



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

[REDACTED]
Docket No. 306-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] XXX XX [REDACTED] USMCR

Ref: (a) Title 10 U.S.C. § 1552
(b) MARADMIN 704/13
(c) 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 reestablish eligibility for his 2019 transfer of Post-9/11 GI Bill education benefits to eligible dependents.

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

b. In accordance with reference (b), the ability to transfer education benefits (TEB) required the Marine to have at least 6 years in the Armed Forces (active duty and/or Selected Reserve) and agree to serve four additional years on active duty and/or Selected Reserve (SELRES) from the date of election. However, completion of service in the Individual Ready Reserve (IRR) does not qualify for transferring education benefits.

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- c. Petitioner's Pay Entry Base Date is 4 March 1997.
- d. On 22 August 2010, Petitioner reenlisted for a term of 4 years in the United States Marine Corps Reserve (USMCR), SELRES status.
- e. Petitioner is commissioned in the USMCR on 1 February 2016.
- f. Petitioner submitted TEB application on 1 July 2019. The Service approved the application on 2 July 2019 with an obligation end date of 30 June 2023.
- g. Petitioner transferred to the IRR effective 11 April 2020.
- h. Petitioner's spouse passed away on 20 November 2020.
- i. Petitioner transferred from the IRR to Selected Marine Corps Reserve status effective 19 May 2021.
- j. On 7 January 2022, the Service rescinded Petitioner's TEB approval indicating, Petitioner "is not on active duty or participating in SELRES."

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 required obligated service duty to the illness and passing of his spouse. Although Petitioner did not complete the proper administrative requirements, the Board found that Petitioner intended on completing his obligated service by re-affiliating with the SELRES once his personal hardships had been resolved, 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 unused education benefits to [REDACTED]/2-months, [REDACTED]/17-months, and [REDACTED]/17-months through the MilConnect TEB portal on "22 August 2010" vice "1 July 2019."

Petitioner, in coordination with his command completed the required Statement of Understanding on 22 August 2010 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 22 August 2010 with a 4-year service obligation.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied. The Board determined Petitioner continued service since the inception of the ability to TEB on

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1 August 2009 met the spirit and intent of reference (c); therefore, approval is aligned with his prior 22 August 2010 reenlistment.

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.

2/28/2022

[REDACTED]

Deputy Director

Signed by [REDACTED]