

## **DEPARTMENT OF THE NAVY**

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

> Docket No. 5206-24 Ref: Signature Date

| From:<br>To:                  | Chairman, Board for Correction of Naval Records<br>Secretary of the Navy  |
|-------------------------------|---|
| Subj:                         | REVIEW OF NAVAL RECORD XXX XX USMC  |
| Ref:                          | (a) Title 10 U.S.C. § 1552<br>(b) Title 38 U.S.C. § 3319<br>(c) MARADMIN 421/09   |
| Encl:                         | <ul><li>(1) DD Form 149 w/attachments</li><li>(2) Subject's naval record</li></ul>  |
| enclos<br>record              | suant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed are (1) with the Board for Correction of Naval Records (Board), requesting that his naval be corrected to establish eligibility to transfer Post-9/11 GI Bill education benefits to his edependent children.                      |
| allegat<br>correct<br>materia | Board, consisting of property, and pursuant to its regulations, determined that the ive action indicated below should be taken on the available evidence of record. Documentary all considered by the Board consisted of the enclosures, relevant portions of Subject's naval and applicable statutes, regulations, and policies. |
| and inj<br>availab            | Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error ustice, found that, before applying to this Board, he exhausted all administrative remedies ble under existing law and regulations within the Department of the Navy. The Board made lowing findings:                              |
| a. (                          | On 13 December 1994, Petitioner entered active duty. Petitioner had three children:  born on 9 February 1999;  born on 28 May 2006; and  born on 20 February 2006.  |
| b. (                          | On 4 June 2010, Petitioner reenlisted for 4 years.  |
| c. (                          | On 29 November 2010, Petitioner submitted transfer of education benefits (TEB) application  |

d. Petitioner transferred to the Fleet Marine Corps Reserve effective 1 January 2015.

to the required additional service time."

with less than 4 years remaining on contract and requested to allocation 1-month of education

benefits to each child. The Service rejected the application indicating, Petitioner "has not committed

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|       | XXX XX USMC            |  |

## 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). 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 4 June 2010. Moreover, the Board determined Petitioner completed over 4 years of active duty after reenlisting on 4 June 2010, thereby meeting the spirit and intent of reference (b). Therefore, the Board determined that under this circumstance, relief is warranted.

## RECOMMENDATION

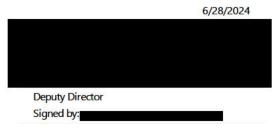
That Petitioner's naval record be corrected, where appropriate, to show that:

| Petitioner elected to transfer unused educati | on benefits to                        | /1-month,            |
|---|---------------------------------------|----------------------|
| /1-month, and                                 | /1-month through the MilConnect       | TEB portal on 4 June |
| 2010.   | · · · · · · · · · · · · · · · · · · · |                      |

Petitioner, in coordination with his command completed the required Statement of Understanding on 4 June 2010 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 4 June 2010 with a 4-year service obligation.

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.



<sup>&</sup>lt;sup>1</sup> The option to transfer a Marine's unused education benefits to an eligible dependent required a 4-year additional service obligation at the time of election for those eligible to retire on or after 1 August 2012. Additionally, Marines were to ensure additional service obligation was properly documented in the Marine Corps Total Force System and/or official service record prior to initiating a TEB request. Requests were disapproved for members whose record did not reflect the required additional service. Marines whose applications were disapproved would be required to reapply with a new service obligation date.