



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

██████████
Docket No. 4169-25
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ██████████, USN RET,
XXX-XXX-██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 38 U.S.C. § 3319
(c) Directive-Type Memorandum (DTM) 09-003: Post-9/11 GI Bill, 22 Jun 09
(d) NAVADMIN 203/09, 11 Jul 09
(e) Rudisill v. McDonough, Secretary of Veterans Affairs, 16 Apr 24

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 his naval record be corrected to show that he redistributed 12-months of newly allocated Post-9/11 GI Bill (PGIB) education benefits to his three youngest children prior to retirement.

2. The Board, consisting of ██████████, ██████████ and ██████████ reviewed Petitioner's allegations of error and injustice on 11 December 2025 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. On 21 August 1991, Petitioner elected to participate in Montgomery GI Bill education benefits.

b. In November 1997, Petitioner's dependent child ██████████ was born. Petitioner married ██████████ in May 2006 and dependent child ██████████ was born in April 2007.

c. On 20 February 2008, Petitioner was issued an Officer Appointment Acceptance and Oath of Office (NAVPERS 1000/4) with a designator code of 2300 in the active U.S. Navy listing block 13 (Permanent grade) LTJG, block 14 (Permanent grade date) 1 August 2008,

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block 15 (Present Grade) LTJG, and block 16 (Present grade date) 1 August 2008.
Petitioner/witness signed this form on 1 August 2008.

d. The Benefits for Education Administrative Services Tool (BEAST) Education Summary reflects that Petitioner used 17 months of education benefits; last payment was 4 August 2008.

e. On 1 May 2009, Petitioner's dependent child [REDACTED] was born.

f. In accordance with reference (b), authority to transfer unused education benefits to family members. Eligible Individuals. An individual referred to in subsection (a) is any member of the Armed Forces who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least (1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the Armed Forces; or (2) the years of service as determined in regulations pursuant to section (k).

g. In accordance with reference (c), Limitation on Entitlement for Certain Individuals. In the case of an individual eligible for MGIB who has used but retains unused entitlement, making an election to receive benefits under the Post-9/11 GI Bill, the number of months of entitlement of the individual to educational assistance under the Post-9/11 GI Bill shall be the number of months equal to the number of months of unused entitlement of the individual under MGIB as of the date of the election. Transferability of Unused Education Benefits to Family Members. Subject to the provisions of this attachment, the Secretary of the Military Department concerned, to promote recruitment and retention of members of the Armed Forces, may permit an individual described in paragraph 3.a. of this attachment, who is entitled to educational assistance under the Post-9/11 GI Bill, to elect to transfer to one or more of the family members specified, all or a portion of such individual's entitlement to such assistance. Months of Transfer. Months transferred must be in whole months. The Secretary of Defense may limit the months of entitlement that may be transferred to no less than 18 months. The number of months of benefits transferred by an individual under this section may not exceed the lesser of: (1) The months of unused benefits available under the Post-9/11 GI Bill; (2) 36 months; or (3) The number of months specified by the Secretary of Defense.

h. In accordance with reference (d) explains transferability policies and the application process. This process is complicated and servicemembers must consult with their career counselors to fully understand it. This NAVADMIN is broken into four parts: eligibility, process, service obligation policy, and reference information. An individual transferring Post 9-11 entitlement must designate the eligible dependents(s), the number of months of entitlement to be transferred and specify the period of use. The number of months transferred may not exceed the lesser of the months of unused entitlement available under the Post 9-11 GI Bill, 36 months or the number of months specified by DOD.

i. In accordance with reference (e), [REDACTED] used 25 months and 14 days of his Montgomery benefits to help fund his undergraduate degree. Then, after serving his third tour of duty, [REDACTED] sought to use his Post-9/11 benefits to attend divinity school. The VA informed [REDACTED] that his Post-9/11 benefits were limited to the duration of his unused Montgomery benefits, pursuant to a provision of the Post-9/11 GI Bill, 38 U. S. C. §3327(d)(2). In other words,

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according to the VA, by requesting Post-9/11 benefits before exhausting all of his Montgomery benefits, ██████████ could receive only 36 months of benefits in total, not the 48 months to which he would otherwise be entitled. The question before us is whether ██████████ can access his Post-9/11 benefits entitlement without being subject to §3327(d)(2)'s durational limit. We hold that he can. Because he simply seeks to use one of his two separate entitlements, §3327(d)(2) does not apply. Opinion of the Court. The bottom line is this: Veterans who separately accrue benefits under both the Montgomery and Post-9/11 GI Bills are entitled to both benefits. Neither §3322(d) nor §3327 restrict veterans with two separate entitlements who simply seek to use either one. Thus, ██████████ may use his benefits, in any order, up to §3695's 48-month aggregate-benefits cap. If the statute were ambiguous, the pro-veteran canon would favor ██████████, but the statute is clear, so we resolve this case based on statutory text alone. Because the Federal Circuit incorrectly limited ██████████ Benefits, we reverse its judgment and remand the case for further proceedings consistent with this opinion. *It is so ordered.*

j. On 3 January 2010, Petitioner submitted TEB application and requested to transfer unused education benefits to ██████████ 13 months, and ██████████/3 months. The Service approved the application with an obligation end date of 2 January 2013.

k. The BEAST Education Summary reflects that Petitioner's spouse used 3 months of education benefits; last payment was 7 October 2010.

l. On 12 April 2014, Petitioner's dependent child ██████████ was born.

m. The BEAST Education Summary reflects that Petitioner's dependent child (██████████) used 13 months of education benefits; last payment was 21 March 2018.

n. Petitioner retired with an honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 21 August 1991 to 31 August 2020 upon having sufficient service for retirement.

o. On 18 March 2025, Navy Personnel Command notified Petitioner that "I am contacting you from the GI Bill Programs Section at PC concerning the trouble ticket you opened with MNCC. There is no record of you ever transferring benefits to any dependent other than ██████████ ██████████, which you have acknowledged. Per the law and policy (38 USC Chap. 33, Section 3319 and DoDI 1341.13). Members are required to designate dependents prior to leaving the armed forces, so you are no longer eligible to allocate months for your other dependents now that you are retired."

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. Petitioner was approved to transfer Post-9/11 GI Bill education benefits and completed his service obligation. Subsequent to Petitioner's retirement reference (e) was promulgated, which specified in part that the MGIB and Post-9/11 GI Bill were two separate educational benefits and absent specified limits the Veterans Affairs was statutorily obligated to pay 48-months of benefits. The Board noted that while reference (e)

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states that Veterans who separately accrue benefits under both the Montgomery and Post-9/11 GI Bills are entitled to both benefits, it did not specifically address any effect this ruling has with regard to the transfer of educational benefits to eligible dependents, which is only offered under the Post-9/11 GI Bill. The Board concluded that the use and transfer of education benefits beyond the 36-month limit at the time of Petitioner's retirement falls under the Veterans Affairs' responsibility. However, the Board agreed that Petitioner did have 3 months of unused education benefit that he could have transferred to his three youngest children prior to retirement, therefore the Board determined that under this circumstance, relief is warranted.

RECOMMENDATION

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

Petitioner reallocated education benefits to [REDACTED]/3-months, [REDACTED]/13-months, [REDACTED]/1-month, [REDACTED]/1-month, and [REDACTED]/1-month through the MilConnect TEB portal prior to transferring to the Retired List effective 1 September 2020. Note: Commander, Navy Personnel Command (PERS-311) will ensure Petitioner's Benefits for Education Administrative Services Tool Family Member History is updated with the aforementioned approved allocation of education benefits.

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

That no further changes be made to 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 titled 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.

1/6/2026

