

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-181810

DATE: JUN 30 1975

50849

97/27

MATTER OF: DOD Military Pay and Allowance Committee Action
No. 508 - Submarine duty pay

- DIGEST:
1. Legislative history of 37 U.S.C. 301(a)(2) demonstrates intent by Congress, to encourage volunteers for Navy's nuclear submarine fleet and not to provide officers for entire submarine fleet including fleet of conventional submarines. Therefore, submarine duty pay authorized in act may be paid to officers previously qualified in submarines as enlisted members, while attending Submarine Officers' Basic Course or Submarine Officers' Indoctrination Course only if being prepared as prospective crewmembers for Navy's advanced (nuclear powered) submarine fleet.
 2. Submarine duty pay authorized in 37 U.S.C. 301(a)(2) may be paid to officers qualified in submarines as enlisted members while attending courses of instruction specifically preparing them for positions of increased responsibility in Navy's advanced submarine fleet, because legislative history demonstrates intent of act was to encourage volunteers from the Navy's conventional submarine fleet for duty in its nuclear submarine fleet by continuing submarine pay while in training to anyone qualified in submarines and already receiving such incentive pay.

This action is in response to a letter from the Assistant Secretary of Defense (Comptroller), requesting an advance decision on questions concerning the entitlement of certain officers to submarine duty pay under the circumstances set forth in Department of Defense Military Pay and Allowance Committee Action No. 508.

The questions are as follows:

- "1. Is an officer, who was formerly an enlisted member and qualified for submarine duty as an enlisted member, entitled to submarine duty pay

PUBLISHED DECISION
54 Comp. Gen.

while attending the Submarine Officers' Basic Course (A-2E-0028) or the Submarine Officers' Indoctrination Course (A-2E-0029)?

"2. Would a member, after accepting a commission, be entitled to submarine duty pay as an officer while undergoing periods of instruction to prepare for assignment to a submarine of advanced design or for a position of increased responsibility on a submarine? The member is qualified in submarines as an enlisted member but has not qualified in submarines as an officer."

The Committee Action makes reference to section 106 of Executive Order No. 11,157, which reads in pertinent part:

"(a) As determined by the Secretary of the Navy, members who, pursuant to competent orders, are attached to a submarine which is in an active status and members qualified in submarines who, pursuant to competent orders, are assigned as prospective crew members of a submarine under construction or are receiving instruction to prepare for assignment to a submarine of advanced design or for a position of increased responsibility on a submarine shall be entitled to receive incentive pay for the performance of submarine duty. In the case of nuclear-powered submarines this entitlement shall include periods of training and rehabilitation after assignment thereto. * * *

The Committee Action states that the above language requires that the member be "qualified in submarines" and allows the Secretary of the Navy to identify courses of instruction which may be included under such authority, in order to permit a member to be eligible to receive submarine pay. It is suggested, therefore, in the Committee Action that the issue to be resolved is whether qualification in submarines as an enlisted member may be considered to satisfy the requirement of "qualified in submarines" for officers undergoing instruction and otherwise entitled to submarine pay.

The Committee Action states that a review of the legislative background of Public Law 88-132, approved October 2, 1963, 77 Stat. 215, section 6 of which amended 37 U.S.C. 301(a) to permit payment of submarine pay to personnel qualified in submarines while receiving instruction to prepare for assignment to a submarine of advanced design or for a position of increased responsibility on a submarine, clearly indicates that it was enacted to diminish the loss of submarine duty pay upon transition from conventional to nuclear submarines during the attendant required training.

It is asserted in the Committee Action that a member, qualified for submarine duty as an enlisted member and pursuing training for assignment to a submarine as an officer, is preparing for a position of increased responsibility on a submarine. It is further stated that the majority of the officers assigned to billets not requiring nuclear power training on Fleet Ballistic Missile submarines are commissioned through the Navy Enlisted Scientific Education Program, and that these officers provide a wealth of needed experience and stability in the junior officer structure. The Committee Action states, therefore, that the entitlement to submarine pay while undergoing the Submarine Officers' Basic Course and the Submarine Officers' Indoctrination Course is considered imperative in order to attract these officers to duty as a volunteer aboard advanced submarines.

Subsection (a)(2) of 37 U.S.C. 301, as presently amended and codified, provides in part that a member is entitled to incentive pay for hazardous duty required by orders, hazardous duty meaning duty:

"(2) as determined by the Secretary concerned, on a submarine (including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto), or in the case of personnel qualified in submarines * * * as a prospective crew-member of [a] submarine being constructed, and during periods of instruction to prepare for assignment to a submarine of advanced design or a position of increased responsibility on a submarine;"

Senate Rep. No. 387, 88th Cong., 1st Sess. 22-23 (1963), indicates that a basic change in the law was needed at that time because:

"Under existing law a member of the Navy who is in receipt of submarine pay while assigned to a conventional submarine and who volunteers for duty on a nuclear powered submarine loses his submarine pay during the period while undergoing necessary instruction to prepare him for duties to a nuclear submarine. * * *

"* * * The Navy, therefore, is being confronted with difficulties in maintaining its nuclear submarine force on an all-volunteer basis. The best source of quality and experience for the nuclear submarines is from those already trained in conventional submarines. * * *"

Mr. Bates, of the House Committee on Armed Services, speaking on the amendment at that time, also indicated an understanding that it was intended to enable the Navy to get well-qualified volunteers for service on its nuclear submarines from members already experienced in conventional submarines. Mr. Bates said:

"We all know and realize the importance of our submarine fleet. This essential element of our defense posture is being expanded, and conventional submarines are giving way to vastly more complicated, nuclear-powered, missile-firing submarines. The conversion and strengthening of our submarine fleet requires extensive retraining of individuals now qualified in and assigned to conventional submarines * * *.

"The limitations of existing law have seriously hampered the Navy in obtaining sufficient volunteers from personnel qualified in submarines. The reason is one of pure economics. Officers and men already qualified in submarines and receiving submarine pay, cannot afford to voluntarily give up their submarine pay while undergoing training for assignment to submarines of advanced design.

"The bill now before the House will correct this inequity by authorizing, in the case of personnel already qualified in submarines, the payment of submarine pay during periods of instruction to prepare for assignment to a submarine of advanced design, or a position of increased responsibility on a submarine. * * *" (Emphasis supplied.) 109 Cong. Rec. 8054 (1963).

The House Committee on Armed Services also indicated that it understood the amendment as being designed to assure that the Navy could get qualified personnel for its new nuclear submarine force. In H.R. Rep. No. 208, 88th Cong., 1st Sess. 21 (1963), it is stated that:

"* * *It is considered eminently reasonable by the committee that personnel already trained in conventional submarines should not lose their incentive pay while training for advanced submarine duty. Its enactment should assist the Navy in obtaining and maintaining the best trained and best motivated crews in the world for our nuclear submarine force." (Emphasis supplied.)

It seems reasonably clear that the purpose for enacting the basic amendment to 37 U.S.C. 301(a)(2) was to enable the Navy to staff its new, advanced submarines with personnel already qualified in conventional submarines. It is our view, therefore, that former enlisted members who are already qualified in submarines and are taking the Submarine Officers' Basic Course or the Submarine Officers' Indoctrination Course for preparation to become officers in the Navy's advanced submarine fleet are entitled to receive submarine duty pay during such schooling. However, any members not taking these courses for the specific purpose of preparing for a position as an officer on a submarine of advanced design (any nuclear-powered submarine) may not receive such pay. The first question presented is answered accordingly.

With regard to the second question, the legislative history demonstrates an intent that anyone "qualified in submarines" and already receiving submarine duty pay should continue to receive such pay while being specifically trained for a position on a submarine of advanced design or for a position of increased

B-181810

responsibility on such a submarine. We feel that the language of the statute and the aforementioned Executive order are sufficiently broad to permit payment of submarine incentive pay as authorized under the provisions of 37 U.S.C. 301(a)(2) to newly commissioned officers, qualified in submarines as enlisted members, while receiving such training. Such an interpretation of the act will help to carry out the legislative intent to overcome the reluctance of many conventional submariners to volunteer for such duty by allowing their submarine pay to continue while receiving training. The second question presented is answered accordingly.

R. F. KELLEY

[Deputy] Comptroller General
of the United States