



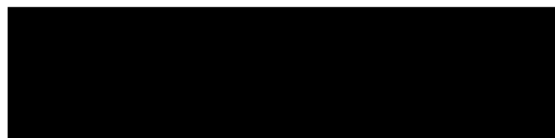
The Board, however, substantially concurred with the AO and the PERB decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System Manual guidance. In this regard, the Board noted you did not explain how the descriptive title modification constituted error or injustice and concluded the slightly modified duty assignment did not constitute error or injustice. After considering the supporting documentation, the Board determined there was insufficient evidence of an error or injustice in the command's decision to not modify the established reporting chain. The Board further noted the Department of Defense Office of Inspector General's oversight review concurred with the IGMC's determination that your complaint did not meet the requirements for an investigation and concluded there is insufficient evidence the contested report was "done out of retaliation." The Board concluded your request is lacking in substantial evidence of error or injustice warranting removal.

The Board thus determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. 10 USC 1034 provides the right to request Secretary of Defense review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoD policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. If you exercise your right to do so, your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a *de novo* review and under 10 USC 1034(c). The Secretary of Defense cannot review issues that do not involve reprisal. You must file your written request within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and, a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR, therefore, please also include previously presented documentation that supports your statements.

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,

2/3/2022

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Executive Director

Signed by:

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