

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
[REDACTED] (RET)

c. On 17 May 1996, Petitioner was appointed as an officer in the Navy upon his graduation from the University of [REDACTED] and completion of the NROTC program. See enclosure (3).

d. Petitioner was married on 1 June 1996. He and his wife have three children.¹ See enclosure (4).

e. On 7 April 2010, the Navy published reference (b) to implement and provide information to Navy personnel regarding the Post 9/11 GI Bill Educational Assistance Program.² Reference (b) announced the eligibility criteria to transfer Post-9/11 GI Bill education benefits to eligible dependents and the administrative requirements for doing so. In relevant part, the eligibility criteria required the individual to be serving in the Armed Forces as of 1 August 2009 with at least six years of service, and to agree to serve at least four additional years in the Armed Forces from the date of election. The relevant administrative requirement for active duty officers to transfer their Post-9/11 education benefits was for the command to complete a NAVPERS Form 1070/613 in the Navy Standard Integrated Personnel System (NSIPS) Electronic Service Record (ESR) stating as follows: "I understand by signing this NAVPERS 1070/613, I agree to complete 4 more years in the Armed Forces (active or SELRES) from the date I request transferability of Post-9/11, REAP or MGIB-SR education benefits to my dependents/family members. I understand that failure to complete this 4-year obligation may lead to an overpayment by the [Department of Veterans Affairs] that may be recoupled for any payments made to dependents/family members." The NAVPERS 1070/613 had to be signed by the member, witnessed and dated. Reference (b) specifically advised that "[m]embers should check the [transfer of education benefits (TEB)] Web site periodically for status of their applications," and that the member should see their command career counselor and take corrective action and reapply if an application is disapproved.

f. On 19 May 2010, Petitioner submitted a transfer of education benefits (TEB) application to transfer his Post-9/11 GI Bill education benefits to each of his three children.³ See enclosure (5).

g. On 14 August 2010, Petitioner's TEB application was rejected because he did not commit to the requested additional service time.⁴ See enclosure (5).

h. On 4 August 2015, Petitioner again submitted a TEB application to transfer his Post-9/11 GI Bill education benefits to each of his three children. He refused, however, to submit the required NAVPERS 1070/613 or to commit to any additional service due to his pending retirement in 2016. As a result, this TEB application was also rejected. See enclosures (1) and (5).

¹ [REDACTED] was born on [REDACTED]. [REDACTED] was born on [REDACTED]. [REDACTED] was born on [REDACTED].

² Reference (b) incorporated informed contained in NAVADMIN 187/09, Post 9/11 GI Bill Eligibility and Benefits; NAVADMIN 203/09, Post 9/11 GI Bill REAP, and MGIB-SR Transferability Policy and Interim Provisions for Retirement Eligible Members; and NAVADMIN 354/09, Post 9/11 GI Bill Update.

³ Petitioner requested to transfer 12 months of his Post-9/11 GI Bill education benefits to each of his three children.

⁴ This reason for rejection implies that the required NAVPERS 1070/613 was not included with the Petitioner's request (see paragraph 3e above). PERS-311 confirmed the absence of the NAVPERS 1070/613 in Petitioner's record by e-mail dated 23 February 2024. See enclosure (6).

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i. Petitioner was transferred to the Retired List on 1 June 2016 with over 21 years of active service. See enclosure (7).

j. Petitioner insists that he submitted the required NAVPERS 1070/613 in 2010 despite receiving advise from the career counselor that it was not necessary since he was already obligated. He only learned that it was not present in his record and that his TEB request was rejected when he was preparing for retirement in 2015. This realization prompted the request of 4 August 2015 referenced in paragraph 3h above. He asserts that it is an injustice that he is unable to transfer his Post-9/11 GI Bill benefits because his NAVPERS 1070/613 was mishandled by the Navy, and he served the obligated period of additional service after submitting his request. See enclosure (1).

MAJORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Majority of the Board found sufficient evidence of an injustice warranting relief.

The Majority found that Petitioner met the basic eligibility criteria to transfer his Post-9/11 GI Bill education benefits stated in reference (b) (see paragraph 3e above), but simply failed to follow through with the administrative requirements to do so after his first request was rejected. It was clear that the Subject attempted to transfer his education benefits, but was unaware that his request had been denied and of his need to take further action. Although Petitioner did not comply with the administrative requirements to transfer his education benefits, the Majority found this oversight to be understandable and excusable given his claim to have submitted the required NAVPERS 1070/613 and assumption that he had therefore completed his requirements. The Majority also noted that the Subject served more than four additional years after submitting his TEB application, therefore satisfying the service obligation. Given these circumstances, the Board found the existence of an injustice warranting corrective action in that a naval officer with over 21 years of honorable service is unable to transfer his well-earned Post-9/11 GI Bill education benefits to his children.

MAJORITY RECOMMENDATION:

In view of the above, the Majority of the Board recommends that the following corrective action be taken on Petitioner's naval record in the interests of justice:

That Petitioner's naval record be corrected to reflect that he, in coordination with his command, completed the required NAVPERS 1070/613 with all of the necessary language and signatures referenced in paragraph 3e above on 19 May 2010 in the Navy Standard Integrated Personnel System Electronic Service Record in accordance with reference (b).

That Navy Personnel Command (NPC) (PERS-314) approved Petitioner's TEB application of 19 May 2010, with a four-year service obligation.

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That Petitioner elected to transfer 12 months of his unused Post-9/11 GI Bill education benefit to [REDACTED]; 12 months of those benefits to [REDACTED]; and 12 months of those benefits to [REDACTED], through the MilConnect TEB portal on 19 May 2010.

That NPC ensure Petitioner's Benefits for Education Administrative Services Tool Family Member History and Service Member History is updated with the aforementioned approved allocation of educational benefits.

That a copy of this record of proceedings be filed in Petitioner's naval record.

MINORITY CONCLUSION:

Upon careful review and consideration of all the evidence of record, the Minority of the Board found insufficient evidence of any error or injustice warranting relief.

The Minority did not concur with the Majority conclusion that there exists an injustice in Petitioner's ineligibility to transfer his Post-9/11 GI Bill education benefits. Specifically, the Minority noted that the Navy's policies pertaining to TEB have been in effect since 2009, and that the eligibility criteria and instructions for TEB are clearly outlined in published messages. Reference (b) specifically directed Petitioner to check the TEB Web site periodically for the status of his application, and to reapply after taking corrective action if the application was disapproved. He failed to do so. Additionally, Petitioner was a commissioned officer with more than 15 years of service at the time of his TEB application; he should not have required an instruction to periodically check on the status of such an important benefit request. Finally, the Minority noted that Petitioner failed to provide any evidence to support his assertion that he actually did complete and submit the required NAVPERS 1070/613. Under the circumstances, the Minority found that equitable relief is not warranted.

MINORITY RECOMMENDATION:

In view of the above, the Minority of the Board recommends that no corrective action be taken on 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. The foregoing action of the Board is submitted for your review and action.

5/6/2024

[REDACTED]

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ASSISTANT GENERAL COUNSEL (MANPOWER AND RESERVE AFFAIRS) DECISION:

X MAJORITY Recommendation Approved (Grant Relief – I concur with the Majority conclusion and therefore direct the corrective action recommended by the Majority above.)

— MINORITY Recommendation Approved (Deny Relief – I concur with the Minority conclusion and therefore direct that no corrective action be taken on Petitioner’s naval record.)

