

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

> Docket No. 7204-22 Ref: Signature Date

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code (U.S.C.). After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 5 October 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested to establish eligibility to transfer Post 9/11 GI Bill education benefits to eligible dependents. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. The Board concluded that pursuant to Title 38, U.S.C., Section 3319, and as promulgated in Marine Administrative messages 0421/09 and various updated messages thereafter, the option to transfer a Service member's unused education benefits to an eligible dependent required a 4-year additional service obligation on active duty and/or the Selected Reserve at the time of election. Time served while assigned to the Individual Ready Reserve (IRR) is not qualifying service time for the transfer of education benefits (TEB). Additionally, the messages directed Marines to check the status of their application; a denied TEB application required Marines to take corrective action and reapply with a new obligation end date.

A review of your record indicates, you reenlisted on 4 April 2009 for term of 3 years and executed three extensions for an aggregate of 25 months. On 26 August 2013, you submitted a TEB application with less than 1-year remaining on contract; the application was rejected on 26 November 2013 for not committing to the required additional service time. You extended your contract for an additional 3 months and subsequently reenlisted on 10 July 2014 for a term of 4-years. However, you did not submit another TEB application and during this reenlistment, you transferred to the IRR from 12 April 2015 to 8 January 2017, and again from 1 October 2017 to 8 July 2018, rendering this contracted time ineligible for TEB. Your last reenlistment was on 14 December 2019 for a term of 3 years and you later transferred to the Retired Reserve without pay effective 1 October 2020.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.



Sincerely,