



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

■
Docket No. 130-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
XXX XX [REDACTED] USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 38 U.S.C. § 3319
(c) MARADMIN 391/19
(d) 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 14 August 2019.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 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 references (c) and (d), the option to transfer a Service member's unused education benefits to an eligible dependent requires a 4-year additional service obligation

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at the time of election. Additionally, reference (c) specified that Enlisted Marines had 150 days from the date of transfer of education benefits (TEB) web application to incur the required obligated service or the TEB request will be rejected; reference (d) authorized 180 days. Furthermore, the policies direct Marines to periodically check the status of their application; a denied TEB application requires Marines to take corrective action and reapply with a new service obligation end date.

c. On 15 September 2003, Petitioner entered active duty.

d. On 30 August 2018, Petitioner reenlisted for 4 years.

e. On 14 August 2019, Petitioner submitted initial TEB application with less than 4 years remaining on contract. The Service rejected the application on 24 October 2019 indicating Petitioner “has not committed to the required additional service time.”

f. Petitioner extended on 24 September 2019 for 2 months and again on 28 June 2022 for 21 months.

g. On 26 October 2023, Petitioner submitted TEB application with less than 4 years remaining on contract. On 7 November 2023, the Service placed the application in a pending status.

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) and (d). 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 August 2018. The Board determined Petitioner completed over 5 years of active duty service since the 30 August 2018 reenlistment and continues to serve on active duty, thereby meeting the spirit and intent of reference (b). Therefore, the Board agreed that 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]/33 months, [REDACTED]/1-month, and [REDACTED]/1-month through the MilConnect TEB portal on 30 August 2018.

Petitioner, in coordination with his command completed the required Statement of Understanding on 30 August 2018 and submitted it to Headquarters, U.S. Marine Corps (HQMC) for inclusion in the Petitioner’s Official Military Personnel File.

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HQMC reviewed Petitioner's TEB application, and it was approved on 30 August 2018 with a 4-year service obligation.

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 effective 14 August 2019.

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.

1/19/2024

