



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

█
Docket No: 7151-22
Ref: Signature Date



Dear Petitioner:

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.

Although your 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 your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 27 October 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. The Board also considered the 23 September 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB) and the 15 August 2022 Advisory Opinion (AO) provided to PERB by the Manpower Management Division Records & Performance Branch (MMRP-30). The PERB Decision and the AO were provided to you on 23 September 2022, and you were given 30 days in which to submit a response.

During the reporting period, you participated in professional military education (PME), specifically the Joint Special Operations online course. You were accused of plagiarism and removed from the PME course. You subsequently received an adverse fitness report covering the period 1 July 2018 to 30 April 2019 documenting your dismissal from the course. You provided a rebuttal statement to the fitness report.

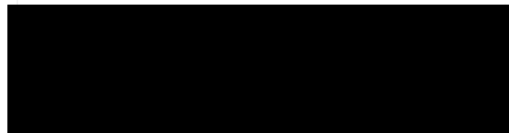
The Board carefully considered your request to remove the fitness report. You argue that the reporting senior (RS) failed to select the reason for the adversity on Item 6 of the report and that the report erroneously references an Administrative Remarks Page 11 counseling that is not in your official military personnel file (OMPF).

The Board, however, substantially concurred with the AO and the PERB decision that the report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. The Board noted that the Page 11 counseling entry did not formulate the basis for adversity for the fitness report; instead, the adversity was based on your removal from the PME course. The Board further noted that the RS did not reference the Page 11; instead, you referenced the counseling in your rebuttal statement and the Third Officer Sighter mentioned the counseling entry in his statement addressing your rebuttal. The Board concurred with the AO that the reporting chain's omission of the marking of Derogatory Material in Item 6 of the report does not invalidate the report. Consequently, the Board found that the evidence does not show any material error or injustice and determined that insufficient evidence exists to remove the fitness report from your official military personnel file. 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,

11/9/2022

A large black rectangular redaction box covering the signature area.

Executive Director

Signed by 