

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

---

Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2019-021**

██████████  
██████████ BM2/E-5

---

**FINAL DECISION**

This proceeding was conducted in accordance with 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 October 24, 2018, and prepared the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated November 1, 2019, 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 boatswain's mate, second class (BM2/E-5) on active duty in the Coast Guard, asked the Board to correct his record by removing a CG-3307 ("Page 7") dated May 3, 2018, which documents his placement on weight probation. The applicant alleged that the Page 7, which was signed by him and the prior Officer in Charge (OIC) of his unit contains some inaccurate information and that it was not his fault that the information was inaccurate. The applicant did not identify what information on the Page 7 he believes to be inaccurate.

To support his allegations, the applicant submitted a memorandum dated October 3, 2018. It is signed by a senior chief petty officer who is the new OIC of the applicant's unit and addressed to the Board. The OIC likewise did not identify which information on the Page 7 is erroneous but wrote the following:

On 03MAY2018, [the applicant] was assigned weight probation as per [the Weight and Body Fat Standards Program Manual, COMDTINST M1020.8H]. On the initial entry there were multiple inconsistencies with the specific categories noted on the CG-3307. The height and percent body fat were calculated incorrectly at no fault to the member. As the Officer in Charge, I have consulted with the member and Coast Guard Sector ... personnel office to validate his claim that the documentation was submitted in error. I concur with the member's request and ask for the removal of the CG-3307 dated 03MAY2018.

## SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard for six years on June 5, 2012, and earned the BM rating.

A database print-out of the applicant's weigh-ins shows that his height is 64" and his neck circumference is 16". To maintain compliance with the Coast Guard's standards, he must weigh 160 pounds or less because of his height or have no more than 22% body fat because of his age and gender.<sup>1</sup>

The applicant was placed on weight probation in October 2016 because he weighed 200 pounds, his waist was 37.5", and he had 25% body fat. He met the terms of his probation by reducing his body fat to 22% on February 1, 2017.

The database print-out shows that after a weigh-in on April 30, 2018, the applicant was again placed on weight probation, which was documented on the disputed Page 7 as follows:

03MAY2018: You have this date been determined to be 51 pounds overweight. Your measurements are: Height 66 [sic] (inches), Weight: 211 (pounds), Waist: 39 (inches), Neck: 16 (inches), Your age is: 24 and your percent body fat is 23. In accordance with Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8 (series), you are hereby notified that you are required to lose 51 pounds or drop to at least or below 22% body fat by 30DEC2018.

You are counseled that compliance is a condition of continued service. This non-compliant semiannual weigh-in is considered your first strike. If you fail to reach compliance by the end of this probationary period, you will be recommended for separation.

By signature below, you acknowledge both this entry and that you have been afforded the opportunity to review the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8 (series).

On June 6, 2018, the applicant reenlisted for three years. At the semiannual weigh-in on October 2, 2018, the applicant weighed 208 pounds and had 25% body fat.

## APPLICABLE LAW AND POLICY

Article 1.B.1. of the Coast Guard Weight and Body Fat Standards Program Manual, COMDTINST M1020.8H, states that members are required to "[m]aintain compliance with weight and body fat standards at all times, unless specifically stated otherwise"; complete the mandatory semiannual weight screening; follow the requirements in Article 3 if found to be non-compliant; and be familiar with the requirements of the manual. Article 6 shows that members' maximum allowed weights vary by height, and members' maximum allowed body fat percentages vary by gender and age.

---

<sup>1</sup> COMDTINST M1020.8H, Enclosures 1 and 2. Percentage body fat is determined for men by comparing their height and "circumference value" against a chart in Enclosure 2. Their "circumference value" is determined by subtracting the circumference of their neck from the circumference of their waist and rounding the result down to the nearest half-inch. COMDTINST M1020.8H, Chap. 2.F.

Article 3.B. states that non-compliance with the standards must be documented on a Page 7, unless the member has an authorized abeyance or exemption pursuant to Article 5.

Article 3.D. provides the terms for weight probation when members are non-compliant and have no medical abeyance or exemption pursuant to Article 5. Article 3.D.1. states that the probationary period begins immediately upon a non-compliant weigh-in. Article 3.D.4. states that for members eligible for a probationary period, the duration of the period should equal the amount of time it would take the member to lose all the excess weight or body fat at a rate of one pound per week or one percent body fat per month. But if the member is both more than 35 pounds over the maximum allowed weight and more than 8% over the maximum allowed body fat percentage, the member is ineligible for probation and must be processed for separation. If the member is more than 35 pounds overweight but has 8% or less excess body fat, the probationary period should be based on the member's body fat, while if the member has more than 8% excess body fat but is not more than 35 pounds overweight, the probationary period should be based on weight.

Article 3.D.6.a. states that a Page 7 must be prepared any time a member fails a semiannual weigh-in, even if the member is already on weight probation.

Article 4.A. states, “[m]embers who meet any one of the following criteria must be recommended for separation.” The list of criteria includes the following:

1. Separation In Lieu of Probation. Members who exceed their BMI screening weight and maximum allowable body fat percentage to such an extent that they would be placed in a probationary period greater than eight months by body fat calculations and more than 35 weeks by weight calculations (Members who exceed these standards are required to complete a form CG-6050, prior to being recommended for separation).
2. Failure to Progress During Probation. Members who fail to demonstrate reasonable and consistent progress during probation (example: a member who is not halfway towards compliance at the mid-point of their probationary period).
3. Non-Compliant at End of Probation. Members who fail to comply with their weight or body fat by the end of their probation.
4. Third Probationary Period in 14 Months. Members who have been placed on weight probation for the third time in a 14-month period (The 14-month period begins on the date the member is placed on probationary status).
5. Three Consecutive Failed Semiannual Weigh-Ins. Members who fail to maintain compliance with weight and body fat standards three consecutive semiannual weigh-ins (Apr-Oct-Apr or Oct-Apr-Oct), also known as the three-strike rule. ...

### **VIEWS OF THE COAST GUARD**

On March 28, 2019, a judge advocate (JAG) of the Coast Guard recommended that the Board grant alternative relief in this case and adopted the facts and analysis provided in a memorandum submitted by Commander, PSC, who also recommended granting alternative relief.

PSC first stated that the disputed Page 7 includes three errors:

- The applicant's height is listed on the Page 7 as 66", but he is 64" tall.

- With a waist circumference of 39” and neck circumference of 16”, the applicant’s “circumference value” on April 30, 2018, was 23.0. Therefore, according to the chart in Enclosure 2 of COMDTINST M1020.8H, his body fat percentage was 27%, not 23% as stated on the Page 7.
- The applicant was 51 pounds over his maximum allowed weight of 160 pounds, and probationary periods cannot be based on weight if the member is more than 35 pounds overweight. Therefore, his probationary period should have been determined by his body fat percentage and set at a rate of 1% body fat per month. Since he had 27% body fat and needed to have 22% body fat or less, his probationary period should have been just five months long, which would have made the end date September 30, 2018.

PSC recommended that the Board correct the Page 7 by amending it, not removing it. PSC recommended that the Board correct the applicant’s stated height to 64” and body fat percentage to 27%. PSC did not recommend changing the end date of the applicant’s probationary period on the Page 7, however.

### **APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On April 9, 2019, the Chair sent the applicant a copy of the Coast Guard’s advisory opinion and invited him to submit a written response within thirty days. No response was received.

### **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 and policy:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely filed.<sup>2</sup>

2. The applicant alleged that the Page 7 documenting his placement on weight probation in 2018 should be removed from his record because it contains errors. When 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, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.<sup>3</sup> 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.”<sup>4</sup>

3. The applicant has proven by a preponderance of the evidence that the Page 7 dated May 3, 2018, which documents his placement on weight probation, contains some erroneous information. But documenting non-compliance with the weight standards and weight probation

---

<sup>2</sup> 10 U.S.C. § 1552(b).

<sup>3</sup> 33 C.F.R. § 52.24(b).

<sup>4</sup> *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

on a Page 7 is required<sup>5</sup> and the Page 7 is important as a record of non-compliance because of the three-strike rule<sup>6</sup> as well as the Coast Guard's reenlistment eligibility criteria.<sup>7</sup> Therefore, the Board agrees with the Coast Guard that the Page 7 should be amended and not removed.

4. As the Coast Guard stated, the Page 7 erroneously states that the applicant's height is 66" instead of 64". In addition, based on a height of 64" and the circumference of his waist and neck, his body fat percentage was 27%, not 23%. Therefore, the Board agrees with the Coast Guard that these corrections should be made.

5. The Coast Guard also noted that the end date of the applicant's probationary period should have been September 30, 2018, based on his need to reduce from 27% body fat to 22%, instead of December 30, 2018. But the applicant was actually given the longer period to come into compliance with the standards, despite the rules, and so the Board finds that the end date of his probationary period should not be corrected. Correcting the end date would make it appear that the applicant had failed weight probation and should have been discharged since he had not met the standards by September 30, 2018.

6. Accordingly, the applicant's request should be denied but alternative relief should be granted by correcting his height on the disputed Page 7 from 66" to 64" and by correcting his body fat percentage from 23% to 27%. No other corrections are warranted.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

---

<sup>5</sup> COMDTINST M1020.8H, Chaps. 3.B. and 3.D.6.a.

<sup>6</sup> *Id.* at Chaps. 4.A.4. and 4.A.5.

<sup>7</sup> ALCOAST 093/14.

**ORDER**

The application of BM2 [REDACTED], USCG, for correction of his military record is denied, but alternative relief is granted: The Coast Guard shall amend the CG-3307 dated May 3, 2018, in his record by correcting his height from 66 inches to 64 inches and by correcting his body fat percentage from 23% to 27%. No other relief is granted.

November 1, 2019

