



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

██████████  
Docket No. 7691-24  
Ref: Signature Date

██  
██  
██

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 applications on 10 September 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies. In addition, the Board considered the 1 August 2024 Advisory Opinion (AO) provided by Navy Personnel Command (PERS-32) and your response to the AO.

The Board determined that your personal appearance, with or without counsel, would 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 Evaluation Report & Counseling Record (Eval) for the reporting period 16 September 2022 to 6 June 2023. The Board also considered your request to administratively correct multiple evaluation reports for the following reporting periods: (1) 2 August 2022 to 15 September 2022, (2) 16 September 2022 to 7 February 2023, and (3) 9 January 2023 to 24 April 2023.

In regards to your request to remove the eval ending on 6 June 2023, you Board considered your contentions that, pursuant with BUPERS Instruction 1610.10F concerning continuity and frequency of reports, each regular report should begin on the day following the end of the previous report and that a periodic report may not be delayed and combined with another report in a service members current paygrade. In response to the AO, you further contend that this

report is overlapping three other regular evaluation reports, and had you known you were going to be given another evaluation report, you would have insisted on correcting this error. You further contend that you did not sign the evaluation report, and it incorrectly states that an official copy was provided. In regard to your request for administrative correction to multiple evaluation reports previously mentioned above, the Board considered your contention that your frocking to Senior Chief Petty Officer took place on 16 May 2022 and, therefore, the contested evaluation reports have the wrong rank. You further assert that you never signed a NAVPERS 1070/613 (Page 13) counseling removing your frocking. The Board also considered the evidence you provided which shows advancement to Senior Chief Petty Officer on 16 June 2023.

However, the Board substantially concurred with the AO. In this regard, although you provided sufficient evidence that the contested reports contained several administrative errors, the Board noted that you must first exhaust your administrative remedies with the Navy. In this regard, the Board noted after an evaluation has been filed in the official record, it may be modified only through an administrative change or supplementary material pursuant with the EVALMAN at any time within two years from the ending date of a report to PERS-32.

Next, the Board considered your request to remove the Eval ending 6 June 2023. Based upon review of your enlisted data, the Board noted you checked in to the Naval Submarine Base New London on 1 August 2022 and detached on 7 June 2023. Therefore, the Board concurred with the AO and determined the evaluation report to be valid but noted that block 15 should be modified to reflect 7 June 2023. The Board further noted that removal of the contested report would create a gap in your performance history. The Board thus concluded removal of the contested evaluation report in its entirety would not provide any advantage and would constitute an excessive degree of redress. However, once the administrative corrections have been complete, if you feel the requested relief is still warranted, you are encouraged to resubmit your request. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the contested evaluation report. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Finally, the Board noted you checked the “Other Mental Health” and “Reprisal/Whistleblower” boxes on your application but chose not to provide supporting evidence of your claims. Therefore, the Board found insufficient evidence any of these issues or conditions were related to your request.

The Board determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. 10 USC 1034 provides the right to request Secretary of Defense review of cases with substantiated reprisal allegations where the Secretary of the Navy’s follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoD policy you have the right to request review of the Secretary of the Navy’s decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a de novo review and under 10 USC 1034(c) the Secretary of Defense cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness

(USD(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and, a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR, therefore, please also include previously presented documentation that supports your statements.

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,

10/1/2024

