

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2019-158



FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on June 24, 2019, and assigned the case to the Deputy Chair to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated November 5, 2021, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant, a Second Class Boatswain's Mate (BM2/E-5) on active duty, asked the Board to correct his record by adjusting his Permanent Change of Station (PCS) orders to Station B to reflect a report date of August 30, 2017, rather than January 2, 2018, and by making his entitlement to basic allowance for housing (BAH)¹ at Station B rate effective the same date.

The applicant explained that in May 2015, he was assigned to Station A. Then, in June 2017, as part of the Coast Guard's plan to seasonalize remote boat stations, Station B assumed parent command of Station A. According to the applicant, Station B was located 62 miles, or about an hour and a half, away from Station A. He stated that originally, legacy members of Station A were told that they did not have to relocate to Station B. However, operational requirements quickly changed. He alleged that beginning in August 2017, members of Station A had to report to Station B for their normal workdays. He stated that he began reporting to Station B on August 30, 2017. However, despite being reassigned to Station B, he was forced to continue with the lower BAH rate for Station A. He stated that the BAH rate for Station B is an average of \$400 higher per month than the BAH rate for Station A.

¹ BAH is a monthly allowance for housing payable to members on active duty and varies according to the grade in which the member is serving for basic pay purposes, the member's dependency status, and the permanent duty station to which the member is assigned.

The applicant stated that at first, all legacy members of Station A who were affected by the Coast Guard's plan to seasonalize the station were denied PCS orders. Instead, he stated, the Coast Guard provided transportation back and forth between the two stations. As of the date of his application, the applicant had made the trip between the two stations for almost two years. He stated that the Coast Guard changed his station and moved him and his family to Station A without providing the opportunity for a funded PCS transfer to move to the new station. He argued that this situation has not only placed undue hardship on himself with fatigue, but also on his family for being so far away during difficult times and emergencies. He stated that if he wanted to be within a reasonable commuting distance of Station B, he would have to pay out of pocket to relocate.

The applicant stated that eventually, his District realized the error and created no-cost PCS orders for the legacy members of Station B. He stated that he was given no-cost PCS orders on July 1, 2018, almost a year after he began reporting to Station B. His PCS orders to Station B were later adjusted retroactively to January 2, 2018, but his BAH rate was not adjusted. He argued that both his PCS orders and his BAH rate should be adjusted to reflect the date he actually reported to Station B.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on March 4, 2014. After completing BM "A" School, he was assigned to Station A on May 25, 2015, and his tour completion date was July 1, 2019. The applicant's BAH Entitlement Statement showed that he received BAH without dependents at the rate of \$792.00 per month.

On August 23, 2016, a decision memorandum regarding station seasonalization in the applicant's District was sent to the Commandant of the Coast Guard. The memorandum sought final approval to convert eight year-round boat stations to seasonal stations. The first recommendation in the memorandum states the following: "individual components of this Operational Facility Change Order shall be completed as soon as possible, with all actions completed no later than 30 September 2020, while attempting to allow all personnel at the affected stations to complete their current PCS assignment." Additionally, the memorandum recommended that Station A convert to a seasonal small station reporting to Station B.

On April 6, 2017, Station A was authorized to convert to a seasonal small station reporting to Station B. About two months later, on June 2, 2017, Station A became a seasonal sub-unit of Station B.

According to an email from Mr. M, a civilian from the District's Resource Planning Branch, the applicant was ordered by the Officer in Charge (OIC) to begin reporting for duty at Station B in August 2017. He also stated that no Temporary Duty (TDY) or PCS orders were issued for the applicant.

On November 1, 2017, the applicant's District released Frequently Asked Questions (FAQs) regarding seasonal station billets and personnel:

Q1: What happens to personnel at a Station when it becomes a Station(Small)?

A1: When a Station becomes a Station(Small), CG-833 will create a new DEPTID in Direct Access for the Station(Small). CG-833 will then transfer all the billets and personnel into the new Station(Small) DEPTID. The address will be the same as the former Legacy Station. Legacy Station personnel will complete their current PCS assignment and their Permanent Duty Station (PDS) and BAH will not change.

Q2: Who supervises Legacy Station personnel?

A2: When a *Station* becomes a Station(Small) the Parent Station OIC assumes command of the former Station and all of its personnel and assets. The Parent Station OIC and command cadre will then supervise all Legacy Station personnel.

Q3: Does the new Station(Small) need to maintain a 24 hour on board presence?

A3: The parent station will determine this. In general, Station(Small)s are not be required to maintain a 24-hour onboard presence if there is no B-0 SAR readiness requirement and facilities can be safeguarded and maintained without onboard personnel.

Q4: What is the normal work location for Legacy Station personnel?

A4: Legacy Station personnel will continue to work at the Legacy Station since it is their Permanent Duty Station.

Q5: Can the Parent Station OIC direct Legacy Station personnel to report for duty at the Parent Station?

A5: Yes. However, this is not expected to be their regular work location since the member's Permanent Duty Station is still the Legacy Station.

Q6: When Legacy Station personnel are directed to report to the Parent Station are per diem and mileage authorized?

A6: Per diem and mileage are authorized when specified per D9NOTE 4650, Ninth District Per Diem and Travel Reimbursement Policy for Station(Small)s and Air Facilities <https://cg.portal.uscg.mil/units/d9/directives/effective/D9Note04650.pdf>

Q7: Can Legacy Station personnel PCS out of a Legacy Station early?

A7: Members can contact their Assignment Officer and request early departure PCS orders which will be considered based on the needs of the service.

Q8: Can the Parent Station request Legacy Station personnel be PCSed to the Parent Station?

A8: If the Parent Station has a projected vacancy they can request PSC-epm-2 PCS the member into the vacancy. PSC-epm-2 typically will only approve these requests if the member is a suitable match for the vacancy, if the orders will be no cost, and if no tour extension is requested. [Note: Not all Legacy Station billets move to the Parent Station and some billets change rate or are reprogrammed to other D9 stations.]

Q9: What is the duty location for new Station(Small) personnel?

A9: Billets for the Station(Small) will be added to the Parent Station's PAL in Direct Access as vacancies occur. The Permanent Duty Station (PDS) for all new incoming Station(Small) personnel will be the Parent Station. The Parent Station will then determine who stands duty at Station(Small) and when.

Q10: How is BAH calculated for new Station(Small) personnel?

A10: New Station(Small) personnel will receive BAH based on the Zip Code of their Permanent Duty Station which is the Parent Station.

Q11: How is BAH calculated for Legacy Station personnel?

A11: Legacy Station personnel will continue to receive BAH based on the Zip Code of their Permanent Duty Station, which is the former station, now Station(Small).

Q12: Can Legacy Station personnel receive the BAH of the Parent Station if they are directed to report for duty at the Parent Station?

A12: Legacy Station personnel will continue to receive BAH based on the Zip Code of their Permanent Duty Station, which is the former station, now Station(Small).

Q13: Can the BAH rate be changed for the Legacy Station to match the Parent Station?

A13: BAH rates for the Legacy Station are based on the Zip Code of the former Station, now Station(Small).

On June 30, 2018, the applicant received no-cost PCS orders to Station B. However, the orders were later amended to reflect a report date of January 2, 2018. The applicant's BAH Entitlement Statement shows that under these new orders, he received BAH "with dependents," at the rate of \$1,098.00 per month based on the zip code for Station A.

On July 1, 2018, the applicant's BAH Entitlement Statement shows that the zip code associated with his BAH rate had changed to the zip code for Station B, and his BAH rate was \$1,572.00 per month.

By the fall of 2018, the Vice Admiral of the applicant's District was inquiring into personnel issues stemming from the seasonalization of stations. On October 1, 2018, the Chief of Response of the applicant's District, CAPT M, sent an email to several members of the District. In his email, CAPT M asked the members for their feedback and insight into three issues of specific interest to the Vice Admiral:

[The District] continues to fight for back pay of BAH for those impacted members from the time their station was seasonalized until they received their no-cost PCS orders, roughly 7-9 months in some cases.

- How are we fighting? Memos to EPM, etc., results to date... i.e., backdating BAH to...
- How many people are still affected?

After implementation began and the number of personnel began to decrease at the new season Station Smalls, the OICs at the parent stations rightfully required that the remaining legacy personnel report for duty at the new parent station to maintain duty sections, and improve command and control, workload distribution, training, etc.

- Specifically with the OIC decision to move personnel, was this unforeseen? Unplanned for?

Thus, 4 members actually moved, 3 out of their own pocket and pre-PCS and 1 post-PCS, funded by Sector for \$3500. So in addition to not getting BAH at the higher rate for approximately one year, 3 members also had to pay/use their own time to make the move.

- Are we trying to get these members reimbursed?

On October 3, 2018, CDR C, a member of the District's Resource Management Staff, responded to CAPT M's email by stating the following:

Other than [the applicant's Sector's] recent efforts to backdate BAH, I'm not aware of any other actions taken by [the applicant's District]. With that said, after this issue was brought to my attention we've been gathering data to inform a way ahead. EPM has told us that he cannot backdate BAH to the transition date. We may want to push back.

On October 4, 2018, LCDR N, the Logistics Department Head of the applicant's Sector, sent YNC W an email asking for clarification on the issues posed by CAPT M. In his email, LCDR N referred to YNC W as his "subject matter expert on this whole ordeal." That same day, YNC W responded. In response to CAPT M's question regarding how the District was fighting for back pay of BAH for impacted members, she stated: "we have not had any knowledge that [the applicant's District] was fighting for the back pay of BAH but it would be a huge win if they could get that to go through... there were two mbrs caught in between the transition who reported to [Station B] under [Station A's] dept ID in mid-2017 but were hosed out of [Station B's] BAH because DA has Sta Small as a [Station A] address and zip code...I believe CG should fully fund PCS orders and back date them to the transition/report date for each member." YNC W provided a list of eight impacted members and their status. YNC W identified two members who reported to Station B in the summer of 2017 but continued to receive Station A's BAH rate. However, the applicant was not one of the members who was identified as reporting to Station B in the summer of 2017. In response to CAPT M's question as to whether the OIC's decision to move personnel was unforeseen, she stated: "it was unforeseen/unplanned for because the transition was completed outside of the original guidelines."

On November 6, 2019, Mr. T, the Chief of the Legal Services Office of the Pay and Personnel Center, sent an email to Mr. M regarding the applicant's request. The following day, November 7, 2019, Mr. M. responded and provided a timeline of events. He stated that in August 2017, the applicant was ordered by Station B's OIC to report for duty to Station B. Regarding the OIC's order, he stated: "similar situations are apparently occurring at other stations included in this same Operational Facility Change Order. Apparently some OICs desire that personnel report for duty at the parent station rather than continue to finish their full PCS tours at their legacy PDS." Mr. M recommended that the applicant's PCS orders that were executed on January 2, 2018, be amended to include MALT and BAH entitlements per Coast Guard policies. Further, he recommended that Station B issue the applicant TDY orders for any travel that occurred prior to January 1, 2018, from Station A to/from Station B as per Coast Guard policies.

On November 25, 2019, CDR D, who did not further specify his position or relationship to this matter, sent an email to Mr. T, which stated the following:

Due to D9 seasonalization, mbr was cut no cost orders to [Station B] on 02JAN18. At which time his new higher BAH should have kicked in but did not (see page 26, Q10 and email from YNC W). Mbr is claiming that command required him and others to make a daily drive 63 miles to [Station B] from [Station A] starting in August 2017. A full three months prior to receiving orders. Mbr states that his command told him he was going to get "back pay" to cover daily travel costs to cover the 63 mile transit prior to receiving orders. The use of a GV was eventually approved for [Station A] crewmen in the meantime.

This all went down at the request and demand of D9 [Mr. M] back in 2017. For some units this was a very messy process.

On December 2, 2019, Mr. T responded to CDR D and stated the following:

I continue to wrestle with this in terms of what did happen and what should have happened and how to respond to the BCMR. PSC issued no-cost orders effective on 2 Jan 2018. Should your office amend those orders to 1 July 2017, the time frame in which [Station B] command required [the

applicant] to work at [Station B]? This amendment would authorize the [Station B] BAH but no other expenses.

On December 4, 2019, LT C, from the Enlisted Personnel Management Division of PSC, responded to Mr. T in an email that stated the following:

Looking at all the information we have at hand, it looks like the member going to the unit prior to orders issued in JAN18 was by direction of someone [at the applicant's District] or below. PSC did not order the member to make that transit thus not prompting us to back date any orders. Based on the BM AO's input I recommend reaching out to [the applicant's District] to see if he can shed any additional light on the matter.

That same day, Mr. T responded to LT C in an email that stated the following:

TDY payments... is not an option—they were provided a GOV and there is no evidence that they worked over 12 hours at the parent location. So it is just a question of whether he was assigned in August 2017 and we should backdate info and then he would be entitled to BAH for the new location. I'd appreciate your thoughts. We do know he was told to work at the parent unit.

Also on that same day, LT C sent a final email to Mr. T that stated the following:

I can't speak to exact reason entitlements were not authorized as it appears there were many conversations between multiple units, however PSC did not order the member to report in AUG 17. According to [Mr. M's] memo the OIC ordered the member in a report in Aug. Not sure if this is of any assistance.

VIEWS OF THE COAST GUARD

On January 7, 2020, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended that the Board grant partial relief in this case. The JAG recommended that the Board award the payment of BAH at the Station B rate as of January 2, 2018, with the associated back pay, but deny the remainder of the applicant's request.

The JAG argued that the applicant is entitled to Station B's BAH rate effective January 2, 2018. The JAG stated that pursuant to no-cost PCS orders, the applicant was assigned to Station B and reported for duty beginning on January 2, 2018. According to the Coast Guard Pay Manual, BAH starts on the member's PCS reporting date. The JAG stated that for unknown reasons, the applicant's BAH was not adjusted until July 1, 2018.

The JAG argued that the applicant is not entitled to Station B's BAH rate before January 2, 2018, because prior to that date, he was still assigned to Station A. The JAG argued that while the applicant was assigned to Station A, he properly received Station A's BAH rate. Further, the JAG argued that the applicant is not entitled to modification of his original PCS orders. The JAG acknowledged that the seasonal station transition caused hardship to members at Station A. However, the JAG argued that Station B sought to ameliorate the hardship by providing government transportation to members required to physically work at Station B. The JAG argued that although hardship of the longer commute in a government vehicle existed, the hardship did not amount to an injustice that would necessitate Board correction.

The JAG concluded by arguing that the applicant is not entitled to per diem for his TDY travel to Station B from August 2017 through December 2017. The JAG noted that while this relief was not requested by the applicant, his arguments raise the inference that he was entitled to financial compensation and/or travel allowances as a result of the requirement to commute to Station B while living near Station A. The JAG argued that the applicant did not provide evidence that his duty days were in excess of twelve consecutive hours as required by the Joint Travel Regulations in order to be eligible for TDY per diem.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 16, 2020, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. No response was received.

APPLICABLE LAW AND POLICY

Article 1.G.1.b. of the Military Assignments and Authorized Absences Manual, COMDTINST M1000.8A, states the following regarding competent travel orders:

A competent travel order is a written instrument issued or approved by the Secretary of the department concerned, or such person or persons to whom authority has delegated or redelegated to issue travel orders, directing a member or group of members to travel between designated points.

Article 1.G.2. of the Military Assignments and Authorized Absences Manual, states that there are five types of travel: Permanent Change of Station (PCS); Temporary Duty (TDY); Blanket or Repeated Travel; Administrative Absences; and Foreign Travel. The first three types of travel are discussed as follows:

1.G.2.a. Permanent Change of Station (PCS) Orders that are silent about the permanency of the assignment (i.e., do not specify further assignment or return to the old duty station) also are permanent change of station (PCS) orders. Consequently, exercise caution in issuing orders of that type in view of entitlements that accrue.

- (1) An order that directs a member to "report to (appropriate command) for duty" and is silent as to any further disposition of the member concerned constitutes a permanent change of station.
- (2) An order that directs a member to "report to (appropriate command) for further assignment" even though the final destination is not stated places the member in a temporary duty status en route to an ultimate permanent duty station.

1.G.2.b. Temporary Duty (TDY)

- (1) Prepare travel orders for temporary duty (TDY) using Military Temporary Additional Duty (TAD) or Civilian Temporary Duty (TD) Request and Travel Order, Form CG-4251, so they do not penalize the traveler by requiring them to defray necessary, proper expenses from personal funds, but also so they prevent unnecessary expenditures of government funds. Officers who direct performing temporary duty travel will consider the following in connection with TDY:

- (a) Do not issue members TDY orders that interfere with weekly drug testing as stated in Article 4.A.4. of reference (p), Coast Guard Drug and Alcohol Abuse Program, COMDTINST M1000.10 (series).
- (b) Direct travel by government transportation where available, unless other transportation modes are necessary and in the government's best interest. Do not authorize travel by POC unless careful study shows travel by that mode actually is more advantageous to the government and is not for the traveler's convenience.
- (c) If possible, prescribe a definite itinerary. Whenever practical avoid the terms "authority to visit additional places" and "authority to revisit."
- (d) Limit the duration of the TDY in each case to the minimum required to accomplish the mission.
- (e) Exercise discretion in issuing TDY orders involving travel for short distances, such as when the TDY is at a place to which a member commutes daily from permanent quarters. Local travel and/or occasional meals may be reimbursed in accordance JFTR provisions. However, if the temporary duty is sufficiently distant from the permanent duty station to justify reimbursement for travel, prepare orders so they assure the traveler proper reimbursement.

(2) Temporary duty orders automatically expire when the member returns to their duty station, except when such return depends on necessary changes of train or plane en route to the next temporary duty station and the member takes no unnecessary delay making such change or returns for personal reasons in a liberty or leave status.

1.G.2.c. Blanket or Repeated Travel

- (1) Do not normally issue blanket or repeated travel orders for more than one month's duration. Process monthly orders promptly at the end of the period to achieve timely reimbursement to members while preserving command flexibility.
- (2) In those few instances of frequent, short-notice, recurring, or unpredictable operational travel, which justify annual travel orders, district chiefs of staff, commanders of service/logistics centers, commanding officers of headquarters units, or Commandant (CG-9), (CG-00H), (CG-094), (CG-5), (CG-4) and (CG-1) for Headquarters staff may authorize them.

Article 3.B.5. of the Coast Guard Pay Manual, COMDTINST M7220.29C, states that BAH starts on the member's PCS reporting date.

Article 0206 of the Joint Travel Regulations states the following regarding traveling in and around a Permanent Duty Station:

The DoD installation, base, or senior commanders must establish, in a written directive, the local area within which DoD travelers are eligible for reimbursement, even if they come from different commands, units, installations, or Agencies (59 Comp. Gen. 397 (1980)). If the activity does not have a senior commander or is not located on a military installation, then the senior official determines the local area for that PDS location. The "local area" is defined as the area within the PDS limits and the metropolitan area around the PDS served by the local public transit systems; the local commuting area as determined by the AO or local Service or DoD Agency; and the separate cities, towns, or installations among which the public commutes on a daily basis. An arbitrary distance radius must not be defined for the local commuting area.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.
2. The application is timely because it was filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).
3. The applicant alleged that his PCS orders to Station B on January 2, 2018, are erroneous and unjust. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in the military record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.² Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."³
4. The applicant argued that his actual report date to Station B was August 30, 2017. According to Mr. M, a civilian from the District's Resource Planning Branch, the applicant was ordered to report to Station B by his OIC in August 2017. Mr. M explained that some of the OICs wanted legacy members to report for duty at the parent station rather than continue to finish their full PCS tours. Additionally, LT C from the Enlisted Personnel Management Division of PSC confirmed that the applicant was ordered to begin reporting for duty at Station B before receiving his PCS orders. Finally, Mr. T, the Chief of the Legal Services Office of the Pay and Personnel Center, stated that July 2017 was the timeframe in which the applicant was ordered to report to Station B. Therefore, the applicant has shown by a preponderance of the evidence that he began reporting for duty at Station B on August 30, 2017. While there were no PCS or TDY orders issued for him on that date, he was presumably directed to start reporting to Station B by the OIC, either verbally or in an email. The preponderance of the evidence shows, therefore, that from August 2017 through December 2017, the Coast Guard expected the applicant to continue living near Station A and paid him the BAH for Station A but provided Government transportation for him to work at Station B, which is more than 60 miles from Station A, and ordered him to report for duty there.
5. The applicant argued that his PCS orders to Station B should be amended to reflect his actual report date of August 30, 2017. Despite the fact that the JAG does not contest that the applicant was ordered to report to Station B in August 2017, the JAG recommended that the Board deny his request. The JAG argued that the applicant is not entitled to Station B's BAH rate before January 2, 2018, because he was still assigned to Station A. Rather than being assigned to Station B in August 2017, the JAG alleged that the applicant was on TDY. However, according to Article 1.G.1.b. of the Military Assignments and Authorized Absences Manual, the assignment or transfer

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

of a member to a different duty station requires a written travel order by a person who has delegated authority to issue such travel order. As acknowledged by Mr. M, the applicant's military record does not contain evidence of a written travel order to Station B in August 2017. Since there are no written orders assigning the applicant to Station B, the Board must determine the type of travel his assignment to Station B should be considered.

The first type of travel to consider is blanket or repeated travel. However, according to Article 1.G.2.c. of the Military Assignments and Authorized Absences Manual, travel orders for blanket or repeated travel are not normally issued for more than one month's duration. In this case, the applicant traveled to Station B for four months before he was issued PCS orders. The next type of travel to consider is local travel in and around the applicant's PDS. According to the Joint Federal Travel Regulations, the local area is defined as "the area within the PDS limits and the metropolitan area around the PDS served by the local public transit systems; the local commuting area as determined by the AO or local Service or DoD Agency; and the separate cities, towns, or installations among which the public commutes on a daily basis." The regulations state that the local area is not a set radius or a maximum number of miles and is determined by the local officials. In this case, the JAG has not argued that the applicant's travel to Station B should have been considered local travel and did not provide the Board with Station A's local area. The third type of travel to consider is TDY, which is a temporary assignment away from a member's normal duty station. According to Article 1.G.2.b. of the Military Assignments and Authorized Absences Manual, TDY orders should prescribe a definite itinerary and limit the duration to the minimum time required to accomplish the mission. In this case, there is no evidence that the applicant's assignment to Station B included a specific time limit. The final type of travel to consider is a PCS. According to Article 1.G.2.a. of the manual, "orders that are silent about the permanency of the assignment, i.e., do not specify further assignment or return to the old duty station, are also permanent change of station (PCS) orders." In fact, the manual cautions against orders that direct a member to "report to (appropriate command) for duty" and are silent as to any further disposition of the member. The manual warns that such an order is a type in which entitlements may accrue. In this case, the permanency of the applicant's assignment to Station B supports a finding that the order functioned most similar to a PCS. In August 2017, the applicant was ordered to Station B without any indication that he would return to Station A. Given that Station A had recently become a seasonal sub-unit of Station B, it was unlikely that the applicant would have returned to Station A. Further, the applicant's eventual PCS order to Station B supports a finding that the OIC did not intend for the applicant to return to his old duty station. Therefore, the applicant has proven by a preponderance of the evidence that his orders to report to Station B in August 2017 functioned most similar to a PCS.

6. Even if the order to the applicant to report to Station B in August 2017 was considered TDY, the order violated the District's policies regarding legacy station personnel. In fact, an email from YNC W dated October 4, 2018, confirmed that several OICs at parent stations required legacy station personnel to report for duty at the parent station, despite such orders being "outside of the original guidelines." The District's FAQs on seasonal station billets and personnel state that the normal work location for a legacy station member should have been the legacy station since it was their permanent duty station. Further, the FAQs state that while a legacy station member could be directed to report for duty at the parent station, the parent station was not expected to be their normal work location. In this case, the applicant's normal work

location should have been Station A. While the applicant was directed to report for duty at Station B, Station B was not expected to be his normal work location. Despite the District's policies, the applicant was ordered to report to Station B as his normal work location for four months before the effective date of his PCS orders.

7. Finally, the applicant's military record shows that a majority of Coast Guard personnel who weighed in on the matter support granting the applicant's request. In fact, the record shows that in 2018, the applicant's District fought for the back pay of BAH for its impacted members. The Enlisted Personnel Management Division of PSC ultimately determined that the impacted members could not receive back pay of BAH. However, the decision to push back on this issue from Coast Guard members with first-hand knowledge of the personnel issues stemming from the District's seasonalization of stations is persuasive. The perspectives of members in this case are particularly persuasive since, as CDR D noted, the seasonalization of the applicant's District was "for some units... a very messy process."

8. The applicant has shown by a preponderance of the evidence that his PCS order to Station B on January 2, 2018, is erroneous. The Board finds that since the applicant's order to report to Station B on August 30, 2017, functioned most similar to a PCS and that the order violated his District's policies, he is entitled to have his PCS order backdated to reflect that date. Further, the Board finds that the applicant is entitled to back pay of Station B's BAH rate from August 30, 2017, to June 30, 2018. Therefore, the Coast Guard should amend the applicant's PCS order to Station B to reflect a report date of August 30, 2017, and should pay him back pay of Station B's BAH rate from August 30, 2017, to June 30, 2018.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of BM2 [REDACTED] for correction of his military record is granted. The Coast Guard shall amend his PCS order to Station Port Huron to show a report date of August 30, 2017. Further, the Coast Guard shall pay him back pay of Station Port Huron's BAH rate from August 30, 2017, to June 30, 2018.

November 5, 2021

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]