

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2018-052**

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██████████ LTJG

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**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 December 8, 2017, and assigned it to staff attorney ██████████ to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated September 14, 2018, 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, an active duty Lieutenant Junior Grade, asked the Board to correct his record by removing a Page 7<sup>1</sup> dated August 30, 2012. The Page 7 documents the applicant’s receipt of training on the Coast Guard’s alcohol and substance abuse policies while he was a Cadet before he was commissioned as an Officer.

The applicant alleged that the disputed Page 7 appears to be negative in nature. He acknowledged that the Page 7 documents training that is required for all Cadets at the Coast Guard Academy but asserted that the way it is written makes it appear “be to be negative in nature and may have potentially had an adverse [e]ffect on [his] career when viewed by Boards and Panels for promotions and advanced education programs.” The applicant added that the Page 7 references the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8, as opposed to the correct manual the Coast Guard Drug and Alcohol Abuse Program Manual, COMDTINST M1000.10 (Drug and Alcohol Manual). The applicant argued that because the Page 7 references the incorrect manual and therefore contradicts the Drug and Alcohol Manual, it should be removed from his record.

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<sup>1</sup> An Administrative Remarks record entry, form CG-3307, better known as a “Page 7,” is used to document a member’s notification of important information, achievements, or counseling about positive or negative aspects of a member’s performance in the member’s military record.

In support of his application, the applicant provided a letter from a Captain, CAPT N, who gave his “highest recommendation for approval of the requested corrected action.” CAPT N stated that the applicant had recently been counseled that his record “looked bad due to having 2 alcohol incidents.”<sup>2</sup> CAPT N explained that the applicant received an alcohol incident in August 2013.<sup>3</sup> He asserted that the August 2012 Page 7 documenting alcohol and substance abuse training “is poorly crafted and implies wrongdoing when none took place.” He took issue with the use of the word “counseling” as opposed to all hands “training.” CAPT N argued that it “would stand out to any Board or Panel member as being derogatory in nature when coupled with the legitimate [alcohol incident].”

### SUMMARY OF THE RECORD

The applicant received the disputed Page 7 on August 30, 2012, while attending the Academy. The entry type is “General” (rather than “Negative”) and the references are the Drug and Alcohol Manual as (a) and the Regulations for the Corps of Cadets, SUPTINST M5215.2 as (b). The Page 7 states the following:

On this date you received Substance and Alcohol Abuse training in accordance with ref (a). This included training on Coast Guard Academy policies in accordance with ref (b).

Furthermore, you were counseled on USCG and USCG Academy policies concerning substance and alcohol use and abuse. In addition you were also counseled that disciplinary actions including disenrollment can be taken against you for violating these policies.

You are reminded that substance and alcohol abuse will not be tolerated by the Coast Guard, and it is your responsibility to understand and follow policies and regulations in regard to substance and alcohol use and abuse.

The applicant acknowledged this entry with his signature below. In the acknowledgment line above his signature, COMDTINST M1020.8 is referenced, which is the Coast Guard Weight and Body Fat Standards Program Manual.

The applicant was commissioned as an officer after completing the Coast Guard Academy on May 22, 2013.

On January 27, 2014, the applicant received a letter of counseling. The subject line of the letter states “First Documented Alcohol Incident.” The letter describes the applicant’s actions during the incident and the consequences.

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<sup>2</sup> Article 1.A.2.d. of the Coast Guard Drug and Alcohol Abuse Program, COMDTINST M1000.10 (series) defines an “alcohol incident” as “[a]ny behavior, in which alcohol is determined, by the commanding officer, to be a significant or causative factor, that results in the member's loss of ability to perform assigned duties, brings discredit upon the Uniformed Services, or is a violation of the Uniform Code of Military Justice, Federal, State, or local laws. The member need not be found guilty at court-martial, in a civilian court, or be awarded non-judicial punishment for the behavior to be considered an alcohol incident.”

<sup>3</sup> The record shows that the applicant received one alcohol incident in January 2014.

## VIEWS OF THE COAST GUARD

On May 22, 2018, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief in this case. In doing so, he adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC stated that the application is timely and therefore should be considered on the merits. PSC recommended that the Board deny relief in this case because the disputed Page 7 is “part of normal training conducted and presented to Cadets.” PSC stated that the Page 7 is not listed as negative nor does it contain any negative information. PSC stated that the acknowledgement line did incorrectly reference the Coast Guard Weight and Body Fat Standards Program Manual instead of the Alcohol Manual. However, PSC noted that the correct manual is listed in the reference line. In accordance with COMDTINST M1410.2, Active Duty Promotion Boards are only permitted to view entries to an officer’s record made after his commissioning date. The disputed Page 7 therefore cannot be viewed by any promotion boards because it was issued to him while he was still a Cadet. PSC argued that the applicant has not shown that an error or injustice exists in his record and recommended that the Board deny his request.

## APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 23, 2018, the Chair sent the applicant a copy of the Coast Guard’s views and invited him to respond within 30 days. No response was received.

## APPLICABLE REGULATIONS

Documents Viewed by Coast Guard Officer Promotion and Special Boards, COMDTINST M1410.2, Article 7.b. states that Promotion Boards “are restricted to record entries made after the officer’s original commissioning date and those entries dealing with performance as an officer. All other documents or information from before the commissioning date is masked from view.”

## 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 alleged that the August 30, 2012, Page 7 in his military record is erroneous and unjust and should be removed. 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.<sup>4</sup> Absent

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<sup>4</sup> 33 C.F.R. § 52.24(b); *see* Docket No. 2000-194, at 35-40 (DOT BCMR, Apr. 25, 2002, approved by the Deputy General Counsel, May 29, 2002) (rejecting the “clear and convincing” evidence standard recommended by the Coast

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.”<sup>5</sup>

3. The applicant and CAPT N argued that the disputed Page 7 appears to be negative in nature and could imply that he has more than one alcohol incident. The Board disagrees. All Coast Guard members, enlisted and Officer, receive Alcohol and Substance Abuse training at some point during their training and so normally have a corresponding entry in their records. Members on promotions boards are well aware of this and would not get confused between training and alcohol incident documentation. In addition, the applicant’s letter of counseling is clearly titled “First Documented Alcohol Incident.” The Board is not convinced that any Coast Guard board would be confused as to the meaning or purpose of the disputed Page 7.

4. The applicant argued that the Page 7 should be removed because the acknowledgement line above the applicant’s signature refers to COMDTINST M1020.8, the Coast Guard Weight and Body Fat Standards Program Manual, instead of the Drug and Alcohol Manual. This notation is not misleading or prejudicial, however, because the manual referenced at the top of the Page 7 and in the text of the Page 7 is correct—the Drug and Alcohol Manual—and the text of the Page 7 clearly shows that the topic is drug and alcohol policy training, not weight control failure. This Board has held that non-prejudicial administrative errors on Page 7s are not grounds for removal.<sup>6</sup> The Board finds that this error is not prejudicial to the applicant and does not require correction.

5. Even if the Board had found that the disputed Page 7 was written in a way that seemed to cast the applicant in a negative light, promotion boards do not see any documentation from before officers are commissioned in accordance with Article 7.b. of COMDTINST M1410.2. The Page 7 is dated August 30, 2012. The applicant was commissioned as an officer on May 22, 2013. Therefore, no promotion board has seen or will see the disputed Page 7.

6. Accordingly, the applicant’s request should be denied.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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Guard and adopting the “preponderance of the evidence” standard for all cases prior to the promulgation of the latter standard in 2003 in 33 C.F.R. § 52.24(b)).

<sup>5</sup> *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

<sup>6</sup> See BCMR Docket No. 2016-054.

**ORDER**

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

September 14, 2018

