



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

Docket No. 7096-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD IC0

Ref: (a) Title 10 U.S.C. § 1552
(b) Title 38 U.S.C. Chapter 33
(c) Bureau of Naval Personnel Notice 1780

Encl: (1) DD Form 149 w/attachments
(2) DD Form 214, Certificate of Release or Discharge from Active Duty, 2 Nov 17
(3) Department of Defense Person Search (DPS) Screens, 7 Oct 24
(4) Benefits for Education Administrative Services Tool – Service Member History, 4 Oct 24
(5) Benefits for Education Administrative Services Tool – Family Member History, 4 Oct 24

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, hereinafter referred to as the Board, requesting that his naval record be corrected to establish his eligibility to transfer his Post-9/11 GI Bill education benefits to eligible dependents effective 6 August 2013.

2. The Board reviewed Petitioner's allegations of error and injustice on 9 October 2024, and, pursuant to its governing policies and procedures, determined that the corrective action indicated below should be taken on Petitioner's record. Documentary material considered by the Board included the enclosures; relevant portions of Petitioner's naval records; and applicable statutes, regulations, and policies.

3. Having reviewed all that evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found as follows:

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

b. 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.

c. On 7 April 2010, the Navy published reference (c) to implement and provide information to Navy personnel regarding the Post 9/11 GI Bill Educational Assistance Program. Reference (c) 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 agree to serve at least four additional years in the Armed Forces from the date of election. The relevant administrative requirement for officers to transfer their Post-9/11 GI Bill education benefits was for the command to complete a NAVPERS 1070/613, Administrative Remarks in the Navy Standard Integrated Personnel System Electronic Service Record 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 DVA that may be recouped for payments made to dependents/family members." The NAVPERS 1070/613 had to be signed by the member, witnessed and dated prior to initiating their electronic transfer election in the MilConnect Transfer of Education Benefits (TEB) portal.

d. On 23 January 1998, Petitioner entered active duty. Enclosure (2).

e. On 24 May 2003, Petitioner married his current spouse [REDACTED] and they had three children: [REDACTED] born on 21 July 2005; [REDACTED] born on 15 March 2008; and [REDACTED] born on 30 August 2011. Enclosure (3).

f. On 31 July 2014, Petitioner submitted TEB application via the MilConnect TEB portal requesting to transfer 1-month of education benefits to each dependent. The Service approved the application with an obligation end date of 30 July 2018. Enclosures (4) and (5).

g. On 31 January 2018, Petitioner transferred to the Retired List with 20 years of active duty service. Enclosure (2).

h. Petitioner contends there is a clerical error with the date the MilConnect TEB portal reflects him submitting his TEB application. He asserts that he submitted the VA Form 22-1990, Application for VA Education Benefits on 6 August 2013 and does not know why the system reflects the July 2014 date. Petitioner further indicates that in the Summer of 2014 he received an email indicating, "Approved 1 July 2014" and replied to the email that the 1 July 2014 date was incorrect. Petitioner was under the impression that the matter was corrected, and no further action was needed. However, he only recently discovered the error remained when he applied for education benefits for his son. Enclosure (1).

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[REDACTED]

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 (c) but failed to complete his obligation when transferring to the Retired List six months prior to his TEB obligation end date. However, Petitioner's Electronic Service Record does not contain a copy of the required NAVPERS 1070/613, consequently there is no evidence of Petitioner being properly counseled regarding the consequences of not completing his TEB obligation. Additionally, the Majority determined the process of submitting for education benefits from the Veterans Affairs is a separate and distinct process then submitting an application to the Service to transfer education benefits to dependents. Although Petitioner did not complete his TEB obligation, the Majority surmised Petitioner confused the aforementioned application processes, therefore found this oversight to be understandable and excusable given his claim to have submitted the application and assumption that he completed his obligation before retiring. Given these circumstances, the Board found the existence of an injustice warranting corrective action in that a naval officer with 20 years of honorable service is unable to transfer 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:

Petitioner, in coordination with his command completed the required NAVPERS 1070/613, Administrative Remarks on 6 August 2013 and submitted it to Commander, Navy Personnel Command for inclusion in the Petitioner's Official Military Personnel File.

Petitioner elected to transfer unused education benefits to [REDACTED]/1-month, [REDACTED]/1-month, [REDACTED]/1-month, and [REDACTED]/1-month through the MilConnect TEB portal on 6 August 2013.

Commander, Navy Personnel Command (PERS-314) reviewed the Petitioner's TEB application, and it was approved on 6 August 2013 with a 4-year service obligation.

A copy of this report of proceedings will 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 existed an injustice in such denial. In this regard, the Minority concluded that the Navy Transferability of Post-9/11 GI Bill

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policies clearly outlined the TEB requirements, procedures, and associated obligation. Moreover, the Minority noted that Petitioner was aware of a perceived issued with his application 10 years ago but admittedly did not follow-up on actions to ensure his requested corrective measures were applied nor to explore other options to correct the record. Therefore, under these circumstances, the Minority recommended that 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.

11/18/2024



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.)

