

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-056


LTJG-O2

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 after receiving the completed application on July 13, 2022, and assigned the case to the staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision dated March 13, 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, a Command Duty Officer (LTJG/O2), asked the Board to correct his record by restoring his rank to the level it was at his discharge from the Army, O-3.

According to the applicant, the USCG commissioned him as an O-2 with zero months time in grade and he requests to have his rank restored to O-3 with corresponding date of rank (March 1, 2020) in accordance with DoDI 1300.04 (2017) 3.1c and backpay as such from USCG commissioning date.

The applicant states that he is a no-break in service Direct Commission Inter-Service Transfer on December 2, 2022 from the US Army to the USCG. According to the applicant, DoDI 1300.04 (July 2017) states: "1.1 This issuance: a. Applies to OSD and the Military Departments (including the U.S. Coast Guard (USCG) at all times, including when it is a Service in [DHS] by agreement with that Department)." The applicant quotes the 3.1c Inter-Service Transfers stating: "a commissioned officer transferred in accordance with this issuance will continue to hold the same grade and date of rank held in the losing uniformed service."

The applicant argues that the USCG agreed to adhere to the DoDI. The applicant acknowledges that the DoDI states it does not establish policy or procedure for the USCG (1.1c)

but asserts that this is not cause or license for USCG to ignore a clear provision of the agreed-upon issuance that still applies to officers transferring into the USCG from the DoD. According to the applicant, the USCG was not permitted to reduce his rank upon commission.

In an addendum, the applicant states that on May 28, 2024, after he submitted his application, COGARD RECRUITING COMMAND published ALCGRECRUITING 008/24 which granted DCO PTMO applicants the appointment grade of O-3 for the first time on a DCO PTMO board.

According to the applicant, the increase in appointment grade correlates to updates made in COMDTINST M1100.2H (November 2023) which now allows for corresponding rank transfer for PTMOs provided the officer held the appointment rank prior to being hired by the USCG.

The applicant asserts that the update in USCG policy now brings the USCG closer into compliance with DoDI 1300.04 (2017), although he does not have confirmation if date of rank was maintained per the DoDI for the most recent DCO PTMO board. The applicant argues that, despite the eventual updates in USCG policy, the Department of Homeland Security still agreed to abide by the provisions set forth in the DoDI in 2017, therefore any DCO PTMOs improperly reduced in rank during transfer after the publication date of July 25, 2017 should have the prior service date of rank restored (provided they hold the same grade or a lesser grade) as well as awarded appropriate backpay as feasible given subsequent promotions which have already occurred.

According to the applicant, the monthly pay table stops the two-year pay increases after six years of service for O-1 and O-2 because it should not be possible to be an O-2 with eight years of service. The applicant argues that, because of the USCG's commissioning arbitrary reduction in rank, he and potentially dozens of others are at a significant career and financial disadvantage (4.5 years of career retrograde for him personally), specifically in violation of DoDI 1300.04 1.2a which is designed to protect officers' careers during a transfer.

The applicant states that he understands restoring his original date of rank will put him at a potential disadvantage against his peers for promotion boards and he plans to defer several future LCDR or CDR boards as needed if the Board rules in his favor to gain competencies to be competitive. Additionally, the applicant argues that, with PTMOs now granted O-3 rank, future promotion boards will have to take shorted DCO PTMO career spans into consideration. The applicant thanks the Board for its consideration.

SUMMARY OF THE RECORD

The applicant is currently a Command Duty Officer (LTJG-O2) in the Coast Guard Reserve, who previously served in the Army at the O-3 rank.

DOD Instruction 1300.04: Inter-Service and Inter-Component Transfers of Service Members

On July 25, 2017, a DODI was made effective regarding inter-service and inter-component transfers of service members. The DODI describes the process of inter-service transfers, in which

the either the member or the gaining Military Department requests the transfer to the losing Military Department. In this scenario, member maintains their grade and date of rank held in the losing Military Department.

DCO Program Selection Results

On May 2, 2022, a DCO selection panel and recommended the applicant as a selectee under the PTMO program at the rank of lieutenant junior grade.

Applicant's Acceptance of Appointment

On December 2, 2022, the applicant accepted his appointment to the Coast Guard Reserve with a grade of LTJG (O-2) by signing his CG-9556.

ALCOAST 034/23: Updates to Policy for Direct Commission Officers

On January 24, 2023, the Coast Guard released an ALCOAST, which broadened DCO policies. The amendment permitted PTMOs to be appointed to ensign (O-1), lieutenant junior grade (O-2), lieutenant (O-3), lieutenant commander (O-4), or commander (O-5).

VIEWS OF THE COAST GUARD

On January 8, 2025, a Judge Advocate (JA) for the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

The PSC argues that the applicant is mistaken in that his commissioning in the U.S. Coast Guard was considered an “inter-service transfer,” which is governed by the policy of Article 1 of the Military Separations Manual, COMDTINST M1000.4, whereas they are direct transfers from one uniformed service to the Coast Guard and explicitly approved as such by the Officer Personnel Management Branch (OPM) of PSC. The PSC states that the rank preservation for inter-service transfers mentioned in DoDI 1300.04 Section 3.1.c.(3) applies to members who request transfer through the Secretary of the Military Department to which they belong.

According to the PSC, the applicant actually applied for a commissioning program operated by the Coast Guard Recruiting Command, which is an important distinction and renders the DoDI 1300.4 not applicable to the source of commissioning. The PSC states that Recruiting Command’s selection panels are convened in accordance with Article 7 of the Coast Guard Recruiting Manual, COMDTINST M1100.2G.

The PSC states that at the time the policy (Article 7 of the Coast Guard Recruiting Manual, COMDTINST M1100.2G) authorized the Coast Guard Recruiting Command to offer commissions to officers with prior military training in the grades O-1 and O-2. The PSC notes that the applicant applied to the selection panel convened May 2, 2022, per ALCGRECRUITING 012/22 he provided in his application and he accepted the offer of commissioning as O-2/LTJG on December 2, 2022, per the CG-9556 Acceptance of Oath and Office.

The PSC argues that, while the maximum appointment rank/grade for PTMO was changed in accordance with ALCOAST 034/23: Updates to Policy for Direct Commission Officers, the message was not released until January 24, 2023, seven weeks after his acceptance of commission and seven months after the selection panel convened.

APPLICANT'S RESPONSE TO VIEWS OF THE COAST GUARD

The Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The applicant responded on February 5, 2025.

The applicant states he summarily disagrees with the Coast Guard advisory opinion to deny relief. The applicant concedes the advisory opinion's objection that he did not strictly commission via a USCG "Inter-service Transfer (IST) program" as there is no USCG regulatory guidance for a USCG IST application. He argues that he staunchly opposes the advisory opinion's uncorroborated assertion that the program he commissioned under (Prior Trained Military Officer (PTMO)) is inexplicably permitted to operate outside the parameters of DoDI 1300.4 and reaffirm that the USCG erred by 'assigning' his rank during commissioning instead of retaining his rank and time in grade.

The applicant argues that Coast Guard Recruiting Manual, COMDTINST M1100.2G, which governs all USCG commissioning programs including PTMO, clearly delineates provisions required for currently serving applicants. According to the applicant, the Recruiting Manual shows DoDI 1300.4 applies to every currently serving applicant and, as there is no mention of IST in the Recruiting Manual, DoDI 1300.4 applies to every commissioning program within the manual for currently serving officers as no specific programs are cited and no exceptions are noted.

The applicant asserts that the advisory opinion's discussion statement that the PTMO program "renders DoDI 1300.4 not applicable" is egregious because the Instruction is listed as guidance for procedure of currently serving officers in the only manual which governs the PTMO program. According to the applicant, OPM affirmed his eligibility for the PTMO program by selecting him as a 'primary' and extending an offer for commission but subsequently failed to treat his rank/time in grade (TIG) as a 'currently serving applicant' as required by law.

The applicant states that he does not dispute that the USCG Recruiting Manual at the time he applied restricted the appointment grade to maximum of O-2 for PTMOs and he agrees that the USCG has the right to award a Prior-Service applicant not presently serving (as in, a PTMO applicant with a break in service) the rank of O-1 or O-2 as they see fit – those applicants are not protected by US Code. The applicant argues that OPM/PSC did not possess the authority to arbitrarily reduce rank and erase TIG for an actively serving member upon commission with no break in service and in doing so violated the provisions contained within DoDI 1300.04.

The applicant quotes ALCOAST 034/23 regarding PTMOs: "This change [of allowing the panel to award appointment grade up to O-5] will allow the Coast Guard to more easily re-access prior military, including prior Coast Guard officers, into grades that better account for education and experience gained during time outside of the Service. Members currently serving in another branch are subject to the interagency transfer rules in REF (D)." According to the applicant,

Reference D is United States Code § and its associated policy, DoDI 1300.04. The applicant argues that this ALCOAST affirms the USCG clearly understands and acknowledges Active-Duty DoD officers apply for PTMO must be treated in compliance with federal law under the DoDI which the USCG explicitly agreed to adhere to. According to the applicant, the ALCOAST likens its PTMO program specifically with ‘interagency transfer’ and there are no special provisions or limitations within the rank and TIG preservation section of DoDI 1300.04 that somehow exempts USCG commissioning programs (only if a member changed components within the same service). The applicant asserts that the advisory opinion fails to explain that while this update gives the selection board an option to restore or assign a PTMO rank of up to O-5 for applicants with breaks in service, the update still would not affect currently serving applicant and does not supersede protections in U.S. Code.

The applicant argues that DoDI 1300.04 defines ‘transfer’ in the glossary as “the movement of a service member from an Active or Reserve Component of a uniformed service by discharge and subsequent enlistment or appointment within 24 hours, to another Regular or Reserve Component of a Military Service.” The applicant states that his PTMO commissioning experience within these parameters is irrefutable and the procedure is even restated in the Recruiting Manual to include the DD Form 368 (as required in DoDI 1300.04 for transfer of officers). The applicant alleges that the ‘commissioning program/path’ selected, regardless of Service, is irrelevant. According to the applicant, the USCG may use different terminology that the DoD, but the continuous and reinforced direct references to DoDI 1300.04 in every USCG publication concerning PTMO and currently serving officers fully supports the USCG in using DoDI 1300.04 as its guiding and applicable principle. The applicant states that there is no justification for certain provisions within the spirit of the DoDI’s protections to apply and others to arbitrarily not when inconvenient.

According to the applicant, the advisory opinion failed to sufficiently justify or explain in federal law and/or regulation how DoDI 1300.04 does not apply to PTMOs: “...a commissioned officer transferred IAW this issuance will continue to hold the same grade and date of rank held in the losing uniformed service.” The applicant states that the above evidence clearly demonstrates the rank reduction and TIG reset was in violation of U.S. Code given the circumstances of his movement from the US Army to the USCG within 24 hours in agreement by both Services via the DD Form 368, US Army granting the conditional separation, and USCG PTMO commission offer (signed by DHS SEC). The applicant states he simply asks that his hard-earned military rank and time in grade be honored and restored with backpay – if not through demonstrated explicit entitlements of US Code, then within the spirit of the protection’s intent to avoid interruptions in military careers when crossing services.

The applicant thanks the Board for its time and consideration and humbly awaits its decision.

APPLICABLE LAW AND POLICY

Section 2101 of title 10 of the United States Code describes the original appointment of commissioned officers in the Coast Guard:

(a)

(1) The President may appoint permanent commissioned officers in the Regular Coast Guard in grades appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the following categories:

(A) Graduates of the Coast Guard Academy.

(B) Commissioned warrant officers, warrant officers, and enlisted members of the Regular Coast Guard.

(C) Members of the Coast Guard Reserve who have served at least 2 years as such.

(D) Licensed officers of the United States merchant marine who have served 2 or more years aboard a vessel of the United States in the capacity of a licensed officer.

(2) Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate.

(3) Original appointments under this section in the grades of ensign through lieutenant shall be made by the President along.

(b) No individual shall be appointed a commissioned officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a commissioned officer has been established under such regulations as the Secretary shall prescribe.

(c) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.

(d) For the purposes of this section, the term “original”, with respect to the appointment of a member of the Coast Guard, refers to that member’s most recent appointment in the Coast Guard that is neither a promotion nor a demotion.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction over this matter under 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.

2. The applicant requested an oral 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.¹

¹ *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).

3. The application was timely because it was filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).

4. The applicant alleges that the Coast Guard awarding him the rank of O-2 instead of maintaining his Army rank of O-3 was erroneous and unjust because the Coast Guard was bound to honor DoDI 1300.04. To remedy this alleged error, the applicant requests the Board grant him the rank of O-3. Regardless of the manner in which the applicant entered the Coast Guard, the requested relief is outside of the Board's authority. The Board is authorized to correct records, not to confer original appointments.² The authority to confer original appointments is reserved for the President.³ Thus, the applicant's request for relief should be denied.

5. The applicant is invited to reapply when his case would potentially be ripe for review by this board (i.e., after he has been promoted to LT/O-3). While we have no authority to promote commissioned officers by conferring appointments, we can advance officers on the seniority list in cases where the applicant presents substantial evidence of error or injustice. The Board offers no comment on the merit of any potential future application at this time.

(ORDER AND SIGNATURES ON NEXT PAGE)

² See 10 U.S.C. § 1552.

³ 14 U.S.C. § 2101.

ORDER

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

March 13, 2025

