



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

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Docket No. 8159-23  
Ref: Signature Date

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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.

A three-member panel of the Board, sitting in executive session, considered your application on 7 November 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.

The Board carefully considered your request to remove your 23 July 2021 Administrative Remarks 6105 (page 11) counseling entry and associated rebuttal statement. You also requested to remove your fitness report for the reporting period 21 June 2021 to 29 July 2021. The Board considered your contention that you have been heighted at 65 inches throughout your career and that when the school heighted you at 64 inches it forced you to go to the extremes of eating a reduction of food to starving yourself due to your medical condition of hypothyroidism. The Board also noted your contention that the decrease in weight affected your ability to do pull-ups because you lacked the physical strength to conduct the minimum required pull-ups due to misjudging your own strength and health.

The Board noted that pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a 6105 entry counseling you for failing the physical fitness test (PFT), specifically you failed to achieve the minimum pull-up amount of three for your age group. The counseling entry also noted that there was no medical condition that would limit your physical abilities to pass the annual PFT.

The Board noted that you acknowledged the counseling entry and, in your statement, you took full responsibility for your actions and noted that not maintaining the minimum pull-ups was not normal for you. Further, you also mention that because you have hypothyroidism it forces you to go to extremes like fasting with high intensity cardio to drop body fat. However, the Board determined that the contested counseling entry was written and issued according to the MARCORSEPMAN. Specifically, the counseling entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer (CO) signed the counseling entry, and he/she determined that your substandard performance/misconduct was a matter essential to record, as it was his/her right to do. The Board, thus determined that the CO relied upon sufficient evidence and acted within his/her discretionary authority when deciding that your counseling entry was warranted.

In regards to your assertion that your medical condition contributed to unhealthy habits which caused the PFT failure, the Board noted that pursuant to MCO 6110.3A, Marines who suspect their weight gain is due to an underlying medical condition must be evaluated by an authorized medical provider. If the authorized medical provider determines weight gain is the result of a medical condition the provider may recommend a temporary medical exemption. The Board noted there were no medical exemptions on file for your condition for this semi-annual period. Moreover, the Board also noted that, "the inability to exercise is not a valid reason for a temporary medical exemption from weight and body fat standards." Finally, regarding your contention that you have always been heighted at 65 inches throughout your career, the Board noted that regardless of the incorrect height, which the Board determined to be consistent with your previous height measurements, you were still outside the maximum allowed weight standards for your age. Finally, the Board also noted the primary reason you received the counseling entry was for failure of the PFT.

Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. The Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the counseling entry or associated rebuttal statement. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Concerning your request to remove your fitness report for the reporting period 21 June 2021 to 29 July 2021, the Board determined that you have not exhausted your administrative remedies. The Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals; therefore, you must submit your request to the PERB according to the Marine Corps Performance Evaluation Appeals Manual.

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,

11/24/2023

