

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 February 2025

DOCKET NUMBER: AR20230012050

APPLICANT REQUESTS: payment of Basic Allowance for Housing (BAH) between October 2021 and June 2022 for Virginia in lieu of Georgia

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Apartment Lease Contracts
- Notice to Vacate
- Response from S1
- Integrated Personnel and Pay System - Army (IPPS-A) Response
- Leave and Earnings Statements (LES)
- DA Forms 2142 (Pay Inquiry)
- DA Form 4187 (Personnel Action Request)
- S1 Response
- Letter to Representative

FACTS:

1. The applicant states:

a. During the time period between October 2021 and June 2022, he was stationed in Fort Gordon for his advanced individual training (AIT) for approximately 8 months. The U.S. Army changed his BAH according to his location in Fort Gordon, while his wife and school aged son were still living in Fairfax, Virginia. Fort Gordon's BAH rate was approximately \$1,400 while Fairfax, Virginia's BAH rate was approximately \$2,400.

b. He immediately tried to adjust the matter with his drill sergeants because as a trainee, everything had to be done through them. There was nothing that he could do personally.

c. He approached his drill sergeants every month to address his BAH issue. Due to the lack of payment, he had to borrow money from his parents each month because even though the U.S. Army was under paying him, the rent where his dependents were

living was still the same and his dependents still needed money to make a living in Fairfax.

d. He submitted a pay inquiry from October 2021 to May 2022 to fix this matter, but he never heard anything from S1. The only thing he heard was his drill sergeants telling him it will be fixed and the S1 was an issue and had multiple investigations.

e. At this point, he could not move his family because his son was attending school at Fairfax and his wife barely spoke English. As a trainee at AIT, he was unable to move his family to where he was. He was only able to ask his drill sergeants the status of his previous pay inquiries and worry about his financial status due to the lack of near \$1,000 in under payment for BAH. He was hoping the Army would fix this BAH issue as soon as possible.

f. In May 2022, he graduated from AIT and asked his drill sergeants what was going to happen to his BAH before he left. He was told he would have to fix it with his new unit. Also, the command sergeant major (CSM) noticed that there were a lot of married Soldiers who experienced the same issue. The CSM promised to fix the matter and started getting Soldiers' names. This happened as he was graduating from AIT so he never heard anything regarding the matter.

g. His orders for his permanent change of station (PCS) were at Fort Gordon, so he had time to research the issue. After he got to his unit, he started doing pay inquiries but his unit's S1 did not accept his pay inquiries for two months. S1 finally answered his pay inquiry through email saying he did not receive BAH according to his dependents' location because the order says he was authorized to have his family at his location.

h. After researching the issue, he found out about the Department of Defense Financial Management Regulation, and he submitted a new pay inquiry for his BAH issue. S1 replied his inquiry would be submitted through IPPS-A. He was told he would need to get a BAH waiver for the situation. He researched the BAH waiver and found out it only starts the day the form was signed from higher headquarters. The new information he received does not work in his circumstance.

i. It has been a full year since he started researching and submitting inquiries since he graduated from AIT. He has been given completely different information than what he had been hearing, during AIT. He contacted his Congressman to address the matter who helped him get a response from the Army but it was basically saying the Army is not responsible because he decided to let his dependents remain in Virginia. If the Army would have told him he needed to move his dependents to Fort Gordon, they should have given him time to do so. He was sent immediately to Fort Gordon.

j. Now he in debt around \$9,000 because he decided to join the Army and trust its system . Every time he gets a response from the Army it is a huge hit in the head making him think the Army does not care for its subordinates.

2. The applicant provides the following documents:

a. Apartment Lease Contracts, 27 October 2020 and 27 November 2021, for an apartment in Fairfax, Virginia.

b. Letter notice to vacate, 13 May 2022, stating the apartment complex received his intent to vacate his apartment in Fairfax, Virginia and his moving activity needed to be complete by 10 June 2022.

c. Email from Human Resource Assistant, 21 December 2022, states the applicant's dependents were authorized to move during the PCS therefore he was only authorized the BAH rate at his duty station.

d. IPPS-A documents, which states the BAH waiver information is available through his S1.

e. His LESs, which show his payment for BAH and are available for the Board's review.

f. Pay inquiries, wherein he is asking for correction of his payment for BAH and are available for the Board's review.

g. Letter from U.S. Army Financial Management Command to his Congressman, 3 August 2023, states, in pertinent part, they contacted the Army Military Pay Offices at Fort Gordon. It was determined the applicant received BAH at the zip code for his dependents' location in Virginia, while he attended initial entry training at Fort Jackson. In August 2021, he received orders to Fort Gordon categorized as a PCS on an unrestricted assignment, which means that his dependents were authorized to accompany him. He arrived at Fort Gordon on 24 September 2021 and his BAH entitlement was changed to Fort Gordon. While his dependents remained in Virginia, for personal reasons, this does not authorize BAH at the dependents' location. He is entitled to BAH at the zip code for Fort Gordon. Since the period in question has passed, he no longer has the option to request a secretarial BAH waiver through the office of the Army G1. The debt amount he mentioned is not a military pay and/or BAH debt. He may be referring to a personal debt he incurred due to the difference between the BAH zip code rates.

3. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United State) shows he enlisted in the Regular Army and entered active duty on 27 October 2020.

b. His PCS orders to Fort Gordon are not available for the Board's review. Orders 096-041, published by Headquarters, United States Army Cyber Center of Excellence and Fort Gordon, 6 April 2022 awarded him his military occupational specialty effective 29 April 2022.

c. DA Forms 5960 (BAH Authorization and Dependency Declaration), effective 7 November 2023 and 17 December 2024, show he and his dependents lived in Georgia. His service record was void of a DA Form 5960 for the period of October 2021 through June 2022.

d. His Enlisted Record Brief, 24 November 2022, shows he arrived at Fort Gordon, Georgia on or about 24 September 2021.

4. On 31 October 2024, the Financial Management Specialist Military Pay Branch, G1 provided an advisory opinion, which states, they recommend the Board disapprove the applicant's request. He does not provide proof he inquired about or submitted a request for a Secretarial BAH waiver to be paid BAH based on his family's location at Fairfax, Virginia while he was stationed at Fort Gordon, Georgia. He was paid the correct housing allowance based on his duty station and dependent status.

5. On 5 November 2024, the advisory opinion was provided to the applicant to allow him the opportunity to respond. He did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and Financial Management Specialist Military Pay Branch, G1 advisory opinion, the Board considered the advising opinion, which states, they recommend the Board disapprove the applicant's request. He does not provide proof he inquired about or submitted a request for a Secretarial BAH waiver to be paid BAH based on his family's location at Fairfax, Virginia while he was stationed at Fort Gordon, Georgia. He was paid the correct housing allowance based on his duty station and dependent status.

2. The Board noted the applicant's contentions that although his duty station was Fort Gordon, his dependents his wife and school-aged son remained in Fairfax due to

compelling personal circumstances, including his son's ongoing education and his wife's limited English proficiency. He further asserts that he made repeated efforts to resolve the BAH discrepancy through his chain of command and submitted multiple pay inquiries, but was unable to navigate the administrative process due to his trainee status and lack of access to personnel systems. The Board found his account credible and consistent with the challenges faced by junior enlisted Soldiers during training assignments. The applicant provided lease agreements, a notice to vacate, and leave and earnings statements (LESSs) that substantiate his dependents' residence in Fairfax during the contested period.

3. The Board, notwithstanding the advisory opinion from the Financial Management Specialist recommending disapproval based on the absence of a formal BAH waiver. The Board found the applicant's inability to initiate such a waiver was due to his restricted access and lack of guidance during AIT. Furthermore, the applicant's orders to Fort Gordon categorized his assignment as unrestricted, but he was not provided adequate time or support to relocate his dependents, nor was he clearly informed of the impact on his BAH entitlement. Given the totality of the circumstances including the applicant's good faith efforts to resolve the issue, the documented residence of his dependents in Fairfax, and the financial hardship incurred, the Board found sufficient evidence to support equitable relief. Therefore, the Board granted relief for payment of BAH at the Fairfax, Virginia rate for the period of October 2021 through June 2022.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show payment of Basic Allowance for Housing (BAH) between October 2021 and June 2022 for Virginia in lieu of Georgia.

X //SIGNED//

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation 15–185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

2. Army Regulation 600-8-11 (Reassignment) publishes reassignment processing policies. Paragraph 4-2 (Headquarters, Department of the Army-directed temporary duty for schooling in conjunction with permanent change of station) states, Soldiers who are authorized movement of Family members at Government expense and are directed to TDY schooling with PCS assignment will have the following options for locating their Family members while they perform their TDY:

a. Elect that dependent(s) currently residing in Government quarters be permitted to remain in Government quarters until completion of TDY period.

b. Elect to move dependent(s) from present CONUS and/or overseas station to new CONUS duty station prior to reporting to the TDY station.

c. Elect to return to present duty station upon completion of TDY to move dependent(s), who currently live on the local economy (CONUS), to the new duty station.

d. Elect to clear current permanent station prior to departure for TDY station; and have dependent(s), at personal expense, accompany Soldier to TDY station or travel to some other location. Soldier may not be given a certificate of nonavailability of Government quarters at the TDY station if adequate Government housing is available. Soldier's entitlement for dependent transportation will be based on the most direct routing between the old permanent station and the new permanent station (applies CONUS to CONUS, CONUS to overseas, and overseas to CONUS PCS movements). Soldiers who are being reassigned overseas must be medically and dentally qualified for assignment.

3. Army Regulation 637-1 (Army Compensation and Entitlements Policy) provides Department of the Army policies for entitlements and collections of pay and allowances for active duty Soldiers. It is used in conjunction with the Department of Defense (DoD) Financial Management Regulation (FMR), Volume 7A. Chapter 7 (Housing Allowances), Section I (Basic Allowance for Housing (BAH)).

a. Paragraph 7-1 states, except as otherwise provided by Title 37, U.S. Code, section 403, BAH was created to provide a Soldier with a monthly allowance for housing. Conditions of entitlements and rates payable for BAH are contained in DoD FMR, Volume 7A. Paragraph 7-2a provides that BAH is a housing allowance based on the market price of rental housing in the civilian market. BAH distinguishes between "with dependents" and "without dependents," not the number of dependents. BAH compensation is based on duty station and is fixed, regardless of where the Soldier may choose to live.

b. Paragraph 7-2b states, BAH is payable to Soldiers on active duty and will vary according to grade in which serving or appointed for basic pay purposes, dependency status, and the Permanent Duty Station (PDS) assigned. BAH enables Soldiers to live off-base and is intended to pay only a portion of housing costs. A Soldier's actual expense may be higher or lower based on their choice of housing and where they live. DA Form 5960 (Basic Allowance for Housing (BAH) Authorization and Dependency Declaration) is used to start, stop, or change BAH and/or variable housing allowance. DA Form 5960 is not required when Soldiers in-process at a new duty station; Permanent Change of Station (PCS) orders can be used.

c. Paragraph 7-20 (Secretarial waiver process) states, in pertinent part, the following circumstances qualify for consideration of a Secretarial waiver:

(1) Professional Military Education (PME) or training. Soldiers may request a waiver while attending a PME or training course. However, PME or training courses may not exceed 12 months in length. Waivers are authorized for BAH locations only. Soldiers must be PCSing from one duty station in the United States to a PME or training course located in the United States, including Alaska and Hawaii. The PCS order must state the course title, start date, and end date. This includes all Reserve, Army National Guard, and Active Guard Reserve requesting BAH waivers. Other active duty Soldiers apply for BAH waivers by submitting their requests to the U.S. Army Human Resources Command, Fort Knox, KY.

(2) Advance travel of dependents. Soldiers who have dependents and receive PCS, separation, or retirement orders and desire to relocate them from the previous duty station or designated place to the PCS, separation, or retirement location in advance of the Soldier reporting to the next duty station or arriving at the separation or retirement location may be considered. The PCS, separation, or retirement location must be stated in the order.

d. Paragraph 7-20b states, Soldiers must agree to limited PCS entitlements to include: shipment of authorized unaccompanied baggage weight allowance (O-1 through O-3 = 600 pounds, O-4 through O-6 = 800 pounds, O-7 through O-10 = 1,000 pounds, warrant = 600 pounds, and enlisted = 500 pounds) to include professional books, papers, and equipment; limited dislocation allowance (DLA), temporary lodging expense (TLE), and per diem at the without dependent rate, if authorized; and shipment of privately-owned vehicle at government expense (Hawaii and Alaska only).

e. Paragraph 7-20c states, Soldiers do not lose their PCS entitlements under the waiver program. However, waivers approved under this guidance become void when Soldier executes any portion of PCS entitlements either before or during the waiver period. The Soldier's housing allowance will then be based on the PDS.

f. An approved waiver does not entitle Soldiers to any additional allowances, such as Family Separation Allowance (FSA) or Family Separation Housing (FSH). Soldiers must be eligible to receive FSA and FSH based on the circumstances of the assignment.

g. To request an exception, Soldiers may submit requests electronically to usarmy.pentagon.hqda-dcs-g1.mbx.dape-prc@mail.mil. Address mailed requests to Office of the Deputy Chief of Staff (DCS), G-1 (DAPE-PRC), 300 Army Pentagon, Washington, DC 20310-0300.

h. The following documents must be included in the emailed waiver request packet in PDF format: (1) A signed memorandum from the Soldier requesting the waiver with a stated reason. (2) PCS order assigning the Soldier to the new PDS. Requests for orders

are not acceptable. (3) PCS order assigning the Soldier to the old PDS. Requests for orders are not acceptable. (4) Supporting documentation based on the category to be considered in accordance with paragraphs 7–20a(1) through 7–20a(10). (5) Current Leave and Earnings Statement. (6) Other supporting documentation as required by DCS, G–1.

i. Enlisted Soldiers below the grade of E–7 or officers below the grade of O–4 must have their requests endorsed with a signature by the first field grade officer in their chain of command.

j. Requests must include a contact phone number, fax number, email address, and mailing address when sending correspondence. Notification of approval/disapproval will be sent via electronic mail to the Soldier’s global email address.

k. Soldiers must provide a copy of their approved waiver to their servicing finance office.

l. Waivers approved under this authority are effective the date requests are received at DCS, G–1 or the date the waiver is approved. Waivers will expire as specified in the approval memo. Waivers may be extended on a case-by-case basis based on the merits of the request.

4. Financial Management Regulation Volume 7A, Chapter 26 establishes policy pertaining to housing allowances. Housing allowances include Basic Allowance for Housing (BAH), Overseas Housing Allowance (OHA), and Family Separation Housing (FSH) Allowance. Entitlement eligibility is subject to the conditions set forth in this chapter.

a. Paragraph 10.2.2. (Location Rate) states, ordinarily a housing allowance is based on the Service member’s PDS, or the home port for a Service member assigned to a ship or afloat unit. However, the Service may determine that a Service member’s assignment to a PDS, or the circumstances of that assignment, requires a dependent to reside separately. Authorization or approval of a housing allowance based on the dependent’s location or old PDS rather than the Service member’s current PDS (commonly referred to as BAH waiver) is through the Service Secretary or through the Secretarial Process.

b. Paragraph 10.7.1. (Housing Allowance Based on Dependent’s Location or Old PDS) states, unless otherwise authorized or approved, a Service member’s housing allowance is based on the PDS. If authorized or approved through the Secretarial Process, a Service member may be authorized a housing allowance based on the location at which a dependent maintains a permanent residence or the old PDS. Situations that are routinely authorized or approved at a lower level than the Service Secretary are listed in subparagraph 10.2.2. An example of advance travel is the

member's family travels ahead to get settled before school starts. An example of delayed travel is the family remains at the old PDS until the school year ends.

c. Paragraph 10.7.2. (Secretarial Determinations) states, the Secretary concerned may determine that other circumstances require a dependent to reside separately from the Service member and may authorize or approve a housing allowance payment based on either the dependent's location or the old PDS. If the Secretary concerned determined that an additional reason for a BAH or OHA waiver is acceptable, the Secretarial Process may then be used to authorize or approve individual cases based on that determination.

//NOTHING FOLLOWS//