Per reference (d), high year tenure for Sailors in paygrade E-6 was 20 years length of service.

e. On 17 June 1992, Petitioner entered active duty. Enclosure (2).

f. Petitioner has five children: [REDACTED] born on [REDACTED]; [REDACTED] born on [REDACTED]; [REDACTED] born on [REDACTED]; [REDACTED] born on [REDACTED]; and [REDACTED] born on [REDACTED]. Enclosure (3).

g. On 16 December 2004, Petitioner advanced to Air Traffic Controller First Class/E-6. Enclosure (2).

h. On 22 October 2007, Petitioner reenlisted for 4 years. Enclosure (4).

i. On 24 October 2008, Petitioner married current spouse [REDACTED] See enclosure (3).

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

j. On 12 September 2011, Petitioner signed NAVPERS 1070/621, Agreement to Extend Enlistment for nine months "to incur sufficient obligated service to meet Fleet Reserve date authorized in accordance with MLPERSMAN 1160-040." Enclosure (5).

k. On 30 June 2012, Petitioner transferred to the Fleet Reserve with 20 years and 14 days of active duty service. Enclosure (2).

l. Petitioner claims to have only recently discovered that his request to TEB was not completed while preparing for his son to go to college and it is unbeknown to him why. Petitioner contends that he completed the necessary paperwork to transfer Post-9/11 GI Bill benefits to his dependents in late 2009 to early 2010. Enclosure (1).

MAJORITY CONCLUSION

Upon careful review and consideration of all the evidence of record, the Majority of the Board found sufficient evidence of an injustice warranting relief.

The Majority found that Petitioner met the basic eligibility criteria to transfer his Post-9/11 GI Bill education benefits stated in reference (c) but failed to complete the necessary administrative requirements to garner approval.¹ Although Petitioner did not comply with the administrative requirements to transfer his education benefits, the Majority found this oversight to be understandable considering the relative newness of the ability to transfer education benefits at the time of his retirement in 2012. Given these circumstances, the Board found the existence of an injustice warranting corrective action in that a Sailor with 20 years of honorable service is unable to transfer Post-9/11 GI Bill education benefits to his eligible dependents.

MAJORITY RECOMMENDATION

In view of the above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record:

Petitioner extended his 22 October 2007 reenlistment for 10 months on 1 August 2009 to incur sufficient obligated service to transfer education benefits.

Petitioner elected to transfer unused education benefits to [REDACTED]
[REDACTED] through the MilConnect TEB portal on 1 August 2009.

Commander, Navy Personnel Command (PERS-314) reviewed Petitioner's TEB application and it was approved on 1 August 2009 with a 3-year service obligation. Note: PERS-314 is directed to ensure Petitioner's obligation end date is adjusted to align with his involuntary transfer to the Fleet Reserve due to reaching high year tenure. Navy Personnel Command is authorized to correct any other entries affected by the Board's recommendation.

¹ Based on enclosures (6) and (7), there is no evidence that Petitioner submitted an application to transfer education benefits to his dependents.

A copy of this report of proceedings will be filed in Petitioner's naval record.

MINORITY CONCLUSION

Upon careful review and consideration of all the evidence of record, the Minority of the Board found insufficient evidence of any error or injustice warranting relief.

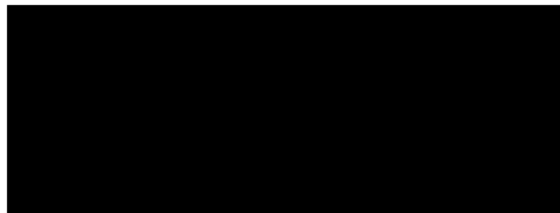
The Minority did not concur with the Majority conclusion that there existed an injustice in such denial. In this regard, the Minority concluded that the Navy Transferability of Post-9/11 GI Bill policy clearly outlined the TEB requirements and procedures. Moreover, the Minority noted Petitioner's record did not demonstrate his intentions to transfer unused education benefits to his dependents prior to retiring. Furthermore, Petitioner failed to provide the Board with evidence of submitting a TEB application and/or documentation of attempted corrective action until more than 12 years after retirement. Therefore, under these circumstances, the Minority recommended that relief is not warranted

MINORITY RECOMMENDATION

In view of the above, the Minority of the Board recommends that no corrective action be taken on 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. The foregoing action of the Board is submitted for your review and action.

11/18/2024



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

ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

- X Majority Recommendation Approved (Grant Relief – I concur with the Majority conclusion and therefore direct the corrective action recommended by the Majority above.)
- _____ Minority Recommendation Approved (Deny Relief – I concur with the Minority conclusion and therefore direct that no corrective action be taken on Petitioner’s naval record.)

