



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

█  
Docket No. 2835-22  
Ref: Signature Date

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Dear █

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 8 September 2022. The names and votes of the members of the panel will be furnished upon request. 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, relevant portions of your naval record and applicable statutes, regulations, and policies. In addition, the Board also considered the advisory opinion (AO) by Commander, Navy Personnel Command memo 5420 PERS-836/049 of 12 July 2022, which was previously provided to you. You were afforded an opportunity to submit a rebuttal, but did not do so.

In accordance with Public law 102-484 § 1143a of 23 October 1992, in order to be eligible for retirement by reason of the authority provided in subsection (b), a member of the Armed Forces shall— (1) register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 4462(a)); and (2) receive information regarding public and community service job opportunities from the Secretary of Defense or another source approved by the Secretary and be afforded, on request, counseling on such job opportunities.

The Secretary of each military department may prescribe regulations and policies regarding the criteria for eligibility for early retirement by reason of eligibility pursuant to this section and for the approval of applications for such retirement. Such criteria may include factors such as grade, years of service, and skill.

In accordance with DoDI 1340.19 of 17 November 1993, this Instruction establishes policy, assigns responsibilities, and prescribes procedures to certify the public and community service employment of eligible retired members under Section 4464 of reference (a). Such certified employment may be used to re-compute military retired pay and, where applicable, the Survivor Benefit Plan (SBP) base amount when the retired member attains or would have attained 62 years of age.

This Instruction applies to any member of the Military Services who Retires (other than for disability) under the temporary early retirement authority before the completion of 20 years of creditable service (as computed under the applicable provision of law) (herein referred to as "retiree"). Is employed by a public or community service organization listed on the registry required by Section 1143a(c) of 10 U.S.C. Is employed within the period beginning on the date of retirement and ending on the date the retired member would have attained 20 years of creditable service for computing retired pay (herein referred to as "enhanced retirement qualification period").

During retirement processing, the Military Services shall provide each retiree a copy of DD Form 2676, "Validation of Public or Community Service Employment," and explain the reporting requirements and procedures for enhanced retirement credit as described in this Instruction.

A retiree who becomes employed under the conditions specified in shall obtain certification of employment from the employing organization and submit a completed DD Form 2676 as follows: At the beginning of a qualifying period of employment, unless the expected period of employment is less than 3 months. At the end of a qualifying period of employment or the end of the enhanced retirement qualification period, whichever comes first. Annually during a qualifying period of employment on the anniversary of the date of retirement, unless this date is within 3 months of either of the dates defined by subparagraphs 5.3.1.1. and 5.3.1.2.

You were transferred to Fleet Reserve with an Honorable character of service and were issued a DD Form 214 for the period of 18 November 1988 to 31 March 1996 based on Early Retirement.

Your █ Commission on Post Confidential Profile report listed that you were a deputy from 7 March 1998 to 24 September 1999, and an investigator from 25 September 1999 to 22 August 2006 with the █ County Sheriff Department and District Attorney.

In accordance with Operation Transition PACS Employer Database, last updated in February █, County Sheriff Department and District Attorney was not listed.

You requested re-computation of retired pay at age 62 per section 4403 of the FY 1993 Defense Authorization Act; the Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that procedures for validation and reporting requirements, which included the employing organization to submit a completed DD Form 2676 (Validation of Public or Community Service Employment) on your behalf to Director, Defense Manpower Data Center (DMDC), were not met. Furthermore, you are not eligible for re-computation of your retired pay

based on your employment as a [REDACTED] law Enforcement Officer because that agency was not listed on the Master List of PACS Employers. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

9/20/2022

[REDACTED]

Deputy Director

[REDACTED]