



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

[REDACTED]
Docket No. 623-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC RET

Ref: (a) Title 10 U.S.C. § 1552
(b) MARADMIN 0421/09
(c) MARADMIN 428/11
(d) Title 38 U.S.C. Chapter. 33

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 establish eligibility to transfer Post-9/11 GI Bill education benefits to his eligible dependents.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 22 September 2021 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.

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b. In accordance with reference (b), 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.

c. Reference (c) outlined the procedures for Marine Officers to transfer Post-9/11 GI Bill education benefits. Specifically, officers were required to transfer unused education benefits through the Transfer of Education Benefits (TEB) website and concurrently notify their unit of the request. Thereafter, officers were required to sign the Statement of Understanding (SOU) through their Command. The Command was required to verify the officer's additional service requirement and forward the SOU for inclusion into the officer's official military personnel file.

d. Petitioner's Armed Forces Active Duty Base date was 2 June 2000.

e. Petitioner was career designated on 21 June 2004.

f. On 1 September 2013, Petitioner signed TEB SOU, acknowledging the 4-year additional service obligation.

g. Petitioner submitted TEB application on 24 May 2019. The Service approved the application on 30 May 2019 with an obligation end date of 23 May 2023.

h. On 2 March 2021, Petitioner requested transfer to the Retired List effective 1 September 2021.

i. On 23 March 2021, the Service rescinded Petitioner's previously approved TEB application upon approval to transfer to the Retired List.

j. Petitioner transferred to the Retired List effective 1 September 2021.

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; however, he retired prior to completing his service obligation. Although Petitioner failed to complete the additional service obligation, the Board determined, he exhibited intent to transfer education benefits in September 2013 and served 8-years after signing the required SOU, thereby meeting the spirit and intent of the 4-year additional service obligation outlined in reference (d). Therefore, under these circumstances, relief is warranted.

RECOMMENDATION

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

Petitioner elected to transfer unused education benefits to [REDACTED]/18-months and [REDACTED]/18-months through the MilConnect TEB portal on 1 September 2013.

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Commandant of the Marine Corps reviewed Petitioner's TEB application and it was approved on 1 September 2013 with a 4-year service obligation.

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.

10/21/2021

[REDACTED]
Deputy Director
[REDACTED]