

DEPARTMENT OF THE NAVY

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

> Docket No. 1378-23 Ref: Signature Date

Dear ,

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. 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 22 March 2023. 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.

You requested to establish eligibility to transfer Post-9/11 GI Bill education benefits to your 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 the ability to transfer Post-9/11 GI Bill education benefits to eligible dependents is a recruiting and retention tool that became effective 1 August 2009 in accordance with Title 38 U.S.C. § 3319. Pursuant to this law, Marine Corps Administration (MARADMIN) messages were published outlining eligibility, processing, service obligation, and reference information germane to transferring education benefits to eligible dependents. Specifically, MARADMIN 0421/09 stipulated the ability to transfer education benefits (TEB) require at least 6 years of service in the Armed Forces (active duty and/or Selected Reserve) and agreement to serve four additional years in the Armed Forces from the date of election. However, service in the Individual Ready Reserve (IRR) is not qualifying service in accordance with Department of Defense Directive Type Memorandum 09-003. MARADMIN 0421/09 also provided a provision that indicated if a Marine with 10 years of service in the Armed Forces was prohibited from completing the service obligation because 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.

A review of your record indicates you served on active duty from 24 March 2003 through 23 March 2008. Thereafter, you transferred to the IRR to complete your military service obligation on 24 March 2008 and remained in the IRR through 29 December 2008. On 30 December 2008, you enlisted in the Marine Corps for a term 4 years and subsequently extended the enlistment for 12-months "to reach ECFC [enlisted career force controls] for current rank." You married your spouse on 27 March 2011 and had two additional children on 12 September 2011 and 2 February 2013. Your Physical Evaluation Board case was accepted on 26 September 2013, and you requested to transfer unused education benefits to your spouse and the aforementioned 2-children on 29 October 2013 at the time you only had 9 years and 10 months of qualifying service in the Armed Forces, thus the Service rejected your TEB application indicating you had not committed to the required additional service time. You transferred to the Permanent Disability Retired List on 29 November 2013 with 9 years and 11 months total active duty service, thereby ineligible to transfer Post-9/11 GI Bill education benefits. Conversely, the Board recommended you contact the Department of Veterans Affairs to determine eligibility criteria for the Dependents' Educational Assistance program.

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.

