



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

██████████
Docket No. 10929-24
Docket No. 10945-24
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF ██████████
XXX XX ██████████ USMC

Ref: (a) 10 U.S.C. § 1552
(b) MCO 1610.7A

Encl: (1) DD Form 149 w/enclosures
(2) Fitness Report for the reporting period 22 Jun 20 to 22 Jul 20
(3) Fitness Report for the reporting period 23 Jul 20 to 25 Sept 20
(4) RS Chronological Record, 26 Feb 24 for Fitness Report ending 22 Jul 20
(5) PES ltr 1610 MMRP-30, 17 Jul 24 subj: Fitness Report ending 22 Jul 20
(6) PES ltr 1610 MMRP-30, 17 Jul 24 subj: Fitness Report ending 25 Sept 20
(7) CMC ltr 1610 MMPB-21D/PERB, Subj: Case ID. 908557, 23 Oct 24
(8) CMC ltr 1610 MMPB-21D/PERB, Subj: Case ID. 908558, 23 Oct 24
(9) Petitioner Rebuttal, 6 Jan 25

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that her naval record be corrected by modifying two of her Fitness Reports at Enclosures (2) and (3). Petitioner also requested that her Master Brief Sheet (MBS) be adjusted to reflect any changes.

2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 28 January 2025 and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulation within the Department of the Navy.

b. Petitioner was issued a Change of Reporting Senior Fitness Report for the reporting period 22 June 2020 to 22 July 2020. Enclosure (2).

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c. Petitioner was issued a Change of Reporting Senior Fitness Report for the reporting period 23 July 2020 to 25 September 2020. Enclosure (3).

d. Petitioner asserts that she does not want the fitness report ending 22 July 2020 to be removed, but for the dates to correspond with the actual dates that the Reporting Senior (RS) commanded Bravo Company and supervised Petitioner. In this regard, Petitioner contends pursuant to reference (b), a fitness report for a lieutenant shall be not observed for a period of less than 31 days. Petitioner asserts the RS checked out of the Battalion on 16 July 2020, as evidenced by the chronological record provided. Enclosure (4).

e. By memorandum dated 17 July 2024, the advisory opinion (AO) furnished by the Manpower Management Division Records & Performance Branch (MMPB-23) recommended that Petitioner's request be partially approved. In this regard, the AO determined evidence provided by the Petitioner supports favorable consideration by the PERB. Specifically, Petitioner provided the RS's chronological record, corroborated by Marine Corps Total Force System entries, verifying the RS departed from the command on 16 July 2020, establishing the actual observation period as 25 days, instead of the originally reported 31 days. The AO noted pursuant to reference (b), stipulates that RS must submit observed reports covering at least 31 days or longer for active duty lieutenants who have completed their primary military occupational specialty (MOS) school. Notably, the contested report is post-MOS and given the RS's departure from the command and the observation period of less than 31 days, the report should be marked as not observed. However, although Petitioner requests adjusting the report's end date, the AO recommended denial of the request to maintain accuracy in the Master Brief Sheet (MBS) timeline and instead recommends a comment noting the RS's non-availability from 17 to 22 July be inserted into Section I comments. Lastly, the AO determined the RO portion of the report remains valid and unchanged. Enclosure (5).

f. By memorandum dated 17 July 2024, the AO furnished by MMPB-23 recommended Petitioner's request be denied. Specifically, the AO noted pursuant to reference (b), a correction is only warranted if there is a date gap or overlap of 31 days or more. The AO determined based upon the previous AO referenced in paragraph 3e above, recommending that a comment be added to Section I instead of modifying the reporting period's end date for the fitness report at enclosure (2). Thus, the AO determined there is no need to modify the report at enclosure (3). Enclosure (6).

g. On 23 October 2024, the Performance Evaluation Review Board (PERB) considered Petitioner's requests for modification of the contested fitness reports at enclosures (2) and (3) and directed that both fitness reports be retained as filed. Enclosures (7) and (8).

h. On 6 January 2025, Petitioner provided a statement in response to the PERB's decision at enclosure (7), referenced in paragraph 3g above. Petitioner is now requesting removal of the fitness report for the period ending 22 July 2020 at enclosure (2) in its entirety. Petitioner emphasizes her assertion that the RS only observed her for 25 days because he could not reasonably observe a Marine while not even attached to the unit. Furthermore, Petitioner states the AO concurs the RS observation was unjust and should be removed from her record due to a

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reporting period of less than 31 days pursuant to reference (b). Next, she contends that the RO unjustly elected to "concur" with the RS despite knowing that the RS was no longer attached to the unit. Additionally, pursuant to reference (b), the role of the RO is to supervise the RS, and he should "non-concur" with inflated reports. Further, she asserts reference (b) requires the RO to "return to the RS any fitness report with administrative errors that require correction," and asserts that the RO would reasonably have been aware that the RS departed the unit on 16 July 2020, despite the fitness report end date of 22 July 2020. Lastly, she states that as a Company Commander, she was required to personally check out of the unit with the Battalion Commander, the RO, and that the absence of the Company Commander would have been documented on the morning report that the Battalion Commander is required to supervise. Enclosure (9).

CONCLUSION

Upon careful review and consideration of all of the evidence of record, the Board found the existence of an injustice warranting partial relief.

The Board considered Petitioner's initial request to modify the end date of the fitness report at enclosure (2) to ultimately change the report to "not observed." The Board noted, pursuant to reference (b), an RS must submit observed reports covering at least 31 days or longer, the fitness report currently meets this criteria. However, the Board also determined it was apparent from the evidence provided that the RS departed the command prior to the end date of the reporting period. However, the Board substantially concurred with the AO at enclosure (5) recommending denial of her request to maintain accuracy in the MBS timeline and instead add a Section I comment noting the RS's non-availability from 17 to 22 July 2020. The AO further determined the RO portion remained valid further invalidating Petitioner's request for removal of the report in its entirety. The Board also gave substantial consideration to reference (b), which further stipulates Reporting Officials should take all possible action to reduce not observed fitness reports as not observed reports diminish the amount of useful information in a Marine's performance record, take valuable time to prepare and process, and provide only continuity to a Marine's record as well as the untimeliness of Petitioner's requested relief. Finally, the Board also noted although Petitioner makes no mention in her request, both the Petitioner and RS checked into the command well before the reporting period was established, further diminishing her argument that the RS did not have sufficient observation time.

Petitioner now seeks removal of the fitness report in its entirety. However, the Board determined Petitioner did not meet the burden of proof or shown by preponderance of evidence probable material error, substantive inaccuracy, or injustice warranting removal of the fitness report at enclosure (2). Pursuant to reference (b), the RO must indicate if they had sufficient knowledge and observation to complete items 2 through 4 of section K, further, the Board noted the PES Manual does not levy any minimum observation requirements on the RO. Next, the Board noted regardless of the RS evaluation, the period covered may be sufficient for a meaningful RO assessment. Consequently, the RO is free to mark and comment in sections K-3 and K-4. Lastly, the Board noted Petitioner did not provide endorsements from either reporting official and determined Petitioner's request to remove the fitness report in its entirety to be arbitrary and unwarranted. Thus, the Board determined removal of the fitness report in its entirety would not

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provide any forecasted advantage based on the requested relief. Thus, the Board determined based upon the Board's decision that a modification of the end date of the fitness report at enclosure (2) was unwarranted, Petitioner's request for modification of the fitness report at enclosure (3) should be denied in its entirety. Thus, the Board concluded, with the exception of adding a comment to the Section I remarks section for the fitness report at enclosure (2) no further relief be granted.

RECOMMENDATION

In view of the above, the Board recommends the following corrective action:

Petitioner's naval record be corrected by adding the following Section I comments to enclosure (2): "RS period of non-availability from 20200717-20200722."

That no further changes be made to Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

2/28/2025

