



report. Finally, you argue that the command investigation lacked the factual evidence to substantiate a finding of race-based harassment and that the statements made against you were biased and should not have been used to substantiate the allegation.

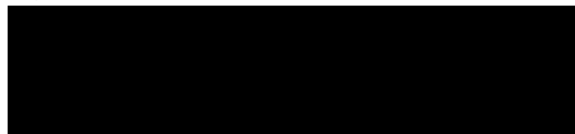
The Board noted that you provided a statement to the Investigating Officer; in addition, you were afforded opportunities to rebut the allegations in your rebuttal to the Page 11 and in your statement within the contested fitness report prior to report submission. For both the Page 11 and the fitness report you provided a cursory statement that you did not concur with the findings of the investigation and adversity of the report; although you could have provided in both a more substantial response.

The Board further noted that the command conducted a legal sufficiency review after the investigation and the Convening Authority endorsed the investigation. The Board concurred with the AO that the fitness report did not violate the Performance Evaluation System Manual, as the reporting chain accurately documented in Section I the underlying basis of the adversity. The Board also found the Page 11 is valid as MCO 5354.1E states that formal counselings for violation of MCO 5354.1E are derogatory material for performance evaluation purposes. Consequently, the Board determined that the Page 11 and fitness report are administratively correct and shall remain in your official military personnel file as written.

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,

12/22/2021

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Deputy Director

Signed by: 