



You understood that, should you fail to screen for your next career milestone, refuse orders to a billet requiring nuclear qualifications, or otherwise lose eligibility for Nuclear Officer Continuation Pay (COPAY) per subparagraph 7a of OPNAVINST 7220.11E, you would receive no further payments under this agreement, and may be required to repay the United States Government a portion of the money that you received in advance, subject to the provisions of subparagraph 7f of OPNAVINST 7220.11E. You agreed to repay any such amount in a timely manner in accordance with the provisions of OPNAVINST 7220.11E.

In accordance with BUPERSINST 1540.41E (Qualification and Assignment of Personnel in the Naval Nuclear Propulsion Program) of 8 September 2017 that (4) Removal of nuclear Navy Enlisted Classification (NECs) or Additional Qualification Designators (AQDs), except for normal separation (expiration of active obligated service, resignation, retirement), will be effected by CHNAVPERS with the concurrence of OPNAV (N00N). Removal of nuclear AQDs does not preclude assignment to a non-nuclear billet within the surface or submarine forces as the needs of the Navy dictate.

In all cases, the final disposition of NECs and AQDs and the effective date of removal are at the discretion of OPNAV (N00N) as set forth in E.O. 12344 and 42 U.S.C. section 7158.

Examples of situations that will result in the removal of nuclear AQDs include:

Officers refusing orders to any nuclear billet, CO, XO (including SWO XO Special Mission (XO-SM), XO-Afloat, XO-Ashore, or CO-Special Mission (CO-SM) billets), or DH/PA will have their nuclear AQDs removed upon their refusal.

For officers who twice fail to select (2 X FOS) for promotion, NAVPERSCOM (PERS-42) will review their records and recommend retention or permanent removal of the officers' nuclear AQDs and forward this recommendation to OPNAV (N00N) for final resolution. If the determination is made to remove an officer's nuclear AQDs, the removal will be effected the first day of the fiscal year following the board, or if the officer is in a nuclear billet, upon detachment from the nuclear billet, whichever is later. This requirement does not apply to ARO served or serving officers.

On 22 July 2019, you were issued official change duty orders (BUPERS order: 2039) while stationed at █ with an effective date of departure of October 2019. Your ultimate activity was █ for duty under instruction with an effective date of arrival of November 2019, with a Projected Rotation Date (PRD) of November 2020.

On 5 August 2019, you were issued official modification to change duty orders (BUPERS order: 2039) while stationed at █ with an effective date of departure of October 2019. Your ultimate activity was █ for duty under instruction with an effective date of arrival of November 2019, with a PRD of November 2020.

On 26 October 2019, you transferred from █, and arrived to █ on 4 November 2019 for duty under instruction.

On 21 September 2020, you were issued official change duty orders (BUPERS order: 2650) while stationed at █ with an effective date of departure of December 2020. Your ultimate activity was █ for duty with an effective date of arrival of January 2021, with a PRD of January 2024.

On 31 December 2020, you transferred from █, and arrived to █ on 1 January 2021 for duty.

On 5 March 2021, Office of the Chief of Naval Operations notified the Director, Naval Nuclear Propulsion that this memorandum requests removal of your nuclear AQDs for twice failing to select for promotion as delineated in BUPERSINST 1540.41E.

You are an Assistant Reactor Officer (ARO) screened officer whose last nuclear assignment was Reactor Electrical Assistant, █. You have twice failed to select for Commander (CDR) and have no desire to serve in an ARO billet.

In accordance with BUPERSINST 1540.41E, request concurrence to remove nuclear AQDs for supervision, operation, and maintenance of naval nuclear propulsion plants effective 1 October 2020.

On 17 March 2021, you notified █ that, "I wanted to quickly follow up with you regarding the conversation I had with █ last month. We spoke on February 19th, and during that conversation he informed me that he was agreeable to removing my nuclear AQD effective 1 October 2020. And that I should expect you to reach out to make arrangement to recoup excess 2020 Continuation Bonus (COBO) funds".

On 26 March 2021, Commander, Navy Personnel Command notified you that your nuclear AQDs were removed in accordance with BUPERSINST 1540.41E as a result of your twice failing to select for CDR. This letter provided formal notification of the change in your nuclear qualification status and outlined the pay implications of these changes. Effective October 1, 2020, the following actions were taken in accordance with BUPERSINST 1540.41E and OPNAVINST 7220.11G: Your nuclear AQDs were removed. You were no longer qualified for supervision, operation, or maintenance of naval nuclear propulsion plants in accordance with BUPERSINST 1540.41E. Your eligibility for Nuclear Officer Bonus and Incentive Pay (NOBIP) was terminated in accordance with OPNAVINST 7220.11G. A portion of your 21 May 2020 COBO installment, \$19,250 (231 days at the \$30,000 rate), would be recouped.

On 29 June 2021, you signed a Waiver/Remission of Indebtedness Application (DD Form 2789) regarding 2020 Nuclear Continuation Bonus Recoupment in the amount of \$19,166.67. Furthermore, block 14 (Reason for requesting waiver/remission and why you believe it should be approved) you stated that you assert the unearned portions of the incentive should have been

calculated from the date your record was updated to reflect KD2 removal to the end of your annual contract: 3 April to 20 May 2021. This period is 47 days.

On 1 October 2021, you were appointed to CDR/O-5.

On 18 May 2022, Defense Finance and Accounting Service notified you that they were unable to process the waiver request and are closing their case file with no action taken:

“A careful examination of the waiver request indicates you are disputing the amount of a \$19,166.67 indebtedness due to the collection of Nuclear Officer Continuation Pay Bonus.

This office can only process applications for waiver of valid debts. For this office to adjudicate a waiver application, you must agree the indebtedness is valid based on regulation, i.e. the DoD 7000.14-R FMR, and the amount is correct. If you disagree to the validity of the debt, you must resolve all issues relating to the indebtedness prior to submitting application for waiver. You will need to contact the office that placed you into debt. If you do decide to resubmit a waiver application you will need to provide the information necessary to adjudicate the waiver, including but not limited to: A copy of your orders, and any amendments for the debt period. An entire copy of your bonus contract”.

In addition, typically, requests for waivers of Bonus debts are ineligible for waiver consideration and you may consider applying for a remission of your Nuclear Officer Continuation Pay Bonus debt. Financial hardship is considered when processing remission requests. If you consider reapplying for a remission of your debt, please ensure you provide a complete breakdown of your current monthly income and expenses, and if applicable, include your spouse's income and expenses. Also provide documentation that supports any financial hardship, to include bank statements and credit card statements.

On 23 August 2022, Defense Finance and Accounting Service notified you that they are unable to process the waiver application you submitted, file number ■■■■■■■■■■. We are closing our case file until such time as the additional information listed below is provided.

“On 25 May 2022, we sent you a letter explaining you were protesting your debt amount and this office can only process applications for valid debts. For this office to adjudicate a waiver application, you must agree the indebtedness is valid and the amount is correct. If you disagree with the validity of the indebtedness, you must resolve all issues prior to resubmitting your waiver request. You have now reapplied for waiver but have not provided any document explaining you have accepted the validity of the debt and the amount of the debt. We cannot proceed with the adjudication of your waiver request until you have provided a signed document stating you agree to the validity and amount of your indebtedness. When you reapply for waiver, explain in block 14 of your DD Form 2789 (Waiver Remission of Indebtedness Application) why you are applying for waiver and have your command complete block 25 explaining the reason for the debt, not why the debt amount is incorrect”.

You requested a recalculation for the Nuclear Officer Continuation Bonus indebted placed against you in order to reflect your eligibility end date to be based off the date of your ADQ code

removal of 3 April 2021 vice the current recoupment calculation date of 1 October 2020 in order to reduce your indebtedness from \$19,166.67 to \$3,867.01. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that backdating AQD removal “to 1 October 2020 is inappropriate, as the Director, Naval Nuclear Propulsion did not approve AQD removal until 22 March 2021. Approval was volunteer and not due to any fault of the member to maintain eligibility for future nuclear assignments”. However, the Board concluded that although the approval of the AQD was approved on 22 March 2021, your email to █ on 17 March 2021 stated that █ had agreed to remove your nuclear AQD effective 1 October 2020 and that you should expect to make arrangement to recoup excess 2020 COBO funds. The Board agreed that is reasonable to determine from this statement that you were also in agreement with 1 October 2020 as the proper date for removal of your nuclear AQD. Furthermore, in accordance with BUPERSINST 1540.41E for officers who twice fail to select (2 X FOS) for promotion, NAVPERSCOM (PERS-42) will review their records and recommend retention or permanent removal of the officers' nuclear AQDs and forward this recommendation to OPNAV (N00N) for final resolution. If the determination is made to remove an officer’s nuclear AQDs, the removal will be effected the first day of the fiscal year following the board, or if the officer is in a nuclear billet, upon detachment from the nuclear billet, whichever is later. Therefore, the Board determined that 1 October 2020 is the appropriate date of AQD removal and that you are required to repay the government a portion of the money that you received in advance based on the date of AQD removal. 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,

5/26/2023

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Deputy Director

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