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> Docket No. 10205-23 Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO XXX XX **DECOMPANY** USMC

- Ref: (a) Title 10 U.S.C. § 1552 (b) Title 38 U.S.C. § 3319 (c) MARADMIN 0421/09 (d) MARADMIN 489/11 (e) MARADMIN 704/13 (f) MARADMIN 693/21
- 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 effective 6 February 2019.

2. The Board, consisting of **Constant of Action 1**, **Constant of Action 1**, and **Constant of Petitioner's** allegations of error and injustice on 20 December 2023, 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 Subject'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.

Subj: REVIEW OF NAVAL RECORD ICO XXX XX USMC

b. In accordance with references (c) through (f), the option to transfer a Service member's unused education benefits to an eligible dependent requires a 4-year additional service obligation at the time of election. Additionally, reference (d) specified that Enlisted Marines had 45 days from the date of transfer of education benefits (TEB) web application to incur the required obligated service or the TEB request would be rejected; reference (e) provided 60 days, and reference (f) provided 180 days. Furthermore, the policy directed Marines to periodically check the status of their application; a denied TEB application required Marines to take corrective action and reapply with a new service obligation date.

c. Petitioner's Armed Forces Active Duty Base Date is 17 September 2003.

e. Petitioner submitted TEB applications on 17 October 2011, 25 October 2011, and 22 November 2011. The Service rejected the first two applications indicating, Petitioner "has submitted an invalid entry," the third was rejected because Petitioner "had not committed to the required additional service time. Petitioner submitted the aforementioned TEB application with less than 4 years remaining on contract.

f. On 17 April 2014, Petitioner reenlisted for 4 years and subsequently extended for 17 months "TO OBLIGATE SERVICE FOR

g. On 6 February 2019, Petitioner reenlisted for 4 years.

h. On 11 March 2019, Petitioner submitted TEB application with less than 4 years remaining on contract. The Service rejected the application on 12 August 2019 indicating, Petitioner "had not committed to the required additional service time.

i. On 3 June 2020, Petitioner extended for 7 months "FOR OBLIGATED SERVICE TO EXECUTE **CONTROL**," and extended for 6 months on 25 February 2022, "FOR OBLIGATED SERVICE FOR PROMOTION."

j. On 4 April 2023, Petitioner submitted TEB application with less than 4 years remaining on contract. The Service rejected the application on 23 October 2023 indicating, Petitioner "had not committed to the required additional service time.

## 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 met the basic eligibility criteria to transfer Post-9/11 GI Bill education benefits but failed to complete the administrative requirements outlined in references (c) through (f). Although Petitioner did not complete the appropriate administrative requirements, the Board concluded that had he received proper counseling, he would have been able to transfer unused education benefits to eligible dependents

## Subj: REVIEW OF NAVAL RECORD ICO XXX XX USMC

upon reenlisting on 6 February 2019. Moreover, the Board determined Petitioner has completed over 4 years of continuous active duty service since the 6 February 2019 reenlistment, thereby meeting the spirit and intent of reference (b). Therefore, the Board determined 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 provide the month and provide the MilConnect TEB portal on 6 February 2019.

Petitioner, in coordination with his command completed the required Statement of Understanding on 6 February 2019 and submitted it to Headquarters U.S. Marine Corps (HQMC) for inclusion in the Petitioner's Official Military Personnel File.

HQMC reviewed Petitioner's TEB application, and it was approved on 6 February 2019 with a 4-year service obligation.

That 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.

