



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

██████████
Docket No. 4988-24
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF ██████████
██████████ USMC

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149 w/attachments
(2) HQMC ltr 1610 MMPB-21D/PERB, 31 Oct 23
(3) HQMC Advisory Opinion 1610 MMPB-23, 13 Oct 23
(4) HQMC memorandum 1610 MMPB-24, 8 Nov 23

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 that her naval record be corrected by removing her failures of selection (FOS) to Lieutenant Colonel (LtCol/O-5). Petitioner also request convening of a Special Selection Board (SSB).
2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 7 May 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 did not exhausted all administrative remedies available under existing law and regulations within the Department of the Navy regarding her request to convene a SSB. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds the following:
 - a. Petitioner failed selection during the Fiscal Year (FY) 2022/2023/2024/2025 Marine Corps LtCol Promotion Section Boards (PSBs).
 - b. On 11 April 2023, Petitioner submitted a petition to the Marine Corps Performance Evaluation Review Board (PERB) requesting to remove the adverse fitness report for the reporting period 1 June 2019 to 19 April 2020. Enclosure (1).
 - c. On 31 October 2023, the PERB approved a correction to Petitioners' record by removing the adverse fitness report ending 19 April 2020. Enclosures (2) and (3).
 - d. In her petition to the PERB, Petitioner requested removal of her FOSs for promotion to LtCol. Petitioner also requested the convening a SSB. Enclosure (1).

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[REDACTED] USMC

e. The advisory opinion (AO), attached as enclosure (4), commented to the effect that the request has merit and warrants favorable action. The AO explained that the presence of a positive correction in a Marine's record is the most important factor in the formulation of his opinion in any consideration of a FOS removal request. The PERB directed a substantial change to Petitioner's record by removing a fitness report that contained adverse material that was present during the convening of the FY 2023 and 2024 PSBs. The AO opined that it is likely the adverse fitness report was not present in Petitioner's record during the FY 2022 LtCol PSB; however, there would have been a 12-month date gap in Petitioner's record. Fitness report date gaps of this duration, covering in grade periods, can be just as detrimental to PSB competitiveness. A date gap in this situation was beyond the control of Petitioner and she should also be granted relief on the FY 2022 LtCol PSB FOS request. The AO noted that the duration of above zone record brief preparation and record briefing in PSBs is substantially less than in zone record brief preparation and briefing duration. The AO determined that Petitioner should be afforded the opportunity to have her corrected record considered in a future LtCol PSB without the stigma of being previously considered and not selected.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial corrective action. In this regard, the Board noted the PERB's correction to Petitioner's fitness report ending 19 April 2020. The Board substantially concurred with the AO that the removal of adverse material was a substantial change to Petitioner's record and would have altered the perception of Petitioner's competitiveness. The Board determined that Petitioner should be afforded the opportunity to have her corrected record considered in zone during a future PSB. The Board concluded that Petitioner's FOS shall be removed. The Board also determined that Petitioner must exhaust her administrative remedies by submitting a request for special selection to the Marine Corps Officer Promotions Branch in accordance with SECNAVINST 1402.1.

RECOMMENDATION

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

Petitioner's naval record be corrected by removing her failures of selection incurred during the FY 2022/2023/2024/2025 USMC Lieutenant Colonel Promotion Selection Boards.

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.

5/7/2024

