



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

██████████
Docket No: 528-23
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) Fitness Report & Counseling Record for the reporting period 1 Nov 20 to 31 Oct 21
(3) CO, ██████████ ██████████ ltr (Letter-Supplement), 1 Mar 22
(4) Revised/Supplemental Fitness Report & Counseling Record for the reporting period
1 Nov 20 to 31 Oct 21
(5) SECNAV ltr [Date Illegible]
(6) NPC memo 1610 PERS-32, 25 Jan 23

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 modifying the opening statement of the fitness report for the reporting period 1 November 2020 to 31 October 2021. Petitioner also request a Fiscal Year (FY) 2023 Special Selection Board (SSB) for consideration by the Navy Active Duty Commander (CDR/O-5) Staff Corps.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 21 March 2023 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 record, 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 that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. Petitioner was issued a Periodic/Regular fitness report for the reporting period 1 November 2020 to 31 October 2021 while serving as Director for Administration for the ██████████ ██████████. The opening statement of block 41 states "MY NUMBER 3 OF 16 LIEUTENANT COMMANDERS REGARDLESS OF CORPS!". Enclosure (2).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
XXX-XX-[REDACTED]

b. On 1 March 2022, the Commanding Officer (CO), [REDACTED] [REDACTED] submitted a Letter-Supplement and a revised fitness report for the same reporting period modifying the block 41 opening statement by removing the original comment and adding, "AN EXCEPTIONALLY DYNAMIC AND VERSATILE LEADER TRANSFORMING NAVY MEDICINE!** **EP IF NOT FOR FORCED DISTRIBUTION, EP IN ALL ASPECTS AS DOCUMENTED IN LAST FITREP." PERS-32 received the Letter-Supplement and it was placed in Petitioner's Official Military Personnel File (OMPF) on 25 March 2022. Enclosures (3) and (4).

c. Correspondence from the Secretary of the Navy indicates that the Navy Active Duty CDR Staff Corps Promotion Selection Board (PSB) convened on 2 May 2022. Petitioner was considered for promotion and not selected. Enclosure (5).

d. In his application, Petitioner contends that the updated fitness report was submitted but rejected due to a duplicate record and the supplemental fitness report was not in his OMPF when the FY 2023 CDR PSB convened, resulting in his "Fail to Select" status. Petitioner claims that having this changed would remove any negative bias and prejudice against the fitness report regarding his sustained superior performance. Enclosure (1).

e. The advisory opinion (AO) furnished by the Navy Personnel Command (PERS-32) for the Board's consideration, recommended no further action because the error was corrected by the reporting senior (RS) with the submission of the supplemental fitness report. The AO noted that the original fitness report was received and placed in Petitioner's OMPF on 3 December 2021, and the Letter-Supplement dated 1 March 2022 was placed in Petitioner's OMPF on 25 March 2022. The AO also noted that according to reference (b), once a fitness report has been filed in the member's OMPF it may only be modified through an administrative change or the addition of supplementary material. Accordingly, the Letter-Supplement and supplemental material do not replace the original report in the member's OMPF, nor does it change the information on the member's Performance Summary Record; it only supplements the original report. Enclosure (6).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an injustice warranting relief.

The Board noted Petitioner's original fitness report and the changes documented in the Letter-Supplement and supplemental fitness report. The Board opined that the block 41 opening statement contained in the original fitness report represented a strong breakout by the RS by noting that Petitioner was his number "3 of 17" Lieutenant Commanders (LCDR) LCDR's regardless of corps. Contrary to Petitioner's claim, the Board also noted that his supplemental material was available for consideration by the FY 2023 CDR PSB. The Board also opined that the RS's submission of the Letter-Supplement revising the original opening statement, had the potential to create a negative perception by members of the PSB. The Board concurred with the AO that the Letter-Supplement and fitness report were submitted according to reference (b), however, the Board determined that an exception to policy is warranted in this case. Specifically, the original fitness report and Letter-Supplement should be removed and replaced

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
XXX-XX-[REDACTED]

with the supplemental fitness report. The Board also determined that the presence of the supplemental material could have prejudiced the PSB members, therefore, Petitioner should be granted a SSB.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2) and replacing it with enclosure (4).

Petitioner's naval record be corrected by removing enclosure (3).

Petitioner be considered by a FY 2023 Active Duty CDR, Staff Corps SSB and if selected, his date of rank and effective date in the grade of CDR be adjusted to the date he would have received had he originally been selected by the FY 2023 PSB.

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

4/13/2023

[REDACTED]

Deputy Director

Signed by: [REDACTED]