



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

██████████
Docket No. 7517-24
Ref: Signature Date

██████████
██████████
██████████

Dear ██████████,

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 February 2025. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies. In addition, the Board considered the advisory opinion contained in Office of the Chief of Naval Operations memorandum 7431 Ser N130C2/24U0790 of 27 September 2024, which was previously provided to you for comment.

In accordance with DoD 7000.14-R FMR Volume 7A, Chapter 26, FSH is payable to a Service member with a dependent for added housing expenses resulting from separation from the dependent. The separation must be caused by a Service member's assignment on military or uniform orders to either a PDS OCONUS on an unaccompanied or dependent-restricted tour or a PDS to which concurrent dependent travel has been denied or deferred ... For FSH to be payable, all of the following conditions must be met: Dependent transportation to the PDS is not authorized at Government expense under the JTR, Chapter 5, Section 0504; Dependent does not reside in the PDS vicinity; and Government quarters are not available for assignment to the Service member.

On 14 February 2020, ██████████ in the state of ██████████ issued you and your spouse a Marriage License. A Marriage Certificate, certifying that a Minister did on 14 February 2020 join you and your spouse in lawful wedlock.

On 24 February 2020, you certified a Dependency Application/Record of Emergency Data (NAVPERS 1070/602) listing your spouse and child residing at ██████████, ██████████, ██████████.

On 24 February 2020, you signed a Record of Emergency Data (DD Form 93) listing your spouse and child residing at ██████████, ██████████, ██████████.

On 16 July 2020, you were issued official change duty orders (BUPERS order: ██████████) while stationed in ██████████, ██████████, ██████████ with an effective date of departure of September 2020. Your intermediate (01) activity was ██████████, ██████████, ██████████ for temporary duty with an effective date of arrival of 9 October 2020. Your intermediate (02) activity was ██████████, ██████████, ██████████ for temporary duty under instruction with an effective date of arrival of 26 October 2020. Your ultimate activity was ██████████, ██████████, ██████████ for duty with an effective date of arrival of 1 December 2020 with a Projected Rotation Date (PRD) of December 2023. “This transfer funded for member and authorized dependents as reflected on service record page two and other supporting documents. Per JTR Chapter 5, dependents acquired on or prior to the effective date of orders are authorized travel/transportation allowances from the place at which acquired to the new PDS, up to the travel/transportation entitlement for travel from old PDS [permanent duty station] to the new PDS.”

On 12 August 2020, Office of the Assistant Secretary of Defense notified Deputy Assistant Secretary of the Army for Military Personnel, Navy for Military Manpower and Personnel, and Air Force for Force Management Integration that “[t]his memorandum clarifies existing policy about eligibility of a member to receive payment of a family separation basic allowance for housing (FSH). under 37 U.S.C. §403(d)(1) and (2), when a member's dependents are prevented by the Department of Defense (DoD) from accompanying the member, i.e., prevented from performing concurrent travel with the member in conjunction with a permanent change of station (PCS), to a new permanent duty station (PDS)¹ in a foreign country, specifically the country of ██████████. It does not represent issuance of new policy, nor does it authorize any payment or entitlement that would be contrary to existing law or regulation.”

On 9 October 2020, you transferred from ██████████ and arrived at ██████████ on 11 October 2020 for temporary duty.

On 23 October 2020, Office of the Assistant Secretary of Defense notified Deputy Assistant Secretary of the Army for Military Personnel, Navy for Military Manpower and Personnel, and Air Force for Force Management that “[t]his memo clarifies that a member may be authorized FSH if the Government defers dependent travel for reasons other than lack of housing availability.

The current language in the DoD Financial Management Regulation (FMR) indicates deferred (non-concurrent) travel of dependents may be based solely on housing availability and does not take into account other reasons caused by the Government that may cause dependent travel to be deferred. For example, delays in obtaining a passport or Visa from the host nation, foreign area clearance delays and stop-movement orders may also require the Government to defer travel of dependents.

This change is to clarify the DoD FMR language according to the Director, Military Compensation Policy memorandum, ‘Clarification of Existing Policy - Family Separation Basic Allowance for Housing’ of 14 August 2020’.

This change was previously coordinated as Allowances Branch Item 015-20 and will be submitted for inclusion in the next change to the Department of Defense FMR.”

On 19 November 2020, you transferred from ██████████ and arrived to ██████████ on 1 December 2020 for duty.

On 1 December 2020, you signed a Record of Emergency Data (DD Form 93) listing your spouse and child residing at ██████████, ██████████, ██████████.

On 28 January 2021, Assistant Pay & Allowances N130C2 notified Admin CPO Navy Consolidated Brig ██████████ that, "BLUF: Member is not entitled to FSH. After further review of the new documents, member is not entitled to FSH. The documents provided makes this an immigration issue and not a VISA issue. The issue is a result of a double proxy marriage (previously unknown) that wouldn't allow spouse to travel to the US not due to a delay in VISA processing the ASD memo refers to."

On 16 February 2021, Assistant Pay & Allowances N130C2 notified Admin CPO Navy Consolidated Brig ██████████ that, "I reached out to Office of the Under Secretary of Defense (OUSD) and explained the situation to them. I understand that that the entitlement started in ██████████ (OHA and FSH) and did so correctly due to an acquired dependent IAW the FMR. The memo in question was clarified by OUSD. Prior to the memo being signed this was a no, no matter what. This memo was allowed for FSH due to visa issues. Based on the fact that the member withdrew the VISA request the memo no longer applies and member is not entitled to FSH."

On 12 March 2021, Head, Pay and Allowances Section (N130C) notified you via Commanding Officer, Naval Consolidated Brig, ██████████, ██████████ that "[i]n response to reference (a) [Request based on emails received from 9 December 2020 to 10 March 2021], and in accordance with reference (b) [Financial Management Regulations], paragraph 260701, and reference (c) [ASD memo of 12 August 2020] you are not authorized a family separation housing allowance for your dependents in ██████████, ██████████, ██████████. After consultation with the Office of the Under Secretary of Defense Directorate of Military Compensation Policy Office, it was determined that since the VISA application process was terminated, the requirements stated in references (b) and (c), are no longer met.

Member is authorized a housing allowance for ██████████ stationed in ██████████, ██████████ at the with dependent rate, if not residing in government quarters. This letter does not guarantee Logistics Support, Command Sponsorship, or protection under Status of Forces Agreement. These must be received from the Area Commander. Assignment to family-type Government quarters or privatized housing is determined by the housing office."

On 6 August 2021, you notified Commander, Navy Personnel Command (PERS N130C) that "[r]espectfully request reconsideration for Family Separation for Housing Overseas entitlement due to the following.

My current marriage license is by Double Proxy, which is legally performed in the state of Montana, and recognized by the U.S. Armed Forces. Double Proxy Marriage is not allowed to be performed in the state of ██████████ but is recognized if performed in another state that allows such marriages. However, for immigration/visa purposes only, U. S. Citizenship and Immigration Services (USCIS) will not recognize the marriage as valid unless there is proof that such marriage has been consummated."

On 25 January 2022, you signed a Record of Emergency Data (DD Form 93) listing your spouse and children residing at [REDACTED], [REDACTED], [REDACTED].

On 4 September 2024, you transferred from [REDACTED] and arrived to [REDACTED] on 4 September 2024 for duty.

You requested FSH allowance during the period of 9 October 2020 to 23 December 2021, the Board in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. You assert that this correction should be made due to financial hardship incurred while executing orders during COVID-19 in accordance with Office of the Assistant Secretary of Defense Memorandum published on 12 August 2020. However, the Board concluded that on 16 July 2020, you were issued orders 0340 which authorized dependent travel. In accordance with DoD 7000.14-R, FSH is payable to a Service member with a dependent for added housing expenses resulting from separation from the dependent. The separation must be caused by a Service member's assignment on military or uniform orders to either a PDS OCONUS on an unaccompanied or dependent-restricted tour or a PDS to which concurrent dependent travel has been denied or deferred. Your dependents did not travel with you when you executed orders 0340 because they had not obtained visas prior to your departure. The Office of the Assistant Secretary of Defense Memorandum states that COVID-19 extended the process time to receive required visas for dependents and therefore prevented their ability to travel at government expense with their sponsors. However, the Board determined that based on the fact that *you* withdrew the VISA request, you no longer met the intent of the memo, and you are not entitled to FSH. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

2/15/2025

[REDACTED]