

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-195


Temporary LT (former)

FINAL DECISION

This proceeding was conducted by the Board for Correction of Military Records of the Coast Guard (hereinafter “Board”) 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 September 11, 2024, and assigned the case to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).¹

This final decision, dated September 11, 2025, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

INTRODUCTION

The applicant, a former temporary Lieutenant (LT/O-3E), retired from the Coast Guard on June 30, 1990, after 31 years of honorable service. His retirement pay was computed using the O-3E pay grade. The applicant has requested that the Board direct the Coast Guard to re-calculate his retirement pay using the pay of a Chief Warrant Officer 4 (CWO4/W-4).

To provide some context at the outset, the Board notes that at the time of the applicant’s service, Coast Guard CWOs could be appointed as temporary LTs to “improve the inventory of officers ... in fields where the special skills and experience of warrant officers are needed ... [and] to provide a limited opportunity for upward mobility for deserving senior members of the warrant officer corps.” See *Coast Guard Personnel Manual*, COMDTINST M1000.6 (hereinafter “*PERSMAN*”) § 5.B.11.a. (1982). The applicant was a CWO when he was appointed as a temporary LT, and he was serving in the temporary appointment at the time of his retirement.

¹ The applicant’s DD Form 149 (Application for Correction of Military Record) was originally received by the Board on August 2, 2022. The application was not considered complete and reviewable, however, until the applicant’s Coast Guard personnel records were obtained in September 2024.

LT is a higher rank than CWO4, but W-4 pay is higher than O-3E pay for officers with many years of service. For example, according to 2025 pay tables, W-4 pay surpasses O-3E for a member with 22 or more years of service. See <https://www.dfas.mil/MilitaryMembers/payentitlements/Pay-Tables/>. As will be discussed in detail, federal law and Coast Guard policy have sought to ensure that CWOs are not disincentivized from accepting temporary LT appointments due to the potential for a decrease in pay. Thus, temporary LTs whose CWO-level pay would be higher than LT pay (had they not accepted the temporary appointment) are entitled to “saved pay” at the CWO level. One of the questions raised in this case is whether this policy should have been applied to the applicant, and if so, whether a retirement pay re-calculation is warranted.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard as a Seaman Recruit (SR/E-1) on June 23, 1959. He served as a Radioman, eventually attaining the rank of Radioman Senior Chief (RMCS/E-8) on May 1, 1977. Some time later, the applicant became a CWO, and he was serving in a permanent CWO2 (W-2) status, with temporary CWO3 (W-3) status, when he was appointed as a temporary LT on February 1, 1984.²

The applicant remained a temporary LT until his retirement. However, in a May 1986 administrative message (COMDTNOTE 1401), the Commandant approved the report of a selection board which recommended the applicant for promotion to permanent CWO3 and simultaneously to temporary CWO4. In a March 1988 administrative message (COMDTNOTE 1427) with the subject line “Officer Promotion Authorization Listing (OPAL) NO 3-88,” the Commandant authorized the promotion of the applicant to permanent CWO3 effective March 1, 1988. According to a certificate bearing the seal of the President, the applicant was appointed to the grade of CWO3 on March 1, 1988.³

The applicant was statutorily required to retire after 30 years of service, and his retirement was set for June 1989, but he and his unit’s Commanding Officer (CO) requested a one-year extension. The CO stated that retaining the applicant was “essential” and that “[t]o lose his invaluable talents at this critical juncture would seriously jeopardize [the unit’s] work.” The request was granted, and the applicant was given a new retirement date of June 30, 1990.

² At the time of the applicant’s service, CWOs began in the rank of CWO2 with W-2 pay and later advanced to CWO3 (W-3 pay) and CWO4 (W-4 pay). *Coast Guard Personnel Manual*, COMDTINST M1000.6 § 2.A.1.a. (1982). Coast Guard policy also provided for permanent CWO promotions to include a simultaneous temporary promotion to the next grade (i.e., promotion to permanent CWO2/temporary CWO3 on the same date, and permanent CWO3/temporary CWO4 on the same date). *Id.*

³ The record is somewhat unclear regarding the date of promotion to permanent CWO3 and/or temporary CWO4. As noted above, the record indicates the date as March 1, 1988. On the other hand, the applicant’s and Coast Guard’s submissions refer to March 1, 1987, as the date of promotion. Based on the COMDTNOTE and certificate described above, the Board finds that the record supports the date being March 1, 1988.

On October 19, 1989, the applicant submitted a request that upon his retirement, he be placed on the retired list as a LT with the pay and allowances of a CWO4. In support of his request, he emphasized his selection for promotion to permanent CWO3/temporary CWO4 status, while acknowledging the promotion was “[n]ot actually affected because [he was] holding [the] position of Temporary Lieutenant.” The applicant also asserted that he had fulfilled more time on active duty as a CWO4 than the 31 days required. He also contended that since being appointed temporary LT, he had filled positions normally held by Lieutenant Commanders (LCDR/O-4) and had met the obligations of those positions.

In a memorandum dated November 1, 1989, the CO of the applicant’s unit recommended approval of the applicant’s request on the basis that it was “not unreasonable” and was supported by Coast Guard policy as interpreted in a July 1989 opinion of the Comptroller General addressing entitlement to saved pay for a CWO appointed as a temporary LT. The CO requested that, as an alternative, the applicant be authorized to revert to CWO4 31 days prior to his retirement, and the “two year time in grade requirement” waived. The CO asserted that at the time the applicant was appointed a temporary LT, a two-year time in grade requirement did not exist. In any case, the CO stated, because the applicant had been a temporary CWO4 since March 1, 1987, he had technically fulfilled that time in grade requirement.

In a decision on March 6, 1990, the Coast Guard denied the applicant’s request. The decision stated that the request had “received extensive consideration” but that as of the applicant’s retirement date, he would not have completed the “time in grade requirement” as a CWO4.

The applicant was placed on the retired list as a LT on July 1, 1990. His DD Form 214 (Certificate of Release or Discharge from Active Duty) indicates a grade/rate/rank of LT and pay grade of O-3E. All Officer Evaluation Reports (OERs) completed between the applicant’s 1984 appointment as a temporary LT and his retirement list his pay grade as O-3E. Pay records also show the applicant was paid as an O-3E during his final years of service. The applicant’s retirement pay was calculated using the O-3E pay grade.⁴

In June 2020, the applicant submitted a DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States) to the Coast Guard, which was forwarded to the Discharge Review Board (DRB). Therein, the applicant requested that his retirement pay be re-calculated using CWO4/W-4 pay. After a significant delay, the President of the DRB informed the applicant by email in April 2022 that because his application was received more than 15 years after his retirement, the DRB’s statute of

⁴ Because the applicant began service before September 8, 1980, his retired pay was computed by multiplying the basic pay of his “retired grade or rate” (including any additions based on longevity credit) by a “retirement pay multiplier,” a figure based partly on the number of years of service. See 14 U.S.C. § 2504(a); 10 U.S.C. § 1409. This method of calculation is commonly known as the “Final Pay” retirement plan.

limitations precluded review. The DRB President recommended the applicant submit his request to this Board.

APPLICATION

In his submission to the Board, the applicant disagreed with the Coast Guard's March 1990 decision that he did not have the requisite time in grade to retire with the pay of a CWO4. First, the applicant contended that because his promotion to temporary CWO4 took place several years prior to his retirement, he *did* have the required time in grade to retire with W-4 pay. In this regard, the applicant argued that he was serving as a temporary CWO4 "behind the scenes" at the same time he was serving as a temporary LT.

The applicant also argued that while serving as a temporary LT, he had been assigned duties far above those required of a CWO4, including multiple years of service in a position normally filled by LCDRs, and three months filling in for a Commander (CDR/O-5).

The applicant also recalled that when deciding whether to accept a temporary LT appointment in 1984, he was told by his CO that he would not suffer any negative impacts to his retirement pay.

For these reasons, the applicant asserted that he should have been granted a "Saved Pay Retirement." The applicant then added that to the extent the Coast Guard's policies were changed since his acceptance of a temporary LT appointment in 1984, or otherwise contradicted federal statutes, the statutes should control.

The applicant also referenced a Comptroller General decision – Lt. Samuel B. Bromley, USCG, B-232042 (Comp.Gen.) (July 11, 1989) – and stated while he had "not read that case file," he was told it "appeared to fit [his] situation and concerns."⁵

Regarding his delay in filing an application with the Board, the applicant asserted that when his request was denied originally, he had placed his "trust and faith in the Coast Guard," and that soon thereafter, he began to focus on supporting his family. He explained that it was only after his full retirement from civilian employment that he decided to look further into this matter.

VIEWS OF THE COAST GUARD

The Coast Guard provided its views in memoranda prepared by the Personnel Service Center (PSC) and a Coast Guard Judge Advocate (JA) in March and June 2025,

⁵ This is the same Comptroller General decision referenced by the applicant's CO in his 1989 endorsement of the applicant's request. The decision will be addressed by the Board in the Findings and Conclusions section below.

respectively. The Coast Guard initially noted that the application was untimely, calling it “unreasonably late.”

The Coast Guard then argued that the applicant’s final pay had been correctly evaluated at the time of his retirement. In this regard, the Coast Guard initially explained that at the time in question, CWOs were promoted to both a permanent grade and temporarily to the next grade simultaneously, based on specific service longevity requirements in each grade. The Coast Guard then emphasized that when he was appointed as a temporary LT, the applicant was still in a permanent CWO2/temporary CWO3 status. While acknowledging the applicant was later selected for promotion for permanent CWO3/temporary CWO4, the Coast Guard argued that the applicant had never reverted to or otherwise actually served again in a CWO status before retiring. Because the applicant never “served on active duty satisfactorily” as a CWO4, the Coast Guard argued, he was not entitled to retire with the pay of a CWO4.

With respect to saved pay, the Coast Guard argued that this policy was implicated only when temporary LT pay was less than the pay authorized for the *specific grade* that a temporary LT was serving in when he or she accepted the temporary LT appointment. Because the applicant was a permanent CWO2/temporary CWO3 when he accepted the temporary LT appointment, the Coast Guard argued, saved pay was not implicated. The Coast Guard argued that the Comptroller General opinion submitted by the applicant supported this understanding, as the member in that case was a permanent CWO3/temporary CWO4 at the time he became a temporary LT.

The Coast Guard then acknowledged the request made in 1989 by the applicant’s CO that the applicant be permitted to revert to CWO4 prior to retirement and that any time in grade requirement be waived. The Coast Guard described it as a request to revert to CWO status one day prior to retirement, and contended that this request was “properly denied as being outside of both law and policy.” The Coast Guard went on to assert that if the CO requested that the applicant be reverted to CWO4 31 days prior to June 1, 1990, that request could have been considered and possibly granted if those 31 days of service were found to have been “satisfactory.” But because the applicant never served more than 30 days as a temporary CWO4, the Coast Guard argued, such rank could not be used to calculate retired pay.⁶

⁶ The Coast Guard appears to have somewhat misstated the applicant’s CO’s request. Specifically, the Coast Guard states that the CO requested the applicant be allowed to revert to CWO4 status one day prior to retirement. The Coast Guard’s submission also appears to indicate that the retirement date was June 1, 1990. Instead, the retirement date was June 30, 1990, and the CO requested the reversion date be May 31, 1990, approximately 31 days prior to the applicant’s placement on the retired list on July 1, 1990. It appears then, that the applicant’s CO did make the precise request (or something very close to it) which the Coast Guard now asserts could have been considered if made.

APPLICANT'S RESPONSE

The applicant was provided a copy of the Coast Guard's views and submitted a response on August 5, 2025. Therein, he first addressed the untimeliness of his application. He explained that after his Coast Guard retirement at age 48, the drop in pay and loss of housing allowance made it necessary to embark on a new career quickly. He stated that he began working for a state government, in which he served in various positions over 19 years before retiring at age 67. During this time, the applicant stated, he also performed significant amounts of volunteer work and traveled throughout the state for his state job. He also stated that he had four college-age children when he retired from the Coast Guard, and that an elderly family member was living with his family. For all these reasons, the applicant explained, his time was in short supply. He stated that it was only when he fully retired at age 67 that he had the time to organize all of his employment paperwork and complete his application, even though he had always disagreed with the Coast Guard's 1990 decision.

The applicant then reiterated a number of arguments and responded to the Coast Guard's views. He first emphasized that when he applied for the "CWO to LT temporary program," he was informed by his CO that he would "never be penalized pay wise because ... [he would] not be removed from CWO status." The applicant stated that it was his understanding that as a "behind the scenes" temporary CWO4 on active duty for more than two years prior to his retirement, he had more than met time in grade requirements to retire in the grade of a CWO4. He further posited that while serving as a temporary LT, he held the CWO4 position at the same time and was held accountable for the duties and responsibilities of a CWO, as indicated by his consideration by a CWO Officer Promotion Selection Board in May 1986.

APPLICABLE LAW AND POLICY

*United States Code*⁷

A regular officer who has at least 30 years of active service shall be retired. 10 U.S.C. § 1305.

"Unless entitled to a higher retired grade under some other provision of law, a warrant officer retires, as determined by the Secretary concerned, in the permanent regular or reserve warrant officer grade, if any, that he held on the day before the date of his retirement, or in any higher warrant officer grade in which he served on active duty satisfactorily, as determined by the Secretary, for a period of more than 30 days." 10 U.S.C. § 1371.

⁷ A number of the statutes cited in this section were amended during the applicant's service or afterward. Unless otherwise indicated, citations capture the versions of the statutes as they existed during the relevant time period.

The president may appoint temporary Coast Guard lieutenants from among CWOs. 14 U.S.C. § 214(a). “Temporary appointments under this section do not change the permanent, probationary, or acting status of persons so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.” 14 U.S.C. § 214(d) (as amended on October 3, 1980).⁸

A warrant officer who accepts an appointment as a commissioned officer in a pay grade above W-4 shall be paid the greater of the pay and allowances of the commissioned officer pay grade or “the pay and allowances to which the officer would be entitled if the officer were in the last warrant officer grade the officer held before the appointment as such a commissioned officer.” 37 U.S.C. § 907(b)(1)-(2). For purposes of this section, the rates of pay and allowances of a grade which an officer formerly held are “those to which the officer would have been entitled had the officer remained in that grade and continued to receive the increases in pay and allowances authorized for that grade, as otherwise provided in this title.” 37 U.S.C. § 907(c)(2) (as amended on September 8, 1980).

“Any warrant officer who is retired under any provision of section ... 1305 of title 10, shall be retired from active service with the highest commissioned grade above chief warrant officer, W-4, held by him for not less than six months on active duty in which, as determined by the Secretary, his performance of duty was satisfactory. However, when the rate of pay of such highest grade is less than the pay of the warrant grade with which the officer would otherwise be retired under section 1371 of title 10, the retired pay shall be based on the higher rate of pay.” 14 U.S.C. § 334(b).⁹

Coast Guard Policy

PERSMAN

The version of PERSMAN issued in 1982 was applicable during the relevant time period. Although changes were made and a new version issued in 1988, the Board’s review of both manuals does not indicate that the relevant provisions cited below differ meaningfully for purposes of this case, unless otherwise noted.

PERSMAN § 5.B.11. contains policies addressing the appointment of CWOs as temporary LTs. Pursuant to § 5.B.11.a.(2), selectees would continue to be eligible for promotion in their permanent warrant officer grade. Section 5.B.11.d. provided that

⁸ 14 U.S.C. § 214 was renumbered in 2018 and now appears at 14 U.S.C. § 2104.

⁹ Section 334 was renumbered in 2018 and now appears at 14 U.S.C. § 2501.

officers appointed as temporary LTs “shall be retired upon completion of 30 years’ service pursuant to 10 U.S.C. 1305 in the highest grade satisfactorily held in accordance with 14 U.S.C. 334.”

The version of PERMAN issued in 1988 re-numbered § 5.B.11 as 5.B.10. and added a new provision, § 5.B.10.d., which provided that “requests to revert from a temporary grade to a permanent warrant grade will normally be disapproved unless unique needs of the Service support the reversion.” This section also stated that “[t]hose officers approved for reversion to their former warrant officer grade, who were appointed to a higher warrant grade subsequent to their appointment to lieutenant, must serve two years time in grade as required by Article 12.C.9. [relating to voluntary officer retirements].”

As noted above, PERSMAN § 12.C.9. covers voluntary officer retirements. The 1982 version of the policy stated that voluntary retirement requests would normally be approved for an officer “who on or before his/her desired retirement date will complete not less than 1 year on his/her duty station, or if assigned outside the continuous 48 states at the member’s own request will complete a normal tour of duty, and also will complete not less than 2 years in grade.” The 1988 version made even more clear that when requesting a voluntary retirement, an officer “[m]ust complete two years time in grade by the date of retirement.”

PERSMAN § 12.C.15. addressed the grade or rate in which an officer was to be retired. Section 12.C.15.c.(1) provided that any CWO retired under 10 U.S.C. § 1305 “shall be retired from active service with the highest commissioned grade above [CWO], W-4, held by him/her for not less than 6 months on active duty in which, as determined by the Commandant, his/her performance of duty was satisfactory, with retired pay of the grade with which retired. However, when the rate of pay of such highest grade is less than the pay of the warrant grade with which the officer would otherwise be retired under subparagraph (2) below, the retired pay shall be based on the higher rate of pay. (14 U.S.C. 334(b)).” Subparagraph (2) provided, in turn, that “[u]nless entitled to a higher retired grade under some other provision of law, a [CWO] ... retires, as determined by the Commandant, in the permanent [CWO] grade, if any, that he/she held on the day before the day of his/her retirement, or in any higher warrant officer grade in which he/she served on active duty satisfactorily, as determined by the Commandant, for a period of more than 30 days. (10 U.S.C. 1371).” The 1988 version of this provision added that the requirement of only six months of satisfactory service in a grade above W-4 [did] not alter the two-year time in grade requirement of Article 12.C.9.a.1. for requesting voluntary retirement.”

Coast Guard Pay Manual

Section 2.H. of the Coast Guard Pay Manual, COMDTINST M7220.29A (June 2001) addresses “Saved Pay.”¹⁰ This section cited 14 U.S.C. § 214(d) and 37 U.S.C. § 907 as its statutory authority. It provided, in relevant part, that a warrant officer who accepts an appointment as a commissioned officer shall, following appointment, be paid the greater of the pay and allowances to which he is entitled as a commissioned officer or the pay and allowances to which he would be entitled if he had “remained in the last warrant officer grade held before appointment as a commissioned officer, and continued to receive increases in pay and allowances authorized for that grade.”

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction under 10 U.S.C. § 1552(a), as the applicant is seeking corrections of alleged errors and/or injustices in his military records. The applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.¹¹

2. The applicant declined a hearing before the Board and requested his application be considered based on the records and evidence submitted.

3. The Board may “correct any military record . . . when [it] considers it necessary to correct an error or remove an injustice.” 10 U.S.C. § 1552(a)(1). “Error” means a mistake of a significant fact or law and includes a violation by the Coast Guard of its own regulations. *See Reale v. United States*, 208 Ct. Cl. 1010, 1011 (1976) (“‘Error’ means legal or factual error.”); *Ft. Stewart Schools v. Federal Labor Relations Authority*, 495 U.S. 641, 654 (1990) (“It is a familiar rule of administrative law that an agency must abide by its own regulations.”). “Injustice,” when not also error, is treatment by the military authorities that “shocks the sense of justice.” *Sawyer v. United States*, 18 Cl. Ct. 860, 868 (1989) citing *Reale v. United States*, 208 Ct. Cl. 1010, 1011, cert. denied, 429 U.S. 854, 50 L. Ed. 2d 129, 97 S. Ct. 148 (1976). The Board has authority to determine whether an

¹⁰ The 2001 version of the Pay Manual is the earliest currently available to the Board. The Board notes that its “Saved Pay” provision, however, is fully consistent with the versions of the cited statutes in effect during the applicant’s service.

¹¹ While the applicant’s submission to the DRB was rejected as untimely, it should also be noted that the DRB addresses only “discharge upgrade” requests, which include changes to the characterization of service and related items, but not retirement pay grade. *See* 10 U.S.C. § 1553; <https://www.uscg.mil/Resources/Legal/DRB/>. As such, the DRB is not considered an available administrative remedy in this case.

injustice exists on a “case-by-case basis.” Docket No. 2002-040 (DOT BCMR, Decision of the Deputy General Counsel, Dec. 4, 2002).

4. “The Board begins its consideration of each case presuming administrative regularity on the part of the Coast Guard and other Government officials. The Applicant has the burden of proving the existence of an error or injustice by a preponderance of the evidence.” 33 C.F.R. § 52.24(b). Absent evidence to the contrary, the Board presumes that Coast Guard officials have carried out their duties “correctly, lawfully, and in good faith.” *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979). In cases involving personnel decisions, “the military is entitled to substantial deference in the governance of its affairs.” *Dodson v. United States*, 988 F.2d 1199, 1204 (Fed.Cir.1993).

5. The application is untimely because it was not filed within three years of the applicant’s discovery of the alleged error or injustice, as required by 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22. The applicant’s receipt of retirement pay commenced in July 1990 and he did not apply to the Board until August 2022, almost 32 years later.

6. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.¹² In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), the court stated that the Board should not deny an application for untimeliness without “analyz[ing] both the reasons for the delay and the potential merits of the claim based on a cursory review” to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted that “the longer the delay has been and the weaker the reasons are for the delay, the more compelling the merits would need to be to justify a full review.” Pursuant to these requirements, the Board finds the following:

- a. *Reasons for delay.* The applicant has contended that he neglected to file a timely application primarily due to his focus on his civilian employment, in order to take care of his family, following retirement from the Coast Guard. He has described significant personal obligations including work, volunteering, and caring for family members. He also referenced his faith and trust in the Coast Guard following its 1990 decision, and the DRB’s long delay in informing him that it could not review his application.

While the Board does not doubt the credibility of the applicant’s account, or the significance of the post-service challenges he faced, the approximately multi-decade period between the applicant’s discharge and his filing is significant. The applicant’s focus on personal and financial goals after his retirement from the Coast Guard represent

¹² 10 U.S.C. § 1552(b).

ordinary life circumstances common to many applicants and do not constitute extraordinary barriers to filing a timely application. Likewise, a generalized assertion that the applicant held a level of trust in the Coast Guard at the time of its decision in 1990 does not demonstrate any concealment or other misleading conduct that would have prevented timely filing. In fact, the applicant acknowledges that he has believed the Coast Guard's 1990 decision was wrong ever since it was issued.

Statutes of limitations exist to promote finality, encourage the prompt presentation of claims while evidence and the bases for prior decisions remain fresh, and to protect defendants from the prejudice inherent in having to defend stale claims.

Under these circumstances, the Board does not find the justifications provided by the applicant weigh in favor of a waiver of the Board's statute of limitations.

- b. *Cursory review of merits.* The Board initially notes that the applicant appears to conflate two distinct concepts: (1) "saved pay" while serving as a temporary LT and (2) retirement grade and retired pay.

The saved pay statutes then in effect – 14 U.S.C. § 214(d) and 37 U.S.C. § 907 – protected a CWO appointed as a temporary LT from receiving less than the greater of (1) LT pay or (2) the pay the officer would have received had he remained in "the last warrant officer grade [he] held before the appointment." 37 U.S.C. § 907(b), (c)(2). At the time the applicant accepted his temporary LT appointment on February 1, 1984, his warrant officer grade was permanent CWO2/temporary CWO3. A plain reading of the statute does not support the applicant's position that saved pay was intended to capture subsequent CWO "on paper" promotions obtained while continuing to serve as a LT. The available pay records show the applicant was paid as a LT/O-3E throughout his temporary LT service, and there is no indication that saved pay at the W-4 level was ever paid or requested. Again, under the applicable statutes, it would not have been warranted.

Regarding grade and pay at retirement, retirement was mandatory (i.e., involuntary) after 30 years of service under 10 U.S.C. § 1305. This is the authority the applicant was retired under. For CWOs retired under § 1305, 14 U.S.C. § 334(b) and PERSMAN § 12.C.15.c.(1) provided that the member "shall" be retired in the highest commissioned grade above W-4 held for at least six months (satisfactorily, as determined by the Commandant), with retired pay of the grade in which retired. Pursuant to

PERSMAN and § 334(b), however, retired pay was based on “the pay of the warrant grade with which the officer would otherwise be retired under section 1371 of title 10” if such pay was higher than LT pay.

Under § 1371, in turn, the “warrant grade with which [the member] would otherwise be retired” is the permanent warrant grade held the day before retirement (here CWO3, or arguably CWO2), or any higher warrant grade in which the member actually “served on active duty satisfactorily” for more than 30 days. In this case, the applicant never reverted to CWO status while serving as a temporary LT before retirement. The applicant contends he served as temporary CWO4 and temporary LT at the same time. The Board acknowledges that PERSMAN provides that temporary LTs remain eligible for warrant promotions. The Board does not find, however, that the applicable law or policy supports the applicant’s position that he actually served on active duty as a CWO4. While the applicant was advanced on paper to permanent CWO3/temporary CWO4, all of the OERs for his period as a temporary LT refer to him as LT/O-3E, and the Board finds no other indication that a member may serve on active duty in two grades at the same time.

With respect to the request submitted by the applicant’s CO in November 1989 that he be permitted to revert to CWO4 status prior to his retirement, the 1982 PERSMAN contained no policy requiring the Coast Guard to permit the applicant to revert to CWO status, and the 1988 version specified that such reversions were generally disfavored. Under these circumstances, the Coast Guard’s decision was consistent with policy.¹³ With respect to the Comptroller General opinion referenced in the request and the applicant’s submission to the Board, the Board concurs with the Coast Guard’s interpretation of that opinion. Specifically, the member in that case was found entitled to saved pay (while serving, not in retirement) because he had served satisfactorily as a CWO4 prior to his temporary LT appointment. In contrast, the applicant was serving as a permanent CWO2/temporary CWO3 when appointed.

In summary, a cursory review indicates that the saved pay laws and policy were intended to ensure that members in receipt of W-4 pay at the time of their temporary LT appointment did not experience an immediate

¹³ The Board also briefly acknowledges the applicant’s argument that a two-year time-in-grade requirement was added after he accepted the temporary LT appointment. Upon review, however, the Board observes that the two-year requirement appears to have existed in both the 1982 and 1988 versions of PERMAN § 12.C.9., and in any case, that section pertained to requests for voluntary retirement, whereas the applicant’s retirement was involuntary under 10 U.S.C. 1305 based on his 30 years of service. As noted, the relevant requirement in this case is of satisfactory service for more than 30 days, and the Board has found that requirement was not met.

decrease in pay, or when raises based on longevity in their prior grade (W-4) were taken into account. This was not the situation of the applicant, who was a permanent CWO2/temporary CWO3 at the time of his appointment. Further, while the applicant's duties as a LT included significant responsibility, this does not amount to satisfactory active duty service as a CWO4. Moreover, while the Coast Guard did not provide a detailed explanation for its March 1990 denial of the applicant's request to revert to CWO status before retirement, that decision was consistent with Coast Guard policy.

The Board recognizes that the laws and policies applicable to CWOs appointed as temporary LTs are complex and were amended on multiple occasions during the applicant's service and afterward, resulting in room for differing interpretations. The Board, however, finds the Coast Guard's interpretations, and its actions, were reasonable and consistent with controlling statutes and policies then in effect. As such, the Board finds that a cursory review of the merits does not weigh in favor of waiving the Board's statute of limitations.

7. The Board has conducted a cursory review of the application's merits and considered the reasons provided by the applicant for his delay in filing. Based on this review, the application appears unlikely to succeed on its merits, and the reasons for delay provided by the applicant, while credible, do not outweigh a delay of approximately 30 years. Accordingly, the Board finds that the interests of justice do not warrant waiver of the statute of limitations in this case. Therefore, the application will be denied as untimely.

8. The Board acknowledges and thanks the applicant for his exemplary 31 years of service. The record reflects consistently outstanding performance, including successful leadership in billets ordinarily filled at the LCDR and even CDR levels. The applicant's evaluations and command endorsements corroborate the high level of trust placed in him throughout his career. The Board's decision does not diminish these significant accomplishments. The Board, however, is constrained by the relevant authorities as well as the statute of limitations and requirements for its waiver – a standard that has not been met on the record before the Board.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former temporary LT/O-3E [REDACTED] is denied.

September 11, 2025

