



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

██████████  
Docket No. 492-25  
Ref: Signature Date

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Dear Petitioner:

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 16 July 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 as well as the 25 March 2025 advisory opinion (AO) furnished by the Navy Personnel Command (PERS-00J) and your response to the AO.

The Board carefully considered your request to remove your 6 February 2024 non-judicial punishment (NJP), your evaluation report for the reporting period 29 September 2023 to 6 February 2024, investigations related to the NJP, and any mention of administrative separation. You also request restoration of your promotion to E-7, recalculation of your trait averages and promotion recommendations for all effected evaluations, and reinstatement of your selection for the Limited Duty Officer (LDO) program. In the alternative, as a matter of clemency, you request to restore your rank to E-7. The Board considered your contentions that:

(1) The misconduct did not meet the definition of fraternization.

(2) The Navy's fraternization policy was misunderstood and misapplied. The command treated this incident as a Chief Petty Officer (CPO) engaging in an inappropriate relationship with a Petty Officer Third Class (PO3). However, the relationship started when you were a PO1 and continued after you were "frocked" to CPO.

(3) Before being selected for CPO, you began a relationship with ██████████ also assigned to the ██████████. You never directly supervised ██████████, and you were never in the same chain of command at any point during the relationship.

(4) Lacking a complete understanding of the Navy's fraternization policy, you mistakenly admitted that the relationship was improper. The commanding officer (CO) recited the definition of fraternization but did not engage in a substantive analysis of the policy or inquired if the relationship existed before you were frocked to AOC.

(5) Explicitly prohibited relationships are (1) between Officer and Enlisted, and (2) between Chief Petty Officers (E-7 to E-9) and Junior Personnel (E-1 to E-6). However, these relationships will be permissible if there is clear and convincing evidence of a pre-existing relationship prior to a permanent change in status. Members should disclose the relationship to their chain of command "before the change in status."

(6) "Frocking does not change the permanent status of a member," frocking merely "provides early recognition for members selected" for the next higher rank. "Any administrative or punitive action taken (e.g., reduction in grade) [against a Frocked member] is based on the member's permanent pay grade."

(7) Even if this Board were to conclude there was a violation of policy, the Board should find that the reduction in rank was disproportional to the offense as supported by the historical dockets of service members charged with fraternization that received only letters of reprimand or counseling entries. These cases demonstrate your punishment was disproportional.

(8) You were processed for administrative separation with a recommendation that you receive an other-than-honorable discharge. The administrative separation board considered all the evidence and declined to separate you. ██████████ since separated from the Navy, lives with you, and you plan to marry her.

To assist in reviewing your petition, the Board obtained the PERS-00J AO. According to the AO, which was considered unfavorable to your request, you have not overcome the presumption of regularity as to the CO's actions in the NJP or the advancement process. The AO determined that the NJP was proper, as was the punishment and aftermath of losing your advancement to CPO and potential limited duty officer commission.

In response to the AO, you contend that the AO failed to analyze whether the relationship undermined authority, compromised the chain of command, or resulted in preferential treatment; which are all relevant issues in determining whether a frocked CPO's pre-existing relationship with an AO3 was improper. You claim your interactions with junior Sailors were not attempts to conceal a wrongful relationship. Instead, they were responses to unsolicited and inappropriate gossip about activity on the ship. Your efforts were a request to stop that gossip. You also contend that no regulation within the Department of the Navy mandates the disclosure of permissible relationships. You also claim that you established a pre-existing relationship in your petition. Additionally, the investigation report highlighted two critical issues: (1) members of the chain of command knew about your relationship with ██████████ before the investigation, and (2) the

senior members observed that the relationship between had always been professional. You further contend that the Navy's fraternization policy clearly expresses that if an individual in the relationship is subsequently advanced to a rank outside the permissible thresholds, then that soon-to-be-advanced member must disclose the relationship before the permanent change in rank deadline.

In its review of your request and all available evidence, the Board determined that no relief is warranted. In reaching its decision, the Board observed that it is not an investigative body and relies on a presumption of regularity to support the official actions of public officers, in the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties.

In this regard, the Board noted the 7 January 2024 Preliminary Inquiry (PI) Report into facts and circumstance surrounding allegations of fraternization within the Weapons Department. At the conclusion of that investigation, the Investigating Officer (IO) found no hard evidence to prove you were engaged in an improper relationship with ██████████. In your 5 January 2024 statement to the IO, you denied being in a relationship with ██████████. However, during a later interview on 17 January 2024, you admitted to initiating the relationship and being in love with ██████████. You also admitted to approaching a junior Sailor about seeing you at the mall with ██████████.

On 6 February 2024, you received NJP for violating Uniform Code of Military Justice (UCMJ) Article 92 (failure to obey order or regulation) and UCMJ Article 107 (false official statement). Specifically, for violating the Navy Fraternization policy and making a false statement during the investigation. You were found guilty by your commanding officer (CO) and awarded extra duty, restriction, reduction in rank to E-5, and forfeiture of pay. You were properly notified of your CO's intent to impose NJP, you acknowledged your Article 31, UCMJ Rights, your right to consult counsel, and your right to appeal. You accepted NJP, pleaded guilty to both charges, and you elected not to appeal your CO's finding of guilt. Based on a totality of the evidence, the Board determined that your NJP was conducted in accordance with the applicable Manual for Courts-Martial (MCM). The Board also determined that your CO acted within his/her discretionary authority and relied on a preponderance of evidence that included the Preliminary Inquiry Report, Disciplinary Review Board, Executive Officer Inquiry, your statements, and your repeated guilty pleas when finding you guilty of violating UCMJ Articles 92 and 107.

The Board substantially concurred with the AO that your contentions regarding the proper application of the fraternization policy lacks merit. In this regard, the Board determined that the Navy Fraternization policy was properly applied to your case. As a frocked CPO, you were required to uphold the same responsibilities and obligations of a CPO, and you were afforded the same customs, courtesies and authority over junior sailors. In accordance with MILPERSMAN 1420-060, you were advised that your appointment carries with it the obligation that you exercise increased authority and willingly accept greater responsibility. You were also advised that your frocked rate may be vacated by your CO. According to the Navy Fraternization policy, personal relationships between CPOs (E-7 to E-9) and junior personnel (E-1 to E-6), who are assigned to the same command, that are unduly familiar and that do not respect differences in grade or rank are prohibited. The Board determined your CO's finding that your relationship with a junior Sailor was in violation of the Navy Fraternization policy was proper and supported by the

evidence. Fraternization does not require you to be the direct supervisor or to share the same chain of command. The threshold for fraternization requires that the CO find the relationship prejudicial to good order and discipline or that it is service discrediting. The surrounding circumstances often determine whether the conduct in question is inappropriate. Examples of inappropriate conduct include dating, shared living accommodations, or intimate or sexual relations. The Board determined that your CO was best situated to consider the surrounding circumstances and to determine whether NJP was warranted.

The Board determined your argument regarding a pre-existing relationship lacks merit based on your plea of guilty. Further, the Board was not persuaded by your argument that you lacked understanding of the Navy Fraternization policy. The Board noted that you were an experienced and professional Sailor who achieved selection to Chief Petty Officer. The Board was unable to reconcile your purported lack of understanding of a key and relatively basic Navy policy with your otherwise outstanding performance as a Sailor. In fact, the Board found it implausible you would not clarify your understanding of the Fraternization policy if it meant you could potentially face serious consequences for failing to do so. Rather, the Board found that the circumstances of your case show that you, more likely than not, were aware that your relationship was prohibited under the policy and attempted to conceal it. The Board noted that the Navy Fraternization policy is brief, clear, and was easily accessible for your review. The Board also noted that your CO recited the definition of fraternization to you at NJP and you affirmed your understanding. Thus, the Board concurred with the AO that your CO was not required to engage in a substantive analysis of the policy. When asked “Why not report it?” you stated, “I was scared of the effect it would have on making Chief.” When asked about being transparent or asking for help, you stated that you “didn’t see a positive outcome.” The Board determined that your responses clearly indicate your awareness that your relationship with a junior Sailor was inappropriate and a violation of policy.

The Board also noted that you had the opportunity to admit to the relationship and instead you provided a false statement to the IO. You later admitted to struggling with the relationship throughout Chief season and admitted asking a junior sailor not to disclose that you were seen with ██████████ at the mall. The Board also determined that your CO was not obligated to make further inquiries about the pre-existing nature of your relationship. The history of your relationship was already known to your CO and well documented in the Preliminary Investigation, Disciplinary Review Board notes, Executive Officer Inquiry, and in your statements. Even if your CO was inclined to consider your pre-existing relationship, the fact remains that you provided a false official statement to the IO and you were duly punished at NJP for that offense. The Board further determined that you were not similarly situated as the cases cited in your petition. Fraternization was not the sole basis for your NJP, you were also charge for providing a false official statement, and you pleaded guilty to both charges.

Furthermore, the fact you remain in a relationship with ██████████ was not persuasive to the Board. According to the Navy Fraternization policy, “[c]onduct that constitutes fraternization is not excused or mitigated by a subsequent marriage or declared relationship between offending parties.”

Concerning your request to reinstate your advancement to CPO, the Board determined that your advancement to CPO was properly withdrawn in accordance with MILPERSMAN 1420-060 and

the Navy Advancement Manual for Enlisted Personnel. Frocking is not a permanent promotion. Frocking is an administrative authorization to assume the title and wear the uniform of a higher pay grade without entitlement to the pay and allowances of that grade. COs have the authority to withdraw a recommendation for advancement at any time, prior to the advancement effective date, if the member is determined to no longer qualify for advancement. On the date of your NJP, you were a frocked CPO and still held the pay grade E-6. Your reduction in rank to E-5 further disqualified you for promotion to E-7.

The Board also noted that you were issued a Special/Regular evaluation report documenting your NJP and determined your evaluation report is valid as written and filed according to the applicable Navy Performance Evaluation System Manual. Based on the foregoing determinations, the Board found no basis to support your request for promotion to E-7, selection to the Limited Duty Officer program, removal of adverse documents, or adjustments to your trait averages and promotion recommendations. In conclusion, the Board found the evidence you provided, in concert with its review of all available documentation, to be insufficient to overcome the presumption of regularity. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit 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,

8/6/2025

