

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2015-095



FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the applicant's completed application on May 6, 2015, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated April 1, 2016, 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 asked the Board to correct her record to show that she was not placed on weight probation after her cutter's October 2014 semiannual weigh-in. She alleged that during the weigh-in, her height was incorrectly recorded as 65 inches, although she is 66 inches tall. Because of this error, she was found not to meet weight standards. At 167 pounds, she was 2 pounds over the maximum allowed weight of 165 pounds for a 65-inch female. Therefore, she was placed on weight probation and a Page 7 (CG-3307) was placed in her record.

The applicant stated, however, that she is 66 inches tall, and the maximum allowable weight for a 66-inch female is 170 pounds. Therefore, she should not have been placed on probation. She alleged that she returned to the clinic on November 19, 2014, to be re-measured and re-weighed. Her height was correctly recorded as 66 inches, and she met the weight standard for that height. In support of these allegations, the applicant submitted a copy of the Page 7 she and her command signed on October 30, 2014, regarding her weight probation, and a printout from the Coast Guard's Direct Access database, which states that her height is 66 inches and that on November 19, 2014, she met the maximum allowable weight standard for that height.

VIEWS OF THE COAST GUARD

On September 11, 2015, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant the requested relief in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC).

PSC stated that when measuring height correctly, members remove their shoes and stand at attention on a scale, and their height is rounded to the nearest whole inch. PSC stated that following this procedure, the applicant's height measured 66 inches on November 19, 2014, and again on April 21, 2015. In addition, PSC submitted an email from the commanding officer of the applicant's cutter, who agreed that the Page 7 documenting weight probation should be removed from the applicant's record. In light of this evidence, PSC recommended that the Board grant relief by removing the Page 7 from the applicant's record.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 17, 2015, the Chair sent the applicant a copy of the Coast Guard's views and invited her to respond within 30 days. No response was received.

FINDINGS AND CONCLUSIONS

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

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

2. The applicant alleged that the Page 7 dated October 30, 2014, which documents her placement on weight probation, is erroneous and unjust because it was based on an erroneous measurement of her height. In considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.¹ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."²

3. The applicant has proven by a preponderance of the evidence that the Page 7 dated October 30, 2014, which documents her placement on weight probation, is erroneous and unjust and should be removed from her record. Although it is not clear why her height was recorded as 65 inches in October 2014 and 66 inches in November 2014, the CO of the applicant's cutter, who signed the Page 7, has repudiated it, presumably because she has found that the applicant did meet the Coast Guard's weight standards. PSC has concurred with the applicant's request and the CO's recommendation. Therefore, the Board should grant relief by removing the disputed Page 7 from the applicant's record.

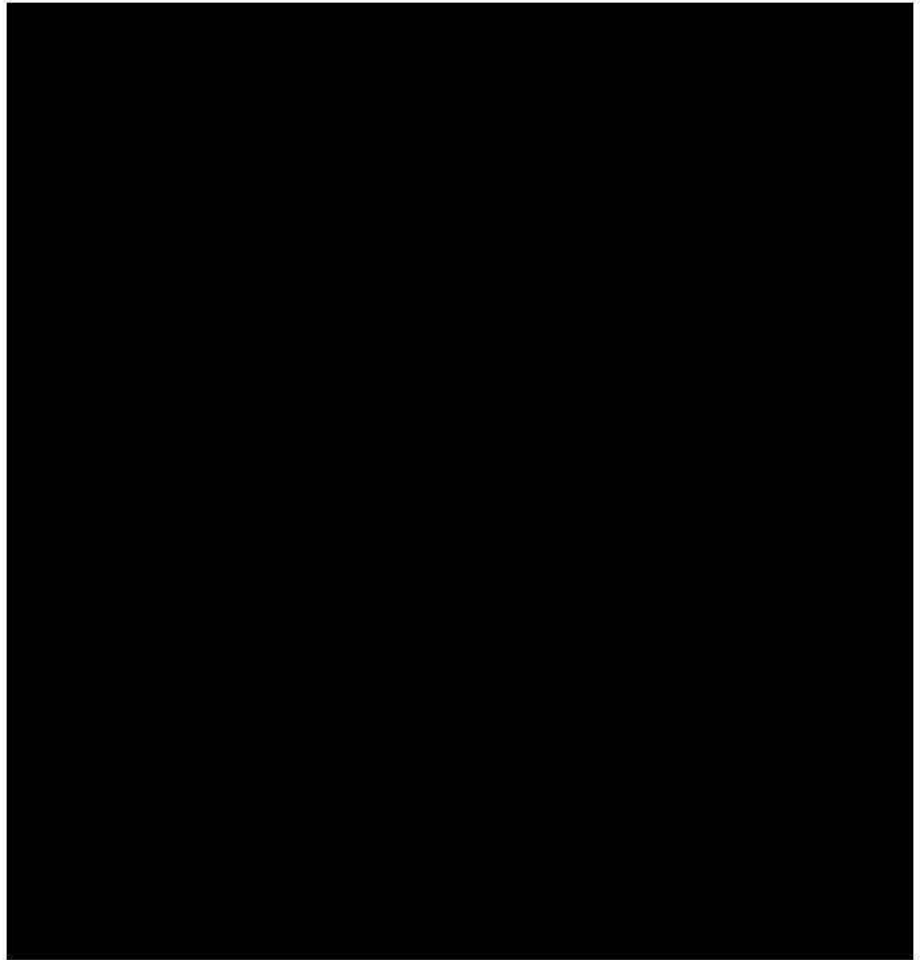
¹ 33 C.F.R. § 52.24(b).

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

ORDER

The application of [REDACTED], USCG, for correction of her military record is granted. The Coast Guard shall correct her record to show that she was not placed on weight probation by removing from her record the CG-3307 dated October 30, 2014, documenting weight probation.

April 1, 2016



* This member participated in the deliberations telephonically and so was unavailable to sign but approved the decision and order.