



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

██████████  
Docket No. 684-23  
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 21 February 2023. 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your Administrative Remarks (Page 11) 6105 counseling entry, dated 2 October 2020, and associated rebuttal dated 7 October 2020. The Board considered your contentions the counseling entry was not given to you during the reporting period, nor was it mentioned in your adverse fitness report Section I. You further contend it was not given by the reporting senior, reviewing officer, or commanding officer (CO).

By signing the counseling entry, the CO indicated that he believed it to be appropriate based on the facts and circumstances, and using a preponderance of the evidence standard. The Board thus determined that the issuing officer was well within his discretionary authority to issue the counseling entry at the time, and that the entry met the counseling requirements in accordance with the applicable regulations (Marine Corps Individual Records Administration Manual and Marine Corps Separations and Retirement Manual). Specifically, the Board noted that the entry

provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You were afforded the opportunity to rebut the counseling, and your rebuttal was considered by the Board.

The Board noted that a counseling entry is given a presumption of regularity which requires you to provide sufficient evidence that the CO's decision was unjust or was materially in error. Despite your contentions, the Board determined that you provided insufficient evidence to rebut this presumption of regularity and in support of your contentions. The Board noted you provided no evidence to support your contention that counseling entry was not properly issued. In making this finding, the Board took into consideration your rebuttal statement, in which you took responsibility for being ill prepared for the [REDACTED]. Thus, the Board determined that the counseling entry was factual at the time of issuance and there is nothing that precluded the CO from issuing the entry. As such, the Board concluded that the counseling entry does not constitute probable material error, substantive inaccuracy, or injustice warranting removal 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,

3/17/2023

