



counseling entry met the 6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN). Specifically, the Board noted that the entry provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You were afforded the opportunity to rebut the counseling, and your written response is filed in your official military personnel file (OMPF).

In regards to your contention that the dual role of the Reporting Senior (RS) in investigating and reporting on the incident creates an inherent conflict of interest that could lead to biased interpretation of events and influence the outcome of the investigation. However, the Board noted this complaint was previously adjudicated by your chain of command. Specifically, the Board noted in your fitness report ending on 15 November 2018, the Third Officer Sighter, a Colonel (O-6), noted your concerns and determined your CO made the best possible decision available at the time for all involved in the complaint due to operational and personnel requirements which were driven by an upcoming deployment. Furthermore, the Board noted that the Commanding Officer (CO), [REDACTED], noted that the investigation which substantiated the violation of article 92 was fully adjudicated and in compliance with pertinent policies.

In regards to your contention that the issuance of the counseling entry has had significant repercussions on your career and personal life and is impeding employment opportunities and your ability to provide for your family, the Board noted your contentions are conjecture and have no bearing on the validity of the counseling nor the CO's decision to issue the counseling entry.

Finally, in regards to your claim that other Marines who were involved in similar allegations received non-punitive letters of caution (NPLOC) which contrasts sharply with the issuance of a 6105 counseling to yourself and another Staff Sergeant (SSgt), the Board weighs each case on its merit and the purported status of another Marine's record has no bearing on your case.

Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. The Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the counseling entry from your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board did not consider your request to remove your fitness reports (1 July 2018 to 20 August 2018 and 21 August 2018 to 15 November 2018) because you have still not exhausted your administrative remedies. The Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals; therefore, you must submit your request to the PERB according to the Marine Corps Performance Evaluation System Manual.

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.

Sincerely,

4/14/2024

