



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

██████████  
Docket No. 910-22  
Ref: Signature Date

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

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

Ref: (a) 10 U.S.C. § 1552  
(b) MCO 1900.16 (MARCORSEPMAN)  
(c) MCO P1070.12K W/CH 1 (IRAM)

Encl: (1) DD Form 149  
(2) Fitness Report for the reporting period 1 Jan 21 to 30 Nov 21  
(3) Administrative Remarks (Page 11) 6105 entry of 6 Apr 21

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 removal of enclosures (2) – (3).

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 9 May 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, found 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, with the exception of his request to remove his contested fitness report at enclosure (2).

b. On 6 April 2021, Petitioner was issued a Page 11 6105 counseling for violation of Articles 92 (failure to obey order or regulation) and Article 134 (General Article) of the Uniform Code of Military Justice (UCMJ). Petitioner acknowledged the counseling and did not submit a written rebuttal. Enclosure (3).

c. Petitioner contends that the punishment imposed on 6 April 2021 was unjust, because he was found "not guilty" by an Administrative Separation Board. Additionally, he asserts that the "prospective recruit applicant" was never a Marine applicant, only an Army applicant. Petitioner

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also asserts that the adverse material in his official military personnel file (OMPF) is not allowing him a fair opportunity for promotion or reenlistment.

## CONCLUSION

Upon review and consideration of all the evidence, the Board concluded that, under the totality of the circumstances, Petitioner's request warrants partial relief. In this regard, the Board noted that, pursuant to reference (b) and (c)<sup>1</sup>, the 6105 counseling, while valid at the time it was issued, is no longer valid, as the Petitioner was not administratively separated at the conclusion of the administrative separation processing.

The Board noted that in accordance with paragraph 6316 of reference (b), an administrative separation board functions as an administrative rather than judicial body, and it is not intended as, nor does it function as a method to overturn or invalidate other Marine Corps procedures or administrative actions.

The Board also noted that pursuant to reference (c), a 6105 counseling forms an essential and permanent part of a Marine's military history, which will be useful to future commanders—the Board thus determined that by redacting the invalid paragraph of the 6105 counseling entry, rather than removing it in its entirety, the contested entry will be a valid counseling in compliance with reference (c).

In regards to Petitioner's contention that the adversity is not allowing him a fair chance at promotion or reenlistment, the Board determined that the perception that the contested material may reduce competitiveness for promotion, selection, or assignment is irrelevant in determining whether it is valid or not.

The Board did not consider Petitioner's request to remove his contested adverse fitness report as he has not yet exhausted his administrative remedy by petitioning the Headquarters, Marine Corps Performance Evaluation Review Board.

## RECOMMENDATION

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

Petitioner's naval record be corrected by redacting paragraph 4 of the Page 11 6105 at enclosure (3) to remove the following, "I understand that I am being processed for the following judicial or adverse administrative action: Administrative separation, per paragraph 6105.6 and 6210 of MCO 1900.16F due to commission of a serious offense and misconduct."

No further relief be granted.

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<sup>1</sup> Reference (c), Page 11 entries that concern administrative discharge will not remain in a member's OMPF if they do not, upon final review, result in discharge or reduction.

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[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. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

6/7/2022

