



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

██████████
Docket No. 617-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████, USNR,
██████████

Ref: (a) Title 10 U.S.C. § 1552
(b) BUPERSINST 1610.10F (EVALMAN)

Encl: (1) DD Form 149 w/attachments
(2) Evaluation and Counseling Record, 16 Nov 22 to 15 Nov 23
(3) Advisory Opinion by NPC memo 1610 PERS-32, 24 Jan 24

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 to remove enclosure (2).
2. The Board, consisting of ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 30 January 2024 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
 - a. Petitioner received a Periodic/Regular evaluation report for the reporting period 16 November 2022 to 15 November 2023. The Reporting Senior (RS) marked performance traits 36 (Military Bearing/Character) and 37 (Personal Job Accomplishment/Initiative) 2.0 indicating that Petitioner "does not yet meet all 3.0 standards". In block 43, the RS commented, "Counseled for excessive tardiness, as well as lack of professionalism and the use of proper chain of command." In addition, block 51 indicates, "CERTIFIED COPY PROVIDED." Enclosure (2).
 - b. In his petition, Petitioner contends that the evaluation was not presented to him prior to submission and acceptance by "BUPERS". Petitioner argued that the evaluation report is adverse; he was not aware of the adverse nature of the evaluation, nor was he allowed to make a statement, in violation of reference (b). Enclosure (1).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USNR,
[REDACTED]

c. In a memorandum dated 24 January 2024, the Navy Personnel Command (PERS-32) provided an advisory opinion (AO) for the Board's consideration recommending the Board approve Petitioner's request by removing enclosure (2). The AO noted that the evaluation report is adverse and unsigned by Petitioner, and the RS annotated "CERTIFIED COPY PROVIDED" in Petitioner's signature block. The AO determined that the evaluation report required Petitioner's signature. According to reference (b), members must sign all adverse reports or a statement why the member was unable to sign will be placed in the signature block. The AO recommended the evaluation report be remove and replaced with a memorandum for continuity. Enclosure (3).

CONCLUSION

Upon careful review and consideration of all the evidence of record, the Board found sufficient evidence of a material error and determined that Petitioner's request warrants corrective action. In this regard, the Board substantially concurred with the AO that enclosure (2) was prepared and submitted in violation of reference (b). The Board noted that the evaluation report contains an adverse comment and declining performance trait marks. The Board determined that as an adverse evaluation, Petitioner was required to sign the evaluation report and be afforded the opportunity to submit a statement. Accordingly, the contested evaluation report should be removed.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing enclosure (2).

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.

2/14/2024

