



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

■
Docket No. 764-22
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552
(b) MARADMIN 0421/09
(c) MARADMIN 651/11

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 adjust retirement date to align with transfer of Post-9/11 GI Bill¹ education benefits obligation end date of 12 December 2012.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] 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. In accordance with reference (b), transferability under the Post-9/11 GI Bill is a recruiting and retention tool. While an individual may be eligible for education benefits provided by the Post-9/11 GI Bill, generally the option to transfer a member's unused benefits to a family member requires an additional service commitment in the Armed Forces (active duty and/or Selected Reserved). For those eligible for retirement on or after 1 August 2011 and before

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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1 August 2012, 3 years of additional service is required. However, there were provisions in the policy that indicated if a member 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.

b. Reference (c) modified reference (b) and identified the new approval process for all active component transfer of education benefits requests. The procedures for active component enlisted Marines included speaking with the Command Career Planner regarding additional obligated service requirements, submitting TEB application, completing the Statement of Understanding and incurring the obligated service within 45-days of submitting TEB application.

c. Petitioner's Armed Forces Active Duty Base date was 28 April 1992.

d. On 13 June 2008, Petitioner reenlisted for a term of 4 years and 6 months.

e. Petitioner submitted TEB application on 15 April 2010. The Service rejected the application on 3 October 2011 indicating, Petitioner "has not committed to required additional service time."

f. Petitioner resubmitted TEB application on 23 January 2012. The Service approved the request on 24 January 2012 with an obligation end date of 12 December 2012 to align with Petitioner's mandatory retirement date due to twice failing to promote.

g. Petitioner transferred to the Fleet Marine Corps Reserve (FMCR) effective 1 September 2012.

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 retired 103 days prior to completing his service obligation. Although Petitioner did not complete the proper administrative requirements, the Board found that had he received clear counseling from his command regarding transfer of Post-9/11 GI Bill education benefits service obligation, he would have elected to request transfer to the FMCR after his service obligation end date on 12 December 2012 vice retiring on 31 August 2012. Therefore, the Board felt that 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]/35-months and [REDACTED]/1-month 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

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(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 3-year service obligation. Note: CMC shall ensure MilConnect is updated with the approved aforementioned allocations.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied. The Board determined it would be inappropriate to adjust Petitioner's retirement date to align with transfer of Post-9/11 GI Bill education benefits obligation end date.

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]