



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. 7991-24
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.

A three-member panel of the Board, sitting in executive session, considered your application on 5 November 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 █
█ advisory opinion (AO) furnished by the █. The AO was provided to you on 20 August 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.

The Board carefully considered your request to remove the evaluation report for the reporting period 16 November 2022 to 15 November 2023. The Board considered your contention that the evaluation report is declining. You claim that you failed the Fiscal Year (FY) 2023 Body Composition Assessment (BCA), which resulted in six of seven performance trait marks being lowered. You contend that you were not counseled during the reporting period for deficient performance, you did not receive an adverse performance evaluation report letter or the required Page 13 for an adverse report. You also contend there is no requirement directing the lowering of all marks and promotion recommendation to "Promotable" for a first time BCA failure. You assert that even if the BCA failure was a basis for lowering the promotion recommendation, lowering all of the marks without justification is not acceptable.

The Board noted that you received a declining Periodic/Regular evaluation report ending 15 November 2023. The performance traits for blocks 35 through 39 were marked 3.0, block 20 indicates "F" indicating that you failed the physical readiness assessment, and your promotion recommendation was marked "Promotable." The Board also noted your statement that neither your senior officer nor chain of command counseled you regarding deficient performance or that your performance was not the same as the previous reporting period. The Board further noted your Reporting Senior's (RS's) statement explaining deficiencies in the Lead Chief Petty Officer staff and

his good faith effort to address your concerns after the first debrief. He claims that he explained that you were doing very good work and the comments reflect that. The declining marks were due to fierce competition among E-6 peers across a wide array of rates, limited opportunities to make talented E-6s eligible for selection boards, and the talent management strategy the Chief's Mess and department heads used to provide their ranking recommendation to him. Your RS also explained that the ranking boards pushed you to the "Early Promote" level in 2022 with the intent to make you a Chief that year, but you did not make board.

The Board, however, determined that your evaluation report is valid and issued according to the applicable Navy Performance Evaluation System Manual (EVALMAN). In this regard, the Board also determined that your evaluation report is not adverse. According to the EVALMAN, a report is considered adverse if it contains a trait grade of 1.0, or a promotion recommendation of "Significant Problems." Therefore, an adverse performance evaluation report letter or Page 13 was not required.

The Board concurred with the AO that your fitness report is declining. According to the EVALMAN, a decline in performance occurs when you receive lower grades in two or more performance traits, in the same paygrade, by the same RS on subsequent reports. The Board noted that the EVALMAN states, "[i]f the decline in performance is based on performance, comments *should* justify the decline." The Board thus determined that the EVALMAN guidance is a recommendation and does not require RSs to justify the basis for declining performance traits. Therefore, the RS's lack of justification does not invalidate your evaluation report. The Board also determined that your statement and the RS's response sufficiently addressed your concerns and the basis for the declining marks. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding the inclusion of your statement and the RSs response, the Board determined that you must exhaust your administrative remedies by correcting any errors noted by PERS-32 and resubmitting the statements to PERS-32.

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,

11/15/2024

