



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

██████████  
Docket No. 1342-25  
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.

A three-member panel of the Board, sitting in executive session, considered your application on 23 July 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 ██████████ decision furnished by the Marine Corps Performance Evaluation Review Board (PERB), the ██████████ advisory opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch, and your response to the AO.

The Board carefully considered your request to remove your fitness report for the reporting period 1 April 2022 to 23 May 2022. If removal is not granted, you request to modify the fitness report to be not observed. You also request that the Board investigate the undue influence exerted by your Reviewing Officer (RO). The Board considered your contention that the fitness report includes 31 days of combined formal schooling and travel time and resulted in only 23 days of meaningful observation; below the required 31-day minimum observation period for a valid evaluation. You claim that including non-observed time distorts the profiles of the reporting officials; affecting future evaluations. You also claim that the RO was the Operations Officer, not the Executive Officer, and was outside your direct chain of command. Further, these inaccuracies misrepresent your performance. You also provide that you did not submit an appeal while on active duty due to the RO's influence within the Military Occupational Specialty community and prior Inspector General (IG) complaint against the RO for targeting behavior; based on your belief that it could have jeopardized your career. In response to the AO, you

expounded upon your contentions and alleged undue influence by the RO due to prior negative involvement, including an IG complaint.

The Board, however, concurred with the PERB's decision that you did not demonstrate probable material error, 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 PES Manual defines periods of non-availability as a period of 30 or more consecutive days during which the Marine or Reporting Senior are not available to perform their duties. The Board noted that your periods of absence were not consecutive and did not exceed 30 days. Therefore, your periods of absence do not meet the criteria for periods of non-availability and were properly included as periods of observation.

Concerning your allegations of undue influence and bias by your RO, the Board found no evidence of bias or impropriety by your RO and you provided none. Moreover, the Board is not an investigative body and 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 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 you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude that your fitness report was submitted as reprisal in violation of 10 USC § 1034. In making this determination, the Board found no evidence, other than your statement, that your fitness report was issued as a reprisal action.

10 USC § 1034 provides the right to request Secretary of Defense review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoD policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a de novo review and under 10 USC § 1034(c) the Secretary of Defense cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness (USD (P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR; therefore, please also include previously presented documentation that supports your statements.

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,

8/7/2025

