



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

██████████
Docket No. 10361-24
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. 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 by the Marine Corps Performance Evaluation Review Board (PERB), and the 19 April 2024 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). Although, the PERB decision was provided to you, you did not provide a response.

The Board carefully considered your request to remove your Fitness Report for the reporting period 27 June 2018 to 28 September 2018. The Board considered your contentions that the fitness report comprised a total of 93 days which includes 30 days when you were not available for observation due to Temporary Additional Duty (TAD) to the Expeditionary Warfare School (EWS) Blended Seminar. You further claim that the Reporting Senior (RS) unjustifiably omitted this period of non-availability and that meaningful contact during the observed time was insufficient. You further claim that when accounting for TAD, leave, and hurricane evacuation, the effective observed period was less than 90 days, rendering the report invalid under the Performance Evaluation System (PES) Manual.

The Board, however, substantially concurred with the AO and the PERB Decision that the report is valid as written and filed, in accordance with the applicable PES Manual guidance. In this regard, the Board determined your claims to be without merit. The Board noted the RS indicates

he had sufficient interaction with you during the reporting period to justify the report as observed. Specifically, the Board noted, too, the RS correctly indicates that the TAD period and other absences did not meet the criteria for a period of unavailability under relevant PES Manual guidelines. The Board also noted the report average generated a cumulative relative value of 80.00, a likely concern; however, the Board noted low relative value of a fitness report does not constitute grounds for removal under the PES Manual which explicitly states that a report's perceived competitiveness is not grounds for modification or removal. Furthermore, the Board noted not being co-located (e.g. EWS Blended Seminar) does not make a period of non-availability. The Board noted, too, the fitness report was not adverse, did not reference any pending legal matters, and properly reflected your duty assignment. Thus, the Board concluded that your contentions lack validation beyond your personal statement and the RS evaluation aligns with the policy. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. Accordingly, given the totality of the circumstances, the Board concluded there is no probable material error, substantive inaccuracy, or injustice warranting 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,

12/23/2024

