



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

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Docket No. 10658-23
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO ■■■■■■■■■■ ■■■■■■■■■■
■■■■■■■■■ USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 38 U.S.C. § 3319
(c) MARADMIN 391/19

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 dependent daughter effective 17 December 2019.

2. The Board, consisting of ■■■■■■■■■■, and ■■■■■■■■■■ reviewed Petitioner's allegations of error and injustice on 3 January 2024 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.

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. Additionally, reference (c) specified that Enlisted Marines had 150 days from

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the date of transfer of education benefits (TEB) web application to incur the required obligated service or the TEB request will be rejected. 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 end date.

c. Petitioner's Armed Forces Active Duty Base Date is 7 November 2006.

d. On 31 August 2011, Petitioner reenlisted for 3 years and on 5 December 2013 extended for 1-month.

e. Petitioner reenlisted on 26 September 2014 for 2 years and again on 11 December 2015 for 4 years and 10 months.

f. On 17 December 2019, Petitioner submitted TEB application with 9 months, and 23 days remaining on contract. The Service rejected the application on 21 May 2020 indicating, Petitioner "has not committed to the required additional service time."

g. On 30 July 2020, Petitioner reenlisted for 4 years and 3 months. The MilConnect TEB portal does not reflect Petitioner submitted a subsequent TEB application.

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 reference (c). Although Petitioner did not complete the appropriate administrative requirements, the Board concluded that had he received adequate counseling, he would have been able to transfer unused education benefits to eligible dependents upon reenlisting on 30 July 2020. The Board determined Petitioner continues to serve on active duty since the 30 July 2020 reenlistment, thereby meeting the spirit and intent of reference (b). Therefore, the Board determined under these circumstances, partial 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]/1-month through the MilConnect TEB portal on 30 July 2020.

Petitioner, in coordination with his command completed the required Statement of Understanding on 30 July 2020 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 30 July 2020 with a 4-year service obligation.

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[REDACTED] USMC

The part of Petitioner's request for corrective action that exceeds the foregoing is denied. Petitioner did not have sufficient time on contract to warrant approval of 17 December 2019 TEB application.

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.

1/11/2024

[REDACTED]