



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

██████████  
Docket No. 8055-21  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF ██████████  
██████████ XXX XX ██████████ USMC

Ref: (a) 10 U.S.C. § 1552  
(b) MCO 5000.12F  
(c) MCO 5000.12E

Encl: (1) DD Form 149 w/enclosures  
(2) Administrative Remarks (Page 11) 6105 counseling entry, 7 Jan 20  
(3) Orders ██████████ 1 Nov 18  
(4) Prenatal Test, 19 Jan 19  
(5) Orders Modification, 11 Apr 19  
(6) Hospital Discharged, 27 July 2019  
(7) HQMC memo 1070 JPL, 24 Mar 22

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her naval record be corrected by removing enclosure (2) from her official military personnel file (OMPF).

2. The Board reviewed Petitioner's allegations of error and injustice on 7 June 2022, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. On 1 November 2018, Petitioner received orders to ██████████. On 19 January 2019, Petitioner received laboratory results showing that she was 11 weeks pregnant with a due date of 1 August 2019 and submitted documentation of the pregnancy to her record. Three months later, on 11 April 2019, Petitioner received modification of her orders to ██████████ (Note: ██████████ was scheduled to deploy for six months in March 2020). On 1 July 2019, Petitioner checked into ██████████; she gave birth on 25 July 2019, and was discharged from the hospital on 27 July 2019. In December 2019, Petitioner informed her command that the

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caregiver for her children was no longer able to provide care and that she currently did not have a Family Care Plan (FCP) that would allow her to deploy. Petitioner states that she was told to find her replacement. On 7 January 2020, Petitioner received enclosure (2), the contested Page 11, regarding her failure to have an adequate FCP. On 18 January 2020, Petitioner found another Marine to replace her on the deployment. On 13 April 2020, reference (b), the Marine Corps Policy Concerning Pregnancy and Parenthood, was published. The updated order states that Marines are to be in a deployment deferment period up to 12 months following the date the Marine is released or discharged from the hospital after giving birth. Enclosures (1) through (6).

c. Petitioner claims that circa November 2019, her long-term caregiver was no longer able to provide child care, and while she was attempting to find a suitable caregiver, she was issued the contested Page 11 6105 counseling entry. Petitioner also argues that her modified orders to [REDACTED] were erroneous as reference (c), published on 8 December 2004, states that servicewomen will not normally be transferred to deploying units from the time of pregnancy confirmation up to 12 months from the date of delivery. Petitioner further contends that under the updated policy, reference (b), she would have been in a deployment deferment status until 27 July 2020.

d. Enclosure (7), an advisory opinion (AO) furnished by Headquarters, Marine Corps Military Personnel Law Branch (JLP), recommended denying Petitioner's request to remove the counseling. The AO noted that reference (c) did not prohibit the transfer of a pregnant or post-partum Marine and it does not provide a waiver for FCP requirements.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board determined that Petitioner's request warrants relief. Of significance to the Board was the fact that the applicable policy stated that Marines will not normally be transferred to deploying units from the time of pregnancy confirmation. The Board noted that Petitioner was originally scheduled to transfer to a non-deployable unit and her orders were modified three months after her pregnancy notification entered her record. Moreover, the Board noted that three months after she received the Page 11 entry, Marine Corps policy was updated to increase the amount of time Marines were to stay in a deployment-deferment status after being discharged from the hospital upon giving birth. The Board found that the evidence provided supported Petitioner's contention that the counseling entry was unjust because she should have been in a deployment-deferment status, and afforded sufficient time to establish an adequate FCP. The Board thus concluded that the contested Page 11 6105 counseling entry shall be removed from Petitioner's OMPF.

## RECOMMENDATION

In view of the above, the Board recommends the following corrective action:

Petitioner's naval record be corrected by removing enclosure (2), the 7 January 2020 Administrative Remarks 6105 counseling.

That no further changes be made to Petitioner's naval record.

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XXX XX [REDACTED] USMC

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.
5. The foregoing action of the Board is submitted for your review and action.

7/12/2022

[REDACTED]

Executive Director

From: Assistant General Counsel (Manpower and Reserve Affairs)

Reviewed and Approved Board Recommendation (Grant Relief)

Reviewed and Approved Advisory Opinion Recommendation (Deny Relief)

7/20/2022

[REDACTED]

Acting Assistant General Counsel (M&RA)

Signed by [REDACTED]