



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

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Docket No. 868-25
Ref: Signature Date

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Dear Petitioner:

This is in reference to your reconsideration request 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.

A three-member panel of the Board, sitting in executive session, considered your application on 4 June 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. The Board also considered a 3 March 2025 advisory opinion (AO) from Navy Personnel Command (PERS-95). Although you were provided an opportunity to respond to the AO, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

A review of your record revealed that you enlisted in the Navy and served an Honorable period of active duty from 19 August 2002 through 17 August 2009; at which time you reached your end of active obligated service and transferred to the Navy Reserve. With your petition, you provided a printout from the Navy Standard Integrated Personnel System (NSIPS) reflecting that you performed reserve drills on the weekend of 11 to 12 September 2021 and you also provided a listing of participants in your unit's Physical Readiness Test (PRT) on 12 September 2021. You also provided an 8 January 2022 letter from your commanding officer to Navy Personnel Command (PERS-95) which constituted an Initial Line of Duty (LOD) Request. According to your commanding officer's letter, you injured your shoulder during the plank portion of the fall 2021 PRT on 17 October 2021. Your commanding officer further stated that, although you

believed your injury would heal on its own, by January 2022, the injury had not healed, and you went to your primary care physician on 18 January 2022¹. Next, you provided a progress note from a physician, dated 18 January 2022, which stated you injured your shoulder doing a plank “two months ago;” which would have been November 2021. You also provided a medical note from an imaging company that conducted an MRI dated 27 June 2022. According to the note, your symptoms began in November 2021 after performing a plank exercise. You also provided a document from a physician, dated 29 July 2022, which stated that you reported that you injured her shoulder during a PRT in November 2021. You further provided a 19 October 2022 medical note from a pain treatment center that provided your treatment. According to these notes, you injured your shoulder on 26 November 2021. You retired from the Navy Reserve during the pendency of your LOD claim.

In your petition, you request that the Board correct your record to reflect that you incurred a shoulder injury in the LOD in the Navy Reserve. In support of your request, you contend that Navy Reserve Center (NRC) █ Medical Department did not provide adequate guidance or resources for pursuing LOD status for an injury you incurred during a Navy PRT. You assert that the NRC provided misleading and often ambiguous guidance that resulted in a significant delay in applying for benefits. In addition, you argue that the NRC retaliated against you by delaying processing, providing misleading guidance about the application process by informing you that your retirement would not affect your ability to pursue your LOD application, and threw away your LOD application as soon as you retired. You also assert that you have a claim with the Department of Veterans Affairs (VA) for a shoulder disability; which resulted in a loss of time from work and compensation for that loss was denied due to lack of LOD status

In order to assist it in reviewing your application, the Board obtained the 3 March 2025 AO; which was considered unfavorable to your requested relief. Notably, the AO acknowledged that you sought to submit a request for LOD while you were in service. Nevertheless, the AO found that, based on the information provided, the Senior Medical Officer (SMO) of PERS-95 opined that you would not have been granted LOD benefits for the following reasons:

a. Although there is sufficient documentation to show that she was properly diagnosed with thoracic outlet syndrome, there is insufficient documentation beyond her personal statement to support that the injury occurred while on drill in October of 2021. There are multiple claimed dates of injury in various documents provided by [Petitioner], raising doubt as to when the injury actually occurred, and there is no medical report from the actual date of injury or period of service that the injury occurred on, which is required by reference (b) and the absence of which is a common reason for LOD denial and also commonly upheld on appeal. Denial due to lack of documentation is appealable per reference (b) [SECNAVINST 1770.5].

b. [Petitioner] claims symptoms are aggravated by wheelbarrow use, which is not the result of Naval service and therefore cannot be claimed as aggravation after the initial injury, if in fact the initial injury were to be found in- LOD. Denial for an injury or aggravation determined to not be in-LOD is appealable per reference (b).

¹ There is no explanation as to why this date is after the date of the commanding officer’s letter.

c. [Petitioner] starts discussing the need for a Physical Readiness Test waiver in 2022, approximately nine months after the claimed injury, but she does not begin discussing or requesting consideration for a LOD package until more than a year from the time of injury is elapsed. Per reference (b), a LOD claim must be submitted within 180 days from the date of the end of orders. Had she submitted a LOD package in the timeline shown in reference (a), it would have arrived no sooner than 15 months after the claimed injury, and likely would have been denied. This reason for denial is appealable per reference (b).

The AO further explained that, had you appealed the denial of an in-LOD finding, you would have had to provide documentation showing that you reported the injury at the time of injury as required by SECNAVINST 1770.5 and had sufficient reason to justify your delay in requesting LOD benefits. Had you been able to provide such evidence, there is a possibility that the Benefits Issuing Authority would have overturned the denial and approved the LOD for benefits. As noted above, the Board provided to you a copy of the AO and you did not provide a response in rebuttal to its findings.

In its review of your petition, the Board considered the entirety of the arguments and documentation that you provided and it disagreed with your rationale for relief. In reaching its decision, the Board substantially concurred with the findings of the PERS-95 SMO, as set forth above, which it found to be rational and based on substantial evidence. The Board incorporates that rationale in its denial of your petition. The Board further observed that, despite being provided a copy of the AO, which set forth the precise information that you would need in order to prevail on appeal, you did not provide any such documentation. In addition, independent of the AO, the Board observed shifting reported dates of when you allegedly incurred the injury, the lack of contemporaneous reporting of the injury, and the potential that the injury could have been incurred or aggravated outside of naval service, among several reasons that support denying your petition. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

7/1/2025

