



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

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Docket No. 5642-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 30 July 2024. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations, and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, as well as the 31 May 2024 advisory opinion (AO) furnished by the Navy Personnel Command (NPC) (PERS-32). Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to remove or modify the evaluation report for the reporting period 16 November 2018 to 15 November 2019. The Board considered your contention that contrary to the Navy Performance Evaluation System Manual (EVALMAN), the evaluation report displayed a decline in performance without justification. You assert that more than two traits declined in the same pay grade, by the same Reporting Senior (RS) when compared to the previous evaluation.

The Board concurred with the AO that your evaluation report is declining; however, the Board determined that your evaluation report is valid as written and filed, in accordance with the applicable EVALMAN. In this regard, the Board noted that a decline in performance is defined as receiving lower grades on two or more performance traits, in the same paygrade, by the same RS on subsequent reports. The EVALMAN states, "If the decline in performance is based on performance, comments *should* justify the decline." The Board thus determined that the EVALMAN recommends, but does not require RSs to justify the basis for declining performance

traits. Therefore, the lack of justification does not invalidate your evaluation report. The Board also noted your declining promotion recommendation and increased number of members in your summary group. According to the EVALMAN, a change in promotion recommendation caused by forced distribution is not considered a decline in performance or an adverse report. Moreover, when compared to your previous evaluation report, the RS comments align with the declining performance traits and support the decline in promotion recommendation. The Board noted, too, that you reviewed and acknowledged the evaluation report on 25 November 2019 and elected not to submit a statement. The Board also determined that your election not to submit a statement indicates that you understood the basis for the declining performance traits. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the evaluation report. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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,

8/13/2024

