



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

[REDACTED]
Docket No. 7291-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED] XXX XX [REDACTED] USMCR (RET)

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 38 U.S.C. § 3319
(c) MARADMIN 0421/09
(d) DoDI 1341.13, 31 May 13

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 establish eligibility to transfer Post-9/11 GI Bill education benefits to his eligible dependent sons.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 December 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 Petitioner'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 references (c), the option to transfer a Service member's unused education benefits to an eligible dependent required the Marine to be on active duty and/or in the Selected Reserve (SELRES); time in the Individual Ready Reserve (IRR) is not included. For

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those Marines with more than 20-years of service as of 1 August 2009, no additional service obligation was required. However, reference (d) discontinued the ability to transfer education benefits (TEB) with an adjusted obligation based on retirement eligibility and directed that effective 1 August 2013, all Service members applying to TEB must complete a 4-year additional service obligation on active duty and/or the SELRES from the time of election. Failure to complete the service obligation will result in 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 the Department of Veterans Affairs.

c. On 25 March 1987, Petitioner enlisted in the Marine Corps Reserve for 8-years.

d. On 17 March 1995, Petitioner accepted Reserve commission.

e. Petitioner has three children: [REDACTED]
[REDACTED]
[REDACTED]

f. On 24 March 2008, Petitioner completed 20-years of qualifying service for non-regular retirement.

g. On 21 May 2013, Petitioner was assigned to Selected Marine Corps Reserve (SMCR).

h. On 20 July 2017, Petitioner submitted TEB application while assigned as an Individual Mobilization Augmentee (IMA). The Service approved the application on 7 August 2018 with an obligation end date of 20 July 2021.

i. Petitioner executed temporary active duty orders from 26 February 2018 to 26 June 2018, followed by assignment to the IMA from 27 June 2018 to 1 September 2018.

j. On 2 September 2018, Petitioner transferred to the IRR and thereafter transferred to the Retired Reserve without pay effective 1 April 2020.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting the following corrective action. The Board concluded 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). Specifically, after 1 August 2013, Petitioner executed active duty orders and was assigned to the SMCR and IMA, however did not complete four continuous years in an eligible TEB status due to several transfers to the IRR and subsequent transfer to the Retired Reserve prior to his TEB obligation end date. 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 without a service obligation while assigned to the SMCR on 21 May 2013. Therefore, the Board determined that under these circumstances, relief is warranted.

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RECOMMENDATION

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

Petitioner elected to transfer unused education benefits to [REDACTED]
[REDACTED] through the MilConnect TEB portal on 21 May 2013.

Petitioner, in coordination with his command completed the required Statement of Understanding on 21 May 2013 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 21 May 2013 without an additional 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 titled 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.

1/3/2025

