

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2017-074

██████████
██████████

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the completed application on February 3, 2017, and assigned it to staff member ██████████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated September 8, 2017, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked the Board to correct his military record to show that he enlisted in the Coast Guard in pay grade E-3 instead of E-1. He enlisted in 2016 as an E-1 and has advanced to E-2, but alleged that he was eligible to enlist as an E-3 because he had completed more than 60 semester hours of college before enlisting. The applicant alleged that a miscommunication between him and his Coast Guard recruiter prevented him from being enlisted at a higher grade. In support of his application, he submitted a copy of his college transcript which shows that he graduated with an Associate of Applied Science (AAS) degree in High Performance Technology on July 31, 2012, having completed 142 credit hours. The applicant also submitted a copy of Table 3-1 from the Coast Guard Recruiting Manual which shows that the Coast Guard may enlist non-prior service recruits in pay grade E-2 after satisfactory completion of 30 semester hours or 45 quarter hours or in pay grade E-3 if they complete 60 semester hours or 90 quarter hours prior to enlistment.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on active duty on September 27, 2016, in pay grade E-1. His enlistment documents show that his education level at enlistment was denoted as 14 D, meaning that he had completed 14 years of education culminating in a degree. There is nothing in his enlistment documents indicating that his Coast Guard recruiter promised to enlist him at a higher pay grade. However, the applicant signed an annex referenced on his enlistment

contract, which states that he had been offered “an Enlistment Bonus of \$2000.00 to enter the Coast Guard with no guaranteed “A” school or “Striker” program affiliation.” The annex notes that he might become eligible for other bonuses for agreeing during recruit training to complete a certain “A” school or striker program for a critical rate.

APPLICABLE REGULATIONS

Article 3.A.2. of COMDTINST M1100.2 (series), the Coast Guard Recruiting Manual, states that guarantees and incentives for approved recruiting programs must be made in writing and approved by the Accessions Division (CG RC-acc) unless otherwise specified by CG PSC-c or CG RC-c.

Article 3.A.4. of the manual states that the recruiting programs, including guarantee, incentive, and bonus programs, are subject to the needs of the service, and that CG PSC or CG Recruiting Command may activate or suspend individual programs as determined to be necessary to meet specific recruiting goals.

Article 3.B.1.a. of the manual states that a recruit with no prior service will ordinarily be enlisted as a Seaman Recruit (E-1). However, recruits are eligible to enlist in pay grade E-2 or E-3 if they qualify under the requirements of an advanced pay grade program.

Article 3.B.1.b. of the manual states that non-prior service recruits who qualify for enlistment may enlist in an advance pay grade based on the education and training requirements summarized in Table 3-1. Article 3.B.1.b.(1)(a) specifically states that completion of a certain number of college credits may qualify a recruit to enlist in an advanced pay grade.

Table 3-1 of the manual states that college students who have completed 30 semester hours may be enlisted in pay grade E-2, and enlisted in pay grade E-3 if they have completed 60 semester hours.

On May 6, 2015, the Commandant issued the Fiscal Year 2016 Enlisted Training and Accession Plan (ETAP) providing a three-year outlook for enlisted active duty and Reserve accessions and “A” School enrollment needs. It notes that accessions and training needs have increased to moderate levels following a period of historic low attrition and stagnated advancement from FY 2011 to FY 2013. Paragraph 4.d. states, “Incentive programs outlined in [the Recruiting Manual] that enable Active Duty recruits to enlist at advanced pay grades shall be limited. Enlistments at the E-3 pay grade are restricted to applicants holding a baccalaureate or higher degree or applicants that have completed a qualifying period of Active Duty service in the U.S. military.” The ETAP is silent with regards to enlistments at the E-2 level.

VIEWS OF THE COAST GUARD

On June 26, 2017, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC).

PSC argued that relief should be denied because at the time the applicant enlisted, the Coast Guard required a bachelor's degree or higher degree to enlist recruits at a higher pay grade, and the applicant had earned only an associate's degree. PSC noted that although Table 3-1 of the Recruiting Manual states that non-prior service recruits may enlist in an advanced pay grade if they have completed 60 credit hours of college courses, Article 3.A.4. of the manual states that the use of the recruiting incentive program is determined by the Recruiting Command, is based on the needs of the service, and may be suspended at any time. Moreover, PSC provided a copy of the FY 2016 ETAP, dated May 6, 2015, and pointed out that paragraph 4 authorized the Recruiting Command to offer non-prior service recruits a higher pay grade only if they held a bachelor's degree or higher degree.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 29, 2017, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The Chair did not receive a response.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.

2. The applicant argued that his enlistment in pay grade E-1 in September 2016 was erroneous and unjust and that he should have been enlisted as an E-3 because he had completed more than 60 semester hours of college before joining the Coast Guard. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.¹ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."²

3. The record shows that the applicant earned an associate's degree on July 31, 2012, and had completed 142 credit hours when he enlisted in the Coast Guard on September 27, 2016, in pay grade E-1 after being offered a \$2,000 enlistment bonus. There is nothing in the record to show that his Coast Guard recruiter promised to enlist him as an E-3 as an added incentive, and the recruiter was aware that the applicant had attained a two-year degree because it is noted on his enlistment documents.

4. The preponderance of the evidence shows that the applicant was properly enlisted in pay grade E-1 in accordance with Article 3.B.1.a. of the Coast Guard Recruiting Manual,

¹ 33 C.F.R. § 52.24(b).

² *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

which states that a recruit with no prior service will ordinarily be enlisted as a Seaman Recruit (E-1). The applicant was not eligible to be enlisted as an E-3 because, at the time he enlisted, the Coast Guard was offering advanced pay grades only to those non-prior service recruits who had obtained at least a bachelor's degree. The applicant had earned an associate's degree but not a bachelor's degree. The Board notes that although Table 3-1 of the Recruiting Manual states that recruits may be enlisted in pay grade E-2 or E-3 if they have a certain number of semester hours, the language allows for discretion, and Article 3.A.4. of the Recruiting Manual provides that the Coast Guard may activate or suspend any incentive program as needed based on the needs of the Service. Pursuant to this authority, the Coast Guard issued the FY 2016 ETAP on May 6, 2015, and authorized the Recruiting Command to offer non-prior service recruits enlistment at an advanced pay grade (E-3) only if they held a bachelor's degree or higher degree. The ETAP did not mention enlistments at pay grade E-2 but stated that, based on Service needs, enlistment incentives "shall be limited." Given the discretionary language in the Recruiting Manual and the lack of any documented promise of enlistment at an advanced pay grade, the Board is not persuaded that the applicant was entitled to enlist as either an E-2 or an E-3.

5. The applicant has failed to prove by a preponderance of the evidence that he should have been enlisted in an advanced pay grade. Accordingly, his request for relief should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of [REDACTED], USCG, for correction of his military record is denied.

September 8, 2017

