



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

■
Docket No. 6290-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) MARADMINS 391/19, subj: Transfer of Post-9/11 GI Bill Education Benefits (TEB) to Dependents Process, dtg 111945Z JUL 19
(c) DODI 1341.13, Post-9/11 GI Bill, 25 October 2022
(d) SECNAVINST 5420.193, Board for Correction of Naval Records, 19 November 1997

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214, Certificate of Release or Discharge from Active Duty, 21 Aug 23
(3) Defense Enrollment Eligibility Reporting System (DEERS) Screens
(4) DD Form 4, Enlistment/Reenlistment Document, 29 Sep 17
(5) NAVMC 321A, Agreement to Extend Enlistment, 19 Jul 19
(6) Benefits for Education Administrative Services Tool – Service Member History
(7) Benefits for Education Administrative Services Tool – Family Member History
(8) Reenlistment Extension Lateral Move Request, 27 Jul 21
(9) DD Form 4, Enlistment/Reenlistment Document, 18 Feb 22
(10) Marine Corps Total Force System (MCTFS) – Basic Individual Record Screen
(11) Petitioner's E-mail, subj: [Non-DoD Source] Re: BCNR Application – Docket #6290-23, 15 Sep 23

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, hereinafter referred to as the Board, requesting that his naval record be corrected to establish eligibility to transfer Post-9/11 GI Bill educational benefits to eligible dependents.

2. The Board reviewed Petitioner's allegations of error or injustice on 30 August 2023 and, pursuant to its governing regulations, determined that no relief is warranted. As discussed below, I disagree with the Board's findings, and recommend that relief be granted. Documentary material considered by the Board included the enclosures, relevant portions of Petitioner's naval record, applicable statutes, regulations, and policies.

3. Having reviewed all of the evidence of record pertaining to Petitioner's allegations of error and injustice, the Board found as follows:

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- a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
- b. Petitioner enlisted in the Marine Corps and began a period of active duty service on 13 August 2007. See enclosure (2).
- c. Petitioner has four children.¹ See enclosure (3).
- d. On 29 September 2017, Petitioner reenlisted for four years and five months. This reenlistment extended his end of obligated active service (EOAS) date to 28 February 2022. See enclosure (4).
- e. Petitioner married [REDACTED] on 30 May 2019. See enclosure (3).
- f. On 19 July 2019, Petitioner extended his enlistment for six months. This action adjusted his EOAS date to 8 August 2022. See enclosure (5).
- g. On 21 January 2020, Petitioner submitted an application requesting to transfer all 36 months of his Post-9/11 GI Bill educational benefits to his spouse, [REDACTED]. At the time of this request, Petitioner had approximately two years and seven months of obligated service remaining on this enlistment. See enclosure (6) and (7).
- h. On 22 June 2020, the Marine Corps denied Petitioner's transfer of educational benefits (TEB) application on the basis that Petitioner "has not committed to the required additional service time."² See enclosure (6).
- i. On 27 July 2021, Petitioner requested to reenlist for 48 months. The request was approved on 10 February 2022 for a period of 60 months. See enclosure (8).
- k. On 17 February 2022, Petitioner reenlisted for a period of five years. This action adjusted his EOAS date to 17 February 2027. See enclosure (9).
- l. On 24 April 2023, Petitioner was referred to the Physical Evaluation Board (PEB). The PEB subsequently found Petitioner to be medically disqualified for continued service, and recommended his medical retirement. See enclosure (10).
- m. On 21 August 2023, Petitioner was honorably discharged and transferred to the Temporary Disability Retired List (TDRL). See enclosure (2).

¹ [REDACTED] was born on [REDACTED] [REDACTED] [REDACTED] was born on [REDACTED] [REDACTED] [REDACTED] was born on [REDACTED] [REDACTED] [REDACTED].
[REDACTED] was born on [REDACTED] [REDACTED].

² Reference (b) provides that Marines that meet the following criteria are eligible to transfer their Post-9/11 educational benefits to eligible dependents: (1) Currently serving on active duty or in the Selected Reserve (SELRES); (2) Currently eligible for Post-9/11 GI Bill educational benefits; (3) Have greater than or equal to six years of creditable military service on the date of the TEB request; and (4) Be eligible for retention for four years (on active duty or in the SELRES) from the TEB request date. It further provides that the Marine Corps "will maintain TEB requests in a pending status for a reasonable period (i.e., generally, no more than 150 days) to allow Marines to request to extend or reenlist, when necessary."

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[REDACTED]

n. It appears from Petitioner's application that he believes that it was his medical retirement prior to completion of his most recent enlistment which has rendered him ineligible to transfer his educational benefits. See enclosure (1). However, there is no evidence in the record that Petitioner ever requested and/or was approved for TEB after his original request was denied.

o. By e-mail dated 15 September 2023, Petitioner clarified that he would like his Post-9/11 GI Bill educational benefits allocated as follows: [REDACTED] – 34 months; [REDACTED] – one month; and [REDACTED] – one month. See enclosure (11).

p. In addition to the relevant provisions discussed in footnote 2, reference (b) provides that “[i]f a TEB request has been rejected, the Marine may determine the reason for rejection by referring to the rejection codes provided and take appropriate, corrective action and reapply, if desired.” It further provides that “[p]rior to or concurrent with submitting a request to TEB, Marines will review [the references pertaining to TEB eligibility] and speak with their unit Career Planner about re-enlistment and extension options available to be retained for 4 years (on active duty or in the SELRES).”

q. Per reference (c), Service members will be considered to have completed their previously approved TEB-related service agreement upon discharge from active duty with an honorable discharge for an unfitting medical condition with a medical retirement order.

CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Board found insufficient evidence of any error or injustice warranting relief.

The Board noted that the Marine Corps' policies pertaining to TEB have been in effect since 2009, and that the eligibility criteria and instructions for TEB are clearly outlined in published messages. Reference (b) specifically directed Petitioner to speak to his unit Career Planner about re-enlistment and extension options available to meet the four-year retention eligibility criteria for TEB. It does not appear that he did so, since he did not meet the eligibility criteria at the time of his request and he never took any action to rectify this disqualifying factor until after his TEB request was denied. Reference (b) provides further instructions for Marines after a TEB request has been rejected. Specifically, it instructs Marines to identify the reason for the TEB rejection from the rejection codes provided, and to “to appropriate, corrective action and reapply, if desired.” Petitioner took corrective action by requesting reenlistment shortly after his original TEB request was rejected, but did not follow up by reapplying for TEB. It was Petitioner's responsibility to familiarize himself with the TEB requirements, and it does not appear that he did so. Accordingly, the Board found no error or injustice warranting relief.

RECOMMENDATION:

In view of the above, the Board recommends that no corrective action be taken on Petitioner's naval record.

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[REDACTED]

EXECUTIVE DIRECTOR CONCLUSION:

I do not agree with the Board's conclusion as stated above, and therefore exercise my prerogative pursuant to reference (c) to elevate this decision for Secretarial review.

I recognize that Petitioner's obligations were clearly outlined in reference (b), and that he apparently either failed to familiarize himself with the procedural and/or eligibility requirements pertaining to the TEB or to take the necessary action to establish his eligibility prior to the rejection of his request. However, Petitioner took appropriate corrective action almost immediately after learning of the rejection of his request specifically designed to remedy his TEB disqualification. Specifically, he requested reenlistment for four years on 27 July 2021, just a month after his TEB request was denied. While reference (b) provides that he was required to reapply for those benefits after taking such corrective action, it also provides that "[d]esired retention and extension actions, consistent with current retention policies, are a shared responsibility between the Marine, *his or her unit*, and CMC (MM/RA) (*emphasis added*)."

Given that Petitioner took immediate action to establish his eligibility for TEB after learning that his original request had been rejected, it is apparent that he would have reapplied for TEB if he knew that such action to be necessary. While he was responsible for recognizing his obligation in this regard, his unit Career Planner also had a responsibility to inform Petitioner of this requirement to ensure that he received the benefits afforded to him by his reenlistment. The fact that Petitioner did not take this necessary action suggests that no one make him aware of the requirement. It would not be unreasonable for a Marine not well versed in TEB policy to believe that his action to rectify his disqualifying criterion alone was sufficient to reestablish his TEB eligibility. Accordingly, I believe that there exists an injustice warranting relief.

EXECUTIVE DIRECTOR RECOMMENDATION:

In view of the above, I recommend that the following corrective action be taken on Petitioner's naval record:

That Petitioner's record be corrected to reflect that he, in coordination with his command, completed the required Statement of Understanding on 18 February 2022 and submitted it to Headquarters, U.S. Marine Corps (HQMC), for approval and inclusion in his naval record.

That HQMC approved Petitioner's TEB application of 18 February 2022, with a four-year service obligation.

That Petitioner elected to transfer 34 month of his unused Post-9/11 GI Bill educational benefits to T.Y.S.; one month of those benefits to [REDACTED] and one month to [REDACTED], through the MilConnect TEB portal on 18 February 2022.

That HQMC ensure Petitioner's obligation end date is adjusted to align with his transfer to the TDRL on 21 August 2023.

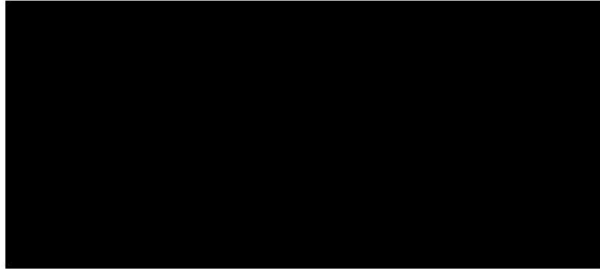
That HQMC ensure that Petitioner's Benefits for Education Administrative Services Tool Family Member History is updated with the aforementioned approved allocation of educational benefits.

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That a copy of this record of proceedings 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. The foregoing action of the Board is submitted for your review and action.

9/19/2023



ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

Board Recommendation Approved (Deny Relief)

Executive Director Recommendation Approved (Grant Relief)

9/22/2023

