



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

█
Docket No. 701-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF █, USN, XXX-XX-█

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

Encl: (1) DD Form 149 w/enclosures
(2) Evaluation & Counseling Record (E7-E9) for reporting period 22 June 2021 to 1 June 2022
(3) Evaluation & Counseling Record (E7-E9) for reporting period 22 June 2021 to 29 June 2022
(4) CO, █ Memo, subj: Chief Evaluation Report Extension, 15 September 2022
(5) PERS-32 Advisory Opinion, 26 January 2024
(6) Petitioner's emailed rebuttal, 13 February 2024

1. Pursuant to the provisions of reference (a), 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 (EVAL) for the reporting period ending 1 June 2022 at enclosure (2).
2. The Board, consisting of █, █, and █, reviewed Petitioner's allegations of error and injustice on 22 February 2024, 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. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.
 - b. Petitioner was issued a detachment of individual EVAL for the reporting period 22 June 2021 to 1 June 2022. For type of report, both "regular" and "concurrent" are indicated. The concurrent report is not countersigned by the Regular Reporting Senior (RS) in block 47. See enclosure (2).
 - c. Petitioner was also issued a detachment of individual EVAL for the reporting period

22 June 2021 to 29 June 2022. Again, both “regular” and “concurrent” are indicated in the “Type of Report” block. The report is properly countersigned by the Regular RS in block 47. Additionally, this EVAL was extended by changing the end of the reporting period to 15 September 2022. See enclosures (3) and (4).

d. Petitioner contends the EVAL at enclosure (2) was submitted in error, is unsigned by the Regular RS, lists an incorrect Regular RS, and ends on the wrong date. He further contends the EVAL at enclosure (3) is the correct EVAL. See enclosure (1).

e. By memorandum of 26 January 2024, PERS-32 issued an advisory opinion (AO) recommending the Board make the determination regarding removal of the contested report because Petitioner has not provided evidence of the appropriately assigned RS at the command during the reporting period and PERS-32 does not have “authority or purview on deciding who the RS was during that time period.” See enclosure (5).

f. In his rebuttal to enclosure (5), Petitioner highlights that reference (b) requires a concurrent RS to transmit the completed EVAL to the appropriate Regular RS to be countersigned. Because the Regular RS did not countersign nor provide Petitioner a copy of enclosure (2), potentially because the concurrent command submitted the report directly to PERS-32, the report is in error. See enclosure (6).

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 noted enclosure (2) is not properly countersigned. Further, the Board noted enclosure (3) is not only properly countersigned but enclosure (4) extends the reporting period captured by enclosure (3), indicating the EVAL at enclosure (3) is a valid EVAL. Therefore, the Board determined enclosure (2) shall be removed from Petitioner’s record.

RECOMMENDATION

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

Petitioner’s naval record be corrected by removing enclosure (2), the EVAL for the reporting period 22 June 2021 to 1 June 2022.

Any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner’s record and that no such entries or material be added to the record in the future.

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 Regulation, Section 723.6(e)) and

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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.

3/11/2024

