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COMDTINST 1070.1
29 Sep 2011

COMMANDANT INSTRUCTION 1070.1

Subj: CORRECTING MILITARY RECORDS

- Ref: (a) Military Justice Manual, COMDTINST M5810.1 (series)
(b) Enlisted Accessions, Evaluations, and Advancements, COMDTINST M1000.2 (series)
(c) United States Coast Guard Regulations 1992, COMDTINST M5000.3 (series)
(d) Physical Disability Evaluation System, COMDTINST 1850.2 (series)

- PURPOSE.** The Coast Guard maintains many types of personnel records, such as the Enlistment Contract, Form CG-3301; Court Memorandum; and Administrative Remarks, Form CG-3307. Although those who prepare these records strive to ensure that each is accurate, occasional mistakes do occur. Additionally, in some instances, an entry may have been made accurately, but the member disputes the facts or circumstances upon which it is based. This Instruction provides general information about the administrative methods available for seeking correction of Coast Guard personnel records.
- ACTION.** All Coast Guard unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, and chiefs of headquarters staff elements shall comply with the provisions of this Instruction. Internet release is authorized.
- DIRECTIVES AFFECTED.** Chapter 14.B. of Personnel Manual, COMDTINST M1000.6 (series) is cancelled. The Coast Guard Personnel Manual is being eliminated and reissued as a set of manuals and instructions (including this one) which will allow for more expedited review of updates and promulgation of policy changes.

DISTRIBUTION – SDL No. 159

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NON-STANDARD DISTRIBUTION

4. DISCLAIMER. This document is intended to provide operational requirements for Coast Guard personnel and is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard.
5. PROCEDURES. No paper distribution will be made of this Instruction. Official distribution will be via the Coast Guard Directives (CGDS) DVD. An electronic version will be located on the following Commandant (CG-612) web sites. Intranet: <http://cgweb.comdt.uscg.mil/CGDirectives/Welcome.htm>, Internet: <http://www.uscg.mil/directives/>, and CGPortal: <https://cgportal.uscg.mil/delivery/Satellite/CG612>.
6. BACKGROUND. The policy contained within this Instruction was previously located in the Personnel Manual, COMDTINST M1000.6 (series). References to commands and Headquarters offices have been updated to reflect the current Coast Guard organizational structure. Changes to policy in previously issued ALCOAST messages have been incorporated as well as legislatively mandated changes. References to other elements of the legacy Personnel Manual have been updated to reflect the newly promulgated Manuals.
7. POLICY.
 - a. General. Certain adverse personnel actions have specific provisions for review or appeal. For example, court-martial convictions are subject to review under the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial (MCM). Appeals of nonjudicial punishment imposed under Article 15, UCMJ are governed by Part V, MCM, and Chapter 1 of reference (a). Appeals of Enlisted Performance Evaluations are governed by Article 5.A. of reference (b). In each instance where a specific review or appeal provision already exists, the member should first pursue that remedy. Not doing so can lead to a denial of relief for "failure to exhaust" an available, effective remedy. It is not the intent of this instruction to describe all of the processes which are available for seeking relief from actions of a member's superiors. Only those which normally can be used to obtain correction of personnel records are included.
 - b. Appeals through the Chain of Command.
 - (1) Lowest Level of Appeal. Most errors in personnel records are minor ones, such as charging a member with too many days of leave, mistakenly canceling an allotment, etc. These errors can be corrected by the Servicing Personnel Office (SPO) provided they are within the scope of responsibility of the SPO as outlined in the Military Personnel Data Records (PDR) System, COMDTINST M1080.10 (series). If a member believes a personnel record entry is unfair, an appeal through the member's chain of command usually is the simplest and fastest means for seeking correction or deletion of the entry. The level in the chain of command to which the appeal should be directed is dependent upon all of the circumstances. As an example, for a member who receives an Administrative Remarks, Form CG-3307, entry from his or her division chief documenting purported substandard watchstanding, an appeal through the division chief and the executive officer to the commanding officer should suffice. (This appeal may be in the form of a so-called "Request Mast" pursuant to Article 9-2-3 of reference (c).

- (2) Purpose. An appeal through the chain of command is recommended because it permits a Coast Guard member to have the allegedly improper entry reviewed by someone senior to the person making the entry, who can order the record corrected when appropriate. This traditional process enhances both military discipline and esprit de corps, while simultaneously protecting the member from arbitrary or unfounded adverse personnel record entries.
- (3) Selective Reenlistment Bonus. Any enlisted member or former enlisted member who believes that they were denied, in whole or in part, the payment of an SRB due to an administrative error or oversight, including the failure to counsel the member properly, may submit an application for correction of their record and payment of the erroneously withheld SRB. Applications shall be submitted using an Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552. The completed application must be submitted directly to the Board for Correction of Military Records (BCMR). The applicant should clearly identify what circumstances caused them to believe that an SRB was withheld erroneously. Upon receipt of a completed application the BCMR will review the application and make a determination whether an SRB was withheld erroneously, and, if it was, whether the applicant may now be paid that bonus.

c. Personnel Records Review Board.

- (1) Policy. The Coast Guard has established the Personnel Records Review Board (PRRB) to provide a more formalized method for members to seek correction of entries in their personnel records. The Assistant Commandant for Human Resources is responsible for the PRRB and details members to serve on the PRRB. The Personnel Records Review Board (PRRB) recommends appropriate action on applications for correction or relief from error in the records of Coast Guard personnel. This section applies to all personnel involved in this process. Nothing in this policy precludes the correction of records without PRRB review by competent personnel acting within their authority.
- (2) Scope of Review. The PRRB is empowered to review all applications for correction of error contained in Coast Guard personnel records, except with respect to the following types of records that are already the subject of separate internal review processes:
 - (a) Court-Martial Proceedings (Articles 60, 64, 65, 66, 67, 69, and 74, UCMJ);
 - (b) Upgrading Discharges (33 CFR, part 51);
 - (c) Medical Separations and Retirements (reference (d));
 - (d) Nonjudicial Punishment (Article 1-E-11 of reference (a));
 - (e) Enlisted Marks (Article 5.A. of reference (b));
 - (f) Personnel Security and Suitability Program (COMDTINST M5520.12 (series));

- (g) Discrimination Complaints (Coast Guard Civil Rights Manual, COMDTINST M5350.4 (series)); and
- (h) Administrative Discharge Board Proceedings (Articles 1.A.7., 8, 10, 14, 20 and 1.B.22. and 23.).

Requests under the Privacy Act, 5 U.S.C. Section 552A, to correct personnel records, including those records listed above, may be referred at the discretion of the Director of Personnel Management to the PRRB for its review and recommendations.

(3) Mission of the Board.

- (a) The PRRB acts initially on applications for correction of error in personnel records within its purview before such applications are submitted to the Board for Correction of Military Records of the Coast Guard (see 10 U.S.C. Section 1552; 33 CFR part 52; paragraph 5.g.).
- (b) The PRRB recommends to the Director of Personnel Management, or the Director of Reserve and Leadership, action to be taken on applications for correction of error. The foremost duty of the PRRB is to protect both the interests of the Coast Guard and the applicant by ensuring accurate and reliable personnel records. All contested records will be accorded a presumption that they are administratively correct and prepared in accordance with applicable laws and regulations unless the PRRB is persuaded that the presumption has been overcome after considering all the reliable evidence in the record before them. The PRRB may determine what information, other than that provided by the applicant, is needed to properly consider each application. In reviewing applications and making its recommendations, the PRRB is guided by its best professional judgment and experience. The PRRB may recommend corrections other than those specifically requested by the applicant.
- (c) The PRRB will not accept applications from persons who are retired or separated from the Coast Guard.
- (d) The PRRB will not accept any third party applications except in extreme conditions such as death or incompetency.

(4) Composition and Procedures of the Board.

- (a) Under the cognizance of the Director of Personnel Management, the PRRB will consist of at least three ad hoc members. The Deputy Director of Personnel Management or a designee will act as president of the board. A representative of the Judge Advocate General and Chief Counsel (CG-094) will also be a member in all cases. The third member will be from the Coast Guard Personnel Service Center, Officer Personnel Management Division (CG PSC-OPM) if the record of an officer on active duty is involved, the Coast Guard Personnel Service Center, Enlisted Personnel Management Division (CG PSC-EPM) if the record of an enlisted member on active duty is involved, or Coast Guard Personnel Service Center (CG PSC-RPM) if a Reserve record is involved.

When a reserve member's record is involved, at least one member of the board will be from the reserve component. There will be a fourth member from the Coast Guard Personnel Service Center, Evaluations Branch (CG PSC-OPM-3) or Reserve Personnel Management Division, OES Manager (CG PSC-RPM-1) if error is alleged in an officer evaluation report (OER). Normally a majority of the members shall be senior to the applicant, but in cases where this is not practicable, the report of the approving authority shall so indicate. The recommendations of the board are to be based on a majority vote; minority views may be submitted. No person may be a member in a case in which he or she has been personally involved.

- (b) PRRB proceedings are administrative, non-adversarial, and informal. The PRRB is not required to meet as a body to act on an application, is not bound by the formal rules of evidence used in courts-martial or other court proceedings, and may consider any evidence having probative value concerning the application before the board. Neither applicants nor their representatives may appear before the PRRB. However, the PRRB may obtain additional information from the applicant, persons in the chain of command, or any other relevant source in order to ensure a proper and correct result. In keeping with sound judgment, the president of the PRRB may determine the method to be used in reviewing and evaluating applications to ensure expeditious yet proper handling of each case.

(5) Policies and Standards.

- (a) Personnel records are presumed to be administratively correct and prepared in an objective manner in accordance with applicable laws and regulations.
- (b) The burden of proof is upon the applicant. Accordingly, to justify correction of a record, the applicant must produce clear and convincing evidence that overcomes the presumption of regularity with respect to the contested record and establishes that action is warranted to correct a material error.
- (c) Correction of a procedural irregularity or error does not necessarily entitle an applicant to relief beyond having a corrected record. To be entitled to additional relief, applicants must clearly demonstrate a substantial connection or causal relationship between the error that was corrected and the benefit or additional relief requested.
- (d) Assuming each case will be factually unique, the PRRB is not bound by past decisions but should strive to treat similar cases consistently.
- (e) Applications must be supported by relevant and reliable evidence. Such evidence should include the sworn statements of relevant witnesses, including the applicant, detailing the information they have and their basis for it. Relevant documents and contact information for each witness should also be included. Applications consisting only of applicant's opinions and allegations, without independent supporting evidence, will not be sufficient to overcome the presumption of regularity.

- (6) Time Restrictions. PRRB applications must be received by Commandant (CG-12) within 1 year of the date on which the contested information was entered or should have been entered into the official record. Applications which exceed these time restrictions will not be considered by the PRRB and may be submitted directly to the Board for Correction of Military Records of the Coast Guard (CGBCMR) in accordance with 33 CFR part 52.
- (7) Submission of an Application. Applications shall be submitted using Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552, DD Form 149. Completion of the form is self-explanatory. If the space provided on the form is insufficient, the item number and information should be placed on a separate piece of paper attached to the form and that item of the DD Form 149 should be marked "See Attachment." In addition to the instructions contained in DD Form 149:
- (a) In item 8 or on attached sheet, identify specifically the alleged erroneous document or omission in the record. State in detail the correction desired and other relief sought, if any.
 - (b) In item 9 or on attached sheets, explain fully and clearly why the record should be corrected.
 - (c) In item 10 or on attached sheets, list the documents or sworn statements from individuals that are attached to support the alleged error. Attached documents or sworn statements should be originals or certified true copies.
 - (d) The application may be submitted directly to Commandant (CG-12) without going through the chain of command. However, applicant should consider soliciting command input, which often supports the applicant's allegation of error. Command input should be included as an enclosure when applicable.
 - (e) Forward the completed application with all enclosures (original and five copies of entire package) directly to:

Commandant (CG-12)
Attn: Personnel Records Review Board U. S. Coast Guard
2100 2nd Street, SW Stop 7801
Washington, DC 20593-7801
- Applicants will receive email notification upon receipt of their application.
- (f) Applications may be considered complete when received. Incomplete applications or those that lack support may be rejected. Therefore, do not submit an application without all necessary support documents.
 - (g) After submitting the application, applicants shall notify the PRRB of any change in mailing address.

- (h) Applicants desiring to have a record corrected prior to the date of a selection or promotion board should clearly state that desire on their application and should ensure that the application is submitted well in advance of the scheduled convening date of the particular board. The PRRB will make every reasonable effort to act prior to the board's convening date.
- (8) Initial Disposition. The Coast Guard Personnel Service Center or program manager responsible for the contested record will screen the application and take appropriate action within its authority.
- (9) Disposition By The Board.
- (a) The PRRB will review and independently evaluate each case properly referred to it. The president of the PRRB may seek assistance or information pertinent to cases before the PRRB from other Coast Guard personnel.
- (b) Where the PRRB cannot take action on the application the president may either return the application to the applicant or forward it to the BCMR.
- (c) Findings, conclusions, and recommendations of the PRRB in each case will be set out in a case summary.
- (10) Final Disposition. In most cases, the Director of Personnel Management will take final action on recommendations of the PRRB involving active duty members and the Director of Reserve and Leadership will take final action on records concerning reservists. The final action authority will approve, disapprove, or modify the recommendation of the PRRB. Actions that disapprove or modify the recommendations of the PRRB will include reason(s) for doing so. The Executive Secretary will distribute the report of the board and final action as follows:
- (a) Executive Secretary – PRRB master file.
- (b) Board for Correction of Military Records (DOT C-60).
- (c) Commandant (CG-0946) – Office of Military Justice.
- (d) Coast Guard Personnel Service Center (CG PSC-PSD-MR) – Records Branch.
- (e) Coast Guard Personnel Service Center (CG PSC-OPM-1) – Boards, Promotions, and Separations Branch (Cases involving active duty officers).
- (f) Coast Guard Personnel Service Center (CG PSC-OPM-3) – Officer Evaluations Branch (Cases involving OERs of active duty officers).
- (g) Coast Guard Personnel Service Center (CG PSC-EPM-1) – Advancements and Separations Branch (Cases involving active duty enlisted).

- (h) Coast Guard Personnel Service Center (CG PSC-RPM) Reserve Personnel Management Division (Cases involving reservists).

Applications denied or partially denied may be forwarded to the BCMR or returned to the applicant. The PRRB will reconsider applications only upon the presentation of additional material evidence that was not reasonably available when the original application was submitted.

- d. Privacy Act. The Privacy Act (5 U.S.C. 552a) provides another method for seeking correction of personnel records. However, its scope normally is limited to routine administrative corrections, not those involving discretionary or judgmental decisions. The Coast Guard Freedom of Information (FOIA) and Privacy Acts Manual, COMDTINST M5260.3 (series), describes the procedures for seeking records correction under the Privacy Act.
- e. UCMJ Article 138. Congress established UCMJ Article 138 as a means for a military member to seek redress of alleged "wrongs" committed by the member's commanding officer. A "wrong" can include an allegedly improper personnel record entry. As implemented by the Coast Guard in the Military Justice Manual (MJM), a member's "Commanding Officer" includes "[a]ny Coast Guard commanding officer empowered to impose non-judicial punishment upon the complainant, which includes any superior commanding officer in the chain of command." The MJM describes the procedures for seeking redress from one's commanding officer under Article 138, UCMJ, and if redress is denied, for filing a "complaint" with the officer exercising general court-martial jurisdiction over the member's commanding officer.
- f. Coast Guard Discharge Review Board. Coast Guard Discharge Review Board. Title 10, United States Code, 1553 provides the Secretary with the authority to establish a board to review discharges or dismissals from the Service. Part 51 of Title 33, Code of Federal Regulations (CFR), established the Coast Guard Discharge Review Board (DRB) and sets forth the procedure for seeking review after a member has been separated from the Coast Guard. 33 CFR 51.3 provides "[a] former member may apply to the DRB for a change in the character of, and/or the reason for, the discharge. The Coast Guard DRB review is generally applicable only to administrative discharges, however, the DRB may review the discharge of a former member by sentence of a court-martial for the purpose of clemency.
 - (1) Application. Requests for corrections of records must be made on an Application for the Review of Discharges from the Armed Forces of the United States, DD Form 293.
 - (2) Limitations. An application for review of a discharge must be received by the DRB within 15 years of the date the former member was separated from the Coast Guard.
- g. Board for Correction of Military Records. 10 U.S.C. 1552 provides the Secretary with the authority to establish a board to "correct any military record... when... necessary to correct an error or remove an injustice." 33 CFR 52 establishes the Department of Homeland Security Board for Correction of Military Records (BCMR) and sets forth the procedure for applying to the BCMR for correction of a military record of the Coast Guard. The normal filing limit for applications to the BCMR is three years from the date of discovery of the alleged error or injustice.

(1) Purpose. The Board reviews the application for relief together with pertinent military records to determine whether an error has been made in the Coast Guard records, or whether, under normal standards of military law, administration and practice, the applicant has suffered a wrong as the result of an error of omission or commission in the records or through some manifest injustice in the treatment accorded him or her.

(2) Application. Requests for corrections of records must be made on an Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552, DD Form 149. Forms and explanatory matter may be obtained from the Department of Homeland Security, Chairman, Office of General Counsel, Board for Correction of Military Records, 245 Murray Lane, Stop 0485, Washington, DC 20528-0485.

8. RECORDS MANAGEMENT CONSIDERATIONS. This Instruction has been evaluated for potential records management impacts. The development of this Manual has been thoroughly reviewed during the directives clearance process, and it has been determined there are no further records scheduling requirements, in accordance with Federal Records Act, 44 U.S.C. 3101 et seq., National Archives and Records Administration (NARA) requirements, and the Information and Life Cycle Management Manual, COMDTINST M5212.12 (series). This policy does not have any significant or substantial change to existing records management requirements.

9. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.

- a. The development of this Instruction and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management, and are categorically excluded (CE) under current USCG CE # 33 from further environmental analysis, in accordance with Section 2.B.2. and Figure 2-1 of the National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series). Because this Instruction contains guidance on, and provisions for, compliance with applicable environmental mandates, Coast Guard categorical exclusion #33 is appropriate.
- b. This directive will not have any of the following: significant cumulative impacts on the human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policies in this Manual must be individually evaluated for compliance with the National Environmental Policy Act (NEPA), Council on Environmental Policy NEPA regulations at 40 CFR Parts 1500-1508, DHS and Coast Guard NEPA policy, and compliance with all other environmental mandates.”

10. FORMS/REPORTS. The forms referenced in this Instruction are available in USCG Electronic Forms on the Standard Workstation or on the Internet: <http://www.uscg.mil/forms/>; CGPortal at <https://cgportal.uscg.mil/delivery/Satellite/uscg/References>; and Intranet at <http://cgweb.comdt.uscg.mil/CGForms>.

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