



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

█
Docket No: 4420-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, USN, XXX-XX-█

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1610.10D

Encl: (1) DD Form 149 w/attachments
(2) Evaluation Report & Counseling Record for the reporting period 16 Dec 2014 to 4 Apr 2015
(3) Evaluation Report & Counseling Record for the reporting period 16 Nov 2017 to 4 Apr 2018
(4) NPC memo 1610 PERS-32 of 23 Jun 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 his naval record be corrected by removing the Evaluation Report & Counseling Record (Eval) for the reporting period 16 December 2014 to 4 April 2015 and 16 November 2017 to 4 April 2018 from his official military personnel file (OMPF).

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 12 July 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. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. Petitioner was issued enclosure (2), a Regular Eval for the reporting period 16 December 2014 to 4 April 2015, while serving as Analyst for █. Petitioner was issued enclosure (3), a Regular Eval for the reporting period 16 November 2017 to 4 April 2018, while serving as STRAT DEBRIEF for █. Petitioner contends that the Evals were

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perceived adverse, contain administrative errors, were mistakenly put in his record by PERS-32, and should be removed.

c. Enclosure (4), the advisory opinion (AO), furnished by the Navy Personnel Command (PERS-32), noted that reference (b) states that any comment concerning adverse actions against the member or suggesting persistent weaknesses, continuing incapacity, or unsuitability for a specific assignment or promotion must also be treated as adverse matter, regardless of the grades assigned. On both reports, the reporting senior provides comments on performance deficiencies which are perceived as adverse. Further, the AO went on to state that reference (b) does not allow for a "Certified Copy Provided" entry in the member's signature block when a report is adverse. Since neither evaluation report contains Petitioner's signature, PERS-32 determined the contested Evals at enclosures (2) and (3) were in violation of reference (b) for an adverse report, and recommended that they be removed from Petitioner's OMPF and replaced with memorandums for continuity.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting corrective action. Thus, the Board substantially concurred with the AO that the contested Eval was submitted in error based on the missing signatures, and concluded that it shall be removed from Petitioner's OMPF.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosures (2) and (3), his Evals for the reporting period 16 December 2014 to 4 April 2015 and 16 November 2017 to 4 April 2018. The enclosures shall both be replaced with memorandums for continuity.

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.

7/23/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]