



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

█  
Docket No. 6316-24  
Ref: Signature Date

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Dear █,

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.

A three-member panel of the Board, sitting in executive session, considered your application on 9 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 13 May 2024 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), and 4 April 2024 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The AO was provided to you on 13 May 2024, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove the fitness report for the reporting period 1 December 2021 to 30 April 2022<sup>1</sup> or alternatively, you request to modify the Reporting Senior (RS) portion of the fitness report by changing it to not observed. If approved, you request removal of your failures of selection. The Board considered your contention that the RS deliberately marked the fitness report to place you at the bottom of his profile due to a personal dispute, and in violation of the Marine Corps Performance Evaluation System (PES) Manual. The PES Manual states, "(3) Should avoid the temptation to intentionally mark attributes in a manner that ensures the report will

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<sup>1</sup> Petitioner's request in his application stated fitness report dated 20211101 to 20220403.

be at the bottom of their profile, while simultaneously writing laudatory comments in section I to mislead the MRO into believing the overall report is laudatory.” You also contend the attribute marks you received were a deliberate attack against you, the RS placed you significantly below his average and failed to provide a counseling or explanation for the remarks in an attempt to prevent you from noticing the low marks in a reasonable time. You made claims regarding the RS’s claim that he reached out to council you on your fitness report, but you have no record (physical or digital) or memory of this happening. You also claim you attempted to retrieve a copy of the command climate survey for this period, but the command would not authorize it and you would like to petition the board to retrieve a copy of this survey to be used as evidence.

The Board however, substantially concurred with the PERB’s decision that your fitness report is valid as written and filed in accordance with the applicable PES Manual. In this regard, the Board noted the email from your RS indicting he “will not submit a memo to correct the PARS markings.” The RS also indicated you were issued an initial counseling, but per his observation, you fell short. The Board also noted that your fitness report is not adverse, therefore counseling is not required. Other than your statement, the Board found no evidence the RS deliberately placed you at the bottom of his profile due to a personal dispute or used the fitness report as a deliberate attack against you and you provided none. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers, 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.

Concerning assistance with obtaining the command climate survey, per SECNAVINST 5420.193, the Board functions to consider applications properly before it for the purpose of determining the existence of error or injustice in naval records, to make recommendations to the Secretary or to take corrective action on the Secretary's behalf when authorized. The Board is not an investigative body and does not gather evidence. It is the responsibility of the applicant to submit evidence relevant to their request. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report or removal of your failures of selection. 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, \_\_\_\_\_

7/19/2024

