



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

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Docket No. 2604-21
Docket No. 5437-21
Docket No. 5438-21
Ref: Signature Date

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Dear Petitioner:

This is in reference to your applications 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 applications, 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 applications have been denied.

A three-member panel of the Board, sitting in executive session, considered your applications on 7 October 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies, as well as the 7 April 2021 and 11 August 2021 decisions by the Marine Corps Performance Evaluation Review Board (PERB) and the 24 March 2021 and 26 April 2021 Advisory Opinions (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decisions and the AOs were provided to you on 7 April 2021 and 11 August 2021, and you were given 30 days in which to submit responses. Although you were afforded an opportunity to submit rebuttals, you did not do so.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your requests to remove your fitness reports for the reporting periods 1 January 2017 to 18 July 2017, 19 July 2017 to 31 December 2017, and 1 January 2018 to 1 December 2018.

The Board considered your contentions the Reporting Senior (RS) section I comments for the fitness reporting ending 18 July 2017 contained unnecessary, redundant, and negative comments; the RS failed to comment on your completed college classes and Professional Military Education

(PME) status; the RS violated the Performance Evaluation System (PES) Manual by not informing you upon completion of his portion of the report; and the Reviewing Officer (RO) violated MCO 1610.6.

The Board, however, substantially concurred with the AO dated 24 March 2021 and the PERB Decision of 7 April 2021, which directed redaction of the comment “with oversight and direction MRO has reenergized his section” but retained the remainder of the report as valid, in accordance with the applicable PES Manual guidance. The Board specifically noted your contention regarding the college classes and PME has merit but concurred with the AO that the RS’s decision not to devote space in the section I comments does not invalidate the report. Further, the Board concurred with the AO’s determination that you did not provide any evidence suggesting the RO failed to properly mentor the experienced RS. The Board thus concluded your request regarding the report ending 18 July 2017 is lacking in substantial evidence of error or injustice.

Additionally, the Board considered your contentions the RS section I comments for the report ending 31 December 2017 were “unwarranted because there is no need to tell the selection board the same thing multiple times,” and the Reviewing Officer (RO) violated MCO 1610.6.

The Board, however, substantially concurred with the AO dated 26 April 2021 and the PERB Decision of 11 August 2021 and determined the report is valid as written and filed, in accordance with the applicable PES Manual guidance. The Board concurred that the comments were not overtly uncalled for, lacking in reason, nor unwarranted. Further, the Board concurred with the AO’s determination that you did not provide any evidence suggesting malfeasance or incompetence on the part of the RO. The Board thus concluded your request regarding the report ending 31 December 2017 is lacking in substantial evidence of error or injustice.

Lastly, the Board considered your contentions the RS section I comments for the fitness reporting ending 1 December 2018 failed to comment on your completed college classes; the RS violated the PES Manual by not informing you upon completion of his portion of the report; and the Reviewing Officer (RO) violated MCO 1610.7A.

The Board, however, substantially concurred with the AO dated 26 April 2021 and the PERB Decision of 11 August 2021 and determined the report is valid as written and filed, in accordance with the applicable PES Manual guidance. The Board noted the college courses were not in furtherance of your primary military duties and concluded that, although the contention may have merit, the RS used the allotted space in the section I comments to amplify your observed performance and conduct. The Board also noted you did not describe how the RS’s evaluation of your performance, over an 11-month period of observation, was compromised or invalidated when he did not inform you of his completion prior to processing. The Board thus concluded your request regarding the report ending 1 December 2018 is lacking in substantial evidence of error or injustice.

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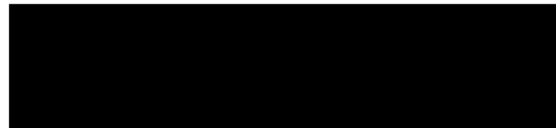
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You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, 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,

10/25/2021

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Executive Director

A black rectangular redaction box covering the name of the Executive Director.