



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. 8437-24
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 24 October 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 26 August 2024 Advisory Opinion (AO) authored by Navy Personnel Command (PERS 32) and provided to you via email on 4 September 2024. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to “correct” the Periodic Evaluation & Counseling Record (EVAL) for the reporting period 16 March 2021 to 15 March 2022 and the Detachment of Individual EVAL for the reporting period 16 March 2022 to 12 July 2022¹. You contend the two EVALs were adverse due to your refusal of the COVID-19 vaccine. Further, you contend these “two bad [EVALs]” dropped your [individual trait average] without explanation. Lastly, you contend your previous EVALs from 2019 and 2020 were 3.29 and 3.43 respectively. In support of your request for relief, you submitted copies of EVALs and a link² to the MyNAVYHR COVID Vaccine Mandate Repealed Fact Sheet [for] NAVADMIN 005/23.

The Board, however, determined the EVALs were valid as written and filed. The Board substantially concurred with the AO in its review/comment on the EVAL ending 15

¹ Using the information in blocks 15 and 19 of your DD Form 149, the Board determined you considered these EVALs as the “two adverse Evaluations.”

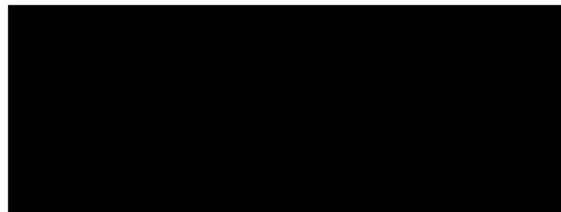
² The Examiner downloaded the Fact Sheet and added it to your case file for review by the Board.

March 2022³. The Board noted you received a 2.0 performance trait in block 36 (Military Bearing/Character) for the report ending 15 March 2022 but, concurring with the AO, determined justification was not required by BUPERSINST 1610.10E. Additionally, the Board noted the Reporting Seniors (RSs) for both EVALs did not provide adverse comments on either EVAL nor did they mention your refusal of the vaccine. Further, the Board noted neither of the EVALs complied with the reporting requirements specified in NAVADMIN 256/21⁴. Additionally, the Board determined the three EVALs prior to the contested EVALs were not only from different RSs but also from a different ship/station. Therefore, the Board concluded your comparison of these EVALs to the contested EVALs was without merit. Lastly, the Board noted you did not specify what corrections you were requesting for either EVAL. As a result, the Board concluded there is insufficient evidence of an error or injustice warranting a correction to your record. 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,

11/23/2024



³ The Board noted the PERS-32 AO reviewed the EVALs for the reporting periods 30 October 2020 to 15 March 2021 and 16 March 2021 to 15 March 2022 vice your requested EVALs.

⁴ NAVADMIN 256/21 states: 6.b.(2). E-1 to E-6 Evaluations. The adverse special evaluation will contain no greater than a 2.0 in block 36 (Military Bearing/Character) and no greater than a 2.0 in block 39 (Leadership). Block 45 (Promotion Recommendation) will be marked as *Significant Problems* and block 47 (Retention) will be marked as *Not Recommended*. The following sentence must be the opening statement in block 43: *Member failed to maintain deployability or individual readiness standards by refusing the order to receive the COVID-19 vaccine.* A report without these marks and this statement will be rejected and returned for correction.