


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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2025-025


(retired) CAPT

FINAL DECISION

This proceeding was conducted by the Board for Correction of Military Records of the Coast Guard (hereinafter “Board” or “BCMR”) according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. After receiving the completed application, the Chair docketed the case on November 13, 2024, and assigned the preparation of the decision to a staff attorney pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated November 20, 2025, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

INTRODUCTION

The applicant retired from the Coast Guard as a captain (CAPT/O-6) on September 30, 2024, after 26 years, 4 months, and 4 days of honorable active duty service. He has asked the Board to direct the Coast Guard to expunge negative administrative remarks issued in July 2024 from his record.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard as a Seaman Apprentice (SA/E-2) on May 26, 1998. After attending Officer Candidate School, he received a commission as an Ensign (ENS/O-1) on September 29, 2000. Over his career, he was promoted through the ranks and rose to CAPT on August 1, 2021. On February 8, 2023, the applicant requested voluntary retirement with an effective date of October 1, 2024, and his request was approved.

The applicant’s final position before retirement was as chief of a division in the Coast Guard’s Pacific Area. He started in this position in June 2022. His duties included the coordination of a major Coast Guard initiative to enhance and align operations and

activities across multiple districts and domains. In July 2023, the applicant co-facilitated a meeting related to these duties with three other captains and a lieutenant commander. During this meeting, the applicant perceived that one of the other captains (hereinafter “CAPT X”) questioned the accuracy of his statements, interrupted him, and otherwise disrupted the meeting in an unprofessional and disrespectful manner.

On February 15, 2024, the applicant sent an email notifying appropriate staff at multiple Coast Guard districts about the dates and other details for an upcoming conference. Although CAPT X was her district’s point of contact for these purposes, the applicant intentionally omitted her from his email, sending it instead to one of CAPT X’s subordinates. The next day, CAPT X emailed the applicant, stating that his email had been forwarded to her, and requesting that she be included on future emails to the districts. On February 20, 2024, CAPT X emailed her supervisor, with the applicant copied, stating that she had not heard back from the applicant but wanted to raise a potential conflict relating to the proposed dates for the conference. On February 23, 2024, the applicant responded to CAPT X via email, with both his and CAPT X’s supervisors copied, stating as follows: “CAPT [X], [o]mitting you from my email to the other District (dx) members was intentional. I can still support [your district] and the many professionals there without interacting with you. Your unprofessionalism and personal attack on me last year is the reason for this so please stop communicating with me. I am retiring this summer and there will be a [replacement in my position] that you can have a fresh start with.”

On February 27, 2024, the applicant’s supervisor responded to the applicant’s email and directed that going forward, he should ensure any email he was sending to the other relevant district staff was also sent to CAPT X. On the same day, the applicant responded by stating he would delegate any communications that required “O-6 to O-6 level” to appropriate subordinates or would ask his supervisor to send it. He also stated he would delegate attendance at any meetings where CAPT X would be in attendance to avoid all possible interactions with her.

On March 2, 2024, CAPT X made an Anti-Harassment and Hate Incident (AHHI) report alleging that the applicant had engaged in harassing behavior and retaliation or reprisal. On the same day, after learning of CAPT X’s report, the applicant also filed an AHHI report alleging that CAPT X had engaged in harassing behavior based on a protected characteristic (the applicant’s status as an African American). CAPT X’s supervisor convened a standard investigation, and the investigation was concluded on May 30, 2024, following a delay related to illnesses in the investigating officer’s family. A copy of the May 2024 report was not provided to the Board by the applicant or the Coast Guard.

A Final Action Report of Harassing Behavior (hereinafter “FAR”) dated June 10, 2024, *was* made available. Therein, the convening authority, CAPT X’s supervisor (hereinafter “CAPT Y”), stated he had thoroughly reviewed the May 2024 investigation report. CAPT Y then focused on the applicant’s, CAPT X’s, and other witnesses’ accounts

of the July 2023 meeting referenced above. In particular, he noted that when the applicant had described an issue under discussion at the meeting as being “above his paygrade,” CAPT X remembered replying, “That’s a cop-out. We are captains,” while the applicant remembered her saying, “You’re an O-6.” CAPT Y also noted that another person at the meeting observed the discussions were tense and “got to the point they should have had a private discussion.” CAPT Y concluded, however, that while CAPT X’s comments were “aggressive and direct,” they did not appear to be racially motivated and were not threatening or degrading. CAPT Y then cited to portions of the February 2024 emails referenced above, in which the applicant explained he had intentionally omitted CAPT X from his communication and was directed by his supervisor to include CAPT X on future emails. Ultimately, CAPT Y determined that “[t]he allegation [the applicant] engaged in harassing behavior is substantiated as harassment,” while the allegation of harassment against CAPT X was not substantiated. In the FAR’s “Opinions/Analysis” section, CAPT Y stated that the applicant’s intentional omission of CAPT X from his emails was “unwelcome conduct [which] had the effect of unreasonably interfering with CAPT [X]’s work performance and is therefore harassment as defined under [*Harassing Behavior, Prevention, Response, and Accountability*, COMDTINST 5350.6 (series)].” With respect to CAPT X’s conduct, CAPT Y stated that while her behavior “was perceived by [the applicant] to be disruptive to the process and bordered on being disrespectful, [it] did not justify [the applicant]’s conduct or make it reasonable.” CAPT Y then concluded that CAPT X had not engaged in harassment, explaining that while her behavior at the July 2023 meeting “was disruptive to the process and inappropriate given the open nature of the meeting ... [it did not have] the purpose or effect of unreasonably interfering with [the applicant]’s work performance or create an intimidating, offensive, or hostile environment.” In determining that CAPT X had not engaged in bullying, CAPT Y also stated that while he was “concerned that one other senior officer characterized CAPT [X]’s questions to [the applicant] as unprofessional and antagonizing ... CAPT [X] did not engage in threatening, humiliating, or intimidating behavior at the ... July meeting or during any subsequent interaction with [the applicant].” In the “Actions” portion of the FAR, CAPT Y stated he would be issuing a Page 7 to the applicant, and counseling CAPT X regarding appropriate collaboration with senior officers during meetings where a junior officer is also present.

On June 18, 2024, the applicant submitted a lengthy appeal of the FAR. Therein, he alleged various due process violations and asserted that CAPT Y had incorrectly applied Coast Guard policy and disregarded and inappropriately weighed key facts. The applicant also argued that the FAR’s findings were conclusory and did not include sufficient explanation as to how his conduct had unreasonably interfered with CAPT X’s duties.

While the appeal decision has not been made available to the Board, the record indicates the appeal was denied sometime in July 2024.

Consistent with the corrective actions determined to be appropriate by CAPT Y in the June 2024 FAR, the applicant was issued a Page 7 on July 8, 2024, which stated as follows:

08JUL2024: Following a thorough investigation, I determined by a preponderance of the evidence you engaged in conduct which constitutes harassment under reference (a). You, with no official justification, excluded the CGD ELEVEN (dx) office chief from emails that were addressed to her peers, which was unwelcome and unreasonably interfered with the performance of her duties. You have been counseled on the Coast Guard's expectations of our workforce and what constitutes harassing behavior under policy. A review of your record indicates that this is your first documented incident of harassing behavior. I am, however, convinced that based on your 26 years of exemplary service to the Coast Guard that this incident is isolated and that you have demonstrated you will not engage in harassing conduct in the future.

As a result of my finding and as required by reference (a), I am notifying CG-PSC-OPM for a determination regarding separation processing. I will recommend you be retained in service. If retained, any subsequent substantiated incident of harassing behavior will result in you being processed for separation in accordance with references (a) and (b).

Consistent with his February 2023 retirement request, the applicant retired from the Coast Guard on September 30, 2024. His separation documents reflect 26 years, 4 months, and 4 days of honorable service with no reference to the events discussed above.

APPLICATION

In his submission to the Board, through counsel, the applicant reiterated many of the arguments raised in his June 2024 appeal of the FAR. Specifically, among other arguments, he contended that Coast Guard policy and his due process rights were violated when he was not notified that the investigation convened by CAPT Y had been extended. He also took issue with CAPT X's supervisor (CAPT Y), who was also a witness, having acted as the convening authority for the investigation. He asserted that this was a conflict of interest. The applicant also alleged that CAPT Y had inconsistently applied the definition of harassment in his assessment of the allegations against the applicant and CAPT X and had not addressed allegations that CAPT X was inappropriately hostile towards him on other occasions after the July 2023 meeting.

The applicant went on to assert that the disciplinary action against him – issuance of a Page 7 – had “marred” his retirement and had ended his 26-year career that was otherwise marked by exemplary service. In this regard, the applicant made various statements to the effect that his retirement had been “forced.” He also stated that the Page 7 had severe and lasting consequences, including the potential to adversely affect his post-military career opportunities and his reputation within the Coast Guard.

With his submission, the applicant included a personal statement, a statement from his spouse, and 10 additional statements in support from former Coast Guard peers, subordinates, and supervisors. These statements universally attested to the applicant's outstanding leadership ability and exemplary character.

In addition to removal of the July 2024 Page 7, the applicant requested restoration of any lost benefits or entitlements adversely impacted by issuance of the Page 7, and any other relief the Board deems just and equitable, including “expunging any related adverse documents from all Coast Guard records, providing a declaration of innocence, and taking corrective measures to prevent similar injustices in the future.”

COAST GUARD’S VIEWS

In memoranda dated in March and September 2025, the Coast Guard Personnel Service Center (PSC) and a Judge Advocate (JA), respectively, recommended the Board deny the applicant’s request for relief. The Coast Guard argued that the May 2024 investigation, June 2024 FAR, July 2024 appeal denial, and related administrative processes had been fair and consistent with policy. The Coast Guard also contended that many of the applicant’s arguments amounted to disagreements with how Coast Guard officials had weighed the relevant evidence, and did not establish an error or injustice. The Coast Guard also questioned the applicant’s description of negative impacts caused by the Page 7, noting that he had requested voluntary retirement before any of the events at issue took place, and unless he “goes out of his way to show future employers a [Page 7] ... there is no measurable impact this document can have on his post-military career.”

APPLICANT’S RESPONSE

The applicant responded to the Coast Guard’s views, through counsel, in a memorandum dated October 28, 2025. Therein, the applicant argued that the Coast Guard had relied on conclusory assertions, omitted critical context, sidestepped material evidence, and misapplied applicable policy. Among other contentions, the applicant argued that the record contained no objective evidence of “unreasonable interference” with CAPT X’s duties, as required to constitute harassment under Coast Guard policy. The applicant also argued that CAPT Y’s explanation in the FAR had been circular. Specifically, the applicant stated: “A single, non-time-sensitive email—later forwarded to the recipient—cannot reasonably be said to ‘unreasonably interfere’ with an officer’s performance.”

The applicant also attached a January 2025 Coast Guard message in which the Coast Guard’s anti-harassment policy was suspended pending a 90-day review. *See* ALCOAST 028/25. The applicant stated the Coast Guard had disregarded this message, which was “relevant to this case,” but he did not provide any explanation of its relevancy.

APPLICABLE LAW AND POLICY

Coast Guard policy governing the reporting, investigation, and disposition of harassment complaints is contained in *Harassing Behavior, Prevention, Response, and*

Accountability, COMDTINST 5350.6.¹ Provisions relevant to this case include the following:

12. WHAT CONSTITUTES HARASSING BEHAVIOR? “Harassing behavior” in this policy includes harassment and other harassing behavior described here....
- a. Harassment. Harassment is unwelcome conduct, whether verbal, nonverbal, or physical, that has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, offensive, or hostile environment....

14. RESPONSE TO REPORTS AND COMPLAINTS OF HARASSING BEHAVIOR. The first convening authority in the complainant’s chain of command or chain of supervision must:

- h. Initiate an investigation ... The procedures in [the Coast Guard’s administrative investigations policy] pertaining to standard investigations apply to harassing behavior investigations, as well as other requirements in this Instruction. This Instruction takes precedence when there is a conflict.

16. INVESTIGATION PROCEDURES.

- d. Final Action by the convening authority. The convening authority must take final action (i.e., at a minimum, conclude whether the alleged conduct occurred and whether the alleged conduct was prohibited under this policy)....

(1) Taking the final action. Convening authorities shall:

- (a) Consult with the servicing legal office prior to taking final action;
- (b) Document the final action in a stand-alone Final Action Memorandum (FAM) that identifies the complainant and the alleged perpetrator, contact dates, time, locations, allegations, a determination whether the allegation is substantiated or unsubstantiated, and any remedial or corrective actions taken or planned by the convening authority;
- (c) Determine that it is more likely than not that the alleged perpetrator engaged in the harassing behavior to substantiate an allegation, or that the allegation is

¹ As noted above, COMDTINST 5350.6 was suspended by ALCOAST 028/25 for 90 days in January 2025. In November 2025, ALCOAST 459/25 announced the publication of COMDTINST 5350.6A, which updated the Coast Guard’s harassing behavior policy, effective December 15, 2025. Most relevantly, the policy update explained in § 7.b. that to constitute harassment, conduct must be based on a protected characteristic (race, color, religion, sex, national origin, age, disability, parental status, marital status, or genetic information). In § 3.A.4., the update stated that “[b]ehavior that is rude, ignorant, abrasive, or unkind, but does not rise to the level of being severe or pervasive, is not harassing behavior”

unsubstantiated;

- (d) Specify the nature of substantiated harassing behavior and any aggravating factors, such as harassment based on protected status;
- (e) Articulate the evidence and reasoning for findings (*see* Appendix G);

18. ACCOUNTABILITY FOR HARASSING BEHAVIOR. Commanders shall take appropriate action as described below, after substantiating harassing behavior or other misconduct.

- c. Types of actions available. Disciplinary actions include, but are not limited to, informal and formal counseling, comments in officer or enlisted performance evaluations, nonjudicial punishment, administrative separation, court-martial, and civilian adverse personnel actions. The provisions below set forth the minimum action to document a substantiated AHHI complaint.

(1) Military members.

- (a) Documentation. Each instance of substantiated harassing behavior identified in this Instruction shall be, at a minimum, documented in a CG-3307 for military members....

Appendix G to COMDTINST 5350.6 is a template for a “Final Action Memo – Report of Prohibited Harassment or Hate.” In the “Opinions/Analysis” section, it directs the convening authority to “[c]oncisely articulate evidence and reason for findings....”

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant’s military record, his submissions, the Coast Guard’s submission, and applicable law and policy:

1. The Board has jurisdiction under 10 U.S.C. § 1552(a), as the applicant is seeking a correction of an alleged error and/or injustice in his military records.

2. The applicant has exhausted all available 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.

3. The applicant requested an in-person hearing before the Board. The Chair, acting pursuant to 33 C.F.R. § 52.51, denied the request and recommended disposition of the case without a hearing. The Board concurs in that recommendation. *See Armstrong v.*

United States, 205 Ct. Cl. 754, 764 (1974) (stating that a hearing is not required because BCMR proceedings are non-adversarial and 10 U.S.C. § 1552 does not require them).

4. The Board may “correct any military record . . . when [it] considers it necessary to correct an error or remove an injustice.” 10 U.S.C. § 1552(a)(1).

5. “The Board begins its consideration of each case presuming administrative regularity on the part of the Coast Guard and other Government officials. The Applicant has the burden of proving the existence of an error or injustice by a preponderance of the evidence.” 33 C.F.R. § 52.24(b).

6. The application is timely, as it was submitted within three years of the applicant’s discovery of the alleged error or injustice, i.e., issuance of the Page 7 in July 2024. *See* 10 U.S.C. § 1552(b); 33 C.F.R. § 52.22.

7. The Board has determined that relief is warranted in this case. In this regard, the Board has reviewed the entire record and has considered all of the applicant’s arguments relating to alleged due process violations, procedural irregularities, and improper or erroneous assessment of the evidence by Coast Guard officials. The Board’s analysis, however, will not address each contention at length. Instead, the Board focuses narrowly on the vague and conclusory basis provided by CAPT Y for his finding that the applicant had engaged in substantiated harassment.

8. CAPT Y’s finding of substantiated harassment appears to have been the sole basis for issuance of the Page 7 at issue in this case. Indeed, per § 18.c.(1)(a) of COMDTINST 5350.6, a Page 7, at a minimum, is required to document any substantiated allegation of harassment.

9. In explaining his substantiation finding in the June 2024 FAR, CAPT Y stated as follows: “I find that [the applicant] engaged in harassment by intentionally omitting CAPT [X] from his emails to other District (dx) O-6s. This unwelcome conduct had the effect of unreasonably interfering with CAPT [X]’s work performance and is therefore harassment as defined under [COMDTINST 5350.6].” The policy referenced by CAPT Y, in turn, defines harassment as “unwelcome conduct, whether verbal, nonverbal, or physical, that has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, offensive, or hostile environment.”

10. The above constituted the entirety of CAPT Y’s explanation of his finding that the applicant’s conduct was harassment. At bottom, the statement names the conduct in question (omitting CAPT X from an email), and quotes the definition of harassment, but nothing more. That is, CAPT Y provided no explanation as to how the definition of harassment was met by the relevant conduct, i.e., in what way CAPT X’s duties were

unreasonably interfered with by her non-receipt of an email proposing times for a future conference.

11. Under these circumstances, the Board finds CAPT Y's explanation to be conclusory and circular, and to fall short of the requirement in COMDTINST 5350.6 § 16.d.(1)(e) that a FAR "[a]rticulate the evidence and reasoning for findings." Moreover, the Board notes that it has long been established that with respect to agencies' explanations of their decisions, "conclusory statements will not do." *Amerijet Int'l, Inc. v. Pistole*, 753 F.3d 1343, 1350 (D.C. Cir. 2014); *see also Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (requiring that agency decisions "articulate [a] rational connection between the facts found and the choice made.").

12. While the circular nature of CAPT Y's explanation forms the primary basis of the Board's decision, we also note briefly that COMDTINST M5350.6 – in effect during the relevant period – provided that a harassment investigation should be convened by the first convening authority in the complainant's chain of command. In this case, that was CAPT X's supervisor, CAPT Y, with respect to CAPT X's complaint. It is less clear from the policy whether an individual may act as convening authority over two separate complaints – filed by two parties, against each other, addressing interrelated conduct – when only one of the complainants is that individual's subordinate. There is no indication in this case that a separate investigation was conducted into the applicant's complaint against CAPT X. Instead, both complaints were rolled into the same investigation. So, while the Board finds no evidence of bias on the part of CAPT Y, it is not clear that the procedures utilized were consistent with the applicable policy.

13. Although not dispositive, another relevant factor the Board has considered is that, as pointed out by the applicant, his more than 26-year career in the Coast Guard was unblemished until this incident. The Officer Evaluation Reports (OERs) made available to the Board are universally highly positive. The applicant's personnel file is otherwise devoid of any derogatory information. The applicant received numerous commendations and awards throughout his career and attained the rank of CAPT/O-6.

14. Finally, although COMDTINST 5350.6 applied during the relevant period, a review of changes made in COMDTINST 5350.6A in November 2025 – specifically that to constitute harassment, conduct must be severe and pervasive and/or implicate a protected characteristic – the applicant's conduct would not be likely to result in a finding of substantiated harassment today. While this change in policy is certainly not sufficient, on its own, to warrant relief for all applicants with harassment findings under the previous policy, the change is one factor the Board has considered in this case.

15. The events underlying this case are unfortunate, and the applicant was not entirely without blame, as he has recognized. Upon review, however, the Board finds that the explanation for a finding of substantiated harassment in the June 2024 FAR, which was

the basis for issuance of the Page 7, did not meet the requirements of COMDTINST 5350.6, nor the more general standards to which agency decisions are typically held. Given the applicant's long and outstanding service in the Coast Guard, and his perception that his career and retirement were marred by this incident, the Board finds that removal of the July 2024 Page 7 from the applicant's record is warranted.

16. In addition to removal of the Page 7, the applicant requested any other relief deemed "equitable and just" by the Board. Given the vague nature of this request, and because the Page 7 appears to be the only record in the applicant's personnel file referring to the events at issue here, the Board declines to grant further relief.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of retired CAPT [REDACTED] is granted. The Coast Guard shall remove the Page 7 dated July 8, 2024, from CAPT [REDACTED] records.

November 20, 2025

