



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. 1163-25
Ref: Signature Date

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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.

A three-member panel of the Board, sitting in executive session, considered your application on 22 July 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 Commander, Navy Personnel Command (PERS-9) letter 5740 PERS-91 of 20 March 2025, which was previously provided to you for comment.

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.

In accordance with 10 U.S.C. §12731. Age and service requirements. (a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—(1) has attained the eligibility age applicable under subsection (f) to that person; (2) has performed at least 20 years of service computed under section 12732 of this title; (3) in the case of a person who completed the service requirements of paragraph (2) before April 25, 2005, performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight; and (4) is not

entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

(f)(1) Subject to paragraph (2), the eligibility age for purposes of subsection (a)(1) is 60 years of age. (2)(A) In the case of a person who as a member of the Ready Reserve serves on active duty or performs active service described in subparagraph (B) after January 28, 2008, the eligibility age for purposes of subsection (a)(1) shall be reduced, subject to subparagraph (C), below 60 years of age by three months for each aggregate of 90 days on which such person serves on such active duty or performs such active service in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014. A day of duty may be included in only one aggregate of 90 days for purposes of this subparagraph.

On 1 August 2019, Commander, Navy Personnel Command (PERS-912) notified you that “[y]ou have completed all requirements to receive retired pay at or after age 60 under the provision of 10 U.S.C. Chapter 1223 and BUPERSINST 1001.39F. Eligibility may not be denied or revoked unless it resulted directly from fraud or misrepresentation on your part. The number of years of creditable service and the amount of retired pay, however, may be adjusted for errors. Statement of Service for Navy Reserve Retirement is used to document your initial eligibility. An updated Statement of Service for Navy Reserve Retirement will be provided upon your retirement or discharge...”

On 15 October 2020, Commander, Navy Personnel Command (PERS-9) notified you that “[p]er 10 U.S.C. § 10154 and 10 U.S.C. § 12774(a). The Chief of Navy Personnel approved your request and authorized your transfer to Retired Reserve status effective 1 December 2020. DD Form 363N is your Certificate of Retirement.

Navy Personnel Command records indicate that you may be eligible to receive retirement pay prior to your 60th birthday. Notification to submit your application for retired pay will be forwarded to you approximately 10 months prior to the estimated date of eligibility. Upon your submission of application per the guidelines of BUPERSINST 1001.39F and 10 U.S.C. Chapter 1223. Your retired pay benefits will be initiated in accordance with National Defense Authorization Act FY 2008. Although your pay entitlement is prior to age 60. your medical benefits will commence at age 60.”

On 1 October 2024, Commander, Navy Personnel Command (PERS-9) notified you that “[p]er 10 U.S.C. § 12731(a) the Secretary of the Navy approved your application for retired pay for nonregular service. In compliance with National Defense Authorization Act FY 2008, your effective date for pay entitlement is 26 June 2021 vice your 60th birthday. Although your pay entitlement is prior to age 60, your medical benefits will commence at age 60.

Per 10U.S.C. § 12732 and 10U.S.C. § 12733, computation of your retired pay under 10 U.S.C. § 12739 will be based on 22 years 5 months 13 days of qualifying service, 04452 retirement points and a pay entry base date of 13 December 1991.”

On 10 February 2025, Naval Personnel Command issued you a Statement of Service for Naval Reserve Retirement that listed the following: Qualifying Years of Service: 22YR 05M 13D.

Total Retirement Points Creditable for Pay: 4452. Date Eligible for Notification of Eligibility (Noe) For Retired Pay: 03/15/2019.

You requested to receive retired pay starting 1 December 2020 and request an audit and print out of tax-free zones taxes taken out. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. In accordance with 10 U.S.C. §12731, 2. Members who meet the age and service requirements are entitled to retired pay for non-regular service and transfer to a Retired Reserve status. Members who do not meet the age requirements but who do meet the service requirements are also entitled to transfer to a Retired Reserve status but will not receive retired pay until they reach age 60. Additionally, 10 U.S.C. §12731 states that the age requirement shall be reduced below 60 years of age by three months for each aggregate of 90 days on which such person serves on such active duty or performs such active service in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014. On 15 October 2020, PERS-9 notified you that the Chief of Navy Personnel authorized your transfer to Retired Reserve status effective 1 December 2020. Additionally, you were informed that Navy Personnel Command records indicate that you *may* be eligible to receive retirement pay prior to your 60th birthday. You were transferred to the Retired Reserve on 1 December 2020. On 1 October 2024, PERS-9 notified you that your application for retired pay was approved, effective 26 June 2021 vice your 60th birthday. The Board determined that Navy Reserve retirees normally would receive retired pay at age 60. Since you completed active duty after 28 January 2008, you were eligible to receive retirement pay several years earlier than your 60th birthday; therefore, no further change to your record is warranted. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Finally, the Board recommends that you contact Defense Finance and Accounting Service for information regarding pay audits, and taxed paid while in a tax-free zone.

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,

7/29/2025

