



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

█  
Docket No. 1910-21  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █ █  
█ - █

Ref: (a) Title 10 U.S.C. §1552  
(b) DoDI 1315.18 dtd 28 Oct 15  
(c) DoD 7000.14-R FMR Volume 7A

Encl: (1) DD Form 149 of 23 Mar 21  
(2) NAVPERS 1070/602 of 20 Jul 21  
(3) DEERS printout  
(4) BUPERS order: 1186 of 27 Apr 16  
(5) Marine Corps Base, █ message of 18 Jul 16  
(6) █ MEB First Endorsement 1326/1 S-1 of 22 Jul 16  
(7) History of Assignments  
(8) MCI █ ltr 1900 IPAC OB of 26 Jun 19  
(9) DD Form 214 eff 31 Aug 19  
(10) █ statement of non-availability of 18 Sep 19  
(11) Hotel receipt of 24 Sep 19  
(12) BUPERS order: 1129 of 25 Sept 19  
(13) █ █ msg of 27 Sep 19  
(14) MMPA printout  
(15) Commander, FAS First Endorsement 7000 Ser 00/268 of 9 Mar 21  
(16) Advisory Opinion by CNP memo 7220 Ser N130C1/21U0651 of 14 May 21  
(17) Petitioner's email of 22 Jun 21

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 her naval record be corrected to show Petitioner was eligible for and received Overseas Cost of Living Allowance (COLA) at the with-dependent rate effective 1 September 2019 to 3 October 2019, was and entitled to Temporary Lodging Allowance (TLA) departure at the with-dependent rate for per diem and lodging effective 24 September to 3 October 2019.

2. The Board reviewed Petitioner's allegations of error and injustice on 22 July 2021, 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 service records, and applicable statutes, regulations, and policies.

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3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

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

b. On 15 August 2003, Petitioner got married [REDACTED]. See enclosure (2).

c. On 10 April 2010, Petitioner's child [REDACTED] was born. See enclosure (3).

d. In accordance with reference (b), "Service members serving an unaccompanied tour and who are later joined by non-command-sponsored dependents, or who acquire dependents through birth, marriage, adoption, or other action, may have these dependents command-sponsored if all of these conditions are met: (1) An accompanied tour is authorized, as listed in Appendix Q of Reference (m), for that duty station and the Service member is eligible to serve the accompanied tour. This condition does not apply when a child is born to a Service member assigned to a location where the accompanied tour is not authorized. (2) The Service member agrees to serve the prescribed accompanied tour and has sufficient service retainability. Command sponsorship will be granted as soon as the member has the retainability. If he or she is already serving the equivalent of the accompanied tour at the location, command sponsorship will be effective on acquiring the dependents through birth, marriage, adoption, or other action, or upon arrival of the dependents overseas." "...In cases where one member of a military couple separates from military service, the separating member may be command-sponsored effective on the day following separation, provided both of these conditions are met: 1. The remaining Service member is serving the accompanied tour length. 2. The separating Service member is a dependent of the remaining Service member and did not travel back to CONUS at U.S. Government expense at the time of separation."

e. In accordance with reference (c), a dependent must be command sponsored for the Service member to receive Outside Continental United States (OCONUS) COLA or TLA based on the dependent's presence. A Service member serving a tour OCONUS who has no dependents on arrival but who acquires a dependent during that tour is ineligible for TLA for the dependent when the dependent arrives at the Permanent Duty Station (PDS) because the Service member was without a dependent on the effective date of the Permanent Change of Station orders ([REDACTED]). A Service member may be authorized TLA for him or herself, when eligible, or for a dependent acquired while serving at a PDS OCONUS if the dependent is command sponsored at the PDS from which the dependent departs.

f. On 22 March 2016, Petitioner's child [REDACTED] was born. See enclosure (3).

g. On 27 April 2016, Petitioner's was issued official change duty orders (BUPERS order: 1186) with required obligated service to September 2019. Furthermore, Petitioner was directed to an ultimate activity for duty at [REDACTED]. See enclosure (4).

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h. On 18 July 2016, Marine Corps Base, [REDACTED] notified [REDACTED] [REDACTED] that Petitioner's spouse ([REDACTED]) area clearance was approved for both of his children [REDACTED]. See enclosure (5).

i. On 22 July 2016, Petitioner's spouse ([REDACTED]) was issued First Endorsement on WEB orders dated 2 May 2016. Petitioner's spouse was authorized travel for both of his children [REDACTED]. See enclosure (6).

j. On 19 August 2016, Petitioner arrived to [REDACTED] for duty. See enclosure (7).

k. On 26 June 2019, Petitioner's spouse [REDACTED] was issued released from active duty and transferred to the Fleet Marine Corps Reserve effective 31 August 2019. Furthermore, he was authorized dependent travel for both of his children [REDACTED] and his mother [REDACTED]. Furthermore, he received these orders at [REDACTED]. See enclosure (8).

l. On 31 August 2019, Petitioner's spouse [REDACTED] transferred to the Fleet Marine Corps Reserve. See enclosure (9).

m. On 18 September 2019, [REDACTED] issued Petitioner a statement of non-availability for lodging for a period of 23 September 2019 for 10 nights. See enclosure (10).

n. On 24 September 2019, Petitioner received a receipt for the period of 24 September 2019 to 2 October 2019 (9 days) located at [REDACTED] with a total payment of 296,820 Yen. See enclosure (11).

o. On 25 September 2019, Petitioner was issued official modification to change duty orders (BUPERS order: 1129) with required obligated service to November 2022. Furthermore, Petitioner was directed to an ultimate activity for duty at [REDACTED]. She was authorized dependent travel for both of her children [REDACTED] and spouse [REDACTED]. See enclosure (12).

p. On 27 September 2019, [REDACTED] [REDACTED] notified [REDACTED] that family member entry approval was granted for both of her children [REDACTED] and spouse [REDACTED]. See enclosure (13).

q. On 2 October 2019, Petitioner transferred. See enclosure (7).

r. On 2 October 2019, Petitioner's authorized Overseas COLA with 0 dependents for [REDACTED] (JP027) stopped. See enclosure (14).

s. On 3 October 2019, Petitioner arrived to [REDACTED] for duty. See enclosure (7).

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t. On 11 October 2019, Petitioner was authorized Overseas COLA with 3 dependents for [REDACTED] (JP035) from 3 October 2019 to present. See enclosure (14).

u. On 9 March 2021, Commander, Fleet Activities [REDACTED] notified Commander, Navy Personnel Command recommending Petitioner's request be approved. See enclosure (15).

v. On 14 May 2021, Chief of Naval Personnel provided an advisory opinion concluding that per reference (b), the dependents do not meet the criteria for command sponsorship and in accordance with reference (c), paragraph 680202-C and paragraph 680303, a dependent must be command sponsored for the Service member to receive TLA and OCOLA. Per reference (a) DoDI 1315.18, Enclosure 5, par. 5a(2)(c), member is not authorized departure TLA or OCOLA for the former member while stationed on or when leaving [REDACTED] because the former member is not considered command sponsored on [REDACTED]. For OCOLA and TLA purposes, the former spouse is not considered command sponsored because the member was authorized, and used, Government-funded transportation back to the CONUS upon separation. See enclosure (16).

w. On 22 June 2021, Petitioner responded to the advisory opinion. She explained that her spouse did not travel to CONUS upon separation, but he traveled to complete his separation and returned to [REDACTED] to finish his terminal leave. Petitioner stated that if the Marine Corps had a policy in place to keep him local to transition out of the military that could have avoided this whole situation. See enclosure (17).

## CONCLUSION

Upon review and consideration of all the evidence of record, and notwithstanding the opinion expressed in enclosure (16), the Board finds the existence of an injustice warranting corrective action. The Board concluded that effective 1 September 2019, Petitioner acquired her children and her spouse as dependents due to her spouse's transfer to the Fleet Marine Corps Reserve, and command sponsorship would have been effective that date. On 27 September 2019, PERSUPP [REDACTED] notified Petitioner that her dependents had entry approval. The Board concluded that although Petitioner did not have command sponsorship for her newly acquired dependents at her old PDS; they were eligible for sponsorship the date Petitioner acquired them. The Board concluded that Petitioner's spouse did not return to CONUS at the time of separation. He was required to return to [REDACTED] at government expense to complete his separation, he returned to [REDACTED], and was there when he was separated on 31 August 2019.

## RECOMMENDATION

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

Petitioner was issued official modification to change duty orders (BUPERS order: 1129) with required obligated service to November 2022 on "1 September 2019" vice "25 September 2019."

Petitioner's request for command sponsorship for for both of her children [REDACTED] and spouse [REDACTED] was approved effective on "1 September 2019."

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Petitioner was authorized Overseas COLA with 3 dependents for [REDACTED] [REDACTED] effective 1 September 2019 to 2 October 2019.

Note: Petitioner must submit a request for reimbursement of TLA, receipts, BUPERS Order 1129, and a copy of this Board of Correction of Naval Records decision letter to his local Personnel Support Detachment for adjudication. Furthermore, Defense Finance and Accounting Service (DFAS) will complete an audit of Petitioner's records to determine if Petitioner is due any back pay and allowances.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)), it is certified that 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.

8/30/2021

[REDACTED]

Executive Director

Assistant General Counsel (Manpower and Reserve Affairs):

**Reviewed and Approved Board Recommendation (Grant Relief)**

~~Reviewed and Approved Advisory Opinion Recommendation (Deny Relief)~~

10/31/2021

[REDACTED]

Assistant General Counsel (M&RA)

[REDACTED]