



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

██████████
Docket No: 2908-16

DEC 27 2016

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

Encl: (1) DD Form 149
(2) Case summary
(3) Fitness Report and Counseling Record for the reporting period 1 Feb 2012 to
7 Sep 2012 dtd 8 Nov 2012
(4) Cmdr, NMC, ██████████ ltr ██████████ dtd 1 Feb 2013
(5) Fitness Report and Counseling Record for the reporting period 1 Feb 2012 to
7 Sep 2012 dtd 1 Feb 2013

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the Navy, filed enclosure (1), requesting that the original Fitness Report and Counseling Record for the reporting period 1 February 2012 to 7 September 2012 (encl (3)) be removed from his official military personnel file (OMPF). Additionally, he is requesting that the supplemental fitness report cover letter (encl (4)) be removed from his OMPF.
2. The Board, consisting of ██████████, reviewed Petitioner's allegations of error and injustice on 29 November 2016, 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, 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 finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Although enclosure (1) was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider his application on its merits.
 - c. Petitioner's record contains two fitness reports for the reporting period 1 February 2012 to 7 September 2012 as well as a supplemental fitness report cover letter, each of which are

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identified as digital document ID #19058435 in his OMPF. The original report (encl (3)) was signed by the reporting senior on 8 November 2012. Subsequently, the reporting senior submitted a cover letter and supplemental fitness report, dated 1 February 2013 (encls (4) and (5)), for the same reporting period because "information received after report was written justifies a change in comments on performance (Block 41) and promotion recommendation."

d. Petitioner contends that the original fitness report in his OMPF is unjust, in part, because the adverse comments and marks are still viewable, although they were corrected with the submission of a supplemental fitness report. Therefore, Petitioner requested that the original fitness report and the supplemental fitness report cover letter be removed from his OMPF and the supplemental fitness report remain in their place.

e. Per applicable Navy regulation, after a fitness report has been filed in the OMPF, it may be modified only through an administrative change, the addition of supplementary material, or through an appeal process. The purpose of supplementary material is to clarify, amend, or correct the evaluative blocks, but does not change original information on the individual's Performance Summary Record or replace the original report on the individual's OMPF. Selection boards are briefed that any supplemental changes are the report of record and should disregard the evaluative information on the original report.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's requests warrants favorable action. Specifically, the original fitness report for the reporting period 1 February 2012 to 7 September 2012 dated 8 November 2012 and the supplemental fitness report cover letter dated 1 February 2013 be removed from his OMPF, and that the supplemental fitness report for the same reporting period, dated 1 February 2013 remain in his OMPF. In this regard, the Board recognized that the supplemental fitness report was submitted in accordance with applicable Navy regulation, and as such, the original fitness report would normally remain in the OMPF. However, the Board noted that if the original fitness report is still available to selection boards, and considering the comments contained in Block 41 and the promotion recommendation in the original fitness report, it could be viewed as prejudicial. Further the original fitness report serves no purpose by leaving it in the OMPF when a complete and revised report for the same reporting period is entered in his OMPF.

In view of the foregoing, the Board finds the existence of an error and injustice warranting the following corrective action.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected by removing the following fitness report (encl (3)).

<u>Date of report</u>	<u>Reporting senior</u>	<u>Period of report / digital document ID</u>
20121108	[REDACTED]	From 20120201 to 20120907 / #19058435

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b. That Petitioner's naval record be corrected by removing the Commander, Naval Medical [REDACTED] letter [REDACTED] dated 1 February 2013 (encl (4)); digital document ID #19058435.

c. That the supplemental Fitness Report and Counseling Record for the reporting period 1 Feb 2012 to 7 Sep 2012, dated 1 Feb 2013, remain in Petitioner's OMPF.

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.

[REDACTED]

Recorder

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 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.

[REDACTED]

Executive Director