



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JLP:ddj
Docket No: 734-01
13 March 2001

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 March 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CNP memorandum 5420 SER N133C/08000 of 6 March 2001, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
CHIEF OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

IN REPLY REFER TO

5420
Ser N133C/08000
6 March 2001

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters PERS-00ZCB

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF [REDACTED]

Ref: (1) SECNAVINST 7220.80E of 2 November 1999

Encl: (1) Docket Number 07334-01
(2) Excerpt from SECNAVINST 7220.8C dtd 6 September 1990
(3) Excerpt from SECNAVINST 7220.8D dtd 14 August 1996

1. Background. [REDACTED] was assigned as a student to Naval Submarine School from January to June 1996. Enclosure (1) is a request by [REDACTED] to be paid OPSUBPAY for the period of time he was assigned to Submarine School.

2. Summary. Reference (a) was modified on 14 August 1996 to allow officers to receive OPSUBPAY if they were (among other things) "undergoing training preliminary to assignment to a nuclear powered submarine" or "while receiving training instruction to prepare for assignment to a nuclear powered submarine." Prior to this change, supply officers were not eligible for OPSUBPAY until arrival on the boat." The Secretary of the Navy approved no grand-fathering provision with this policy change. Enclosures (2) and (3) are provided as evidence of this policy change.

3. Recommendation. Recommend that enclosure (1) be closed with a response to indicate that [REDACTED] was not entitled to OPSUBPAY for the period of January through June 1996, citing the reason specified in paragraph (2) above.

[REDACTED]
Nuclear Officer
Program Manager

e. Requests for PRD extensions from personnel receiving CONSUBPAY in on-submarine duty assignments will be approved only if the member's Expiration of Active Obligated Service (EAOS) provides at least 14 months of obligated service beyond the revised PRD. A PRD extension may be granted if additional obligated service is incurred, by reenlistment or extension, to provide the minimum obligated service of 14 months beyond the revised PRD.

5. **Operational Submarine Duty Incentive Pay (OPSUBPAY).** OPSUBPAY is payable to active duty naval service officers and enlisted personnel when assigned to and serving in a submarine when CONSUBPAY eligibility criteria, paragraph 4, are not met (see enclosure (2)). Midshipmen are not authorized to receive OPSUBPAY.

Personnel earn OPSUBPAY on a prorated, day-for-day basis for any period they are attached under orders to a submarine, whether temporarily or permanently. Personnel permanently assigned to a submarine continue OPSUBPAY entitlement while ordered TAD to other commands.

a. OPSUBPAY when attached for duty (ACC 100) to a submarine command staff: OPSUBPAY is payable on a month-to-month basis to individuals qualified in submarines while attached for duty (ACC 100) to submarine command staffs (enclosure (8)) provided that ride time requirements are satisfied. The term qualified in submarines is defined as those officer and enlisted personnel who have been designated qualified in submarines per the Naval Military Personnel Manual (NAVPERS 15560). For each month that ride time requirements are satisfied (paragraph 5a(1), (2), or (3)), the individual will receive one month of OPSUBPAY (including reporting and detaching months). For personnel, other than those reporting from a Submarine Command Staff to another Submarine Command Staff, an initial grace period begins with the first month in which underway requirements are not met after reporting. If ride time requirements are not satisfied for a given period, an individual does not receive OPSUBPAY on a day-for-day basis.

OPSUBPAY will be paid for a grace period only if the requirements of paragraph 5b are met. For individuals not qualified in submarines and who are serving on submarine command staffs, OPSUBPAY may be paid on a day-for-day basis. To satisfy ride time requirements for a given period, an individual must have underway time as follows:

(1) During one calendar month: 48 hours, except that any hours served underway as a member of a submarine command staff during any of the immediately preceding five calendar months and not already used to qualify for OPSUBPAY may be applied to satisfy the underway time requirements for the current month;

(2) During any two consecutive calendar months when the requirements of 5a(1) above have not been met: 96 hours; or

(3) During any three consecutive calendar months when the requirements of 5a(1) or 5a(2) above have not been met: 144 hours.

b. OPSUBPAY when assigned to special test and evaluation details: OPSUBPAY is payable on a day-to-day basis to individuals serving on special test and evaluation details whose duties require serving in a submarine. Special test and evaluation details include any active duty naval service officers or enlisted personnel assigned TAD to a submarine. TAD orders and their endorsements will be used to determine the number of days the individual is entitled to OPSUBPAY (see enclosure (14)).

c. Time counting toward ride time requirements.

(1) Only time underway on a submarine counts as ride time. Ride time is the number of underway hours and minutes taken from the ship's deck log and entered in enclosure (9). The hours and minutes entered in enclosure (9) are totalled at the end of each calendar month, rounded down to the last whole hour and entered in enclosure (10).

(16) For any officer detached for cause while serving in an at-sea submarine billet upon formal approval by the CHNAVPERS.

(17) For any officer who fails to qualify in submarines or who is recommended for assignment for duty other than in the submarine service upon approval by the CHNAVPERS.

(18) For any LDO or CWO declining or refusing to serve as a personnel/administrative officer, Production Management Assistant, MK-48 Weapons IMA Officer, or Assistant Operations/Port Services Officer of a SUBASE, department head ashore or any sea billet.

e. Requests for PRD extensions from personnel receiving CONSUBPAY in non-submarine duty assignments will be approved only if the member's Expiration of Active Obligated Service (EAOS) provides at least 14 months of obligated service beyond the revised PRD. A PRD extension may be granted if additional obligated service is incurred, by reenlistment or extension, to provide the minimum obligated service of 14 months beyond the revised PRD.

* 5. **Operational Submarine Duty Incentive Pay (OPSUBPAY).** OPSUBPAY is payable to active duty naval service officers and enlisted personnel when assigned to and serving in operational submarine duty when CONSUBPAY eligibility criteria, paragraph 4, are not met (see enclosure (2)). Midshipmen are not authorized to receive OPSUBPAY. Personnel earn OPSUBPAY on a prorated, day-for-day basis for any period they are attached under orders to operational submarine duty, whether temporarily or permanently. Personnel permanently assigned to a submarine continue OPSUBPAY entitlement when ordered TAD to other commands. ~~It is not the intent of this instruction to deny the term/operational submarine duty or sea duty while attached under competent orders to a submarine, while serving as an operator or crew member of an operational submersible~~

(including an undersea exploration or research vehicle), ~~while undergoing training or preparing for assignment to a nuclear-powered submarine, while receiving instruction to prepare for assignment to a nuclear-powered submarine, while receiving instruction to prepare for assignment to a submarine of advanced design, while receiving instruction to prepare for a position of increased responsibility on a submarine, or, in the case of a member qualified in submarines, while attached as a member of a submarine operational command staff whose duties require serving on a submarine during underway operations, and meets the underway requirements specified below. The courses of instruction listed in enclosure (7) meet this definition of operational submarine duty.~~

a. OPSUBPAY when attached for duty (ACC 100) to a submarine command staff: OPSUBPAY is payable on a month-to-month basis to individuals qualified in submarines while attached for duty (ACC 100) to a submarine operational command staff (enclosure (8)) whose duties require serving on a submarine during underway operations. The term qualified in submarines is defined as those officer and enlisted personnel who have been designated qualified in submarines per the Naval Military Personnel Manual (NAVPERS 15560). For each month that ride time requirements are satisfied (paragraph 5a(1), (2), or (3)), the individual will receive 1 month of OPSUBPAY (including reporting and detaching months). For personnel, other than those reporting from a Submarine Command Staff to another Submarine Command Staff, an initial grace period begins with the first month in which underway requirements are not met after reporting. If ride time requirements are not satisfied for a given period, an individual does not receive OPSUBPAY on a day-for-day basis. OPSUBPAY will be paid for a grace period only if the requirements of paragraph 5a are met. For individuals not qualified in submarines and who are serving on submarine command staffs, OPSUBPAY may be paid on a day-for-day basis. To satisfy ride time requirements for a given period, an individual must have underway time as follows:

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