



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

■
Docket No. 7317-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO FORMER MEMBER ■■■■■
XXX XX ■■■■■ USMC

Ref: (a) 10 U.S.C. § 1552
(b) MARADMIN 0421/09
(c) MARADMIN 651/11
(d) MARADMIN 548/12
(e) MARADMIN 459/13

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 eligible dependents. Additionally, Petitioner request correction to block 18 of his DD Form 214, Certificate of Release or Discharge from Active Duty dated 5 January 2014 reflect \$1,800 vice \$1,200 contribution.

2. The Board, consisting of ■■■■■, ■■■■■, and ■■■■■ 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.

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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. However, there were provisions in the policy that indicated if a member with at least 10 years of active duty service was prohibited from completing their service 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. Additionally, every Marine requesting to transfer education benefits (TEB), regardless of whether they need to gain approval of additional obligated service, will contact the designated unit representative to complete a Statement of Understanding.

c. Reference (c) promulgated modifying reference (b) and identified the new approval process for all active component TEB request. Procedures for enlisted members required eligible Marines to communicate with the Command Career Planner to discuss additional obligated service requirements, reenlistment and enlistment extension options and forms required to be completed for approval of the TEB. Additionally, the message indicated, "the Marine's Command completes the Statement of Understanding (SOU) on the Marine and submits the SOU to CMC (MMSB) for inclusion in the Marine's official military personnel file (OMPF)."

d. Petitioner served on active duty in the Marine Corps from 23 May 2001 through 22 May 2005 and thereafter, transferred to the Marine Corps Reserve to complete his military service obligation.

e. On 16 December 2005, Petitioner enlisted in the Marine Corps for a term of 4 years in pay grade E-4 and entered active duty; Armed Forces Active Duty Base date adjusted to 18 December 2001.

f. Petitioner reenlisted on 6 February 2009 for a term of 4 years and 11 months.

g. Petitioner signed DD Form 2366, Montgomery GI Bill (MGIB) - Basic Enrollment on 20 August 2009. By signing this form, Petitioner agreed to enroll in MGIB and a basic pay reduction of \$100 per month, until \$1,200 was deducted.

h. Reference (d) released on 2 October 2012 reflects the service limit for Sergeant (Sgt)/E-5 in fiscal year (FY) 2013 was 10 years active Marine service.

i. Reference (e), released on 12 September 2013 reflects the FY 2013 approved selections to Staff Sergeant(SSgt)/E-6; Petitioner was not listed.

j. Petitioner submitted TEB application on 23 October 2013.

k. On 13 November 2013, Petitioner signed NAVMC 118(11), Administrative Remarks acknowledging reaching his maximum service limit for Sgt/E-5 and assignment of RE-1B upon separation.

l. On 13 December 2013, the Service rejected Petitioner's TEB application indicating he "has not committed the required additional service time." Petitioner's EAS was approaching and the SOU was not resident in his OMPF.

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m. On 5 January 2014, Petitioner discharged at EAS with 12 years and 20 days of active duty service.

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 met the basic eligibility criteria to transfer Post-9/11 GI Bill benefits to his eligible dependents, however, he failed to complete the administrative requirements in accordance with references (b) and (c). Although Petitioner did not complete the proper administrative requirements, the Board found that had he received clear counseling regarding the steps required to garner TEB approval, he would have taken the appropriate action prior to discharge on 5 January 2014. Therefore, under these circumstances, partial relief is warranted.

RECOMMENDATION

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

Petitioner elected to transfer his unused education benefits to [REDACTED] /36 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 the Commandant of the Marine Corps (CMC) for inclusion in 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.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied as there is no evidence in Petitioner's OMPF to substantiate his claim of contributing \$1,800 for MGIB.

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.

2/14/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]