



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

█  
Docket No. 3135-23  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █  
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Ref: (a) Title 10 U.S.C.  
(b) BUPERSINST 1610.10E (EVALMAN)  
(c) DoDD 7050.06, "Military Whistleblower Protection"

Encl: (1) DD Form 149 w/enclosures  
(2) Evaluation & Counseling Record, 16 Sep 18 to 15 Sep 19  
(3) Concurrent Evaluation & Counseling Record, 16 Sep 18 to 15 Sep 19  
(4) █ letter 1610, subj: Evaluation Report Extension, 4 Oct 2019  
(5) NAVPERS 1616/23 memorandum entry, 26 Feb 2020  
(6) █ letter 5041 Ser N62/0043, subj: Final Response – Notification of Closure (Case 201904940), 25 Feb 2022  
(7) NPC (PERS 32) memo 1610 PERS-32, 21 Apr 2023

1. Pursuant to the provisions of reference (a) Section 1552, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board) requesting removal of the Evaluation & Counseling Record at enclosure (2); acceptance of the concurrent report at enclosure (3) with any remedy available for the missing countersignature of the regular Reporting Senior (RS); and (4) review of letter of extension at enclosure (4) to determine the best course of action to prevent a date gap after removal of enclosure (2).

2. The Board, consisting of █, reviewed Petitioner's allegations of error and injustice on 4 May 2023, and pursuant to its regulations, determined 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Petitioner was issued enclosure (2), a periodic, regular evaluation for the reporting period 16 September 2018 to 15 September 2019. Block 41 comments state she is "a promotable Chief Petty Officer," and block 42 indicates she is "promotable." In block 46, Petitioner indicates she intends to submit a statement but her record does not contain a statement. See enclosure (2).

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[REDACTED]

b. Petitioner was issued enclosure (3), a periodic, regular, concurrent evaluation for the reporting period 16 September 2018 to 15 September 2019 by Commanding Officer, Naval Reserve Tactical Operations Center, [REDACTED]. In addition to the exceptional block 41 comments, block 42 indicates a promotion recommendation of “early promote.” In accordance with reference (b), a concurrent evaluation requires the regular RS’s signature in block 47. However, enclosure (3) is not signed by the RS in block 47. By memorandum entry, the concurrent evaluation at enclosure (3) was “accepted without countersignature” of the regular RS. See enclosures (3) and (5).

c. By letter dated 4 October 2019, the reporting period for enclosure (2) was extended to 4 October 2019. See enclosure (4).

d. On 25 February 2022, the Naval Inspector General (IG) notified Petitioner her allegation of reprisal was substantiated. A review of the redacted Whistleblower Reprisal Investigation provided as part of enclosure (6) indicates the IG determined the RS’s refusal to endorse/accept the concurrent evaluation at enclosure (3) was an unfavorable personnel action as was his decision to write a “less favorable evaluation.” The IG concluded the RS “refused to endorse or take the input” on the concurrent report and instead “wrote and used a generic less favorable” report in reprisal for Petitioner’s protected communications in violation of reference (c). See enclosure (6).

e. Petitioner contends the requested relief should be granted because the actions taken were unjust acts of reprisal as determined by enclosure (6).

f. The Advisory Opinion (AO), based on the findings of enclosure (6), recommends enclosure (2) be replaced with the concurrent evaluation at enclosure (3). The AO further recommended Petitioner submit an administrative change letter to correct the continuity gap that will occur when enclosure (2) and the corresponding letter of extension at enclosure (4) are removed. See enclosure (7).

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief. The Board substantially concurred with the AO and concluded enclosure (2), to include the extension at enclosure (4), should be removed from Petitioner’s Official Military Personnel File and replaced with the concurrent report at enclosure (3). Additionally, rather than require Petitioner to submit an administrative change letter to correct the continuity gap, the Board concluded it was in the interest of justice for the necessary administrative change to be taken immediately rather than waiting until Petitioner submits the change request.

## RECOMMENDATION

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

Petitioner’s naval record be corrected by removing the periodic, regular evaluation, at enclosure

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[REDACTED]

(2), for the reporting period 16 September 2018 to 15 September 2019 and the letter extending the report to 4 October 2019, at enclosure (4).

Petitioner's naval record be corrected by replacing enclosure (2) with the concurrent evaluation, at enclosure (3), taking any necessary action to ensure the report seamlessly accounts for Petitioner's performance during the reporting period.

Petitioner's naval record be corrected by making the necessary administrative change to correct the continuity gap caused by removal of the letter of extension at enclosure (4).

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.

5/28/2023

[REDACTED]

Executive Director

[REDACTED]