



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

█  
Docket No. 4956-21  
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 24 November 2021. 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.

A review of your record shows that you entered the Navy Reserve in August 2009 and commenced Officer Candidate School (OCS) on 18 July 2011. On 22 July 2011, you suffered a left knee hyperextension injury during training that resulted in your placement on light duty. Based on your inability to continue training, you were deemed not physically qualified for commissioning due to your knee condition and recommended for separation on 1 August 2011. After being dropped from training on 9 August 2011, you were medically cleared for separation the following day and discharged on 17 August 2011 for failing to meet commissioning standards. You were issued a DD Form 214 that documents your reason for separation as failing medical/physical procurement standards with a JFW separation code. In May 2016, the Department of Veterans Affairs (VA) assigned you a number of disability ratings effective the day after your release from active duty. As of 2018, the VA has rated you a combined 100% for your service connected disability conditions.

The Board carefully considered your arguments that you deserve a change to your narrative reason for separation to disability and a change to your separation code. You argue that you were unfit for continued naval service at the time of your discharge from the Navy and have been

unable to utilize VA educational benefits despite being rated a combined 100%. You also assert that your separation code indicates you were erroneously enlisted and is incorrect. Unfortunately, the Board disagreed with your rationale for relief.

In order to qualify for military disability benefits through the Disability Evaluation System with a finding of unfitness, a service member must be unable to perform the duties of their office, grade, rank or rating as a result of a qualifying disability condition. Alternatively, a member may be found unfit if their disability represents a decided medical risk to the health or the member or to the welfare or safety of other members; the member's disability imposes unreasonable requirements on the military to maintain or protect the member; or the member possesses two or more disability conditions which have an overall effect of causing unfitness even though, standing alone, are not separately unfitting. In your case, the Board concluded the preponderance of the evidence does not support a finding that you met any of the criteria for unfitness at the time of your discharge from the Navy. In making this finding, the Board relied on the 1 August 2011 letter from Commanding Officer, Naval health Clinic, [REDACTED] that determined you were not physically qualified for commissioning due to your knee condition but that your condition was expected to resolve with proper rehabilitation and convalescence. This combined with the fact your medical providers concluded your condition did not merit your referral to the Disability Evaluation System persuaded the Board that your condition was not sufficiently impairing to warrant disability processing. While the Board does not dispute that your knee condition prevented you from continuing OCS and commissioning in 2011, based on the medical evidence, they found that the decision not to rehabilitate you at that time was a decision made for the convenience of the government and not due to a permanent disqualifying disability condition. Finally, the Board took into consideration that you were determined to be medically qualified for separation from active duty on 10 August 2011. The Manual of the Medical Department Chapter 15-20 requires separation examinations and evaluations for active duty members and states "comprehensive evaluations are conducted for the purposes of ensuring that Service members have not developed any medical conditions while in receipt of base pay that might constitute a disability that should be processed by the Physical Evaluation Board (PEB) and to ensure Servicemembers are physically qualified for recall to additional periods of active duty. Thus, the standards for being physically qualified to separate are the same as those being qualified to continue active duty Service ... ." Therefore, based on these factors, the Board concluded that the preponderance of the evidence does not support relief in your case. While the Board empathizes with your current medical condition, they felt compensation and treatment for your disability conditions fall outside the scope of the Department of Defense disability system and under the purview of the VA. Accordingly, the Board found insufficient evidence of error or injustice to warrant a change to your record.

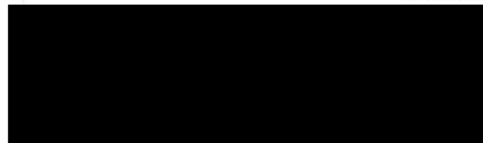
Regarding your request to change your separation code, the Board found that your assigned separation code remains appropriate. Separation code JFW is authorized in cases involving members who fail medical/procurement standards.

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 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,

11/27/2021

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Deputy Director

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