



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

██████████
Docket No. 9935-24
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 3 December 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 11 September 2024 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 22 May 2024 Advisory Opinion (AO) provided to the PERB by the Performance Evaluation Section (MMPB-23), and your 27 September 2024 response to the AO. Additionally, 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 modify or remove your Transfer Fitness Report for the reporting period 12 May 2020 to 12 November 2020. You further requested removal of all Failures of Selection (FOS) to Lieutenant Colonel (LtCol) and that you be granted a Special Selection Board (SSB) for promotion to LtCol.

The Board considered your contention that the fitness report is substantively inaccurate and unjust due to a significant one-sided personality conflict with your Reporting Senior (RS). The Board considered the numerous examples you cite that demonstrate the RS's abuse, personal attacks, and bias against you. You argue that the RS intended to make the fitness report adverse while circumventing due process by assigning you a "B" in leadership rather than an "A." You assert that this tactic avoided triggering the adverse report process while negatively impacting your promotion competitiveness. Additionally, you claim the RS's markings were inconsistent with the Reviewing Officer's (RO) assessment and other reports in your record, further demonstrating bias and lack of objectivity, and that the RS used personality conflicts and uncontrolled emotion instead of objective

performance metrics to evaluate you. You assert that the RO's non-concurrence and subsequent memorandum clarified that the fitness report was not intended to function as a "soft relief," which is prohibited by the Performance Evaluation System (PES) Manual guidance. You also consider the contested fitness report unjust due to the negative impact it has had on your promotion opportunities and career.

The Board, however, concurred with the PERB decision that the fitness report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board found insufficient evidence to support your claims that the RS's "B" marking in leadership was improperly assigned. The Board noted that a "B" marking is not inherently adverse. The Board also noted the RS is expected to determine the appropriate grade based on the Marine's efforts and results during the reporting period, that marking philosophies are unique to individual RSs and provide a scale to assess Marines' professional qualities.

The Board carefully considered the RO's non-concurrence of the RS's assessment and his acknowledgement of a personality conflict "between both officers that caused the RS to not assess [your] performance with complete objectivity." The RO affirmed your success in the billet and addressed personality dynamics, but the Board determined the memorandum does not demonstrate substantive inaccuracies or errors in the RS's assessment. Furthermore, the Board noted a personality conflict, without clear evidence of bias impacting performance evaluations, does not automatically constitute grounds for relief. The Board noted pursuant to the PES Manual, the perceived competitiveness of relative value or comparative assessment marks is not grounds for report modification or removal, even if the fitness report appears to be an "outlier." The fitness report was not adverse, did not reference any pending legal matters, and properly reflected your duty assignment. The Board thus determined you failed to demonstrate a material error, substantive inaccuracy, or procedural violation that would warrant the requested relief.

The Board noted that an SSB may only be convened if there is a material error or injustice in the record that unfairly influenced the outcome of the promotion board. However, as the contested report remains valid and no correction to your record is warranted, your FOS removal and SSB requests do not meet the criteria for approval. Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting your requested 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,

1/23/2025