



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

■
Docket No. 7226-21
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) MARADMIN 421/09

Encl: (1) DD Form 149
(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 19 January 2022 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. 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. However, there were provisions in the policy that indicated if a member was prohibited from completing their service

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obligation as a result of Marine Corps or Department of Defense policy, or federal statute, the obligation would be adjusted to the maximum amount of time allowed by that policy or statute.

c. Petitioner's Armed Forces Active Duty Base date was 24 March 1993.

d. Petitioner submitted Transfer of Education Benefits (TEB) application on 27 January 2011 and the Service approved the application with an obligation end date of 11 February 2014.

e. Petitioner transferred to the Fleet Marine Corps Reserve (FMCR) effective 1 October 2013.

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 failed to complete his obligated service due to alleged misinformation concerning a medical board and transferring to the FMCR. Although Petitioner did not complete the proper administrative requirements, the Board found that had Petitioner received clear guidance regarding the retention of his TEB approval based on the provisions of reference (b), he would have taken the appropriate action. Therefore, the Board felt, under these circumstances, relief is warranted.

RECOMMENDATION

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

On 31 July 2009, Petitioner, in coordination with his command, executed a NAVMC 321a, Agreement to Extend Enlistment dated 31 January 2008, for term of 7-months; end of active service 30 August 2013.

Petitioner elected to transfer unused education benefits to [REDACTED]/18-months and [REDACTED]/18-Months through the MilConnect TEB portal on 1 August 2009.

Petitioner, in coordination with his command completed the required Statement of Understanding on 1 August 2009 and submitted it to Commandant of the Marine Corps (CMC) for inclusion in the Petitioner's Official Military Personnel File.

CMC reviewed Petitioner's TEB application, and it was approved on 1 August 2009 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.

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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.

2/8/2022

[REDACTED]
Deputy Director
[REDACTED]