



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

██████████
Docket No. 10421-24
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 26 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. In addition, the Board considered the 11 September 2024 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 4 June 2024 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMPB-23), and your response to the PERB.

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 remove your Transfer (TR) Fitness Report for the reporting period 2 October 2018 to 7 May 2019 and, if granted, you also request removal of your Failures of Selection (FOS) to Lieutenant Colonel. The Board considered your contentions that the fitness report is incomplete and inaccurate because it fails to address or evaluate your performance as a Contracting Officer Representative (COR), as required by Department of Defense Instruction (DoDI) 5000.72, and you assert the DODI mandates the inclusion of COR responsibilities in annual performance appraisals. You argue that the omission of Section I commentary on your COR duties constitutes a substantive inaccuracy that does not comply with

the Performance Evaluation System Manual (PES) Manual. In support of your request, you provided a COR Appointment Letter, references, and additional documents to highlight the importance of these duties. Further, you attribute your delay in addressing this matter to your Permanent Change of Station (PCS) to ████████ in 2019, filling key billets, and challenges coordinating with U.S. based points of contact and assert that you were reminded of this error during a recent career counseling session. In response to the AO, you further assert that the PERB decision or AO do not definitively state, conclude, or offer a contrary opinion against your argument that the fitness report contains a substantive inaccuracy, is incomplete, and inaccurate because it fails to address your COR duties as required by DoDI 5000.72. You reemphasize that the directive mandates the integration of COR responsibilities into performance evaluations.

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 Performance Evaluation System (PES) Manual guidance. In this regard, the Board determined that your COR duties were appropriately documented in Sections B and C of the report. The Board noted, too, the PES Manual does not mandate that the Reporting Senior (RS) elaborate on every duty or responsibility in Section I but, instead, may include comments as deemed appropriate. The Board further noted the PES Manual recognizes that it is not feasible for the RS to address every single accomplishment or responsibility from the reporting period in Section I; instead, the RS is expected to focus on providing an accurate evaluation of a Marine's overall performance and potential. Thus, the Board determined the absence of additional comments in Section I regarding COR duties does not constitute a material error or substantive inaccuracy and your COR duties were appropriately addressed in Sections B and C.

Additionally, the Board noted DoDI 5000.72 does not mandate specific commentary on COR responsibilities in fitness reports but instead requires their integration into the overall performance assessment. Therefore, as discussed above, the Board determined your COR duties were adequately addressed in the report and there is no evidence of procedural noncompliance. Furthermore, the Board noted your failure to provide endorsements or statements from the RS undermines your argument for the report's removal. The Board also noted the contested report was commendatory in nature, not adverse, and contains no language or markings that would imply a negative assessment of your performance. The Board also considered your delay in submitting this request despite being aware of the alleged deficiencies in 2019. Lastly, the Board noted you provided insufficient evidence to conclude the fitness report issued somehow caused your FOSs. Thus, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

1/16/2025

