



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

██████████  
Docket No. 11684-24  
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.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. A three-member panel of the Board, sitting in executive session on 20 February 2025, has carefully examined your current request. 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.

You previously applied to the Board to remove the Administrative Remarks (Page 11) counseling entry dated 22 April 2021 and associated rebuttal statement from your record. Your request was denied on 31 May 2024. The summary of facts remains substantially unchanged from that addressed in the Board's recent decision. As new evidence, you provided a Freedom of Information Act (FOIA) response dated 14 November 2024.

In your current request, you contend the investigation that led to the counseling entry was unfair because you were not given the opportunity to exercise your due process rights and were pressured to write a statement without being informed of the specific accusations or presented with evidence. Further, by your submission of the FOIA response, you appear to imply an investigation was not completed because the FOIA response stated there was "no record on file."

However, the Board determined the new evidence and your new statement did not overcome the decision of the previous Board. The Board, again, determined the counseling entry creates a permanent record of matters your Commanding Officer (CO) deemed significant enough to document after making a determination the preponderance of the evidence supported the

determination you “participated in an unduly familiar relationship...in which you had inappropriate text message conversations with your Company First Sergeant.” Noting the retention guidelines for command investigations, the Board determined the “no record on file” response did not indicate an investigation did not occur prior to April 2021. The Board noted the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, and an explanation of the consequences of failure to successfully take the recommended corrective action. The Board also noted you availed yourself of the opportunity to provide a rebuttal statement and that statement is properly included with the counseling entry in your official military personnel file. Further, the Board noted the counseling was an administrative action and not a legal action requiring assistance from legal counsel in order for you to make an informed decision that “would best serve [your] career.” Additionally, the Board noted your statement that you were “pressured to write a statement without being informed of the specific accusations or presented with evidence” is unsupported by the record and your submission. Once again, the Board carefully considered your contentions but determined the CO has wide discretion regarding the subject matter of a counseling entry, and it is within his discretionary authority to determine if/when a counseling entry is warranted. Based on the available evidence, the Board again concluded there is insufficient evidence of material error or injustice warranting the removal of the contested Page 11 entry. 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,

3/11/2025

