



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

█
Docket No. 3609-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD █
█ USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 38 U.S.C. § 3319
(c) MARADMIN 017/20
(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 reflect transfer of Post-9/11 GI Bill education benefits application was approved.

2. The Board, consisting of █, █, and █ reviewed Petitioner's allegations of error and injustice on 24 April 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. On 18 October 2004, Petitioner entered active duty.

b. On 17 December 2009, Petitioner reenlisted for 4 years and 5 months and subsequently extended for an aggregate of 22 months.

c. On 15 January 2010, Petitioner married █ and they had one child: █ born on 14 December 2010.

d. On 20 January 2016, Petitioner reenlisted for 4 years and thereafter extended for 19 months.

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e. On 2 March 2016, Petitioner's child, [REDACTED] was born.

f. On 23 January 2021, Petitioner reenlisted for 3 years.

g. Petitioner submitted transfer of education benefits (TEB) applications on 20 May 2021 and 1 August 2023 with less than 4 years of service remaining on contract. The Service rejected both applications indicating, Petitioner "has not committed to the required additional service time."

h. On 30 October 2023, Petitioner found unfit for duty by the Physical Evaluation Board and recommended transfer to Permanent Disability Retired List.

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).¹ 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 20 January 2016. Moreover, the Board determined Petitioner has completed over 8 years of active duty service since the 20 January 2016 reenlistment and continues to serve, thereby meeting the spirit and intent of reference (b).² 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]/18 month through the MilConnect TEB portal on 20 January 2016. Note: Petitioner allocated 18 months of education benefits to [REDACTED] after date of birth on 2 March 2016.

Headquarters U.S. Marine Corps reviewed Petitioner's TEB application and it was approved on 20 January 2016 with a 4-year service obligation.

¹ References (c) and (d), the option to transfer unused education benefits to an eligible dependent required Marines have at least 6 years of creditable military service on the transfer of education benefits (TEB) request date and be willing and able to complete four additional years of service at the time of election. Additionally, reference (c) specified that Enlisted Marines had 150 days from the date of TEB web application to incur the required obligated service or the TEB request will be rejected; reference (d) authorized 180 days. Furthermore, the policies 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.

² 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.

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The part of Petitioner's request for corrective action that exceeds the foregoing is denied because Petitioner did not have sufficient time on contract at the time of his TEB application submissions.

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.

5/16/2024

[REDACTED]