



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. 9829-24
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 31 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 with your previous application and the current submission, relevant portions of your naval record and applicable statutes, regulations and policies. In addition, the Board considered the Staff Judge Advocate (SJA), United States Naval Academy (USNA), Advisory Opinion (AO) of 16 April 2024 and your rebuttal response submitted on 25 September 2024.

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

You requested your disenrollment from the USNA be remedied by granting you a diploma and deeming you a graduate¹, commissioning you as an officer in the U.S. Navy, promoting you to the rank/paygrade you would have attained had you been commissioned with your graduating class, and providing back pay and allowances. Alternatively, you requested the Board return you to the USNA to allow you to complete your degree and commission as an ensign. You contend you were wrongly dismissed from the USNA “despite reasonable evidence that [you] would

¹ You specifically requested the Board grant you a diploma “in view of the practical application of the final two courses onboard a U.S. Navy warship” or that you “be given equivalence credit for the time [you have] spent (over a year) as an enlisted sailor towards the remaining requirements for graduation outstanding at the time of your separation.”

successfully complete graduation requirements and become a valuable Commissioned Officer in the United States Navy.” Specifically, the Board considered the following summarized contentions:

(1) You should not have met the August 2021 Academic Board (Academic) as the triggering criteria had not been met. Specifically, you contend none of the situations defined as “academic deficiency²” fit your circumstances in August 2021.

(a) You did not fail the Electrical Engineering (EE) course taken during the summer but received a “D” which is a passing grade.

(b) You did not “[fail] to earn a cumulative quality point ratio (CQPR³) of at least 2.00 for all courses taken in the summer, whether enrolled voluntarily or not” because a plain reading of “a cumulative quality point ratio (CQPR) of at least 2.00 for all courses taken in the summer” can only mean all courses taken to date in the summer at the USNA otherwise the use of the word “cumulative” makes no sense. Therefore, since during your summers you took eight different courses and your summer CQPR never dipped below 2.0, you did not meet this criteria for academic deficiency.

(2) You should not have met the August 2021 Academic Board (Physical Education) as the triggering criteria had not been met. Based on a reading of the applicable regulations, there exists a significant discrepancy among them. Clearly these instructions, as discussed below, are in conflict.

(a) USNAINST 5420.24G states the Academic Board is to act on all cases of physical education deficiency. Unless the Academic Board recommends otherwise, Midshipmen (MIDN) found deficient in physical education will be discharged from the USNA and the Naval Service. The instruction defines deficiency as a MIDN failing to pass the Physical Readiness Test (PRT) in a given semester.

(b) Director of Athletics Instruction (DIRATHINST) 6110.2C⁴ states MIDN who

² Based on USNAINST 5420.24G, which governs the operation of the Academy’s Academic Board, the following defines academic deficiency:

a. Academic course failure:

- (1) Failure of two or more academic courses taken to fulfill graduation requirements in the fall or spring semester.
- (2) Failure of a single academic course when taken to fulfill graduation requirements in the summer.
- (3) Failure of any academic course whenever this brings the total of all academic courses failed to three or more. Successfully repeating a course previously failed does not diminish the count of course failures.
- (4) Failure of a remedial course such as HEI0I, SM005, or HE344 when the latter is assigned because of a writing deficiency.

b. Inadequate level of academic performance.

- (1) Failing to earn a semester QPR (SQPR) of at least 1.50 in the fall or spring semesters.
- (2) Failing to earn a cumulative quality point ratio (CQPR) of at least 2.00 for all courses taken in the summer, whether enrolled voluntarily or not.”

³ Provost Instruction (PROVOSINST) 1531.60 states “CQPR includes all courses taken to date at the Naval Academy.”

⁴ DIRATHINST 6110.2C MIDN Physical Fitness Assessment (PFA) Procedures

repeatedly fail to meet the Physical Fitness Assessment (PFA) standards of the USNA by failing multiple official PFAs are subject to referral to the Physical Education Evaluation Board (PEEB), the Physical Education Review Board (PERB) the Athletic Director/Commandant Review Board or the Academic Board. MIDN who fail three official PFAs shall be forwarded to the Academic Board (Physical Education) for possible separation.

(c) DIRATHINST 6100.1⁵ states a single PFA failure should be reviewed by the PEEB, a second PFA failure should be reviewed by the PERB, and a third PFA failure should be reviewed by the Academic Board (Physical Education).

(d) You contend you did not fail the Fall 2020 PFA. Specifically, you contend you wore a stopwatch which recorded your time as 10:15 but the electronic bib recorded a time of 10:59. Due to a Brigade-wide issue, you filled out the form sent out by the Brigade Physical Mission Officer, reporting the time recorded by your stopwatch, but your discrepant bib time was deemed correct and a PFA failure was recorded in your record. You contend proof of the error lies in your run time of 9:45 completed only two weeks later while you were in remedial training. The likelihood of a fitness improvement of 1.25 minutes in merely two weeks of additional training is slight but, the more likely explanation is that the bib timing was erroneous, and you did not actually fail the PRT.

(e) Your recorded failure of the strength portion of the August 2021 PRT, for the first time in four years, was the result of unfair situations. First, the proctor only recorded completion of 34 cadence push-ups which is one shy of the required 35. You admit the proctor gave you a single verbal warning to improve your form at approximately the 33rd pushup but the PRT proctors stated they gave you multiple verbal warnings⁶ to fix your form prior to completion of the 30th pushup. Further, after you failed the push-up portion you still had to complete the plank and run portions of the PRT. During the run, you slipped⁷, fell, and sprained your ankle. Despite the pain, you did not want to create a perception that you wanted to quit so you limped for the next mile and completed the run in 18 minutes. Additionally, you noted your concern the PRT was scheduled for the same day as your final EE exam, allowing 15 minutes after the end of the exam period until start of the PRT. Having both a career-impacting course final exam and PRT compressed together in one morning seems unrealistic, given the implications of failure. Further, you contend the Marking Officer demonstrated a lack of concern by allowing you to continue the run with the sprained ankle. Further, you contend there was no legitimate reason to allow you to continue running after you passed the 10:30/passing mark. Lastly, you contend that you qualified for a “bad day” chit which would allow you to retake the PRT after you were medically cleared but you didn’t know to ask for one.

(f) You contend the USNA failed to follow the procedures. The only way you could correctly have been referred to an Academic Board (Physical Education) is if the PERB

⁵ DIRATHINST 6100.1 Physical Education Requirements for Graduation from USNA

⁶ Additionally, you contend that multiple verbal warnings was a violation of test administration procedures because only one verbal warning is allowed with any subsequent defects in form mandating termination of the cadency push-up test.

⁷ The run was scheduled on the Ingram track even though there had been a heavy rainstorm that morning; the track was still wet, and a runner could slip; and a dry indoor track was available.

forwarded you, and to have been referred to the PERB, a MIDN must either have at least two PFA failures or be forwarded from a PEEB. You contend that only after the August 2021 PRT failures did you meet this criterion because you had a valid medical waiver for the Spring 2021 PRT and would have received an incomplete for the semester and not a failure. Additionally, you contend there is no record of a PERB meeting in August 2021 to review your records. Therefore, given the lack of a PERB meeting, no PERB could have correctly forwarded you to the Academic Board (Physical Education).

(3) It is unlikely the Academic Boards applied the “whole-person” standard when evaluating your records. The boards are required to answer two questions before recommending a MIDN for disenrollment and separation: (1) Is there reasonable evidence that he can successfully satisfy graduation requirements? and (2) Does he have the necessary attitude and personal characteristics to be an officer? You specifically contend the Academic Boards failed to actually address either of these questions. In fact, you contend it appears the boards disregarded the requirement in its entirety thereby failing to follow its own regulations which makes the decision invalid.

(a) Your separation was contrary to reasonable evidence because your academic record supports likely success in satisfying graduation requirements and neither your past performance nor the August PRT suggest you could not satisfy the physical education requirements upon medical clearance. Specifically, you contend your conduct and aptitude during 3.5 years at the USNA support your ability to satisfy the professionalism necessary for a commissioned officer. Further, you maintained the necessary CQPR for graduation. Lastly, with the exception of the 17 August 2021 PRT, you demonstrated no problems meeting the physical requirements for graduation.

(b) The Academic Board failed to consider your attitude and admirable personal characteristics as required by USNAINST 5420.24G. Specifically, you contend that at no time did you display any conduct unfitting of an officer. Further, you continuously showed passion and commitment to naval service, and your record demonstrates you are able to adapt and overcome deficiencies and succeed. Additionally, you contend your drive and passion to succeed and become an officer are clear and even Commanding Officer (CO), USS █, had no doubt you would succeed as a commissioned officer.

(4) The Academic Board incorrectly applied the whole person evaluation per USNAINST 5420.24G by recommending separation without consideration of your impeccable conduct, continued commitment to the Navy and unwavering determination to succeed in the face of numerous challenges. Specifically, you contend the following:

(a) The whole person evaluation involves the consideration of “a MIDN’s performance in all areas” – which should include positive and negative performances. However, the October 2021 Action Memo [from the Superintendent to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA))] only referenced your deficiencies. By failing to consider your conduct record, your improved aptitude, as well as your determined efforts despite adverse circumstances, the Academic Board unjustly ignored relevant evidence favorable to you.

(b) You further contend that had the board reviewed your whole person, it would have seen you had successfully completed all the Academy PRTs but for the questionable Fall 2020 PRT; your overall academic record; your military performance; and good conduct but none of these positive qualities were referenced in the Action Memo.

(c) You were not referred to six academic boards for course failures: Three of your six were automatic reviews as a direct result of the decision to change your major following Spring 2019. The academic reviews were simply records checks to see if you were still tracking to graduation. Mischaracterizing them as formal Academic Boards was seemingly designed to paint you in a bad light to the reviewing authorities.

(d) The October 2021 Action Memo incorrectly implies you were granted additional time to meet graduation requirements.

(e) The Action Memo again mischaracterizes the circumstances of subsequent reviews by incorrectly claiming the PERB was convened due to a PRT failure when in fact it was to review an incomplete PFA subsequent to an excused non-performance of the Spring 2021 PRT. Specifically, you contend the PERB was convened to review the medical waiver you received after suffering a severe adverse reaction to your second dose of the COVID vaccine. Following the PERB's decision, you were directed to undergo a medical evaluation at Walter Reed before being permitted to engage in rigorous training. The August 2021 Academic Board fails to mention this medical waiver and the implications of your medical condition on either your physical fitness or academic performance.

(f) Despite your academic struggles and lack of additional time, you maintained a quality point rating in excess of the required 2.0 for graduation/commissioning following each academic term with the exception of Spring 2019. Further, your military grades were showing an increasing trend and you earned "A's" in conduct every semester. Additionally, your aptitude grades had improved to a constant "B" over his last three semesters. You contend your records reveal a highly motivated MIDN with consistently positive performance in relevant areas, but the August 2021 Academic Board failed to consider these positive attributes and instead claimed that as a whole, you were unsuited for commissioning.

(g) The Board should note that the Action Memo specifically admits its recommendation was based on considering your deficiencies as part of the whole person standard when it failed to mention your strengths.

(h) When your record is reviewed in its entirety, it clearly shows you were likely to satisfy the requirements for graduation and to become an upstanding officer of unimpeachable character. Further, you were short only two classes academically and a current destroyer Commander stated you would do well as a commissioned officer – an opinion that should be held in high regard.

(5) Your separation was incorrect as the August Academic Board failed to comply with USNA instructions – specifically DIRANTHINST 6110.2C para 10(c) -- regulating appearances before an Academic Board, arising from failed PFAs, for separation considerations. Specifically,

you contend you should not have been subjected to the Summer Academic Year (AY) 2022 Academic Board (Physical Education). Per the DIRATHINST 6100.1 matrix, for you to be referred to an Academic Board (Physical Education), you must have failed three or more PFAs, but you had only failed one prior to August 2021, and it was a failure you successfully remediated.

(6) Your lifelong dream of becoming a Naval officer was wrongfully snatched away from you at the last minute. You could have become sullen and embittered, doing just enough to get by as an enlisted sailor, while waiting for any chance to get out of the service that had so wronged you. Instead, you dove into your assignments as an enlisted sailor, becoming a valued and valuable team member. You have lived the leadership lessons you learned at the USNA and have most emphatically demonstrated that Academy staff erred in their evaluation of your potential. In support of your contention, you submitted a performance evaluation for the reporting period 15 July 2023 to 15 November 2023 onboard █ and a Navy Marine Corps Achievement Medal citation for the period of March 2022 to November 2023. Further, you contend your requested relief is certainly reasonable, as you have learned more about ship architecture, operations, propulsion, and handling during your time onboard █ than you would have in a classroom.

Advisory Opinion and Rebuttal

As a matter of procedure and equity, your petition was submitted to the USNA to provide an AO. The SJA stated the decision to disenroll you were appropriate and legally sound. Specifically, the decision was made after full consideration of all available evidence; careful review by the Academic Board, the USNA Superintendent, and ultimately ASN (M&RA); and processed in accordance with applicable statutes and regulations. The AO made the following specific points:

(1) The Summer AY 2022 Academic Board (Academic) properly considered your case. You received a “D” – which correlates to a 1.0 -- in EE301 on your third attempt to pass the required course. USNAINST 5420.24G contemplates academic deficiency where a MIDN fails “to earn a cumulative point ration of at least 2.00 for all courses taken in the summer, whether enrolled voluntarily or not.” Contrary to your contention, that does not mean all courses taken to date in every summer semester at the USNA but rather implicates the CQPR of courses taken that AY’s summer.

(2) The instruction provides that “when the Academic Board retains a [MIDN] who is two or more courses behind his major matrix, this does not constitute a commitment to extend the [MIDN] beyond his scheduled graduation date.” Further, “[s]eparation/retention will be determined according to performance in each subsequent academic term.” While you remained consistently behind your graduation requirements, the Academic Board was not obligated to extend your graduation to allow you to catch up. Additionally, the Academic Board did not find that your academic and physical education records justified such an extension, especially as you had already been provided several chances to improve your academic performance.

(3) The Summer AY 2022 Academic Board (Physical Education) properly considered your case. You argue that the USNA’s instructions (USNAINST 5450.24G and DIRATHINST 6110.2C) are in conflict because one instruction states one failed PRT is grounds for dismissal

while the other requires three PFA failures to go to the Academic Board. There is no contradiction: one PFA failure MAY be referred to an Academic Board while three PFA failures SHALL go to an Academic Board. Further, it is standard practice at the USNA to refer all PFA failures to an Academic Board.

(4) Your assertions that you did not fail the PRT in October 2020 are unfounded. The concerns raised with the electronic bibs used to calculate run times were purposely adjusted to subtract three seconds from each runner's time. Any further errors were individually assessed by USNA Physical Fitness staff using video footage captured at the one-mile marker and finish line.

(5) Your dispute of the August 2021 PRT results is contradicted by the actual record. The test proctor attempted to aid you by warning you to improve your push-up form or the proctor would halt your push-up count. The proctor then personally advised the Academic Board that he was forced to halt your push-up count when you failed to improve your form, causing you to fail the PRT regardless of the subsequent failure of the run portion.

(6) The Academic Board applied the "whole-person" standard when making its separation recommendation. On five prior occasions, you were retained to give you the opportunity to improve your performance. When you proved unable to do so, the Academic Board held you accountable and recommended separation which was subsequently endorsed by the Superintendent and approved by the ASN (M&RA). You were not separated over "one push-up." Rather, your record establishes that you consistently underperformed academically and further failed to meet USNA physical fitness standards. This decision was not made lightly. You were provided repeated opportunities to make your case for retention directly to the Academic Board to include your presentation of any information you wished. The Summer AY 2022 Academic Board decided you had run out of chances and were simply unable to meet USNA graduation and commissioning requirements.

In rebuttal to the USNA AO, you submitted rebuttal comments and evidence for consideration by the Board. Specifically, you provided the following summarized explanations and/or contentions:

(1) You were improperly dismissed from the USNA. Academy leadership misinterpreted regulations and had you performed a PRT under suboptimal weather conditions, leading to an injury. Despite the injury, the test administrator encouraged and allowed you to continue to run although there was no possibility of meeting the time standard and a real possibility of aggravating the injury.

(2) You should not have had an Academic Board for grade-related reasons. The AO misinterprets the CQPR, and the SJA's claim flies in the face of the very regulation he is quoting. USNAINST 5420.24G defines the Academic Deficiency of "Inadequate level of academic performance" as follows: (1) Failing to earn a semester QPR (SQPR) of at least 1.50 in the fall or spring semesters. (2) Failing to earn a cumulative quality point ratio (CQPR) of at least 2.00 for all courses taken in the summer, whether enrolled voluntarily or not. However, PROVOSTINST 1531.60B, "Grades and Reports," provides the definitions of the two QPRs acknowledged by the Academy. In paragraph 10b, it states: "The semester QPR includes only

courses taken during the given semester. The Cumulative QPR includes all courses taken to date at the Naval Academy (except for original grades of repeated courses).” By that definition and by the plain language of USNAINST 5420.24G, a “cumulative CQPR of 2.00 for all courses taken in the summer” can only mean all courses taken in all summer semesters. The fact the instruction specifically differentiated between a *semester* QPR for the fall and spring and a *cumulative* QPR for the summer can only mean “all courses taken to date” (the official definition of cumulative QPR) in the summer. Otherwise, USNAINST 5420.24G, Enclosure (3) para 1b would simply have read “Failing to earn a semester QPR (SQPR) of at least 1.50 in the fall or spring semesters or at least 2.00 for the summer.” Further, the error in referral to the Academic Board for academic deficiency is clearly expressed in the document “Academic Board History ICO [Petitioner]” which states the trigger for the Academic Board was a “1.0 SQPR” along with a failed PRT. This refers to the “D” he received in the summer EE course. Again, only a “CQPR” below 2.0 for all summer courses should trigger an academic board.

(3) The paperwork provided to you was deficient. On 17 August 2021, the Academic Board Secretary provided a notification that your physical education performance would be the subject of an Academic Board. On 18 August 2021, the Academic Board Secretary notified you – one day after the final exam was given -- that your “mid-term performance in Summer School Blk 3 [was] academically deficient” and your performance needed to improve. However, it was too late for improvement because the course was over.

(4) The USNA expects MIDN to follow regulations as written and the USNA must do the same. After-the-fact interpretations that contradict clear, plain language of the regulation cannot be allowed to stand.

(5) The AO is incorrect regarding your graduation date. Although an extension of your graduation date was not the subject of your application to the Board, it is worth noting that, according to a USNA summary of your Academic Boards, you were scheduled to graduate in December 2021. Based on that, you still had one more semester before graduation and only required two additional courses to graduate. Thus, there was no need for anyone to extend your graduation date because you were on track to graduate IAW your updated projected graduation date. Any previous Academic Board decisions are irrelevant to the AY 2022 Academic Board decision because, as the AO stated, “separation or retention will be determined according to performance in each subsequent academic term.” The Academic Board elected to dismiss a MIDN who was actually on-track to graduate in December 2021 with only two required courses needed. It seems unlikely the USNA has a deep history of dismissing MIDN who are two required courses short of graduation and had absolutely no disciplinary issues. This Board must question the USNA decision in your case.

(6) The AO does not clear up the discrepancy between instructions. DIRATHINST 6110.2C and DIRATHINST 6100.1 say three PFA failures must go to the Academic Board. While a MIDN with fewer than three failures could be referred to the Academic Board (Physical Education), the record must first pass through PEEB and PERB. For the USNA to adopt a standard practice that conflicts with the instructions again places MIDN in a quandary where regulations are in conflict and the USNA has adopted an unwritten practice.

(7) With respect to the October 2020 run portion of the PRT, unless the video footage captured the entire run portion of the test and had an accurate timer running from the start of the run, an assessment that uses “video footage captured at the one-mile marker and finish line” is meaningless. Even if that were the case, without any assurance that a time counter was properly calibrated, any assessment by some USNA staff member has no evidentiary value. This is made even more important given the fact the USNA was aware the electronic bib timers were faulty. Given the USNA claims your October 2020 run time was 50 seconds slower than your previous worse run time, it is much more likely the USNA timing of the event is in error and not your self-reported time.

(8) The AO’s statement that your dispute of the August PRT is contradicted by the actual record is incorrect. In fact, there is no “actual record” because no one has a video of the event. You believe you completed 35 cadence push-ups and were stopped while performing number 36. In contrast, the Marking Officer provided a statement that you were stopped on 34. Further, the AO does not address the failure of the Marking Officer to provide a suitable venue for the PRT after a heavy rainstorm the morning of the PRT left the track wet, causing you to slip, fall, and sprain your ankle. Additionally, it is likely the area where you performed the pushup portion was also wet which would have unnecessarily increased the difficulty of performing a proper pushup and would account for any discrepancies noticed by the Marking Officer. The AO also does not address that you were not prevented from finishing the run portion of the PRT and potentially severely injuring yourself despite the Marking Officer noting a noticeable limp. When an injury occurs during a PFT, the Navy Physical Readiness Program Guide 7 requires a report be made to the Safety Officer who then submits a report to the Commander, Navy Safety Center. In this situation, you slipped, fell, and injured yourself on a wet track, and there is no indication a safety report was made. Lastly, the AO does not address the fact you should have been informed you could request a “bad day” chit and retake the PFT especially since you had always scored above 70% on the strength portion so a “bad day” chit would have been approved.

(9) Nothing in the record indicates the Academic Board applied the “Whole-Person” concept. There is nothing in the AO or in the minutes of the Academic Board meeting to substantiate that. What seems more likely is that the board simply wanted to be rid of you and used this opportunity to do so. You contend you had three tasks from the Spring 2021 Academic Board: to pass EE -- which you did; to get tutoring for EE -- which was waived; and to complete a summer cruise -- which you did. Further, you contend that had you passed the 17 August 2021 PRT, you would not have met the Summer AY 2022 Academic Board (Physical Fitness). You emphasize that had you completed the push-up portion with one more push-up⁸ you would have continued at USNA, completed the two remaining courses, graduated, and commissioned.

(10) The record of your dismissal process is replete with examples where the USNA did not follow its own regulations and directives. You contend MIDN make potentially career-enhancing, or career-ending decisions based on the words in these regulations and the expectation is the USNA will apply their regulations consistently and in accordance with the plain reading of them. Here, the USNA did not – to your detriment.

⁸ You contend there is no way to speculate that you would still have fallen in the run portion and failed it.

Conclusion

After careful review of the evidence, the Board determined there was insufficient evidence of an error or injustice warranting your requested relief. The Board substantially concurred with the USNA AO and determined your disenrollment was appropriate and legally sound. The Board noted the disenrollment decision was made after full consideration of all available evidence to include your 21 September 2021 request for the ASN (M&RA) to reconsider the disenrollment decision⁹ and a 13 November 2021 executive addendum¹⁰ from your father to ASN (M&RA) following a “10 Nov 2021 2:00 p.m. EST phone call.” Before addressing your allegations of error or injustice, the Board noted you seek review of a decision made by the ASN (M&RA) based upon essentially the same allegations of error and/or injustice presented to but rejected by the ASN (M&RA) at the time. The Board also presumes, based upon the presumption of regularity that it is obligated to apply in accordance with its governing regulation, that your arguments against disenrollment, which essentially mirror the contentions presented in your present application, were subject to significant legal review and scrutiny at various levels prior to being presented to the ASN (M&RA), as all such actions are. This presumption enhances the Board’s confidence in the results of its own deliberations on your contentions.

The Board substantially concurred with the USNA AO that you were properly considered by the Summer AY 2022 Academic Boards for academics and physical education. The Board was not persuaded by your arguments regarding ambiguity, discrepancy, conflict, or contradictions in the various noted USNAINSTs, PROVOSTINST, and DIRATHINSTs but instead substantially concurred with the AO’s explanation of relevant instructions and determined the triggering criteria had been met.

In its review of your PRT contentions, the Board determined the available evidence, in addition to the evidence of your post-USNA PRT performance, did not overcome the presumption of regularity that has attached to the decisions made regarding your October 2020 and August 2021 PRTs. The Board noted the Academic Board (Physical Education), reviewing the same evidence, determined you had failed to pass both PRTs. In its own review, the Board noted you had been provided access to all PRT resources, support, a personal training partner, and, by your own initiative, assistance from the human performance lab as you prepared for your August reform PRT. The Board also noted that in your current request you again make the argument that you should have been offered a “bad day chit” but provided no additional information to overcome the contended error/injustice of you not being offered a “bad day chit.” The Board concluded there is insufficient evidence of an error or injustice in the USNA determinations you failed to pass the October 2020 and August 2021 PRTs.

After thorough consideration of your contention that it was unlikely the Academic Boards applied the “whole-person” standard, your “attitude and admirable personal characteristics,” and your “impeccable conduct, continued commitment to the Navy and unwavering determination to

⁹ The request listed three enclosures: the 23 July 2021 letter from CO, █; a 9 September 2021 letter from █ and a 25 September 2021 letter from █. You did not include copies of █ letter nor █ letter.

¹⁰ Exhibit 16 of your original submission

succeed in the face of numerous challenges,” the Board substantially concurred with the AO and determined the Academic Board applied the “whole-person” standard when making its recommendation for disenrollment. The Board noted your arguments and your reliance on the October 2021 Action Memo from the Superintendent to the ASN (M&RA) as evidence the Academic Board incorrectly applied the “whole-person” standard but determined there is insufficient evidence – in the record and/or submitted by you – to overcome the presumption of regularity that the Academic Board complied with the policies and procedures governing the Academic Board. Further, the Board determined your contentions that the Action Memo contained several mischaracterizations lacked merit. In those areas where you contend the Academic Board fails to mention or consider and/or unjustly ignores, the Board noted you were granted several opportunities to provide personal input and explanations and emphasize your performance both at the Academy and on your MIDN 1/C Cruise. Specifically, you were granted a second board after your 23 August 2021 appeal. Even following the 3 September 2021 Academic Board’s decision to separate, the Dean of Admissions allowed you to submit additional information to “highlight extenuating circumstances” associated with the board’s decision. In your 3 September 2021 memorandum that provided additional information, you addressed your PRT failures, “[b]oard compliance procedures,” and “Chain of Command Interactions.” The Board, substantially concurring with the AO, determined the record establishes that you “consistently underperformed academically and further failed to meet USNA physical fitness standards,” and the decision to disenroll you, which the Board agrees “was not made lightly,” after “repeated opportunities to make [your] case for retention to the Board to include [your] presentation of any information [you] wished” was appropriate and legally sound because the record reflects you were “simply unable to meet USNA graduation and commissioning requirements.”

The Board agreed that “at the time of their action, both the USNA Academic Board and Superintendent based their decisions and findings of fact in relation to established procedures and existing USNA performance standards.” Although the Board concurred with the AO’s comment that your arguments that you “could overcome the academic and physical rigors of USNA enrollment *now*” are irrelevant, the Board recognized that, despite the disruption to your lifelong dream of becoming a Naval Officer, you professionally carried out your duties as a deck seaman and food service assistant, became a valued and valuable member of your command, and, after being selected to be an Intelligence Specialist, made an immediate impact in your division. Nevertheless, 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

