



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

██████████
Docket No. 10344-24
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 19 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 11 September 2024 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB) and 29 April 2024 advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch. The AO was provided to you on 11 September 2024, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to remove the fitness report for the reporting period 1 July 2021 to 7 September 2021. The Board considered that the fitness report was routed to you from the Reviewing Officer (RO) and returned with "signature in section K." The report was routed to Headquarters Marine Corps (MMRP) and returned to the RO who made significant changes to the comments. You contend you were not counseled or advised of the report being returned to the RO and to MMRP without your signature. You claim that contrary to the RO comment, "MRO did not sign report following RO comments / rebuttal. MRO was notified of the adverse report and MROW was sent back twice to MRO for signature" you were not informed of the changes to the report or counseled as required by Marine Corps Performance Evaluation System (PES) Manual. You also contend, the fitness report was mark for Derogatory Material although you did not receive any derogatory material and there is no derogatory material in your official military personnel file.

The Board, however, substantially concurred with the PERB's decision that you did not meet the burden of proof nor shown by preponderance of evidence a substantive inaccuracy or injustice warranting removal of your fitness report. The Board determined that your fitness report is valid as written and filed in accordance with the applicable PES Manual. In this regard, the Board noted that you were relieved due to a lack of trust and confidence as a result of a substantiated command investigation. In your statement, you provided that the investigation found the Recruiter Instructor and Operations Chief to be entirely at fault for the fraudulent actions. The Reviewing Officer/Third Officer Sighter (RO/3OS), however, found your implication that you are not responsible or accountable for fraudulent contracts that occurred under your charge to be without merit and your claims unsubstantiated.

Concerning the RO comment regarding your lack of response, the Board noted that MMRP returned the fitness report to your RO. Your fitness report history indicates that the RO returned the fitness report to you twice and, after eight days of inaction, the fitness report was automatically returned to the RO. The Board thus determined that the RO comment, "MRO did not sign report following RO comments/rebuttal. MRO was notified of the adverse report and MROW was sent back twice to MRO for signature" is factual and supported by sufficient evidence. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Concerning your request to correct Section A, Item 6.b. "Derogatory Material," the Board determined that your request has merit; however, you have not exhausted your administrative remedies. In accordance with the PES Manual, a correction of the derogatory material mark is administrative; therefore, you must submit your request to MMRP.

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,

12/17/2024

