



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

██████████
Docket No. 10859-24
Ref: Signature Date

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Dear ██████████,

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 21 January 2025. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

You requested to change your record as follows:

Change your grade from Warrant Officer 1 (WO) to Chief Warrant Officer 2 (CWO2), effective 1 June 2024;

Re-scroll grade from WO to CWO2;

Apply the correct Officer Lineal Number based on the updated Date of Rank;

Ensure no changes to financial entitlements already received as CWO2;

Amend the 30 June 2024 transfer evaluation to reflect CWO2;

Amend the 30 September 2024 periodic evaluation to reflect CWO2;

Correct all personnel records in all government systems;

Any other appropriate relief.

You contend, through counsel, that you were selected for [appointment] to CWO2 in the 7841 (Cyber Warrant) designator pursuant to NAVADMIN 035/23. Despite meeting requirements for CWO2, you claim the promotion process was mishandled, and you were wrongfully [appointed] as a WO. You also assert that this error occurred despite no policy, guidance, law, or instruction mandating that cyber warrant officers must begin their accession at the WO grade. You argue that you submitted applications to Navy Personnel Command (NPC), pursuant to NAVADMIN 125/22 for both 7841 (Cyber Warrant), primary and 7811, as secondary, and that the application was submitted for both designators for consideration for CWO2 as you did not apply/submit a time-in-service (TIS) waiver for consideration for WO. Specifically, through counsel, you make the following summarized contentions:

Failure to Promote to CWO2 as Directed by NAVADMIN 035/23 Violated Established Regulations and Must Be Corrected Under 10 U.S.C. § 1552 and SECNAVINST 1412.8B. NAVADMIN 035/23 specifically reflected your selection as CWO2, and your promotion was set for 1 June 2024. This was a notable deviation from subsequent selection results, which listed selectees for the same 7841 Cyber Warrant Designator, but only at the WO level. See previous NAVADMINs for FY-21, 22, 23, and 25, which all indicate WO. The change in qualifications for this designator shows that you were uniquely qualified for promotion to CWO2, a rank that later applicants did not meet the qualifications for.

You Met the TIS Requirement for CWO2 Promotion Under NAVADMIN 125/22. NAVADMIN 140/18 was the governing document of the Cyber Warrant Program at the time of your application. It expressly identifies eligibility requirements and career paths for both WO and CWO2 accessions. Under NAVADMIN 125/22, applicants for CWO2 in the 7841 Cyber Warrant Designator were required to have between 14 and 20 years of TIS. You met all requirements at the time of your application in September 2023, having the necessary years of service and eligibility requirements contained in NAVADMIN 140/18 and 125/22, as reflected in the NAVADMIN 035/23 results. This distinction is critical because promotion boards for the 7841 Cyber Warrant Designator from surrounding years, as seen in other NAVADMIN results, listed only selectees for WO—a direct reflection of the unmet eligibility criteria for candidates from those other years.

Failure to Update Navy Systems Contradicts OPNAVINST 1420.1B and Mandates Correction. OPNAVINST 1420.1B requires the timely and accurate reflection of promotions across all Navy personnel systems, including NSIPS, TWMS, and DEERS. Despite being selected for CWO2 under NAVADMIN 035/23, your records in these systems were incorrectly updated to reflect WO on or around June 2024. This directly contravenes the instruction's mandate to synchronize promotion results across all systems. The discrepancy between DFAS's [Defense Finance and Accounting Service] correct processing of your CWO2 pay and the erroneous records in other personnel systems further underscores the arbitrary and capricious nature of the Navy's actions.

The Discrepancy in Pay and Rank Records Violates the Administrative Procedure Act and Constitutes Arbitrary and Capricious Action. Under the APA, 5 U.S.C. § 706, agency actions must not be arbitrary or capricious. NPC's failure to reflect your CWO2 promotion in naval systems, despite DFAS accurately processing your pay as CWO2, constitutes arbitrary and capricious behavior. This is further evidenced by the fact that subsequent applicants to the 7841 Cyber Warrant Designator were only eligible for WO, as seen in later NAVADMIN results, highlighting the unique nature of your promotion. On 18 July 2024, you met with ██████████ ... in ██████████ to discuss your ongoing rank discrepancy. Despite full support from ██████████ ... and recommendations for an Inspector General complaint or Board petition, the Navy's personnel systems still reflected WO.

Corrective Action Is Mandated to Ensure Your Future Career Progression and Prevent Further Harm. Although DFAS has correctly processed your pay as CWO2, the erroneous rank in systems such as NSIPS, TWMS, and DEERS threatens your future career progression. On 30 June 2024 and thereafter, when you detached from NIOC PAC to attend Limited Duty Officer (LDO)/CWO School in Newport, your transfer evaluation still reflected WO, creating the risk of adverse career consequences if not corrected immediately.

The Board, having reviewed all the facts of record pertaining to your allegations of error and injustice, found as follows:

The Chief of Naval Operations published NAVADMIN 125/22, announcing the Fiscal Year 2024 Active Duty (AD) LDO and CWO In-Service Procurement Board. On or around 30 September 2022, under the guidance found in NAVADMIN 125/22, you submitted your application for the for the following designators: Cyber Warrant (7841) and Cryptologic Warfare Technician (7811).

On 15 February 2023, NAVADMIN 035/23 announced the results of the FY2024 AD LDO/CWO In-Service Procurement Board. You were selected as a Cyber Warrant, 7841.

In an e-mail dated 16 February 2023, the CWO Community Manager provided clarification to a member of your chain of command that all 7841 accessions will be appointed as a WO and spend three years in that paygrade until then commissioned to the grade of CWO2.

In correspondence dated 29 March 2023, the Commanding Officer (CO) favorably recommended that you be commissioned in the paygrade of CWO2, noting that you applied for and was selected to CWO2, Cyber Warrant (7841). Your CO found that you met all criteria for selection to CWO2 pursuant to current policy and favorably recommended your commission in the grade to which the selection board identified: CWO2.

By memorandum, on 13 September 2023, the Under Secretary of Defense for Personnel and Readiness (USD (P&R)) recommended to the Secretary of Defense appointment of the enlisted members whose names were on the scrolls to the grades of WO1 through CWO3 and ensign in the regular Navy or Navy Reserve as selected by the FY24 AD Navy and Navy Reserve LDO and CWO In-Service Procurement Selection Board. The Secretary of Defense approved your appointment to WO1 on 13 September 2023.

By memorandum, on 11 October 2023, the Principal Deputy Assistant Secretary of the Navy, Manpower and Reserve Affairs (PDASN, M&RA) endorsed the recommendation for your appointment to the grade of CWO2. The memorandum indicates that due to administrative error and through no fault of your own, your TIS was not correctly accounted in determining the correct grade and that based upon your TIS, you should have been appointed to the grade of CWO2, effective 1 June 2024¹.

In an e-mail dated 6 May 2024, the Deputy Chief of Naval Operations (DCNO) informed your command that the only scroll for appointment currently with the Office of the Secretary of Defense was for your commission as a WO only. Further, DCNO asserts that since you were not selected as a Cryptologic Warfare Technician (7811), a CWO2 grade, any TIS considerations could not be applied. The DCNO indicates that since you had over 14 years of TIS when appointed a WO, and through no fault of your own, a Chief of Naval Personnel waiver to commission as a WO was required since you were not selected for the 7811 (CWO2) grade and TIS considerations could not be applied. Your command was advised that if you were dissatisfied with your selection status, you could decline the WO commissioning and reapply for CWO2 (7811); but due to your TIS, you would only be eligible for 7811 for future consideration.

On 31 May 2024, you were honorably discharged to accept a warrant in the same branch of service. As such, you were appointed a WO on 1 June 2024.

¹ In an e-mail dated 21 January 2025, NPC (PERS-803) verified that the PDASN, M&RA memorandum signed on 11 October 2023 was returned without action as it had been previously determined that you were correctly scrolled as a WO and not eligible for CWO2.

You received a Not Observed Detachment of Individual/Regular fitness report for reporting period 1 June 2024 to 30 June 2024 with Block 2 indicating your present grade/rate as [C]WO1 and Block 3 indicating a designator of 7841. You signed the fitness report and indicated that you did not intend to submit a statement.

In correspondence dated 22 October 2024, the Commander, ██████████ ██████████ noted that he “personally advocated” your behalf “being promoted in accordance with NAVADMIN 035/23...”

Upon review and consideration of all the evidence of record, the Board determined the requested relief is not warranted. In this regard, the Board substantially concurred with the 13 September 2023 (USD (P&R)) recommendation for original appointment to WO, as approved by the Secretary of Defense.

The Board noted you were selected for Cyber Warrant, 7841, and that multiple discussions involving you, your command, NPC, and DCNO (N1) confirmed the administrative error, which listed you under “CWO2” on NAVADMIN 035/23. Further, the Board gave substantial consideration to NAVADMIN 125/22, noting that *all* 7841 accessions are appointed as WO. Although you applied to both the WO and LDO programs, you were selected for the 7841 program, causing added confusion about your grade at selection. The Board noted you that prior to accepting your appointment, you were informed that if you were dissatisfied with your selection to WO, you could turn down your appointment and reapply for selection to CWO2. As evidenced by your Certificate of Release or Discharge from Active Duty (DD Form 214), you were discharged on 31 May 2024 by reason of accepting your appointment as a WO in the Navy. Additionally, your Officer Appointment Acceptance and Oath of Office (NAVPERS 1000/40) indicates you accepted appointment in the grade of WO, effective 1 June 2024. You were given an opportunity on the NAVPERS 1000/40 to decline the appointment but chose not to.

The Board considered the Commander, ██████████ ██████████ letter, in which he supports “finding the appropriate resolution for [you]” noting that you will make an excellent CWO2. However, the Board concluded that you were properly appointed to the grade of WO and the administrative error published in NAVADMIN 035/23 has been sufficiently explained and corrected. Furthermore, the Board noted the Secretary of Defense, under authority vested by Congress, appoints officers to specific grades and concluded that the Board cannot correct records to show an officer has been appointed to a grade without proper appointment by the President or Secretary of Defense. On 13 September 2023, the Secretary of Defense approved your appointment to the grade of WO, and you accepted that appointment.

Despite your contentions and arguments for relief, the Board did not find the Navy’s actions to correct a administrative error, published in a NAVADMIN, constituted arbitrary and capricious action. In fact, you knowingly accepted appointment in the grade of WO. Moreover, given that the Board cannot correct records to show an officer has been appointed to a grade without proper appointment by the President or Secretary of Defense, the Board is therefore not mandated to correct the record. Based on the available evidence the Board concluded there was insufficient evidence demonstrating a material error or injustice warranting your requested relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

3/12/2025

