



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

■
Docket No. 6141-22
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) Title 38 U.S.C. Chp 33
(c) MARADMIN 704/13

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 his eligible dependents.

2. The Board, consisting of [REDACTED], [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 31 August 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 (c), 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. Specifically, Enlisted Marines had 60-days from the date of transfer of

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education benefits (TEB) web application to incur the required obligated service or the TEB request was rejected. Additionally, the policy specified failure to complete the additional obligated service would result in forfeiture of transfer eligibility.

- c. On 23 January 2016, Petitioner reenlisted for a term of 4 years.
- d. On 10 August 2016, Petitioner signed Post-9/11 Educational Benefits Transferability Commitment and Statement of Understanding acknowledging the 4-year additional obligation and the consequences of failing to complete the required obligation.
- e. Petitioner submitted TEB application on 11 August 2016.
- f. On 12 October 2016, Petitioner extended his enlistment for a term of 7 months “To qualify for transferability of Post 9/11 GI Bill educational benefits.”
- g. On 21 November 2016, the Service approved Petitioner’s TEB application with an obligation end date of 11 August 2020.
- h. On 17 December 2018, the Service rescinded Petitioner’s TEB approval indicating, Petitioner “has not committed to the required additional service time.”
- i. Petitioner transferred to the Fleet Marine Corps Reserve effective 1 April 2020.

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 submitted his TEB application within the same year as his last reenlistment and extended to ensure he met the additional obligated service requirement. Petitioner served over 4 years and 2 months after his 23 January 2016 reenlistment, meeting the spirit and intent of reference (b). The Board concluded that had the Petitioner had a better understanding of the regulations concerning the ability to transfer unused education benefits, he would have submitted his TEB application in conjunction with his 23 January 2016 reenlistment. Therefore, the Board felt, under these circumstances, 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]/13-months and [REDACTED]/10-months through the MilConnect TEB portal on 23 January 2016.

Petitioner, in coordination with his command completed the required Statement of Understanding on 23 January 2016 and submitted to the Commandant of the Marine Corps (CMC) for inclusion in the Petitioner’s Official Military Personnel File.

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CMC reviewed Petitioner's TEB application and it was approved on 23 January 2016 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.

[REDACTED] 9/9/2022

Deputy Director
Signed by: [REDACTED]