



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. 3695-20
Ref: Signature Date

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.

A three-member panel of the Board, sitting in executive session, considered your application on 25 August 2021. 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 Headquarters Marine Corps memorandum 7220 MPO of 6 July 2021.

You requested to adjust your Post-9/11 GI Bill education benefits obligation end date (OED) to align with your 26 September 2017 discharge. 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 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 in accordance with Department of Defense Instruction 1341.13. However, the policy outlined provisions that indicated members with 10 years of service prohibited from completing the 4-year service obligation as a result of Service or Department of Defense policy, or federal statute, the obligation would be adjusted to align with the maximum amount of time allowed by that policy or statute. A review of your record indicates your first transferability of education benefits (TEB) application was denied on 16 June 2014 for insufficient time on contract. You received non-judicial punishment on 20 March 2017 for violation of Article 92 – Failure to Obey Order or Regulation, whereby you chose to operate your personally owned vehicle after consuming alcohol; your recommendation for advancement was removed. On 11 March 2017, you submitted your second TEB application with less than 5 months remaining on contract and signed Post-9/11 Educational Benefits Transferability

Commitment and Statement of Understanding on 7 June 2017. On 26 July 2017, you were issued a Page 11 that removed your recommendation for reenlistment because of administration separation for commission of a serious offense and assigned a reenlistment code RE-4. Thereafter, your TEB application was rejected on 3 August 2017 for insufficient time on contract; however, on 5 September 2017 the Service approved your TEB application with an OED of 9 October 2017; your end of current contract date. You were discharged on 26 September 2017 for Misconduct (Serious Offense). The Board found you should not have been approved to transfer education benefits because you did not have sufficient time on contract and had an inability to reenlist to obtain the required 4-years. Moreover, the Board determined you were discharged as a result of your misconduct not because of Marine Corps policy, thereby not meeting the intent of the aforementioned policy to adjust a service members OED. In this connection, the Board did not agree with the comments contained in the advisory opinion.

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 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,

9/14/2021

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Deputy Director

Signed by: █