



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

■
Docket No. 4982-22
Ref: Signature Date

Dear ■

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 30 August 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

You previously applied to this Board requesting the removal of an Administrative Remarks (Page 11) counseling entry dated 12 August 2021 from your official military personnel file. Your request was denied by the Board on 23 May 2022.

The Board carefully reconsidered your request to remove the Administrative Remarks (Page 11) counseling entry dated 12 August 2021 from your official military personnel file. You contend that the Page 11 was unjust and not in accordance with paragraph 6105 of MCO P1900.16 w/Ch2. You further contend that it alluded to vague and confusing descriptions of deficiencies without proper documentation. The Board considered the Performance Evaluation Review Board's (PERB) decision of 29 June 2022 to remove your contested change of duty fitness report (FITREP) of 1 July 2021 to 12 August 2021, as well as your previous contentions that you were never counseled on your duties or responsibilities and that you continued to perform the same duties after your relief.

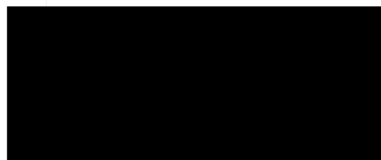
However, the Board affirmed its previous determination that the contested counseling entry of 12 August 2021 creates a permanent record of matters and that the issuing Commanding Officer (CO) was well within his discretionary authority to issue the Page 11 counseling entry. The

Board further noted that although the counseling entry did not meet all of the requirements detailed in MCO 1900.16 w/Ch2 to be a 6105 (Page 11) counseling entry, it did meet the requirements of MCO P1070.12K W/CH 1 (IRAM), and therefore is deemed valid. Specifically, the Board noted the entry provided the opportunity to rebut the entry and was appropriately issued by the CO as evidenced by his signature on the entry. The Board also noted your claim that the Page 11 alluded to vague and confusing descriptions of deficiencies lacked merit and that it clearly identified that you were lacking in judgment and decision-making due to failure to provide proper guidance to the Marines under your charge. The Board further noted that you acknowledge the Page 11 and provided a rebuttal statement acknowledging your relief as well as your error in judgement. Thus, the Board again concluded there is insufficient evidence of material error or injustice warranting the removal of the 12 August 2021 Page 11 counseling entry from your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

9/20/2022



Executive Director

Signed by:

