

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

Docket No. 5382-21  
Ref: Signature Date

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 applications on 3 February 2022. 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

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.

The Board carefully considered your request to remove your Administrative Remarks (Page 11) 6105 counseling entry dated 7 May 2022 and your associated rebuttal dated 14 May 2021. The Board considered your contentions that: (a) the Page 11 6105 was unjust because during an investigation that was conducted into allegations of fraternization between two Service members (Sgts), you cooperated and remained transparent, providing the investigating officer with information, despite not being read your Article 31 rights; (b) you showed no favoritism and stated only facts, and despite knowing the possible consequences from your role in the investigation, you assert your sole purpose was to provide facts and to continue to remain faithful to the institution and its future; and (c) your compliance does not detract from the fact that you made a choice that was not within good standing of the Marine Corps, and you continue to accept responsibility for your actions

By signing the 6105, your Commanding Officer (CO) indicated that he believed it to be appropriate based on the facts and circumstances, and using a preponderance of the evidence standard. The Board thus determined that the issuing officer was well within his discretionary authority to issue the counseling entry, and that the entry met the 6105 counseling requirements detailed in the Marine Corps Separations Manual. Specifically, the Board noted that the entry provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You were afforded the opportunity to rebut the counseling, and your rebuttal was considered by the Board.

The Board noted that a 6105 counseling is given a presumption of regularity which requires you to provide substantial evidence that the commander's decision was unjust or was materially in error. The Board further noted that you did not provide evidence to rebut this presumption of regularity.

With regard to your contention that the 6105 entry was unjust, the Board determined that your CO adhered to the requirements in accordance with the Individual Records Administrative Manual, and there is nothing that precluded your CO from issuing the counseling entry, despite your transparency and forthcoming of the events, as well as your own admission to your role in the situation. As such, the Board thus concluded that the Page 11 6105 counseling entry does not constitute probable material error or injustice warranting removal from your OMPF.

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,

2/18/2022

