



Docket No. 11829-24
Ref: Signature Date

Dear [REDACTED],

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 4 February 2025. 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.

The Board carefully considered your request to remove the 8 January 2024 Administrative Remarks (Page 11) entry, Report of Substandard Performance (ROSP), and fitness report for the reporting period 1 May 2023 to 30 April 2024. The Board considered your contentions that the accusations are inaccurate and do not reflect the true action. You claim that you did not violate any relevant laws or policies and the actions taken against you were retaliatory in nature. During your tour at the [REDACTED], an investigation was conducted after receiving complaints against [REDACTED] leaders and resulted in the Director being disciplined for several actions. You also claim leaders spent a significant amount of time trying to identify which staff members filed complaints. Although you were not one of the staff members who filed a complaint, you were questioned due to your position and proximity to the senior leaders. According to current staff members, you allege that it was not long after the final investigation that a plan to retaliate against you was discussed.

The Board noted that pursuant to paragraph 3005 of the Marine Corps Individual Records Administration Manual (IRAM), you were issued a Page 11 entry counseling you for acting contrary to law and policy by inappropriately elevating and hiring a civilian employee within "HRD" from a GS-14 position to a Chief Human Capital Officer at the GS-15 level. The Board also noted that in accordance with Marine Corps Legal Support and Administration Manual, the Commanding General, [REDACTED] submitted a ROSP documenting your violation of the [REDACTED] Policy 21- 03 concerning agency hiring protocol as well as federal law and regulations addressing Merit System Principles and Prohibited Personnel Practices. The Board noted, too, that

you acknowledged the counseling entry and ROSP. In your statement, you expressed in part, a belief regarding confusion and possible misapplication of the rules concerning the accretion process. During this period, the [REDACTED] had significant rotation among senior management, both uniformed and civilian, and personnel planning guidance was not perfectly clear. The Board, however, determined that the counseling entry and ROSP were issued according to applicable regulations. Specifically, the counseling entry provided written notification concerning your deficiencies and afforded you the opportunity to submit a rebuttal. Moreover, the CG [REDACTED] found that your actions constituted substandard performance. Even after a review of matters submitted by you, the CG's recommendation regarding his findings remained the same.

The Board determined that the CG acted properly and within his discretionary authority when determining that your counseling entry and ROSP are warranted. Moreover, the Board relies on a presumption of regularity to support the official actions of public officers, in the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. 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 also indicate in your application that the action taken against you were retaliatory in nature. The Board, however, determined that there was insufficient evidence to conclude that your counseling entry and ROSP were submitted as retaliation in violation of 10 U.S.C Section 932. In making this determination, other than your statement, the Board found no nexus between the purported investigation of senior [REDACTED] leaders and your counseling entry, ROSP, and contested fitness report.

Concerning your request to remove your fitness report, the Board determined that you have not exhausted your administrative remedies. In accordance with the Marine Corps Performance Evaluation System Manual, the Performance Evaluation Review Board (PERB) is the initial agency for fitness report appeals; therefore, you must submit your request to the PERB prior to this Board taking any action on your request.

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,

2/26/2025

the 1990s, the number of people in the United States who are 65 years of age or older has increased by 50% (U.S. Census Bureau, 1997). The number of people aged 65 and older is projected to increase to 20% of the total population by the year 2020 (U.S. Census Bureau, 1997). The number of people aged 65 and older is projected to increase to 20% of the total population by the year 2020 (U.S. Census Bureau, 1997). The number of people aged 65 and older is projected to increase to 20% of the total population by the year 2020 (U.S. Census Bureau, 1997).