



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

██████████  
Docket No. 1687-23  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF ██████████  
██████████ USMC

Ref: (a) 10 U.S.C. § 1552  
(b) MCO 1900.16  
(c) MCO P1070.12K W/CH 1

Encl: (1) DD Form 149  
(2) Administrative Remarks counseling entry, 13 Oct 21  
(3) ██████████ counseling rebuttal, 20 Oct 21  
(4) Administrative Remarks counseling entry, 16 Dec 21  
(5) ██████████ counseling rebuttal, 22 Dec 21  
(6) Administrative Remarks counseling entry, 4 Apr 22  
(7) ██████████ counseling rebuttal, 9 Apr 22  
(8) Senior Member ADSEP Board, ██████████ ltr 1000-35 SenMbr, 14 Dec 22

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his record be corrected by removing the 13 October 2021, 16 December 2021, and 4 April 2022 Administrative Remarks counseling entries and associated rebuttal statements.

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 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 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. On 13 October 2021, Petitioner was issued a 6105 entry counseling him for violating the no contact order issued on or about 22 September 2021, failing to conform to grooming standards, and failing to maintain supervision of his children in the workplace. Petitioner acknowledged the counseling entry and in his statement Petitioner disagreed with breaking the no contact order and provided an explanation about his son's actions in the office. Enclosures (2) and (3).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED] USMC

b. On 16 December 2021, Petitioner was issued a 6105 entry counseling him for intimidated personnel, influencing a fellow Marine while on duty, lost trust and confidence, and the perception of being engaged in extramarital sexual conduct. Petitioner acknowledged the counseling entry and in his statement, Petitioner noted that he is not signing the counseling entry as an acknowledgement of guilt. Enclosures (4) and (5).

c. On 4 April 2022, Petitioner was issued a 6105 entry counseling him regarding the fore mentioned misconduct and notifying him that he is being processed for administrative separation. Petitioner acknowledged the counseling entry and in his statement, Petitioner noted that he is not signing the counseling entry as an acknowledgement of guilt. Enclosures (6) and (7).

d. On 14 December 2022, the Petitioner's Administrative Separation (ADSEP) Board unanimously found that the preponderance of evidence does not prove any of the acts or omissions alleged and recommended that Petitioner be retained in the Marine Corps. Enclosure (8).

e. Petitioner contends that the counseling entries should be removed because he was cleared of all allegations by the ADSEP Board and recommended for retention. Enclosure (1).

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board found the existence of an error warranting partial corrective action.

The Board determined that enclosures (2) and (4) are valid. In this regard, the counseling entries were issued and written in accordance with paragraph 6105 of reference (b) and the commanding officer (CO) acted within his discretionary authority when determining that the counseling entries were warranted. The Board also determined that an ADSEP Board is administrative in nature with the fundamental purpose of determining Petitioner's suitability to serve on the basis of conduct and the ability to meet and maintain the required standards of performance. The administrative separation process is an administrative employment process and does not function as a method to overturn or invalidate other Marine Corps procedures or administrative actions. Although Petitioner's ADESP Board did not find sufficient evidence to warrant separation from the Marine Corps, that finding does not impact the validity of the counseling entries. The Board further determined that it is not a material error or injustice for two separate fact-finding bodies to arrive at different conclusions, thus the ADSEP board's findings did not invalidate the counseling entries.

The Board also noted that according to reference (c), "Do not make entries on page 11 which concern administrative discharge or competency review proceedings if they do not, upon final review, result in discharge or reduction." The Board noted, too, that enclosure (6) documented misconduct previously provided in enclosures (2) and (4), in addition, enclosure (6) indicated that Petitioner was being processed for administrative separation. The Board determined that enclosure (6) is redundant and since Petitioner was retained in the Marine Corps, the entry is now an error. Accordingly, the Board concluded that enclosures (6) and (7) should be removed.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
[REDACTED] USMC

#### RECOMMENDATION

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

Petitioner's naval record be corrected by removing the enclosures (6) and (7).

That part of the Petitioner's request for corrective action that exceeds the foregoing be denied.

That no further changes be made to Petitioner's naval record.

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.

4/15/2023

