



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

█
Docket No. 7318-21
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █
XXX XX █ USMC RET

Ref: (a) Title 10 U.S.C. § 1552
(b) MARADMIN 0421/09

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 Bill¹ education benefits to his eligible dependents.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 23 February 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. In accordance with reference (b), an individual may not add dependents after retirement or separation from the Armed Forces, but may modify or revoke transferred entitlement for existing designated dependents.

b. Petitioner's Active Duty Service Date was 8 May 1996.

c. On 2 February 2010, Petitioner submitted Transfer of Education Benefits (TEB) application. The Service rejected the application on 4 February 2010 indicating, Petitioner "has not committed to the required additional service time."

d. On 4 March 2011, Petitioner married █ and step-child █ became his dependent on 24 March 2011.

¹ 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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- e. On 21 April 2011, Petitioner reenlisted for a term of 4 years.
- f. On 22 April 2011, Petitioner submitted TEB application. The Service approved the application with an obligation end date of 20 April 2015.
- g. Petitioner transferred to the Fleet Marine Corps Reserve on 31 May 2016.

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 allocate benefits to each of his dependents prior to retiring. Although Petitioner did not complete the proper administrative requirements, the Board found that had he received clear counseling from his command regarding the inability to distribute the education benefits upon retiring, he would have taken the appropriate action prior to transferring to the Fleet Marine Corps Reserve effective 1 June 2016.

RECOMMENDATION

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

Petitioner elected to allocate unused months of education benefits to [REDACTED]/20-months, [REDACTED] 12-months, and [REDACTED]/4-months through the MilConnect TEB portal on 22 April 2011.

Note: Commandant of the Marine Corps 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.

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.

3/17/2022

[REDACTED]

Deputy Director

[REDACTED]