



the opportunity to rebut the counseling. The Board noted that a Page 11 counseling is given a presumption of regularity which requires you to provide substantial evidence that the CO's decision was unjust or was materially in error. The Board determined that you provided insufficient evidence to rebut this presumption of regularity.

With regards to your contention that the CG [REDACTED] MLG concurred with issuing you a NPLOC, the Board noted the CG's letter dated 7 July 2021 did not mention specifically issuing you a NPLOC; however, directed that the misconduct be adjudicated via administrative measures. In fact, it was the CO's endorsement of the investigation that recommended the NPLOC. As a result, the Board concluded that CO had the authority to issue you the counseling entry instead of the NPLOC and determined that the counseling entry is valid. With regards to your contention that you did not have an opportunity to present your case, the Board noted that you acknowledged and signed the counseling entry and had the opportunity to submit a rebuttal statement, which you chose to do so. The Board took your rebuttal statement into consideration; however, determined that the Page 11 is factual as to the events that occurred. In making this finding, the Board noted in your rebuttal that you took responsibility for your actions that formed the basis for your counseling and did not deny the accuracy of the events in question. The Board further 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. The Board thus concluded that the Page 11 counseling entry with your associated rebuttal, does not constitute probable material error or injustice warranting removal from your official military personnel file.

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,

5/19/2022

[REDACTED]

Executive Director

[REDACTED]