

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

Application for Correction of
the Coast Guard Record of:



BCMR Docket No. 2024-064


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 June 25, 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 April 10, 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 is seeking removal of all adverse information from her personnel file, including a negative CG-3307 and her Officer Evaluation Report (OER) for the period of August 1, 2022 through April 1, 2023. Lastly, the applicant seeks to be retroactively promoted to the grade of O3 with backpay dated through April 1, 2023.

The applicant asserts the creation of her August 2022 through April 2023 OER and negative CG-3307 (page 7) are based on a material error and prejudice. The applicant received the negative page 7 for holding an inappropriate relationship with an enlisted member. In the negative page 7 the command describes, in error according to the applicant, accusations of a romantic relationship claiming the applicant spent time alone on numerous occasions as an officer with a man ranked as senior enlisted leadership (a Senior Chief). The applicant denies any inappropriate or romantic relationship with the Senior Chief and the Senior Chief concurs that the two were friends at a unit that was very exclusive. The two being on the outer fringe of decision making and inclusion from the perceived "boys club" created a natural friendship between the two. They also worked directly together in a natural overlap of tasking for the unit. They were also next-door neighbors on base housing during this assignment. The location being  bringing family created an impossibility and the applicant arrived as a geo-bachelorette. The two friends did spend normal amounts of time together that friends would spend, though often in a group. They went to the beach in a group, which is in error to what command asserted. They attended the Navy Ball in a group, in contrast to the command's assertion that they attended as a couple. They did take a picture together at the Navy Ball standing side by side in the at-ease position avoiding any gestures to indicate anything more than two colleagues who are friends taking a photo together. The other occasions of time spent together were in public places, but due to it being a male and female rumors

were encouraged. No investigation was performed to validate any accusations made and instead the negative page 7 with corresponding poor performing OER was delivered to the applicant.

Additionally, at this same time the applicant had been made aware of a BM1 making sexually inappropriate comments and physical contact with lower ranking females at the unit. The applicant brought these concerns to her supervisor who told the applicant not to speak of the issue again and dismissed her. The applicant then brought the sexual harassment allegations of the BM1 to her XO who began to yell at her for bringing it up. The next day is when she received her negative page 7 describing the appearance of an inappropriate relationship. The applicant was forced to spend eight days (8) in isolation, but the Senior Chief did not leave his housing nor did the accused BM1 leave his housing though he was neighbors to the female who came forward. The applicant was also the only one of the three that could not leave the unit early as she requested. During this time the command called for an all-hands and told the unit that the applicant would be leaving the unit because of having an inappropriate relationship and the BM1 was being re-assigned due to allegations. The applicant was the only female to report to in the chain of command for the enlisted females. This news created a continued hush over the unit to not bring anything forward if it included an allegation towards an inner circle “boys club” member in fear of retaliation.

The applicant received isolated housing while the Senior Chief did not have to move, nor did the accused BM1 who was housed next door to the females who brought forth the claims of aggressive handsy behavior and sexually explicit commentary they endured from the BM1. The applicant denies any form of counseling occurring prior to the negative page 7. She was never spoken to by her direct supervisor and the XO of the unit in passing after discussing workday information made a comment that she should spend more time with females at the unit. She was also told that a mother has no place on a deployment, as she had just had her first child prior to deployment. None of these comments were taken as formal or informal counseling nor were the conversations documented in preparation for a negative page 7 regarding her friendship with a colleague. The applicant submitted three (3) references who also witnessed at varying degrees the realities of the [REDACTED] PSU [REDACTED]. Each reference concurring with the applicant that the command had a series of harassing behaviors towards the applicant, created a siloed environment for only a few to be included, and the accusations made are not in line with the applicant’s character or conduct at the unit. The applicant achieved her Boat Crew Qualification in record time of eight (8) weeks at the unit and received the reputation for being the go-to person for maintenance items.

The applicant asserts that she never had an inappropriate or sexual relationship with Senior Chief. She maintains she was within the Coast Guard definition of an appropriate relationship, which includes attending recreational or entertainment events between two or more people in a non-intimate or non-romantic way. The applicant asserts she is a hardworking and ethical Coast Guard officer who faced a troubling work environment, found a friend to survive the unhealthy work environment, when she reported the sexual harassment concerns of a BM1 she faced retaliation immediately by receiving a negative page 7 for her perceived inappropriate friendship. The applicant seeks to have this removed from her record, both the negative page 7 and the associated erroneous OER.

SUMMARY OF THE RECORD

In July 2020, the applicant became an officer in the Coast Guard Reserves.

In August of 2022, the applicant accepted ADOS orders to serve as the Assistant Waterside Division Officer as a Lieutenant Junior Grade (O2) for PSU [REDACTED] (Port Security Unit) in [REDACTED]. Upon arrival, the applicant felt she was immediately left out of the decision-making circle and there became a clear understanding of a “boys club” within the command.

From August 2022 to December 2022, the applicant spent time with a Senior Chief both at work and off duty. The two were assigned to overlapping tasks at work and would meet after work periodically to go to the beach, comedy club, a tiki bar, or restaurant on base. Often these gatherings were with other shipmates in attendance as well, but some outings were just the applicant and the Senior Chief. The applicant and Senior Chief were also neighbors and would visit each other in their quarters. There was never inappropriate touching of any kind observed by others or confessed by the applicant or Senior Chief. During this time, the XO in passing made a comment that she should spend more time with females and not any time with the Senior Chief. Given the totality of the circumstances (statement made in passing, other topics discussed, open to others to hear, and nothing pointed out as inappropriate other than her being the wrong gender to be his friend) the applicant never viewed this comment as anything more than being harassing towards her in trying to have a friend at the unit. There were no formal or informal counseling of the applicant by command regarding concerns around an inappropriate relationship.

In early December of 2022 the applicant confirmed with her crew the allegations circulating around a BM1’s behavior being described as aggressive, handsy, and often using sexual comments towards lower ranking females. The applicant brought the accusation to her command who informed her not to speak about it to anyone further. The next day, the command gave the applicant a negative page 7 for an inappropriate relationship with Senior Chief. It is unclear if any documents were created for the BM1’s conduct of accused sexual harassment or investigation into his conduct. The command subsequently announced plans to remove him from the unit due to allegations.

This occurred three days before the applicant had previously scheduled orders to depart from the unit to take on a new assignment for which she had been personally requested to fill. The command agreed to this transfer two months before the negative page 7 but wrote on the applicant’s OER that she had to be removed from the unit due to poor judgement and an inappropriate relationship. The OER contained alleged errors in describing the applicant’s time at the unit and conduct with her colleagues.

On August 11, 2023, the applicant wrote a memo in accordance with COMDTINST M1000.3A permitting an officer to submit a reply to an OER rating. The applicant stated plainly she disagreed with the OER and provided rebuttal to the numerical and qualitative summaries provided by the Reporting Officer. This rebuttal did not result in any changes in the applicants OER rating.

On September 15, 2023, the applicant wrote a memo to the Lieutenant Selection Board to improve the appearance of the negative page 7 accusing the applicant of the perception of an inappropriate relationship and she states to accept responsibility for the concerns they held even though she rejects that an inappropriate relationship ever concurred.

On September 13, 2024, the applicant wrote a memo to the Lieutenant Selection Board to improve the appearance of the negative page 7 accusing the applicant of the perception of an inappropriate relationship during her deployment to [REDACTED]. The applicant acknowledged that the perception of an inappropriate relationship can harm the unit good order and thus has reflected to ensure perceptions are not made to that nature.

To date, the applicant has not been selected for advancement to Lieutenant (O3).

VIEWS OF THE COAST GUARD

On January 28, 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 on October 17, 2024 prepared by the Coast Guard Personnel Service Center (PSC).

The JA concurred with the PSC evaluation of the applicant's request. PSC determined there was no error or injustice and the applicant's request should be denied because she has failed to prove material error as alleged in the disputed negative CG-3307. The JA asserts the applicant accepted responsibility by signing a document that stated; "I acknowledge the seriousness of the situation and take complete ownership of my participation in what led to perceptions of impropriety." The Coast Guard regulation outlines that even the perception of an inappropriate relationship can be actionable to reprimand.¹ Additionally, the applicant failed to identify a material error in the disputed OER. There is a presumption of regularity granted to the Coast Guard² that the applicant has failed to overcome. Further, the accusation of retaliation of the applicant by command for reporting sexual assault and sexual harassment concerns is found to be without merit. The JA asserts the applicant is vague and contradictory in the evidence used to support her claim of retaliation because she stated three unrestricted reports of sexual harassment and sexual assault came forward, but only submitted one witness statement who shared the BM1 in question of the sexual assault and sexual harassment accusation was "handsy" and sexually explicit in language used. The JA states the applicant already acknowledged the legitimacy of the government's documentation of her misconduct prior to her bringing forth the BM1 misconduct. Lastly, the JA rejects the character witness statements from the applicant to prove her claim that her character is not capable of misconduct of this nature. The JA re-asserts that the applicant admits to creating the perception of an inappropriate relationship.

The JA asserts the applicant has failed to demonstrate factual inaccuracies amounting to error within the negative page 7 and the related OER, and the applicant does not allege or prove

¹ Chapter 2 of COMDTINST M1600.2

² 33 C.F.R. § 52.24 (b)

an injustice. For these reasons, the JA recommends to the Board to deny the applicant's request for relief.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 7, 2025, the Chair sent the applicant a copy of the Coast Guard's views and invited her to respond within thirty (30) days. The applicant, through counsel, submitted a rebuttal after the deadline for response expired. This response was provided to the Board to consider during their deliberations.

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."³ 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.⁴

The Board reviews the requirements for equal treatment in review of the accusations made by command against the applicant and if those accusations deem to be valid beyond the use of the applicant's gender/sex as required by the Civil Rights COMDTINST M5350.4E

Chapter 3.C.1. Introduction: The Coast Guard continually strives to meet the highest standards of personal respect by valuing human dignity and diversity in accordance with our core values of honor, respect, and devotion to duty. In order to meet this objective, every commander, manager, and supervisor must be personally committed to, and responsible for, the fair and equal treatment of all Coast Guard personnel and to those with whom it interacts. To this end, the Coast Guard's goal is to safeguard the workplace environment so that no member of the workforce will be subject to physical or verbal harassment, abuse or violence based on any of the protected bases listed in Section A.2 of this chapter.

Chapter 3.C.7. Acts of Retaliation. Acts of retaliation or reprisal for reporting harassment or participating in an investigation of harassment are prohibited.

Discipline and Conduct COMDTINST M1600.2

³ *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).

⁴ 33 C.F.R. § 52.22

Chapter 2.A.1 Interpersonal Relationships Exhibit

Acceptable personal relationships are defined as non-intimate, non-romantic associations between two or more people, e.g. occasional attendance at recreational or entertainment events (movies, ball games, concerts, etc.)

Chapter 2.A.2.b. Positive Social Interactions

Coast Guard policy on interpersonal relationships has been crafted to be as gender neutral as possible. However, this approach may obscure one important issue: the fundamental principle that interpersonal activities which are appropriate among men or among women are likewise appropriate among men and women. All members should be provided equal opportunity to participate in positive social interaction opportunities regardless of gender.

Chapter 2.A.2.c. Acceptable Personal Relationships

As people work together, different types of relationships arise. Professional relationships sometimes develop into personal relationships. Service custom recognizes that personal relationships are acceptable provided they do not, either in actuality or in appearance:

- (1) Jeopardize the members' impartiality,
- (2) Undermine the respect for authority inherent in a member's rank or position,
- (3) Result in members improperly using the relationship for personal gain or favor, or
- (4) Violate a punitive Article of reference (a), Uniform Code of Military Justice, 10 U.S.C. § 801– 946 (as amended), or
- (5) Violate any lawful order, regulation or policy regarding inappropriate and prohibited relationships, communications, conduct or contact established by competent military authority.

Chapter 3.A.1.c. Bullying

Subjecting an individual military member to harassment or ridicule for the purposes of “exclusion” is prohibited and will not be tolerated. No service member may engage bullying. Its prevention is an all-hands responsibility.

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 her Coast Guard military record. The Board finds that the applicant has exhausted her 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 is requesting the removal of a negative page 7 and a correlating OER, which she contests as having erred information and accusations. The applicant received a negative page 7 under the accusation of a perceived improper relationship because she, being female, spent time with a colleague who was male.

4. The applicant shared numerous photos, witness statements, and dated documents supporting a timeline of events leading to the negative page 7 and subsequent negative OER based on the negative page 7. The applicant also identified, contrary to the JA's response, direct errors within the OER and negative page 7. Specifically, the OER states the applicant was transferred due to her inappropriate relationship, but a clear paper trail can be identified that the applicant was already set to depart the unit to fulfill a new set of ADOS orders that the command knew about two (2) months earlier to be occurring for the applicant. However, on her OER the command paints a picture that she needed to leave the unit due to her alleged misconduct as they gave her the negative page 7 three (3) days prior to her planned departure. Additionally, and most pointedly, the applicant finds the use of the negative page 7 against her OER to be in error because the negative page 7 is in error.

Regarding the OER comments regarding the applicant's unwillingness to adhere to career advice by the command and the personal development opportunities sought over the needs of the unit are both rejected by the applicant. She clarifies that her professional disagreement to pursue a career path suggested to her by command does not impact the workplace climate mostly because no one else in the unit would know what career advice command would privately give to the applicant. Additionally, the applicant's career path is her own. Claiming that a Coast Guard member's desire to choose a different path than what is suggested by command creates distress to the unit would equate to every single Coast Guard unit currently being under duress at this exact moment. Every member comes into the military with their own vision for their career. The command further celebrates her initiative while qualitatively discouraging it as selfish ambition. The applicant shares she spoke with command on a weekly basis to ensure her tasking aligned with unit needs. She would then work "vigorously" according to command to meet the needs of the unit by getting qualified quickly. Every personal development or volunteer project the applicant took on she sought command prior approval to which she claims was encouraged and never informed that her pursuit of personal growth harmed the unit as her OER describes. The comments on the OER from the PSU command are contradictory in nature praising the extra duties carried by the applicant but then stating it harmed the unit without explaining how or what gaps the applicant left unfilled. The command describes the perception of an inappropriate relationship having a harmful impact on the unit but avoids providing any evidence of an inappropriate relationship or what harm occurred at the unit, nor is this claim supported in the negative page 7 write-up. The statement is simply made that a perceived inappropriate relationship can be harmful to unit morale and good conduct and order, but command fails to detail if that occurred at their unit and in what ways.

5. The JA uses a citation from a previous BCMR final decision from 2018 regarding upgrade to an OER in an attempt to conflate the current applicant's request as similarly situated to the previous case. However, the fact patterns are significantly distinct. The analysis of improving an OER by giving a retroactive look back on a member's actions to justify a higher numerical score per category, without substantially convincing new evidence, is not something the Board is willing to grant⁵, but when the OER is based on a potentially wrongful prejudicially issued negative page 7 due to retaliation it creates a different burden upon the Board for a proper review. The Board finds these two cases to be distinctly different.

6. On August 11, 2023, the applicant wrote a memo in accordance with COMDTINST M1000.3A permitting an officer to submit a reply to an OER rating. The applicant stated plainly she disagreed with the OER and provided rebuttal to the numerical and qualitative summaries provided by the Reporting Officer. Regarding the assertion that two separate verbal counseling sessions occurred by the XO, the applicant denies such counseling occurred. She depicts an in passing off-handed comment made after discussions surrounding the workday that the XO commented that she spent too much time with Senior Chief. He stated she should spend time with women, not men. Her direct supervisor at no time approached the applicant to discuss the perception of an inappropriate relationship, nor did she find any conversation with XO to be that of anything more than rude commentary to which she has expressed being used to experiencing at that unit. The applicant's direct supervisor avoided the applicant but did share that he felt deployments were not a place for new mothers. The applicant became offended by his statement and an argument ensued, but nothing came from the supervisor's inappropriate comments that she is not welcome at the unit because she is a new mother.

The applicant and the Senior Chief were required to work closely together given their work tasking for the unit, but at all times the pair held a professional working relationship and never participated in an intimate or romantic relationship. There was never an investigation into their conduct or factual status of their friendship nor were either party aware that any counseling, formal or informal, had ever occurred prior to the negative page 7. The negative page 7 was issued based on rumors and delivered after the applicant reported to the command the concerns surrounding a unit favored BM1. The timing of this negative page 7 appears retaliatory. The supervisor demanded the applicant not take the BM1 allegations beyond him, but after waiting and hearing nothing the applicant rightfully took the allegations of sexual harassment to the XO who proceeded to yell at her for bringing the allegations forward. The next day she was handed the negative page 7 accusing her of having a perceived inappropriate relationship with statements that the applicant asserts as false. She pursued to have the command correct the page seven or remove it and they refused to do either.

7. On September 15, 2023, the applicant wrote a memo to the Lieutenant Selection Board to improve the appearance of the negative page 7 accusing the applicant of the perception of an inappropriate relationship and she states to accept responsibility. The applicant commits to

⁵ Final Decision in BCMR Docket No. 2018-188, The Coast Guard's recommendation to amend an OER must not be based on retrospective reconsideration of the officer's conduct. The officer submitted additional information in request of higher ratings to certain wickets, which the Board declined to improve the OER based on that information.

ensuring this “blemish in [her] record remains an isolated incident” by maintaining professional demeanor seen in her previous and later evaluations to which she has been rated very highly. During this memo, the applicant never states she had an inappropriate relationship but worked to maintain a positive Chief to JO relationship as they worked side by side. The applicant eludes without going into detail there were challenges surrounding the accusing incident, but instead of pleading her case of command harassment decided to take it on the chin in what she likely hoped to be viewed as a mature and professional decision. Her unit Captain at Base Astoria wrote a brief recommendation to the Selection Board highlighting the applicant’s “high degree of integrity that is beyond reproach” and her commitment to the Coast Guard’s core values. The applicant was not selected for advancement to O3.

On September 13, 2024, the applicant wrote a memo to the Lieutenant Selection Board to improve the appearance of the negative page 7 accusing the applicant of the perception of an inappropriate relationship during her deployment to [REDACTED]. The applicant acknowledged that the perception of an inappropriate relationship can harm the unit good order and thus has reflected to ensure perceptions are not made to that nature. Her unit Commander wrote a brief endorsement stating she is a trusted and valuable member of the unit of Base Astoria. The applicant was not selected for advancement to O3.

The Board does not view these memos as an admission of misconduct by the applicant. Given her documented memo to her command at the time of the incident refuting the accusations and the witness statements confirming the toxic work environment for the applicant, it can be understood the memos written by the applicant were a hope to move past what had occurred to her in [REDACTED]. There is a natural fear around going against higher ranking men in a low-ranking status. The knowledge of previous command complaints being ignored and knowing the harm to members careers speaking out appears to be the driving force in the applicant’s attempt to be submissive to the Coast Guard’s process, even if the accusations were false.

8. The applicant submits to the Board the totality of her circumstance through her personal statement that the difficulties surrounding the negative page 7 were command negativity towards her. There was a recognized “boys club” identified by the applicant and confirmed by multiple witness statements submitted by the applicant from shipmates present during the timeline the applicant worked at the PSU [REDACTED]. These witnesses confirmed the hostility of the command to exclude the applicant and the challenges of the working conditions in such a remote location as [REDACTED] specifically for females.

Who you work with is who you know and become friends with regardless of gender, which appears to be the only real issue with the behavior from the applicant. She is a female and Senior Chief is a male. The issue of rank is not raised by the command even in the presumed informal counseling by the XO who states she should be friends with females. There were enlisted females available for friendship outside of the workday living in [REDACTED]. The idea that the issue was enlisted versus officer relationship does not appear to be the genuine concern given the XO’s encouragement to befriend female enlisted members. The applicant could not be friends with her peers because they were male and could not be friends with females because they were her subordinates. This issue is painfully archaic and has striking concerns of prejudicial conduct and treatment by the PSU [REDACTED] command.

9. The applicant’s conduct does not have a single moment or evidence that had she been male would rise to the perception of an inappropriate relationship. Male Coast Guard members living in the remote and tight community of [REDACTED] [REDACTED] work together, go to comedy clubs together, go to the beach together, visit each other’s living quarters to watch tv, chat, or hangout, attend social gatherings together, go to the bar together, and the accusation that the appearance of an inappropriate relationship does not arise even though the possibility of a sexual and intimate relationship between two men is equally plausible.

The Coast Guard is committed to the equal treatment of all of its members. To further that commitment the COMDTINST M5350.4E Civil Rights (2020) prohibits acts of differential treatment between members due to their sex and retaliation for reporting harassment to command is unequivocally prohibited. The violation of these Coast Guard Civil Right standards have been clearly violated against the applicant.

10. The following showcases by images the staunch difference of rating per command of the applicant’s ability as an officer:

April 2021

3a. PERFORMANCE OF DUTIES: <input type="checkbox"/> Open		<input type="radio"/> f. Speaking and Listening: 6	<input type="radio"/> d. Teamwork: 6	<input checked="" type="radio"/> c. Responsibility: 7
<input checked="" type="radio"/> a. Planning and Preparedness: 6	<input type="radio"/> g. Writing: 5	<input type="radio"/> e. Workplace Climate: 5	<input type="radio"/> d. Professional Presence: 6	
<input type="radio"/> b. Using Resources: 6	3b. LEADERSHIP SKILLS: <input type="checkbox"/> Open	<input type="radio"/> f. Evaluations: 4	<input type="radio"/> e. Health and Well-Being: 6	
<input type="radio"/> c. Results/Effectiveness: 7	<input type="radio"/> a. Looking Out for Others: 5	3c. PROFESSIONAL QUALITIES: <input type="checkbox"/> Open	Supervisor selects the 5 performance dimensions for O2 & 3 dimensions for W4/O1 that best characterize this officer. Comments are required for the selected dimensions and any marks of 1, 2, and 3.	
<input type="radio"/> d. Adaptability: 7	<input type="radio"/> b. Developing Others: 5	<input type="radio"/> a. Initiative: 6		
<input type="radio"/> e. Professional Competence: 6	<input checked="" type="radio"/> c. Directing Others: 5	<input type="radio"/> b. Judgment: 5		

August 2022

3a. PERFORMANCE OF DUTIES: <input type="checkbox"/> Open		<input type="radio"/> f. Speaking and Listening: 5	<input type="radio"/> d. Teamwork: 6	<input type="radio"/> c. Responsibility: 5
<input type="radio"/> a. Planning and Preparedness: 5	<input checked="" type="radio"/> g. Writing: 6	<input type="radio"/> e. Workplace Climate: 5	<input type="radio"/> d. Professional Presence: 5	
<input type="radio"/> b. Using Resources: 6	3b. LEADERSHIP SKILLS: <input type="checkbox"/> Open	<input type="radio"/> f. Evaluations: 5	<input checked="" type="radio"/> e. Health and Well-Being: 7	
<input type="radio"/> c. Results/Effectiveness: 5	<input type="radio"/> a. Looking Out for Others: 5	3c. PROFESSIONAL QUALITIES: <input type="checkbox"/> Open	Supervisor selects the 5 performance dimensions for O2 & 3 dimensions for W4/O1 that best characterize this officer. Comments are required for the selected dimensions and any marks of 1, 2, and 3.	
<input checked="" type="radio"/> d. Adaptability: 7	<input checked="" type="radio"/> b. Developing Others: 6	<input checked="" type="radio"/> a. Initiative: 6		
<input type="radio"/> e. Professional Competence: 6	<input type="radio"/> c. Directing Others: 5	<input type="radio"/> b. Judgment: 5		

October 2022

3a. PERFORMANCE OF DUTIES: <input type="checkbox"/> Open		<input type="radio"/> f. Speaking and Listening: 6	<input type="radio"/> d. Teamwork: 7	<input checked="" type="radio"/> c. Responsibility: 7
<input type="radio"/> a. Planning and Preparedness: 6	<input type="radio"/> g. Writing: 7	<input type="radio"/> e. Workplace Climate: 5	<input type="radio"/> d. Professional Presence: 6	
<input type="radio"/> b. Using Resources: 6	3b. LEADERSHIP SKILLS: <input type="checkbox"/> Open	<input type="radio"/> f. Evaluations: 5	<input type="radio"/> e. Health and Well-Being: 7	
<input checked="" type="radio"/> c. Results/Effectiveness: 7	<input type="radio"/> a. Looking Out for Others: 6	3c. PROFESSIONAL QUALITIES: <input type="checkbox"/> Open	Supervisor selects the 5 performance dimensions for O2 & 3 dimensions for W4/O1 that best characterize this officer. Comments are required for the selected dimensions and any marks of 1, 2, and 3.	
<input type="radio"/> d. Adaptability: 6	<input type="radio"/> b. Developing Others: 6	<input type="radio"/> a. Initiative: 6		
<input type="radio"/> e. Professional Competence: 5	<input checked="" type="radio"/> c. Directing Others: 7	<input type="radio"/> b. Judgment: 5		

May 2023- PSU 305 OER

3a. PERFORMANCE OF DUTIES: <input type="checkbox"/> Open		<input type="radio"/> f. Speaking and Listening: 5	<input type="radio"/> d. Teamwork: 5	<input type="radio"/> c. Responsibility: 4
<input checked="" type="radio"/> a. Planning and Preparedness: 5	<input checked="" type="radio"/> g. Writing: 7	<input type="radio"/> e. Workplace Climate: 4	<input type="radio"/> d. Professional Presence: 3	
<input type="radio"/> b. Using Resources: 5	3b. LEADERSHIP SKILLS: <input type="checkbox"/> Open	<input type="radio"/> f. Evaluations: 5	<input checked="" type="radio"/> e. Health and Well-Being: 6	
<input type="radio"/> c. Results/Effectiveness: 5	<input type="radio"/> a. Looking Out for Others: 4	3c. PROFESSIONAL QUALITIES: <input type="checkbox"/> Open	Supervisor selects the 5 performance dimensions for O2 & 3 dimensions for W4/O1 that best characterize this officer. Comments are required for the selected dimensions and any marks of 1, 2, and 3.	
<input type="radio"/> d. Adaptability: 5	<input checked="" type="radio"/> b. Developing Others: 6	<input checked="" type="radio"/> a. Initiative: 5		
<input type="radio"/> e. Professional Competence: 5	<input type="radio"/> c. Directing Others: 5	<input type="radio"/> b. Judgment: 3		

August 2023

3a. PERFORMANCE OF DUTIES: <input type="checkbox"/> Open	<input type="radio"/> f. Speaking and Listening: 6	<input checked="" type="radio"/> d. Teamwork: 7	<input checked="" type="radio"/> c. Responsibility: 6
<input type="radio"/> a. Planning and Preparedness: 6	<input type="radio"/> g. Writing: 6	<input type="radio"/> e. Workplace Climate: 6	<input type="radio"/> d. Professional Presence: 6
<input type="radio"/> b. Using Resources: 6	3b. LEADERSHIP SKILLS: <input type="checkbox"/> Open	<input type="radio"/> f. Evaluations: 6	<input type="radio"/> e. Health and Well-Being: 7
<input checked="" type="radio"/> c. Results/Effectiveness: 7	<input checked="" type="radio"/> a. Looking Out for Others: 7	3c. PROFESSIONAL QUALITIES: <input type="checkbox"/> Open	Supervisor selects the 5 performance dimensions in O2 & 3 dimensions for W4/O1 that best characterize this officer. Comments are required for the selected dimensions and any marks of 1, 2, and 3.
<input type="radio"/> d. Adaptability: 7	<input type="radio"/> b. Developing Others: 6	<input checked="" type="radio"/> a. Initiative: 7	
<input type="radio"/> e. Professional Competence: 6	<input type="radio"/> c. Directing Others: 7	<input type="radio"/> b. Judgment: 6	

February 2024

3a. PERFORMANCE OF DUTIES: <input type="checkbox"/> Open	<input type="radio"/> f. Speaking and Listening: 6	<input type="radio"/> d. Teamwork: 7	<input type="radio"/> c. Responsibility: 7
<input type="radio"/> a. Planning and Preparedness: 6	<input type="radio"/> g. Writing: 6	<input type="radio"/> e. Workplace Climate: 6	<input type="radio"/> d. Professional Presence: 6
<input checked="" type="radio"/> b. Using Resources: 7	3b. LEADERSHIP SKILLS: <input type="checkbox"/> Open	<input type="radio"/> f. Evaluations: 7	<input checked="" type="radio"/> e. Health and Well-Being: 7
<input type="radio"/> c. Results/Effectiveness: 7	<input type="radio"/> a. Looking Out for Others: 7	3c. PROFESSIONAL QUALITIES: <input type="checkbox"/> Open	Supervisor selects the 5 performance dimensions in O2 & 3 dimensions for W4/O1 that best characterize this officer. Comments are required for the selected dimensions and any marks of 1, 2, and 3.
<input type="radio"/> d. Adaptability: 7	<input checked="" type="radio"/> b. Developing Others: 7	<input checked="" type="radio"/> a. Initiative: 7	
<input type="radio"/> e. Professional Competence: 6	<input checked="" type="radio"/> c. Directing Others: 7	<input type="radio"/> b. Judgment: 6	

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3a. PERFORMANCE OF DUTIES: <input type="checkbox"/> Open	<input type="radio"/> f. Speaking and Listening: 6	<input type="radio"/> d. Teamwork: 7	<input checked="" type="radio"/> c. Responsibility: 7
<input type="radio"/> a. Planning and Preparedness: 7	<input type="radio"/> g. Writing: 6	<input type="radio"/> e. Workplace Climate: 6	<input type="radio"/> d. Professional Presence: 6
<input checked="" type="radio"/> b. Using Resources: 7	3b. LEADERSHIP SKILLS: <input type="checkbox"/> Open	<input type="radio"/> f. Evaluations: 7	<input type="radio"/> e. Health and Well-Being: 7
<input type="radio"/> c. Results/Effectiveness: 7	<input checked="" type="radio"/> a. Looking Out for Others: 7	3c. PROFESSIONAL QUALITIES: <input type="checkbox"/> Open	Supervisor selects the 5 performance dimensions in O2 & 3 dimensions for W4/O1 that best characterize this officer. Comments are required for the selected dimensions and any marks of 1, 2, and 3.
<input type="radio"/> d. Adaptability: 6	<input type="radio"/> b. Developing Others: 7	<input checked="" type="radio"/> a. Initiative: 7	
<input checked="" type="radio"/> e. Professional Competence: 7	<input type="radio"/> c. Directing Others: 7	<input type="radio"/> b. Judgment: 7	

The applicant had a strong work ethic, judgement, and professionalism prior to her deployment to [REDACTED] and strong command endorsement of the same qualities after her deployment to [REDACTED]. This in and of itself is not evidence that the applicant maintained that same level of integrity during her time with the command in [REDACTED]. However, when multiple witness statements observing the PSU [REDACTED] command and the applicant during her time in [REDACTED] concur with the toxic work environment her argument is stronger. There is also no evidence or investigation into the alleged inappropriate relationship. The assertions are clear that the applicant’s true conduct was not being properly reflected by her OER. Even by PSU [REDACTED] command’s own statement, the applicant takes great initiative and exceeds required qualification schedule needed to support unit needs, but because she was friends with a male enlisted member all of her long hours and dedicated service to the unit is besmirched by mere rumors that were never confirmed by command.

The PSU [REDACTED] command fails to describe in the negative page 7 how the accused conduct harmed the unit. The applicant continued to be used by the unit in positive ways. There are witness statements sharing that the enlisted members reporting to the applicant trusted and enjoyed working with the applicant, which is contrary to the assertion that her friendship with Senior Chief creating a disruption in the unit.

11. Working at [REDACTED] [REDACTED] [REDACTED] creates a naturally isolating experience for members attached to the PSU. There are not many options for social interactions and there is a substantially fewer number of females assigned to PSU [REDACTED]. Even if the entire unit were female with the exception of Senior Chief, the gender of the parties in a friendship should not in itself create the illusion of an inappropriate relationship. It appears to the Board that had Senior Chief been female or the applicant been male, there would likely have been no concerns raised about the relationship at all. It was not their actions that created the rumors but instead an unhealthy command leaning on antiquated understandings of male and female interactions. The Board

notes that, in addressing such a relationship, there is a fine but important distinction between being counseled by a superior to modify one's behavior or performance, and merely having such modification suggested. The record does not make clear what in fact occurred.

12. The Board also notes its disagreement with the advisory opinion with respect to whether "perception" is punishable with administrative or punitive action. This is a nuanced distinction, but one we are obliged to note: "creating a perception of an inappropriate relationship" alone does not violate Coast Guard Policy, as written in COMDTINST 1600.2 paragraph 2.A.2.c. Personal relationships are acceptable unless, "in actuality or in appearance," they jeopardize the member's impartiality, undermine respect for authority, involve improper personal gain, or violate the UCMJ, order, regulation, or policy. In opining that a "perception of an inappropriate relationship," by itself, is punishable, the Coast Guard applies a standard that would make its members culpable for the rumors and scuttlebutt that routinely circulate among units, especially those serving in close quarters in austere environments. In particular, commissioned officers are not culpable for "perceptions" created by rumors circulated by enlisted personnel in their unit; in fact, Article 89 of the UCMJ makes disrespect to a superior commissioned officer a criminal offense, even when engaged in outside of their presence. While all personnel, and especially commissioned officers, must be conscious of and accountable for the perception of their conduct and its effect on good order and discipline, members are also not strictly liable for the opinions, speculation, or conjecture held by the members of their unit. It is clear to the Board that Coast Guard policy, as written, carefully balances these concerns and does not – either expressly or impliedly – make the perception of a person the sole basis for adverse action.

13. Finally, the timing of the negative page 7 appears retaliatory. The timeline stated in the negative page 7, which the applicant refutes, demonstrates the command was aware but failed to act on the accused conduct of the applicant at the time the conduct occurred. Notably, the command indicated that the applicant had been counseled twice before for the same conduct and ordered to have no contact with the Senior Chief outside of duties. Taking this at face value, this means that the command not only ignored an allegedly inappropriate relationship, but also the applicant's disobedience of the XO for nearly two months without any formal command action. The command did not pursue a negative page 7 until the applicant brought forth a subordinate's accusation of sexual harassment against the favored BM1. When the applicant's direct supervisor failed to investigate the accusation, the applicant brought it to the XO as required. She was met with great admonishment from the XO who the next day delivered the negative page 7 alleging the perception of an inappropriate relationship. When determining whether injustice occurred in this case, the timing of the command's actions is of critical importance. It is clear to the Board that, but for the applicant's reporting of the sexual harassment allegations, she would not have been formally counseled for her alleged inappropriate relationship. As a result, the related page 7 should be removed from her record.

14. The Board finds, after full review of the facts and applicable laws and policy, that the applicant was prejudiced at her unit, received a retaliatory negative page 7 and associated OER, and should have these harms removed from her military record.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of LTJG [REDACTED] USCG, for correction of her military record is granted. The negative page 7 (CG-3307 dated December 6, 2022) shall be removed and the correlated OER spanning the dates of August 2022 through April 2023 shall be removed from the applicant's record and replaced with a continuity OER for the dates spanning August 2022 through April 2023. The applicants request for promotion to O3 and backpay is denied.

April 10, 2025

