

**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2023-039**

  
CDR (Retired)

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**FINAL DECISION**

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the applicant's completed application on August 30, 2023, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated August 8, 2024, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT'S REQUEST AND ALLEGATIONS**

The applicant, a former Commander (CDR/O-5) who retired on June 30, 2015, after twice failing of promotion to Captain (CPT/O-6), asked the Board to correct his record by changing the reason for his retirement from Voluntary to Non-Selection for Promotion. He stated that he needs his record corrected so his daughters can use his Post-9/11 GI Bill<sup>1</sup> education benefits. The applicant stated that his record currently shows that his separation was voluntary, which is preventing him from transferring his unused education benefits under the Post-9/11 Veterans Educational Assistance Act of 2008 (Post-9/11 GI Bill) to his daughters.

The applicant stated that, prior to his retirement, he was counseled that the reason for separation listed on his DD Form 214 could be "met the requirements for voluntary separation" but that no one told him that this language would have any negative consequences. However, he stated that the Department of Veterans Affairs (VA) denied his request to use his Post-9/11 education benefits to pay for his daughters' college tuition because the VA said he failed to complete the four years of obligated service necessary to successfully transfer his unused education benefits.

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<sup>1</sup> The Post-9/11 GI Bill provides financial support for education and housing to individuals with at least 90 days of aggregate service after September 10, 2001, or individuals discharged with a service-connected disability after 30 days. An individual must have received an honorable discharge to be eligible for the Post-9/11 GI Bill. <https://www.va.gov/education/about-gi-bill-benefits/post-9-11/> (last visited on July 15, 2024).

The applicant contends that when he submitted his request for retirement, he was not advised of the implications of requesting a voluntary versus involuntary retirement. He argued that his discharge was not based on a voluntary request, but was mandatory in nature; therefore, he should retain eligibility to transfer his Post-9/11 GI Bill education benefits.

### SUMMARY OF THE RECORD

The applicant graduated from the Coast Guard Academy and began active duty service in the Coast Guard on May 19, 1993. He applied to transfer his unused education benefits to his dependents on July 25, 2013, and incurred a service obligation through July 25, 2017, to make the transfer. After twice failing to be selected for promotion to CPT in Promotion Years 2014 and 2015, he was subject to mandatory separation on July 1, 2015, under 14 United States Code (U.S.C.) § 285. On October 22, 2014, he submitted a letter to the Coast Guard Personnel Center (CGPC) requesting voluntary retirement on July 1, 2015. On October 24, 2014, the Coast Guard approved the applicant's request, and directed that he be separated no later than June 30, 2015. The Separation Authorization in his record indicates in the Request Type block that the separation is voluntary, and the Separation/Retirement block states Regular Officer – Voluntary Retirement.

The applicant was honorably discharged from the Coast Guard on June 30, 2015, and his DD Form 214 shows that he served on active duty for twenty-two years, one month, and eleven days; the type of separation was retirement; separation authority was COMDTINST M1000.4; separation code was RBD<sup>2</sup>; and the narrative reason for separation was sufficient service for retirement.

### VIEWS OF THE COAST GUARD

On January 16, 2024, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion and adopted the findings and analysis in a memorandum submitted by the Commander, Personnel Service Center (PSC).

PSC recommended that the Board grant relief because the applicant was not properly counseled that a change from a mandatory to voluntary discharge would result in a loss of eligibility to transfer his GI Bill benefits. PSC stated that the Office of Personnel Management (OPM) should not have approved a voluntary separation for the applicant because he had remaining obligated service to complete before he would be eligible to transfer his unused education benefits. PSC argued that the applicant's authorized voluntary retirement date coincided with his mandatory retirement date; thus, he fulfilled the maximum amount of GI Bill Transfer of Education Benefits (TEB) obligated service and it should be reflected on a corrected DD 214.

In accordance with PSC's input, the JAG also recommended that relief be granted because there is no evidence in the record that the applicant underwent counseling regarding the effects that changing his separation from mandatory to voluntary would have on his GI Bill benefits. The JAG noted that the applicant incurred four more years of obligated service from the date of election

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<sup>2</sup> The Separation Program Designator Handbook states that RBD separation code on the DD Form 214 means that the member separated due to a voluntary retirement authorized but not required by law because the member attained sufficient service to retire.

to transfer his benefits to his children, and pursuant to Ch. 4.C.8.A of COMDTINST M1780.3, if he failed to complete any obligated service incurred under Ch. 4.C.2, then he would no longer be eligible to transfer those benefits. The JAG noted, however, that because he twice failed of promotion, his service obligation date should have been adjusted to his mandatory separation date, and because the applicant successfully reached his mandatory separation date with an honorably characterized discharge, his service obligation should be considered fulfilled.

The JAG recommended that the Board grant relief by reissuing the applicant's DD Form 214 to show the following:

- a. Block 23: Type of Separation – Retirement/ Resume Retirement
- b. Block 24: Character of Service – Honorable
- c. Block 25: Separation Authority – COMDTINST M1000.4 Art. 1.A.12.f
- d. Block 26: Separation Code – SGB<sup>3</sup>
- e. Block 27: Reentry Code – N/A
- f. Block 28: Narrative Reason for Separation – Non-Selection, Permanent Promotion

### APPLICABLE LAW AND REGULATIONS

Department of Defense Instruction (DoDI) 1341.13, Post-9/11 GI Bill (May 31, 2013) establishes policy, assigns responsibilities, and prescribes procedures for implementing DoD authorities and responsibilities for Chapter 33 of Title 38, United States Code (U.S.C.), also known as the "Post-9/11 GI Bill." The Instruction applies to the Coast Guard by agreement with the Department of Homeland Security (DHS).

Enclosure 2.4.g. The Secretary concerned shall direct pre-separation or release from active duty counseling on Post-9/11 GI Bill benefits to active duty members and members of the Reserve Components with qualifying active duty service and document this counseling accordingly.

Enclosure 3.3. Transferability of Unused Education Benefits to Family Members, provides that the Secretary concerned may permit an individual eligible for Post-9/11 GI Bill educational assistance to elect to transfer to one or more family members all or a portion of his or her entitlement to such assistance.

3.a. Eligible Individuals. As relevant here, any service member on or after August 1, 2009, who is entitled to the Post-9/11 GI Bill at the time of the approval of his or her request to transfer that entitlement under this section, may transfer that entitlement provided he or she has at least 6 years of service in the Military Services (active duty or Selected Reserve) on the date of approval and agrees to serve four additional years in the Military Services from the date of election.

3.f.1. Time for Transfer. An individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement to the individual's family member only while serving in the Military Services (active duty or Selected Reserve), National Oceanic and Atmospheric Administration Commissioned Officer Corps (NOAA Corps), or Public Health

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<sup>3</sup> The SPD Handbook states that the SGB separation code should be used to indicate mandatory retirement after not being selected for permanent promotion.

Service (PHS). An individual may not add family members after retirement or separation from the Uniformed Services.

3.g. Failure to Complete Service Agreement.

(1) Except as provided in this section of this enclosure, if an individual transferring entitlement under this section fails to complete the service agreed to consistent with paragraph 3.a. of this enclosure in accordance with the terms of the agreement, the amount of any transferred entitlement that is used as of the date of such failure shall be treated as an overpayment of educational assistance and shall be subject to collection by VA.

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The Coast Guard Post 9/11 and Montgomery GI Bill Educational Assistance Programs Manual, COMDTINST M1780.3 (June 2020), establishes Coast Guard policy concerning the implementation of the Post 9/11 and Montgomery GI Bill Educational Assistance Programs.

Chapter 4.C. of the manual, Transferability of Unused Education Benefits to Family Members, provides that eligible service members may request to transfer one or more of the service member's family members all or a portion of their entitlement to Post-9/11 GI Bill educational assistance.

4.c.8 Failure to Complete Service Agreement.

a. Except as provided in this Section, if an individual transferring entitlement fails to complete the service agreed to consistent with Chapter 4.C.2 of this Manual, the amount of any transferred entitlement that is used as of the date of such failure must be treated as an overpayment of educational assistance and will be subject to collection by the VA.

b. Chapter 4.C.8.a.7 of this Manual will not apply to an individual who fails to complete the service agreement due to being honorably discharged following a twice failure of selection for promotion as a commissioned officer on active duty. An officer not offered selective continuation will have the TEB obligation end date adjusted to his separation or retirement date (if the officer has not already fulfilled TEB obligation end date of 4 years).

**APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On February 14, 2024, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. He replied on February 25, 2024, and agreed with the JAG's recommendation.

**FINDINGS AND CONCLUSIONS**

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.

2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice. 10 U.S.C. § 1552(b); 33 C.F.R. § 52.22. The applicant discovered that his dependents were unable to use his education benefits when his daughter applied for educational assistance and was rejected in May 2023. He filed this application with the Board on May 14, 2023. As such, the application is timely.

3. The applicant alleged that characterizing his retirement as voluntary on his DD Form 214 is an error and injustice in his record. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust. 33 C.F.R. § 52.24(b). Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties correctly, lawfully, and in good faith.

4. The record shows that the applicant applied to transfer his education benefits to his dependents in June 2013, incurring four years of obligated service through July 25, 2017. Upon being notified that he would be separated no later than July 1, 2015, he submitted a request to voluntarily retire, and alleged that no one told him that requesting a voluntary retirement would affect his ability to transfer his education benefits. The Board finds there is no evidence that the applicant underwent required counseling regarding the effects that changing his separation from mandatory to voluntary would have on his GI Bill benefits. Further, the applicant had no other avenues for continued service with the Coast Guard and his retirement was in effect still a mandatory retirement. The Board finds that pursuant to Chapter 4.C.8.a.7. of the Coast Guard's GI Bill manual, his TEB obligation end date should have been adjusted to his retirement date because he was being honorably discharged following a twice failure of selection for promotion as a commissioned officer.

5. The applicant has proven by a preponderance of the evidence that the Coast Guard failed to change his TEB obligation date upon his mandatory retirement. The record shows that the applicant's mandatory retirement satisfied his obligated service requirement, and his retirement should have been noted as mandatory in his record and on his DD Form 214. Accordingly, the Board will order the Coast Guard to correct his record by ensuring that his TEB obligation date ended on June 30, 2015, and making the following changes on his DD Form 214:

- a. Block 23: Type of Separation – Retirement/ Resume Retirement
- b. Block 24: Character of Service – Honorable
- c. Block 25: Separation Authority – COMDTINST M1000.4 Art. 1.A.12.f
- d. Block 26: Separation Code – SGB
- e. Block 27: Reentry Code – N/A
- f. Block 28: Narrative Reason for Separation – Non-Selection, Permanent Promotion

**(ORDER AND SIGNATURES ON NEXT PAGE)**

**ORDER**

The application of CDR [REDACTED] [REDACTED] USCG (Retired), for correction of his military record is granted. The Coast Guard shall correct his record by changing his TEB obligation to June 30, 2015, and preparing and sending him a new DD Form 214 with the following corrections:

- Block 23: Type of Separation – Retirement/ Resume Retirement
- Block 24: Character of Service – Honorable
- Block 25: Separation Authority – COMDTINST M1000.4 Art. 1.A.12.f
- Block 26: Separation Code – SGB
- Block 27: Reentry Code – N/A
- Block 28: Narrative Reason for Separation – Non-Selection, Permanent Promotion

August 8, 2024

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