

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2015-096

[REDACTED]
[REDACTED]

FINAL DECISION

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case after receiving the applicant's completed application on May 7, 2015, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated March 11, 2015, 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 remove from his record five neutral, administrative forms CG-3307 ("Page 7s").¹ He stated that these Page 7s were issued to him upon reporting for duty aboard a cutter and were not issued because of any misconduct. He argued that the Page 7s should be removed because they "could potentially mislead a board or panel about the nature of my conduct" aboard the cutter. The five Page 7s were all prepared when the applicant reported aboard the cutter, and they are signed by the applicant and the Executive Officer:

- The first advises the applicant that the Commandant had directed certain policy changes, some of which affected General Orders. It specifically states that members are required to wear seat belts in a vehicle and helmets when on a motorcycle and that "[f]ailure to comply with these mandates may result in administrative and/or other action under the Uniform Code of Military Justice."
- The second advises the applicant about policies concerning the use of Outlook email and the Internet. It prohibits, *inter alia*, transmitting information about a ship's position, schedule, or mission, anyone's Social Security or credit card numbers, classified and for-

¹ A form CG-3307, "Administrative Remarks" record entry, better known as a "Page 7," "provides a means of recording miscellaneous entries, which are not recorded elsewhere in a Personnel Data Record (PDR). Administrative Remarks entries are made, to document counseling, or to record any other information required by current directives, or considered to be of historical value." Personnel and Pay Procedures Manual (PPPM), PSCINST M1000.2A, Chapter 10.A.

official-use-only information; auto-forwarding of email over the Internet; and visiting pornographic websites or downloading pornography. It concludes that “[a]ny violation of this policy may result in immediate loss of email privileges and possible punishment under the UCMJ.”

- The third states that as “a newly reported crew member” he was being reminded of the Coast Guard’s drug and alcohol policies. It provides the definitions of an “alcohol incident” and “drug incident” and summarizes some of their potential consequences.
- The fourth concerns the communications security (COMSEC) policies in effect aboard the ship, including the use of INMARSAT, non-secure phones, cell phones, Outlook email, passwords, and disposal of sensitive information.
- The fifth advises the applicant to abide by the policies for unacceptable and prohibited relationships aboard the cutter and notes that romantic relationships between crew members are unacceptable and that those between officers and enlisted members are prohibited and punishable under the UCMJ.

The applicant stated that he discovered the alleged injustice on December 31, 2013.

VIEWS OF THE COAST GUARD

On October 5, 2015, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief in this case and adopted the findings and analysis in a memorandum on the case prepared by the Coast Guard’s Personnel Service Center (PSC).

PSC stated that Page 7s are used to document any counseling a member receives and the disputed ones are “drafted in neutral context for crew-wide use and constitute verification that the member was counseled and understands the policies aboard [the cutter]. The language does not suggest that the applicant participated in any misconduct or negative behavior and therefore does not constitute an error or injustice.” PSC stated that in accordance with the Personnel Data Record (PDR) Manual, COMDTINST M1080.10I, all Page 7s a member receives during his or her career are to be retained in the member’s EI-PDR. Therefore, PSC recommended that the applicant’s request be denied because he has not shown that the disputed Page 7s are contrary to policy or unjust. PSC stated that the applicant’s contention that the Page 7s might reflect negatively on his conduct “is unsupported and insufficient justification for removal.”

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 20, 2015, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within thirty days. No response was received.

APPLICABLE REGULATIONS

Chapter 10.A. of the Personnel and Pay Procedures Manual (PPPM) authorizes the recording of “Administrative Remarks” on Page 7s “to document counseling or to record any

other information required by current directives, or considered to be of historical value.” It further states that only commanding officers may sign adverse (negative) Page 7s.

Enclosure (1) of COMDTINST M1080.10I, the PDR Manual, provides that all CG-3307s will be retained in a member’s EI-PDR.

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.
2. The applicant alleged that he discovered the injustice in his record on December 31, 2013. However, the applicant is requesting removal of five Page 7s, and he and the Executive Officer signed the Page 7s in 2009 to document counseling about unit policies in the applicant’s record. Therefore, the Board finds that the preponderance of the evidence shows that the applicant knew the Page 7s were in his military record in 2009. Although the application was not filed within three years of the applicant’s discovery of the alleged injustice in his record, it is nonetheless considered timely because he has remained on active duty in the interim.²
3. The applicant alleged that five Page 7s that document his intake counseling aboard a cutter in 2009 should be removed because they could prejudice his chances for favorable consideration by a selection board. In considering allegations of error and injustice, the Board begins its analysis in every case by presuming that the disputed Page 7 is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that it is erroneous or unjust.³ Absent evidence to the contrary, the Board presumes that a member’s military records have been prepared “correctly, lawfully, and in good faith.”⁴
4. The disputed Page 7s are administrative documentation of counseling about unit policies and as such are signed by the Executive Officer, rather than the applicant’s CO. The language in them is generic, policy-focused, and not accusatory, as the language in an adverse Page 7 would be. Nor are they labeled “Negative,” as adverse Page 7s are. The applicant has not shown that he was singled out, that such administrative Page 7s are unusual, or that officers on a selection board are likely to confuse them with adverse Page 7s. As PSC pointed out, Coast Guard policy requires that all such Page 7s be retained in a member’s EI-PDR.
5. Accordingly, relief should be denied because the applicant has not proven by a preponderance of the evidence that the disputed Page 7s are erroneous or unjust.

² *Detweiler v. Pena*, 38 F.3d 591, 598 (D.C. Cir. 1994) (holding that, under § 205 of the Soldiers’ and Sailors’ Civil Relief Act of 1940, the BCMR’s three-year limitations period under 10 U.S.C. § 1552(b) is tolled during a member’s active duty service).

³ 33 C.F.R. § 52.24(b).

⁴ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

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

March 11, 2016

