



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

■
Docket No. 677-24
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) Title 10 U.S.C. § 1552
(b) MARADMIN 421/09
(c) MARADMIN 651/11

Encl: (1) DD Form 149
(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 children with an allocation of 9 months to his oldest son and 27 months to his youngest son.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 14 February 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 (b), the ability to transfer education benefits (TEB) required a 1-year additional service obligation in the Armed Forces (active duty and/or the Selected Reserve (SELRES)) at the time of election for those eligible for retirement after 1 August 2009 and before 1 August 2010. Reference (b) also specified a Marine may not add dependents after retirement or

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separation from the Armed Forces but may modify or revoke transferred entitlement for existing designated dependents. Reference (c) indicated that Enlisted Marines had 45 days from the date of TEB web application to incur the required obligated service or the TEB request will be rejected.

- c. Petitioner's Pay Entry Base Date was 28 May 1989.
- d. Petitioner mobilized in support of [REDACTED] from 14 January 2003 to 13 January 2004.
- e. On 5 February 2007, Petitioner reenlisted for 3 years.
- f. On 19 January 2008, Petitioner transferred from SELRES unit to Individual Mobilization Augmentee (IMA) status.
- g. On 3 May 2009, Petitioner extended for 23 months.
- h. On 10 July 2011, Petitioner transferred from IMA status to the Individual Ready Reserve (IRR).
- i. On 9 September 2011, Petitioner reenlisted for 3 years.
- j. On 15 September 2011, Petitioner transferred from the IRR to the SELRES and transferred back to the IRR on 2 May 2012.
- k. On 23 August 2012, Petitioner submitted TEB application, and the Service approved the application on 23 August 2012 with an obligation end date of 23 August 2012. Petitioner allocated 9 months of education benefits to [REDACTED].
- l. On 7 August 2013, Petitioner's Career Retirement Credit Report reflects he earned 20 satisfactory years of service for non-regular retirement on 21 April 2010 and earned 22 total qualifying years of service.
- m. Petitioner transferred to the Retired Reserve awaiting pay effective 1 October 2013.
- n. On 10 January 2024, the Service changed Petitioner's TEB approval to a rejection indicating Petitioner was "not on active duty or participating in SELRES".
- o. Petitioner's Benefits for Education Administrative Services Tool (BEAST) Education Summary reflects that he used 1-month of Montgomery GI Bill-Selected Reserve (MGIB-SR) benefits; payment made on 19 March 1989.

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 (b) and (c). The Board determined during the inception of being able to TEB, Petitioner transferred in and out of the IRR. Petitioner last transferred to the IRR on 2 May 2012 but

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was erroneously approved to TEB on 12 August 2012 while still assigned to the IRR. Although the appropriate administrative requirements were not completed, the Board concluded that had Petitioner received adequate counseling, he would have been able to transfer unused education benefits to eligible dependents on 1 August 2009 while assigned to the IMA detachment. Therefore, the Board determined 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]/9 months and [REDACTED]/26 months through the MilConnect TEB portal on 1 August 2009.

Petitioner, in coordination with his command completed the required Statement of Understanding on 1 August 2009 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 1 August 2009 with a 1-year service obligation.

The part of Petitioner's request for corrective action that exceeds the foregoing is denied because Petitioner's BEAST record reflects, he used 1-month of MGIB-SR benefits. Additionally, the Board could not honor the 23 August 2012 TEB approval because Petitioner was assigned to the IRR.

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.

3/1/2024

