



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

█
Docket No. 82-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO █
█ USMC RET

Ref: (a) Title 10 U.S.C. § 1552
(b) DODI 1341.13 of 12 Jul 18
(c) MARADMIN 391/19
(d) MARADMIN 017/20
(e) 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 eligible dependents.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 16 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. 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 references (b) through (d), members must be eligible to be retained for 4-years from the date of transfer education benefits (TEB) election and not be precluded, prior to approval, by either standard policy (Department of Defense or Service) or federal statute. Reference (b) specifies members who are on limited duty (LIMDU) or involved in a Medical Evaluation Board, Physical Evaluation Board, or Disability Evaluation System process must wait until the process is complete before applying. Furthermore, references (b) through (d) indicate, Service members already approved to TEB will be considered to have completed their previously approve TEB-related service obligation upon medical discharge.

c. Petitioner's Armed Forces Active Duty Base date was 14 January 2002.

d. Petitioner reenlisted on 18 June 2015 for a term of 4-years and thereafter executed a 9-month extension; end of active service: 17 March 2020.

e. Petitioner submitted TEB application on 17 September 2019. The Service rejected the application on 21 November 2019 indicating, Petitioner "has not committed the required additional service time.

f. On 13 January 2020, Petitioner was approved for a 12-month extension "in order to be entered into and processed through the integrated disability evaluation system (IDES)."

g. Petitioner submitted second TEB application on 15 October 2020. The Service rejected the application on 17 February 2021 indicating, Petitioner "has not committed the required additional service time.

h. Petitioner submitted final TEB application on 4 October 2021.

i. Petitioner issued Permanent Disability Retirement List (PDRL) orders on 3 November 2021.

j. The Service placed Petitioner's 4 October 2021 TEB application in a pending status on 4 November 2021.

k. Petitioner transferred to the PDRL effective 1 February 2022.

l. On 9 February 2022, the Service advised the Board that Petitioner's 4 October 2021 TEB application would be rejected "as the member could not obligate the required service time."

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 education benefits prior to LIMDU status. Although Petitioner did not complete the proper administrative requirements prior to LIMDU status, the Board determined his continued active duty service after the inception of the TEB program on 1 August 2009 met the spirit and intent of reference (e); therefore, under these circumstances, relief is warranted.

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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 18 June 2015.

Petitioner, in coordination with his command completed the required Statement of Understanding on 18 June 2015 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 request and it was approved on 18 June 2015 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.

3/3/2022

[REDACTED]
Deputy Director
[REDACTED]