



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

[REDACTED]
Docket No. 10285-17
DEC 22 2017

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC RET

Ref: (a) Title 10 U.S.C. 1552

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 this Board requesting, in effect, that the applicable naval record be corrected to establish eligibility to transfer Post 9/11 GI Bill benefits to his dependents.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 21 December 2017 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 your application, together with all material submitted in support thereof, relevant portions of your 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, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The Post-9/11 Veterans Education 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.

c. On 4 August 2009, Petitioner signed a Statement of Understanding (SOU) in which he committed to one additional year of service in order to transfer his Post 9/11 GI Bill education benefits (TEB) to his dependents. Petitioner's command acknowledged and approved the SOU on 5 August 2009.

d. On 26 October 2009, Petitioner submitted his TEB request in the MilConnect system. Petitioner claims that he did not know that he had to submit the electronic request at the time he signed his SOU. The request was approved with an end of obligated service date of 25 October 2010.

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC RET

e. Petitioner retired on 31 August 2010.

f. On 26 August 2013, Petitioner received a letter from the Department of Veteran's Affairs (VA) that his request to transfer of his Post 9/11 GI Bill education benefits had been approved and that his dependents could begin use of the benefits.

g. On 7 December 2017, the VA informed the Petitioner that an error had occurred and terminated his transferred Post 9/11 education benefits.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board carefully weighed the evidence and felt that it was unjust to prevent a service member from transferring his education benefits (TEB) due to his misunderstanding of the requirements established in the regulation to successfully TEB. The Board highlighted that Petitioner made a good faith attempt to transfer his benefits, with command guidance, on 4 August 2009. The Board concluded that it is reasonable to assume the Petitioner would have delayed his retirement date if he had known that he was falling short of his end of obligated service. The Board felt that under these circumstances a measure of relief is warranted.

RECOMMENDATION

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner elected to transfer unused educational benefits through the MilConnect Transfer of Educational Benefits (TEB) web application on 4 August 2009.

CMC reviewed the Petitioner's TEB application, and it was approved on 4 August 2009. Petitioner incurred an additional service obligation of one year.

Upon completion of the above changes, Headquarters, United States Marine Corps (HQMC) will execute an approved Transferability of Educational Benefits (TEB) application reflecting the transfer information.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that 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.

[REDACTED]
Recorder

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] USMC RET

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 reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED]
Executive Director