



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. 9749-23
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 13 December 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 application, 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 the fitness report for the reporting period 1 January 2018 to 30 September 2018. If approved, you request remedial consideration for promotion to Gunnery Sergeant (GySgt/E-7) during the Fiscal Year (FY) 2019 promotion selection board. The Board considered your contention that the Marine Corps Performance Evaluation System (PES) Manual states, "if the report is completed utilizing the PES system, the Reporting Senior (RS) must inform the MRO that the RS portion is complete. The RS must also discuss his or her marking philosophy and comments with the MRO prior to routing the report to the Reviewing Officer (RO)." You claim that this step was missed and has been supported by email communications from the recruiters you served with during the reporting period, as well as your email to the RS that was never addressed.

The Board, however substantially concurred with the previous Performance Evaluation Review Board and Board decisions that your fitness report is valid as modified and filed, in accordance with the applicable PES Manual. In this regard, the PES Manual does not require reporting officials to counsel the Marine Reported On (MRO) before or after processing a fitness report, but also provides that the RS should counsel the MRO throughout the reporting period. The Board determined that your reliance upon the fore mentioned PES Manual statement is misguided. The instructions for completing Section J (Certification) pertains to the RS's certification that to the best of his/her knowledge and belief all entries on the fitness report are true and without prejudice or partiality. Section J also pertains when MRO action is required, and when a fitness report is rendered adverse. According to the PES Manual, the RS must establish and clearly convey duties and responsibilities to the MRO and observe, evaluate, and accurately report on the Marine's performance, professional qualities, and potential. The Board found your evidence insufficient to establish that the RS failed in those duties, nor is there any evidence that your performance and conduct warranted higher marks than received. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report or remedial consideration for promotion to GySgt. 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

12/15/2023

