

DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS

**Application for Correction of
The Coast Guard Record of:**

BCMR Docket No. 2024-107


LCDR/O4

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. §1552 and 14 U.S.C. §2507. The Chair docketed the case on July 24, 2024, and assigned the case to a staff attorney to prepare the decision in accordance with 33 C.F.R. § 52.61(c).

This final decision, dated October 16, 2025, is approved and signed by the three (3) duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

Applicant requests removal of an adverse Officer Evaluation Report (OER) from her official record. Applicant asserts she was given an erroneous OER after removal from duties aboard the USCG Cutter Stratton. She further asserts the removal was based on professional disagreements, and that the information included in the OER was inaccurate. She describes a career of accomplishments and achievements which culminated in her assignment as Operations Officer aboard the Stratton. While serving, however, conflicts arose with command, leading to tension and a stressful environment. Command started a period of counseling, which did not proceed in a typical manner. After issuance of the OER, command then requested a third-party neutral observer, a USCG Master Chief Petty Officer (MCPO), to assess the circumstances between Applicant and command. Additionally, the Applicant requested a Leadership, Diversity and Inclusion Officer to mediate between Applicant and command.

The MCPO and LDI officer observed the parties onboard during typical working conditions. After their independent periods of assessment, each observer opined that substantial tension existed between the Applicant and command. The MCPO opined that an evaluation by Applicant's command would likely be subjective and biased. The LDI opined that command

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harbored inherent prejudices based on Applicant's gender, and that Applicant's commanding officer appeared to be threatened by Applicant's confidence.

Applicant asserts that the derogatory OER caused her to be passed over for selection to O-5 in July 2022. Accordingly, she requests removal of the OER, and retroactive selection to O-5 or convening a Special Selection Board to consider her for promotion. Should she be selected, she requests back pay and benefits owed had she been promoted. In the alternative, she requests specific amendments to the OER and for it to be changed to a "regular" and non-derogatory OER, promotion retroactive to the date of original consideration (July 2022) and all benefits flowing from the promotion, and any other relief deemed just and proper. Applicant, represented by counsel, submitted a DD Form 149 and Memorandum in support of application with multiple exhibits.¹

SUMMARY OF THE RECORD

Applicant originally applied to the Board in 2022, prior to seeking relief at the Personnel Records Review Board (PRRB). Thereafter and represented by counsel, Applicant withdrew her application before the BCMR and applied to the PRRB. The PRRB issued two reports: one majority and one minority. The majority report recommended removal of the OER and addendums from Applicant, replaced by a continuity OER, with no other relief. By contrast, the minority report recommended specific redactions from the Supervisor's Addendum, and no further relief. The Acting Director of Military Personnel reviewed both reports and adopted the minority report without issuing reasons for refusing the majority.

Applicant then applied to this Board for relief. USCG JAG, reviewing the PRRB reports and minority decision, found the PRRB's decision erroneous, citing regulations for correcting military records, COMDTINST 1070.1, §7.c (10), reasoning that adoption of the minority opinion constituted a modification or disapproval of the PRRB's recommendation. As a result, JAG found the Applicant was entitled to relief.

Accordingly, JAG recommended the OER be removed in its entirety, and that a special selection board be convened to consider Applicant for promotion.

VIEWS OF THE COAST GUARD

On May 13, 2025, the office of the Judge Advocate General of the Coast Guard (CG JAG) submitted an advisory opinion recommending Applicant's request be granted. CG JAG considered the record and evidence provided, PRRB's underlying decision to adopt the minority report, and the arguments and evidence provided by Applicant and her counsel. Based on the evidence adduced, CG JAG recommended that Applicant's OER be removed from her military record and a continuity OER substituted in its place. Further, JAG recommended Applicant be processed for a Special Selection Board.

In its findings, CG JAG considered the Acting Director of Military Personnel to have erred in adopting the PRRB's minority report instead of the majority opinion. Specifically, the Acting

¹ Applicant's submission is approximately 454 pages, including exhibits.

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Director did not provide reasons for refusing the majority's report. Although CG regulations are silent on split decisions, CG JAG noted that usage dictates the majority opinion becomes the official recommendation. By choosing the minority opinion, the Acting Director of Military Personnel issued a modification or disapproval of the PRRB's recommendation without issuing reasons for deviating from the majority's opinion. Therefore, CG JAG concluded, Applicant was entitled to relief.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 27, 2025, the Chair sent Applicant the Coast Guard's Advisory Opinion and invited her to respond within thirty days. The Applicant responded on May 29, 2025, that she agreed with the Coast Guard's advisory opinion to grant relief in accordance with the PRRB's majority opinion, and directing the Coast Guard to convene a Special Selection Board to consider her for selection to O-5.

APPLICABLE REGULATIONS

1.F.2.b. Circumstances that may Warrant Removal from Primary Duties

An officer may be considered for permanent removal from primary duties under the following circumstances:

- (1) The officer fails to perform primary duties such that their performance significantly hinders mission accomplishment or unit readiness, or
- (2) After an adequate amount of time at the unit (normally at least six months), it becomes clear to the command that the officer has neither the ability nor desire to perform assigned duties, or
- (3) The officer's actions significantly undermine their leadership authority.

1.F.2.d. Removing an Officer from Primary Duties

(1) At the command's discretion, an officer may be temporarily removed from primary duties at any time. Upon determining that an officer meets the requirements of Article 1.F.2.b. of this Manual for permanent removal from primary duties, the command will submit an OER in accordance with Articles 5.A.3.c and 5.A.4.h. of reference (q), Officer Accessions, Evaluations, and Promotions, COMDTINST M1000.3 (series). The command should inform the officer of the RPD process and way forward.

(2) After the OER is routed to Commander (CG PSC-OPM-3) or (CG PSC-RPM) per Article 5.A.2.i. of reference (q), Officer Accessions, Evaluations, and Promotions, COMDTINST M1000.3 (series), Commander (CG PSC-OPM) or (CG PSC-RPM) will review and make the final decision on removal from primary duties.

COMDTINST M1000.8A

FINDINGS AND CONCLUSIONS

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The Board makes the following findings and conclusions based on the Applicant's military record and submissions, the Coast Guard's submissions and applicable law:

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

2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.² The incidents giving rise to the instant application occurred during the reporting period May 30, 2020, to May 21, 2021. The disputed OER was issued on May 21, 2021. Applicant's initial request for relief was submitted to the Board in 2022; however, without having requested relief first from the Personnel Records Review Board, the application was premature. Applicant withdrew the 2022 application and submitted a request for relief to the PRRB. After the PRRB's decision, Applicant then requested relief from the Board on June 18, 2024. The instant application is timely.

3. A review of the merits of this case reveals that granting Applicant's request for removal of an adverse OER is warranted.

4. Applicant alleged that her Officer Evaluation Report for the period May 30, 2020, to May 21, 2021, should be removed from her military record because it is erroneous and unjust. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed evaluation in an applicant's military record is correct and fair, and the applicant bears the burden of proving by a preponderance of the evidence that it is erroneous or unjust.³ Absent specific evidence to the contrary, the Board presumes that the members of an applicant's rating chain have acted "correctly, lawfully, and in good faith" in preparing their evaluations.⁴ To be entitled to relief, the applicant cannot "merely allege or prove that an [evaluation] seems inaccurate, incomplete or subjective in some sense," but must prove that the disputed evaluation was adversely affected by a "misstatement of significant hard fact," factors "which had no business being in the rating process," or a prejudicial violation of a statute or regulation.⁵

5. Applicant provided the following in support of her request to remove the disputed OER:

- a. Factual inaccuracies included in the OER;
- b. The MCPO's assessment of the circumstances onboard giving rise to organizational breakdown. The MCPO's observations specifically support a reasonable inference that the professional relationship between the parties had degraded such that an evaluation of Applicant's performance by the supervisor would be subjective and likely biased.

² 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

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).

⁵ *Hary v. United States*, 618 F.2d 704, 708 (Ct. Cl. 1980), cited in *Lindsay v. United States*, 295 F.3d 1252, 1259 (Fed. Cir. 2002).

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- c. Applicant's requested assessment by LDI, whose observations credibly supported a finding of inherent bias by Applicant's command.

6. In addition to the substance of the application, the Board considers CG JAG's recommendation persuasive. We are equally troubled by the Acting Director of Military Personnel's adoption of a minority report without apparent explanation or justification. Accordingly, it is the Opinion of the Board that the disputed OER should be removed from Applicant's military record, and a continuity OER be substituted in its place, consistent with the PRRB's majority opinion. The Board further directs that a Special Selection Board for promotion to O-5 should be convened for Applicant to be considered.

[ORDER AND SIGNATURE ON NEXT PAGE]

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The application of LCDR [REDACTED], USCG, for removal the derogatory Officer Evaluation Report, dated May 21, 2021, for the period May 30, 2020, to May 21, 2021, from her official military record and replacement with a continuity OER for that same period, is granted. The Board further rules that Applicant's request for a Special Selection Board to be convened for which she would be considered for promotion, is granted.

October 16, 2025

