



[REDACTED]

[REDACTED]

[REDACTED]

The Board carefully considered your request for reinstatement of your promotion to Master Sergeant (MSgt/E-8). The Board considered your statement and contention that the Marine Corps Enlisted Promotion Manual (MARCORPROMAN), and Marine Corps Separation and Retirement Manual (MARCORSEPMAN) allow you to retire in the grade of MSgt. You also contend the Base Commander negatively endorsed your waiver request and failed to use the criteria listed in the applicable references. You claim the MARCORSEPMAN states an enlisted Marine is transferred to the Fleet Marine Corps Reserve (FMCRR) in the highest grade in which he or she satisfactorily served at the time of that transfer. You also claim the MARCORPROMAN authorizes E-5 and above who have been selected for promotion but are separated/retired due to a physical disability before their promotion number is affected, to be promoted on the first day of their last month of active duty. You further claim the delay in receiving your Physical Evaluation Board (PEB) findings and the Commander's unfair/biased recommendation, the time in grade waiver submitted in conjunction with your early retirement package was denied with no justification or explanation. You stated that you were never required to reenlist or extend prior to being promoted, so you had no obligated time

remaining on your contract when you submitted a Temporary Early Retirement Authority (TERA) request.

The Board, however, substantially concurred with the AO that you were properly retired in the grade of Gunnery Sergeant (GySgt/E-7). In this regard, the Board noted that the PEB convened on 13 December 2021, the PEB found you unfit and recommended Permanent Disability Retirement from active duty with a combined disability rating of 60 percent. On 1 March 2022, you were promoted to MSgt. You accepted the findings of the PEB on 16 March 2022, and did not request a formal hearing. On 30 March 2022, you requested to waive the PEB findings and applied for early retirement under the TERA.

According to the MARCORPROMAN, “[u]nless entitled by law to a higher retired grade upon retirement, Marines in the grade of gunnery sergeant or above must serve two years in their current grade before transfer to the FMCR. Waiver of this requirement may only be approved by the DC, M&RA.” “Marines requesting transfer to the FMCR or retirement who have not served the time in grade specified in this paragraph will not be approved.” The Board determined that your reliance upon regulations regarding the retired grade for service members transferred to the Permanent Disability Retired List (PDRL) due to a disability is misguided. The Board found sufficient evidence that you have a disability that warranted your transfer to the PDRL. However, instead of transferring to the PDRL, you elected early retirement under TERA. The Board also determined that the policy set forth in the MARCORSEPMAN does not apply to your case. The Board also noted that TERA is voluntary, and the policy governing TERA does not include circumstances that warrant favorable consideration for the retirement grade of members that voluntarily elect early retirement. Other than your reliance upon policy regarding retirement grades for members separated/retired due to a disability, the Board found no evidence of another law or policy that would exempt you from the requirement to serve two years in the grade before retirement.

Moreover, the Board found no evidence of bias and you provided none. 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 thus 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.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

3/26/2025
