

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2025-011


E8 (active)

FINAL DECISION

This proceeding is conducted according to the provisions of 10 U.S.C. § 1552. The Chair docketed the case after receiving the completed application on April 2, 2024, and assigned it to an attorney to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision dated September 11, 2025, 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 asserts the presence of a negative page seven (Form 3307) dated October 18, 2021, within his military record was not intended to be included in his record. The applicant asserts that the originator of the negative page seven did not believe it would be included in the applicant's record and agrees with its removal. The negative page seven describes the applicant as making statements of being forced to receive the COVID-19 vaccination. The command described the applicant as lacking good judgement and the leadership abilities for advancement because he should have supported his command tasked with enforcing policy instead of sharing his personal doubts. The applicant claims the originator did not intend for the negative page seven to remain in his record or "ruin" his career. The negative page seven is "obsolete" now because the leader who drafted the comments endorses the applicant for advancement and has "regained his trust." The applicant claims the originator is seeking to add new forms to avoid issues like this in the future. The applicant has been passed over for advancement to E9 due to the inclusion of this negative page seven in his record. The applicant is requesting removal of this negative page seven from his record, any comments within his EER's noting the negative page seven, a convening of a Special Selection Board to re-evaluate the applicant for advancement, and, if selected, receive retroactive promotion to the previous 2024 date the applicant was passed over for promotion.

SUMMARY OF THE RECORD

On August 5, 2021, the applicant submitted a formal religious accommodation memorandum to his command to be excused from taking the COVID-19 vaccine. This request was denied with command stating that religious exceptions were not being accepted at that time and that the vaccine was not mandated at that time therefore the applicant should hold off.

On August 11, 2021, the applicant submitted a leave chit, which command denied specifically due to the applicant not being COVID-19 vaccinated. A CG policy required all unvaccinated personnel to not travel beyond a 50 miles radius. The leave requested was beyond this limit.

On August 13, 2021, the applicant agreed to receive the COVID-19 vaccine so that his leave could be approved, and he could attend his brother's wedding. The applicant continued to assert that receiving this vaccine violated his religious beliefs, but the Coast Guard would not review religious exemptions because there was technically not a mandate at that time.

On August 26, 2021, the USCG mandated the COVID-19 vaccine for all Coast Guard members. This mandate required all members to receive the vaccine or be discharged.

On October 8, 2021, the applicant completed a written statement to be inserted within his SEP 2024 EER, which contained a brief description of the applicant's struggles to assert his beliefs against receiving the COVID-19 vaccine only to be forced into receiving the vaccine in order to attend his brother's wedding.

On October 18, 2021, the applicant received a negative page seven (Form 3307) from his command depicting the disagreement between the command and the applicant surrounding the COVID-19 vaccination requirements for military members. The command described the applicant as lacking leadership and unwillingness to support command by recording comments within the applicant's EER describing the applicant's experience.

VIEWS OF THE COAST GUARD

On June 6, 2025, a Judge Advocate (JA) for 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 provided in a memorandum prepared by the Coast Guard Personnel Service Center (PSC). However, the recommendation of the PSC was to grant alternative relief. The PSC suggests a redaction of verbiage from the negative page seven to include:

Paragraph 3 (in its entirety): *"Make no mistake that this command has the utmost respect for medical, religious, and personal choices of all Service members with regards to the COVID-19 vaccination. No one within this command nor the Coast Guard coerced you nor issued an ultimatum prior to you accepting the vaccination. You were provided guidance about the continued health risks, and you made a choice to get vaccinated to achieve the established mitigation. In repeatedly stating that you were forced, you lack self-awareness that any exemption from COVID-19 vaccination does not inherently constitute relief from risk mitigations."*

Paragraph 4: *"...places no judgment over vaccination decisions, and..."*

PSC determined that the disputed negative page seven (Form 3307) should not be removed from the applicant's record but should include a redaction of COVID-19 discussion. The PSC

purports there is no evidence, other than the applicant's statement, that the command desires to remove the negative page seven or that it was not intended to enter the applicant's file. The applicant does not dispute the accusation of him speaking out on two occasions with feeling forced to get the COVID-19 vaccine and feeling pressured by command to partake despite the applicant's reservations. The originator/command states, that he stands by the issuance of the negative page seven to "mature the applicant on the use of his words." The PSC concludes that the negative page seven was not meant to document COVID-19 vaccine refusal, but to document insubordination.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 28, 2025, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty (30) days. On August 25, 2025, the applicant responded with a statement and additional evidence to rebut the JA's AO.

The applicant asserts that the suggested redaction of COVID-19 related statements from the negative page seven directly reflects the inappropriate nature of the negative page seven. To remove the topic of issue from the negative page seven would generate the appearance that the applicant was simply insubordinate on some general topic. The issue of the COVID-19 vaccine and the repeated attempts by the applicant to express concern in receiving the vaccine should not have constituted a negative page seven.

The applicant describes the negative page seven as retaliatory in nature due to the applicant placing a personal statement surrounding the events of his vaccination within his Employee Review. This statement describes the applicant's religious exemption request being disregarded without consideration and the denial of personal leave as punishment for not being vaccinated. If the applicant would become vaccinated, he could attend his brother's wedding with his leave approved. The applicant complied and was permitted to then have his leave approved. The Coast Guard required commands to deny any leave requests that were beyond a 50-mile radius from the unit. Thus, the applicant was denied leave due to the Coast Guard's attempt to pressure voluntary vaccination prior to the mandate.

The applicant highlights the command from the President ordering all federal agencies to not consider or use an individual's non-compliance with the former vaccine mandate or an employee's vaccine status as a method for evaluating an employee, limiting hiring, promotion, performing discipline upon, or encouraging termination. Additionally, the applicant shares a correspondence affirming the applicant's statement that the command creator of the negative page seven did not intend for the document to remain in his military record. The inclusion of a letter of support to have the negative page seven removed is also provided by the creator of the negative page seven.

The applicant is requesting removal of the disputed negative page seven dated October 18, 2021, redaction of any negative comments within his EER's related back to the negative page seven, an opportunity to sit for a Special Selection Board to re-score the applicant for advancement, and, if selected for advancement, provide retroactive advancement and all associated entitlements to the previous 2024 promotion selection he was passed over on.

APPLICABLE LAW AND POLICY

The Board may correct errors or remove injustices in a service member's records pursuant to 10 U.S.C. § 1552(a).

(1) Error can be defined as either legal and/or factual.

(2) Injustice, when not also error, is treatment by the military authorities that “shocks the sense of justice.”¹ In addition, the Board has the authority to decide whether an injustice exists in an applicant's record on a case-by-case basis. The application must file within three years after discovery or reasonably should have discovered the alleged error or injustice for a correction or relief.²

Executive Order on Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate of 27 January 2025 (EO 14184). This order requires the reinstatement of military members who voluntarily or involuntarily left the Coast Guard for refusing the required vaccine.

The Coast Guard provides official guidance on the preparation of CG-3307 on an “Authorized CG-3307” web page managed by the Deputy Commandant for Mission Support (DCMS). The template for a P&D-7 General-Negative 3307 states: “NOTE: Entry must be member specific and describe who, what, when, where, why and how. Blanket entries describing generalities, which are photocopied for inclusion in many members' PDRs, are not authorized.”

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(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.

2. The applicant brings this request within three years of its occurrence making the application timely for review.

3. The applicant provided a clear timeline of event leading up to the disputed negative page seven. The topic of COVID-19 has been one of contention for every federal agency since 2020. At the time, the concerns of both the applicant and his immediate chain of command are understandable: the applicant in seeking a religious exemption, and the command attempting to

¹ *Sawyer v. United States*, 18 Cl. Ct. 860, 868 (1989) citing *Reale v. United States*, 208 Ct. Cl. 1010, 1011, cert. denied, 429 U.S. 854, 50 L. Ed. 2d 129, 97 S. Ct. 148 (1976).

² 33 C.F.R. § 52.22

push voluntary vaccination due to the intense focus and interest of senior Coast Guard leadership on vaccination in 2021. The language within the disputed negative page seven is highly prejudicial to the applicant and appears to be the reason for the applicant being passed over for advancement in 2024. The applicant has continuously received high marks and strong performance reviews despite the lack of leadership described in the negative page seven.

4. The Board concurs with the applicant's assessment that the redaction of any COVID related verbiage within the disputed negative page seven would create an even more prejudicial document within the applicant's record. It would be deceptive to remove the factual context that provided the basis for the counseling, which are linked directly to the refusal to receive the COVID-19 vaccine. The applicant did not appear to use derogatory comments or false statements surrounding his experience. The command appears to feel that they were simply following existing policy, and therefore the applicant's critique is unfair. In short, while the Board agrees with the PSC recommendation that relief is warranted, we do not agree that simply redacting COVID-specific language is sufficient. Furthermore, it may leave the applicant in a less favorable position than he is in today.

5. The applicant has cited to EO 14184 as grounds for relief in his case. As the applicant received the vaccine and was not separated from the Coast Guard, EO 14184, it is inapplicable to his situation. However, the harm he suffered here was even more basic. The disputed CG 3307, and the applicant's submissions, indicate that he felt he was mistreated by being forced to choose between violating his religious beliefs and being allowed to attend his brother's wedding. Far from being insubordinate or inappropriate, these are concerns that were completely appropriate to raise with his chain of command. There is no specific indication in the CG 3307 that the applicant's language, conduct, or deportment were cause for concern. The applicant has no general duty to be "uncritical of your superiors in communication," as the CC 3307 states. Further, the CG 3307 contains multiple statements expressing disapproval of the applicant, such as expressing "significant concern about the limitations for your future potential," and exhorting the applicant to "support those charged with enforcing difficult policies," and to be a "responsible leader of conscience with strategic thinking." What is noticeably missing is any description of the required "who, what, when, where, why and how" of the conduct for which the applicant is being counseled. The CG 3307 simply does not describe conduct by the applicant which should properly be addressed by a CG 3307 for "performance and discipline."

6. Additionally, the applicant shared two different evidentiary pieces noting the creator's support of the removal of the negative page seven. An email from the creator of the negative page seven to the applicant clearly states he supports the removal of the negative page seven. The creator wrote an official statement reaffirming his goal was to train up the applicant on how he uses his words, but at the end of the statement asserts he supports the removal of the negative page seven but leaves that decision up to the Board.

7. The negative page seven dated October 18, 2021, should be removed from the applicant's military record with all commentary within the applicants EER redacted that pertain to the disputed negative page seven. The applicant, like his immediate chain of command, was wading through unprecedented times and attempting to be heard and document concerns in a professional manner. The command took personally the feedback given by the applicant as being

inaccurate and unsupportive of command by the applicant because they were responsible for managing challenging policies. The creator of the negative page seven has twice in writing, submitted by the applicant, stated that he supports the removal of the negative page seven from the applicant's record.

8. The applicant has requested a Special Selection Board for promotion to E9. The applicant did not make this request in the original application and therefore the JA AO is silent to discussing this relief. A Special Selection Board is provided for by statute for the Officer ranks, though there may be internal Coast Guard policy on applicability to enlisted promotions. The Board appreciates that the removal of the disputed negative page seven could improve the applicant's opportunity for advancement. It is unclear if the Coast Guard has a process for special review of senior enlisted members when a substantial change to their record occurs such as this, but the order of a Master Chief Advancement Panel (MCAP) appears appropriate for the applicant to compete for promotion with the updated package. The applicant will need to meet all the other requirements as outlined in COMDTINST 1000.2c to achieve this advancement including the completion of SELC (Senior Enlisted Leader Course).³ The Board supports the applicant in pursuing this special review but will trust the Coast Guard to follow their own procedures on this matter. The applicant is encouraged to reapply to the Board with requests for specific relief should they desire to do so in the future. Although our regulations would allow us to resubmit this opinion to the Coast Guard for a new Advisory Opinion to provide more clarity on this new issue raised in the applicant's response, the Board's preference is to not further delay relief by doing so.

9. The Coast Guard should remove the disputed negative page seven dated October 18, 2021, and remove any comments within the applicant's EER related to the negative page seven.

(ORDER AND SIGNATURES ON NEXT PAGE)

³ ALCOAST 343-25, highlighting COMDTINST 1000.2C

ORDER

The application of Chief [REDACTED], USCG, for correction of his military record is granted. The disputed negative page seven (Form 3307) issued October 18, 2021, and any related documentation, will be removed from the applicant's record entirely.

September 11, 2025

