



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

CRU  
Docket No. 12049-24  
Ref: Signature Date

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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.

A three-member panel of the Board, sitting in executive session, considered your application on 11 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, as well as the 11 September 2024 decision by the Marine Corps Performance Evaluation Review Board (PERB), the 31 July 2024 Advisory Opinion (AO) provided to the PERB by the Performance Evaluation Section (MMPB-23), and your response to the PERB decision.

The Board carefully considered your request to remove the Section K, Reviewing Officer (RO) portion of your Transfer (TR) fitness report for the reporting period 3 January 2024 to 2 May 2024. The Board considered your contentions that the downgraded RO markings remain inconsistent with your documented performance and responsibilities; as evidenced by your role as acting Sergeant Major (SgtMaj) for an O-6 regimental command overseeing over 1500 personnel. You assert that the single informal counseling lacked actionable feedback and that you were not given an initial counseling as required by the PES Manual. Moreover, you claim that your previous RO markings were the highest; reflecting responsibilities that far exceeded those portrayed in the downgraded ratings of the contested report.

In response to the PERB's decision, you reemphasize your request for the removal of downgraded RO markings following the partial relief granted by the PERB. You further contend that these markings remain inconsistent with your documented performance and responsibilities

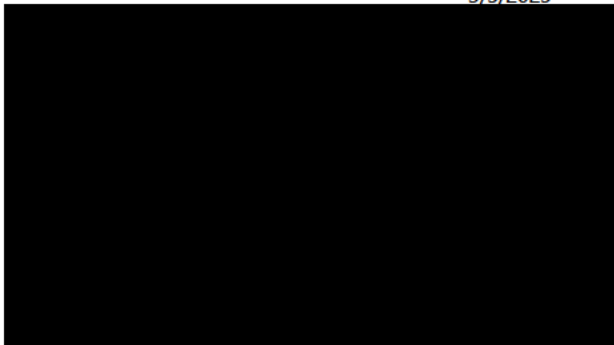
and fail to reflect your actual contributions and duties, including your role as the acting SgtMaj for an O-6 regimental command.

The Board, however, substantially concurred with the PERB's decision that you did not meet the burden of proof nor shown by preponderance of evidence a substantive inaccuracy or injustice warranting removal of your fitness report. The Board determined that your fitness report is valid as written and filed in accordance with the applicable Marine Corps Performance Evaluation System (PES) Manual. In this regard, the AO noted and the Board agreed that removal of the contested report in its entirety lacks merit and doing so would be an excessive remedy. The Board also noted although the PES Manual suggests maintaining consistent marks for back-to-back reporting periods with unchanged performance, it is important to note the term "should" is advisory and not mandatory. Next, the Board noted, although there is evidence of a reduction in the Section K3 RO Comparative Assessment in a subsequent report, there is insufficient evidence to support your claims that the reduction was unwarranted. Furthermore, there is no evidence suggesting that your performance warranted a higher grade than assigned. Additionally, the Board noted that the PES Manual does not mandate counseling; as counseling can take many forms. The Board also determined that your dissatisfaction with the reports' relative value is not a basis for removal. Thus, the Board determined, other than the single comment in question, the other comments in Section K were generally favorable, although not exceptional, and determined current evaluation<sup>1</sup> stands as a fair and accurate record of your performance. Based on the available evidence, the Board concluded there is insufficient evidence of an error or injustice warranting the relief requested for removal of the contested fitness report. 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,

3/5/2025



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<sup>1</sup> As modified by the PERB