



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

[REDACTED]
Docket No: 334-17
JAN 10 2018

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED] USN, [REDACTED]
[REDACTED]

Ref: (a) 10 U.S.C. §1552
(b) BUPERSINST 1610.10C (EVALMAN)
(c) NAVADMIN 022/10

Encl: (1) DD Form 149 w/attachments
(2) NPC memo 1610 PERS-32 ltr of 19 May 17

1. Pursuant to the provisions of reference (a), Petitioner, an active duty Chief Petty Officer in the Navy, filed enclosure (1) with this Board requesting removal of his fitness report for the reporting period 16 September 2013 to 31 March 2014 from his Official Military Personnel File (OMPF).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 19 October 2017 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. In addition, the Board considered the advisory opinion (AO) provided by the Navy Personnel Command (PERS-32).

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. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the contested fitness report was not in compliance with reference (b) because a "Progressing" promotion recommendation may not be marked if an advancement recommendation is already in effect in the current grade. Per reference (b), the fitness report was accepted to the record with a MEMO on 5 February 2015 due to no response from the Reporting Senior (RS) to the reject notification letter. References (b) and (c) authorize the fitness report to be placed on the record "As Is."

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PER-32 concludes the AO by stating that since the fitness report is adverse and was not corrected by the RS as required, they "would have no objection to removing the fitness report and MEMO and replacing with a memorandum of continuity."

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board concurs with the PERS-32 AO and finds it is unjust for the contested fitness report to remain in Petitioner's OMPF.

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

RECOMMENDATION

Petitioner's naval record be corrected by removing the fitness report for the reporting period 16 September 2013 to 31 March 2014.

Insert in Petitioner's naval record a memorandum in place of the removed report, containing appropriate identifying data concerning the report; that such memorandum state that the report has been removed by order of the Secretary of the Navy in accordance with the provisions of federal law and may not be made available to selection boards and other reviewing authorities; and that such boards may not conjecture or draw any influences as to the nature of the report.

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