



entry counseling you for attempting to kiss another married service member who was not your husband. The Board also noted that you were properly counseled and determined that the contested entry was written and issued according to the Marine Corps Individual Records Administration Manual (IRAM). Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal. Moreover, your CO signed the entry and determined that your performance was a matter essential to record, as it was his/her right to do. The Board also determined that a specific violation of the UCMJ is not required for your CO to determine that a disciplinary infraction occurred. The Board also determined that, although the Sexual Assault Disposition Response report revealed insufficient evidence to prosecute you at a trial, your CO had sufficient knowledge of the facts to determine that your page 11 entry was warranted.

Concerning your contention that your page 11 entry's suggestion that you have a problem with alcohol and the recommendation to refrain from drinking alcohol was unwarranted, the Board noted that the NCIS investigation referenced a statement that you were believed to be intoxicated, as a result, you were appropriately referred to your command Substance Abuse Control Officer to be evaluated for substance abuse. The Board determined that the finding of no substance abuse disorder, did not preclude your CO from recommended that you refrain from drinking alcohol. Regarding your annual fitness report, according to the Marine Corps Performance Evaluation System Manual reporting seniors (RSs) are granted discretionary authority to determine if an adverse fitness report is warranted after the issuance of a page 11 entry during the reporting period. Thus, your RS was not required to issue an adverse fitness report.

Concerning your request to remove the correspondence requesting to withhold your MCGCM, the Board determined that the correspondence is valid and forms an essential part of your record that is not recorded elsewhere. Concerning your requirement to submit a Freedom of Information Act (FOIA) request to obtain a copy of the NCIS investigation, the Board determined that your requirement to submit a FOIA request was valid and the appropriate method to obtain an appropriately redacted copy of the NCIS investigation. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

10/17/2021

[REDACTED]

Executive Director

Signed by [REDACTED]