



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

██████████
Docket No. 6235-22
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.

A three-member panel of the Board, sitting in executive session, considered your application on 16 November 2023. 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 considered the advisory opinions by the Office of the Chief of Naval Operations 1533 Ser N133D/168 of 13 March 2023 and the Commander, Navy Personnel Command (PERS-40) which were previously provided to you and your response.

On 17 June 2013, you reenlisted for 6 years with an End of Active Obligated Service (EAOS) of 16 June 2019.

On 23 July 2018, you were issued official change duty orders (BUPERS order: 2048) with required obligated service to October 2021, while stationed in ██████████, ██████████, ██████████ with an effective date of departure of August 2018. Your ultimate activity was ██████████, ██████████, ██████████ for duty with an effective date of arrival of 16 September 2018 with a projected rotation date (PRD) of October 2021.

On 11 September 2018, you signed an agreement to extend enlistment for 28 months with a Soft EAOS (SEAOS) of 16 October 2021 in order to extend to incur sufficient obligated service to execute BUPERS order 2048 of 23 July 2018.

On 17 September 2018, you signed an agreement to extend enlistment for 18 months with an SEAOS of 16 April 2023 for continuous submarine duty.

On 17 September 2018, you transferred from ██████████, and arrived to ██████████ on 17 September 2018 for duty.

On 11 May 2021, you were issued official change duty orders (BUPERS order: 1311) while stationed in ██████████, ██████████, ██████████ with an effective date of departure of October 2021. Your ultimate activity was ██████████, ██████████, ██████████ for duty with an effective date of arrival of 14 November 2021 with a PRD of April 2023.

On 21 June 2021, you were issued official modification to change duty orders (BUPERS order: 1311) while stationed in ██████████, ██████████, ██████████ with an effective date of departure of September 2021. Your intermediate (01) activity was ██████████, ██████████, ██████████ for duty with an effective date of arrival of 5 September 2021. Your ultimate activity was ██████████, ██████████, ██████████ for duty with an effective date of arrival of 30 October 2021 with a PRD of April 2023.

On 11 August 2021, you were issued official cancellation to change duty orders (BUPERS order: 1311).

On 7 September 2021, Abbreviated Medical Evaluation Report listed proposed start date for limited duty (LIMDU) as 7 September 2021 and proposed end date for LIMDU as 7 March 2022. Furthermore, it states "I have received full information on the proposed LIMDU period from my provider. I understand that this period of LIMDU is not effective until approved by the Medical Treatment Facility (MTF) Convening Authority, and that the MTF will report this LIMDU action to my parent command."

On 20 September 2021, you signed a Regular Evaluation Report and Counseling Record for the period of 16 September 2020 to 15 September 2021. This was a Periodic report and you received a "F" for physical readiness. Furthermore, you were currently out of BCA standards, however there was no mention of LIMDU status.

On 31 October 2021, your Master Military Pay Account shows that your Submarine Pay stopped.

On 11 February 2022, Commanding Officer, ██████████ ██████████ notified Commander, Navy Personnel Command via Bureau of Medicine and Surgery that "[b]ased on the Undersea Medical Officer's review of the available medical information in accordance with reference (a), the subject member does not meet the established physical standards for submarine duty due to a history of migraine without aura, psychotropic medication use, prediabetes on Metformin, and PTSD. A waiver of physical standards is not recommended."

On 14 February 2022, Chief, Bureau of Medicine and Surgery notified Commander, Navy Personnel Command (PERS-403) that "[b]ased on a review of the available medical information, the subject member does not meet the established physical standards for Submarine Duty due to migraine headaches with aura, posttraumatic stress disorder-and prediabetes treated with psycho-pharmaceutical use: topiramate and amitriptyline. A waiver of the physical standards for Submarine Duty is not recommended. This medical endorsement of physical qualifications is for use by the Deputy Chief of Naval Operations (DCNO N133) and Commander, Naval Personnel Command (PERS-403). Assignment/Removal of submarine designator or nuclear NEC change restoration/removal are separate administrative actions taken by PERS-403 and DCNO N133D IAW SECNAVINST 7220.80D and OPNAVINST 1220." Endorsed March 2022 (exact date unreadable).

On 10 March 2022, you were issued a Return of a Patient to Medically Unrestricted Duty from LIMDU listing Return to Duty approved effective 3 March 2022.

On 15 March 2022, Commander, Navy Personnel Command (PERS 403) notified Commanding Officer, ██████████, ██████████ that “[b]ased upon the member’s loss of eligibility to further serve in the present rating, your request for a limited medical waiver is granted. The member will be assigned a submarine designator 8 (SP) and is only eligible for assignment to ██████████ (██████████) in a non-seagoing, shipboard support role until March 2025. The member will sign a service record page 13 stating he understands and will comply with all the requirements of the limited waiver of physical standards for submarine duty as defined in MILPERSMAN 1306-416 and this letter.”

On 13 April 2022, you were issued official change duty orders (BUPERS order: 1032) while stationed in ██████████, ██████████, ██████████ with an effective date of departure of April 2022. Your ultimate activity was ██████████, ██████████, ██████████ for duty with an effective date of arrival of 15 May 2022 with a PRD of May 2025.

On 25 April 2022, you transferred from ██████████, and arrived to ██████████ on 12 May 2022 for temporary duty.

On 27 April 2022, you signed a Regular Evaluation Report and Counseling Record for the period of 16 September 2021 to 25 April 2022. This was a Detachment of individual report and you received a “F” for physical readiness. Furthermore, you were BCA failure. Progressing towards being within standards. Had lost 30 lbs. to date. No information regarding LIMDU status.

On 16 May 2022, you transferred from ██████████, and arrived to ██████████ on 17 May 2022 for duty. On 17 May 2022, your Master Military Pay Account shows that your Submarine Pay started. On 31 December 2022, you reenlisted for 2 years with an EAOS of 30 December 2024.

You requested that you receive retroactive CONSUB pay for the time you were LIMDU. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You asserted that your LIMDU started 7 September 2021 and ended 10 March 2022 and that you were entitled to continue receiving Continuous Submarine Duty Incentive Pay (CONSUBPAY) due to the LIMDU status. However, the Board concluded that in accordance with OPNAVINST 7220.15,¹ eligibility for CONSUBPAY is lost for failure to incur 14

¹ OPNAVINST 7220.15 published on 28 December 2005, CONSUBPAY. Active duty enlisted personnel are eligible for CONSUBPAY if they satisfy all of the following conditions: (1) Designated for submarine duty and assigned designator “1” (SS) or designator “2” (SU). (2) While not serving on a submarine, have obligated service for 14 months beyond their PRD in order to be reassigned to submarine sea duty upon completion of the non-submarine or shore duty assignment. The requirement to maintain 14 months beyond PRD must be maintained at all times after any CONSUBPAY is received while not serving on a submarine. (3) Have earned required amounts of TOSS at the completion of the 12th and/or 18th year of submarine service. (4) Be assigned an SSED established per enclosure (3). (5) Upon transfer from a submarine to a non-submarine activity, an enlisted member’s CONSUBPAY will automatically stop if their obligated service does not incur a minimum of at least 14 months past the PRD at the subsequent command. If otherwise eligible, CONSUBPAY will be restarted any time during the non-submarine activity tour when PRD plus 14-month obligation requirement is incurred. (6) Personnel permanently assigned to a submarine will continue to receive CONSUBPAY, if otherwise eligible, while ordered to Temporary Additional Duty at other commands. (7) Physically qualified per paragraph 9.

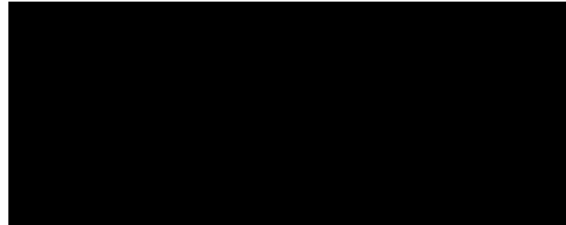
Eligibility for CONSUBPAY is lost if any of the following occur: (14) Failure to incur 14 months obligated service beyond a non-submarine duty PRD for enlisted members. However, obligated service will not be required for those individuals who

months obligated service beyond a non-submarine duty PRD for enlisted members. Obligated service will not be required for those individuals who transfer to: Awaiting medical board review (ACC 355)/ LIMDU (ACC 105) (must have been previously eligible to CONSUBPAY at the last permanent duty station). CONSUBPAY entitlement continues from the entrance to ACC 355 or 105 whichever is first, and will automatically stop after 6 months in one, or a combination of both ACC's. Although the Abbreviated Medical Evaluation Board Report you provided states a proposed period of LIMDU, it also states that it was not effective until approved by the MTF Convening Authority, and that the MTF will report this LIMDU action to your parent command. The Board concluded that your command never transferred you to ACC 355/ ACC 105, therefore, the Board has no evidence of which dates for LIMDU were ultimately approved, and was reluctant to rely on the *proposed* dates you provided. 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,

11/29/2023



transfer to: Awaiting medical board review (ACC 355)/ LIMDU (ACC 105) (must have been previously eligible to CONSUBPAY at the last permanent duty station). CONSUBPAY entitlement continues from the entrance to ACC 355 or 105 whichever is first, and will automatically stop after 6 months in one, or a combination of both ACC's. Unless the physical qualifications in paragraph 9 below are met, and CNO (N133D3) is notified in writing prior to the end of the 6-month period.

Physical Qualification for SUBPAY Entitlement. An individual's continued entitlement to SUBPAY (CONSUBPAY or OPSUBPAY) is contingent upon remaining physically qualified for submarine duty. Submarine designated individuals who are placed in a LIMDU status will be considered qualified for submarine duty unless their LIMDU continues for a period of more than 6 months. The 6-month time frame is measured from the date received to ACC 105 or 355 whichever is first. Eligibility for CONSUBPAY will be terminated after 6 months of LIMDU, or the effective date that determined the disqualifying condition to be permanent, whichever is earlier.