



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

█  
Docket No: 4786-22  
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 1610.10E

Encl: (1) DD Form 149 w/attachments  
(2) Evaluation Report & Counseling Record, 15Dec21 to 4Feb22  
(3) Petitioner's undated statement  
(4) Petitioner's Enlisted Data Summary  
(5) Chronological Record of Medical Care, 13Jan22  
(6) Evaluation Report & Counseling Record, 16Nov20 to 15Nov21  
(7) AO NPC memo 1610 PERS-32, 13Jul22  
(8) Petitioner's response to AO

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 modifying the Evaluation Report and Counseling Record (Eval) for the reporting period 15 December 2021 to 4 February 2022 by changing it to non-observed.

Enclosure (2)

2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 26 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.

b. On 14 December 2021, Petitioner transferred from █, took 23 days of leave, and upon returning from leave, reported to █ in a student status. On 13 January 2022, Petitioner conducted a Mock Performance Readiness Test (PRT) and failed the run portion. According to the Petitioner, she passed out during the run and was transported to the medical clinic where she was treated for heat exhaustion. Enclosures (3) - (5).

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[REDACTED], USN, XXX-XX-[REDACTED]

c. Petitioner was issued enclosure (2), an adverse Detachment of Individual/Regular Eval for failing to meet the minimum performance requirements for [REDACTED]. Petitioner was marked “significant problems” for promotion recommendation and retention was not recommended. Petitioner signed the adverse Eval and did not submit a statement, although she indicated that she intended to do so.

d. Petitioner contends she already received a Regular Eval from her previous command. Petitioner further contends the contested Eval is a grave injustice, is less than 90 days, the comments are untrue, and she received the “SP” Eval for failing the run part of a mock PRT after becoming a heat casualty. Petitioner asserts she has worked hard for 13 years and was not given an opportunity to grow because of a failed mock PRT. Petitioner provided a copy of the previous Eval from her transferring command who recommended an “early promote” and retention. Enclosure (6).

e. Enclosure (7), the advisory opinion (AO), furnished by PERS-32, recommended the Petitioner’s record remain unchanged. PERS-32 opined that the Eval is considered adverse and, in accordance with reference (b), a non-observed report is not authorized. Furthermore, it was the reporting senior’s discretion to submit an observed report and he was authorized to do so in accordance with reference (b). PERS-32 concluded that the observed Eval is valid and procedurally compliant.

f. Petitioner furnished enclosure (8) in response to the AO and asserted that she was informed by the command leadership that if she did not sign the Eval, she would not be allowed to PCS to her next command. Petitioner further asserts the following: “this SP evaluation for failing a ‘MOCK PRT’ is unjust and unfair. For example, sailors who are in training for the SEAL team when they fail out of that training they don't get an SP evaluation, but instead they give them another NEC to benefit the Navy. And it is the same for sailors who fail out of IDC School. The other concern I have is that sailors who fail their [REDACTED] in the West Coast, they don't get an SP, why is it different in [REDACTED] when it is the same exact program. My other concern is how can a failed ‘MOCK PRT’ be considered adverse with a 1.0 in performance trait when that is not even recorded in PRIMS? And I was also a heat casualty at that time; was it wrong for me to look out for myself when another sailor in that same command passed away a few months before me because the instructors forced that sailor to do her MOCK PRT again to the point of dying. I only have one life and I believe that I am still an asset to the Navy in other platforms like on the Ship and Hospitals, but not with the Marines since I did not pass the [REDACTED] requirements.”

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board concurred with the AO that the Eval is valid and should remain in Petitioner’s record. The Board found no error with the Eval and determined no injustice exists with its inclusion in Petitioner’s record. In making this finding, the Board considered Petitioner’s arguments but concluded that it was within Petitioner’s Commanding Officer’s discretion to issue the Eval based on her failure of course requirements. The Board noted that in Petitioner’s 4 February 2022 statement to the record, she acknowledges that it was the Commanding Officer’s policy that any student who fails any portion of the PFA would be dropped from the class and be assigned an SP Eval. While the

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Board took into consideration that she was a heat casualty, the Board felt this was insufficient mitigation to overturn the Commanding Officer's decision in Petitioner's case.

Despite their decision to deny Petitioner's request to change the Eval in question, the Board found the existence of an injustice warranting partial relief. The Board noted Petitioner's intention to submit a rebuttal to the contested Eval but found that it was not in her file nor included in her application to this Board. Thus, the Board determined that the Petitioner should be afforded the opportunity to rebut the adverse nature of the Eval and it should be made part of her record. The Board concluded it was in the interests of justice to allow Petitioner to submit a rebuttal to the contested Eval within 60 days of this letter. The Board directed that, if submitted, Naval Personnel Command (NPC) will insert the rebuttal into the Petitioner's official military personnel file (OMPF) provided it complies with reference (b).

#### RECOMMENDATION

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

Inform the Petitioner that she may submit a rebuttal to enclosure (2), the contested Eval to NPC that will be inserted in her OMPF, provided that it is within 60 days of this letter and in accordance with reference (b).

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.

8/30/2022

[REDACTED]

Signed by: [REDACTED]