

**VOLUME 7B, CHAPTER 10: “CORRECTION OF RECORDS”****SUMMARY OF MAJOR CHANGES**

Changes are identified in this table and also denoted by **blue font**.

Substantive revisions are denoted by an asterisk (\*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **March 2021** is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Updated chapter and formatting to comply with administrative instructions.	Revision
References	Updated references.	Revision

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## CHAPTER 10

### CORRECTION OF RECORDS

#### 1.0 GENERAL

##### 1.1 Purpose

This chapter provides guidance on the payment of claims resulting from the correction of military records. The Boards for Correction of Military Records are the highest level of administrative review within the DoD with the mission to correct errors or remove injustices from military records.

##### 1.2 Authoritative Guidance

The pay policies and requirements established by the DoD in this chapter are derived primarily from, and prepared in accordance with the United States Code (U.S.C.), including Title 10. Due to the subject matter in the chapter, the list of authoritative sources is extensive. The specific statutes, regulations, and other applicable guidance that govern each individual section are listed in a reference section at the end of the chapter.

#### 2.0 BACKGROUND

The Secretary of a Military Department concerned may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice. The Secretary will establish procedures for the correction of a military record as approved by the Secretary of Defense. The Secretary of a Military Department, acting through a panel comprised of civilians (Board) of the executive part of that Military Department, will make such corrections. The responsibilities for the Correction of Records can be found under the [\*DoD Directive \(DoDD\) 1332.41\*](#), "Boards for Correction of Military Records (BCMRs) and Discharge Review Boards (DRBs)."

##### 2.1 Final and Conclusive

Corrections of military records are final and conclusive on all officers of the United States except when such corrections were obtained through fraud.

##### 2.2 Reaffirmation of Existing Facts

A reaffirmation of existing facts already in the original record does not constitute a proper correction of that record. A proper correction and a right to the payment of money must be a result of a change of facts from those already in the original record, or an addition or deletion of a fact. A recounting of existing facts does not avoid the application of the statute of limitations.

### 2.3 Statute of Limitations

If a payment is due as a result of a correction of record, the claim for such payment accrues on the date of the correction. A claimant has 6 years from the date of the correction of record to claim the payment owed as a result of the correction of record.

Example: A member of the Navy is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on May 1, 1999, with 21 years and 3 months of service. On January 2, 2008, his or her record is corrected to show that at the time of transfer the member had 22 years and 3 months of service. Upon correction, the member is entitled to additional retainer pay from the date of transfer in accordance with his or her grade and corrected number of years of creditable service. The claim for the additional payment begins accruing on the date of the Board's decision (January 2, 2008), not on May 1, 1999. The statute of limitation period starts from the date of the record correction rather than from the date of transfer.

## 3.0 PAY COMPUTATION

### 3.1 Amounts

Payments based on a correction of military records must be made in the amounts determined to be due by applying pertinent laws and regulations to all the material facts shown in the corrected record. Generally, the payments resulting from the correction of military records are based on the:

3.1.1. Pay entitlement the member had before the correction;

3.1.2. Actual payments made for these entitlements; or

3.1.3. New pay entitlements that accrue as a result of the correction. For specific computation, see Chapter 3 concerning the entitlement to and computation of retired or retainer pay, Chapter 37 for participation in and payment of survivor annuities under the Retired Serviceman's Family Protection Plan (RSFPP), and/or Chapter 46 for the Survivor Benefit Plan (SBP).

### 3.2 Settlement

The settlement of retired pay, retainer pay, or survivor annuities due as a result of the correction of a military record must be reduced, as applicable, by:

3.2.1. Any previous settlements of active duty pay and allowances involving the same periods;

3.2.2. Prior payments of separation pay, readjustment pay, or disability severance pay;

3.2.3. Prior payments of disability compensation, pensions, or Dependency and Indemnity Compensation made by the Department of Veterans Affairs;

3.2.4. Federal income tax;

3.2.5. Cost of participation in the RSFPP and/or SBP;

3.2.6. Dual compensation, if a retired Regular officer was employed by the United States Government prior to October 1, 1999; or

3.2.7. Prior payments of the mother's benefit received from Social Security and the amount of the spouse's Social Security entitlement, if any, resulting from the retiree's active military service.

### 3.3 Deductions From Pay and Allowance

Earnings received from civilian employment, self employment, or any income protection plan (including unemployment insurance) for such employment during any period for which active duty pay and allowances are payable will be deducted from the settlement. To the extent authorized by law and regulation, amounts found due must be reduced by the amount of any existing indebtedness to the government arising from military service.

### 3.4 Demand for Payment

When payment cannot be made to the member because of member's death, payment may be made to member's legal representative. In the absence of a demand for payment by the legal representative, payments are made:

3.4.1. To the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment; or

3.4.2. In the order of precedence in Chapter 30, subparagraph 2.4.1.

### 3.5 Claimants Acceptance

A claimant's acceptance of settlement fully satisfies the claim concerned. Settlement of this claim does not preclude payment of a separate and distinct claim and acceptance of settlement does not preclude recomputation and adjustment when there is a mutual mistake. Payments are not authorized for any claim compensated by private law before October 25, 1951.

## 4.0 TAX ADJUSTMENT

See Chapter 24, section 10.0.

## 5.0 APPROPRIATION CHARGES

Any amounts of retired pay, retainer pay, combat related special compensation, concurrent retirement and disability pay, and SBP annuities that are due in the future as a result of the correction are charged to the DoD Military Retirement Fund. Any other amounts due and payable for past periods as a result of the correction (for a time period before the date of approval by the Secretary of the Military Department) are paid utilizing an applicable appropriation.

## 6.0 RESTRICTIONS

No payment resulting from a correction of records may be made for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

\*REFERENCES

**CHAPTER 10 – CORRECTION OF RECORDS**

## 2.0 – BACKGROUND

- |     |                                                |
|-----|------------------------------------------------|
|     | 10 U.S.C. § 1552(a)(2)                         |
|     | DoDD 1332.41, <a href="#">February 2, 2022</a> |
| 2.1 | 10 U.S.C. § 1552(a)(4)                         |
| 2.2 | B-179467, May 2, 1974                          |
|     | 39 Comptroller General 178 (1959)              |
|     | Defense Office of Hearing and Appeals          |
|     | Claims Case Number 04090713,                   |
|     | (December 8, 2004)                             |
| 2.3 | 10 U.S.C. § 1552(a) and (b)                    |
|     | <a href="#">31 U.S.C. § 3702</a>               |

## 3.0 – PAY COMPUTATION

- |     |                        |
|-----|------------------------|
| 3.4 | 10 U.S.C. § 1552(c)(2) |
|     | 10 U.S.C. § 2771       |
| 3.5 | 10 U.S.C. § 1552(c)(3) |

## 5.0 – APPROPRIATION CHARGES

- |  |                        |
|--|------------------------|
|  | 10 U.S.C. § 1552(c)(1) |
|--|------------------------|

## 6.0 – RESTRICTIONS

- |  |                     |
|--|---------------------|
|  | 10 U.S.C. § 1552(e) |
|--|---------------------|