



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

[REDACTED]
Docket No. 3396-25
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN, XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) BUPERSINST 1610.10F

Encl: (1) DD Form 149 w/enclosures
(2) Navy Equal Opportunity (EO) and Harassment Complaint
(3) Evaluation report for the reporting period 16 November 2023 to 15 November 2024
(4) Evaluation report for the reporting period 16 November 2024 to 3 January 2025
(5) Commander, [REDACTED] ltr 5812 Ser N00J/079, subj: NJP, 7 Mar 25
(6) Commander, [REDACTED] Navy Equal Opportunity (EO) and Harassment Complaint, 24 Mar 25
(7) NPC memo 1610 PERS-32, subj: [Petitioner], 8 Apr 25
(8) [REDACTED], email, 23 Apr 25

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting to remove his evaluation reports for the reporting periods 16 November 2023 to 15 November 2024 and 16 November 2024 to 3 January 2025.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 23 July 2025 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies. The Board also considered enclosure (7), an advisory opinion from PERS-32 and Petitioner's response to the AO.

3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds the following:

a. On 24 October 2024, Petitioner's Commanding Officer substantiated a Navy Equal Opportunity (EO) and Harassment (CMEO) Complaint alleging that Petitioner discriminated and or harassed a Sailor. Petitioner received non-judicial punishment (NJP) and submitted an appeal of both the CMEO complaint and NJP. Enclosure (2).

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN, XXX-XX-[REDACTED]

b. Petitioner received a Periodic/Regular evaluation report for the reporting period 16 November 2023 to 15 November 2024. Block 35 of the evaluation report was marked 1.0. As justification, the Reporting Senior (RS) commented, "Marked [1.0] due to violation of CME0 policy resulting in a substantiated CME0 complaint against service member while TAD..." The promotion recommendation was marked "Significant Problems." Petitioner acknowledged the report and indicated that he had no intent to submit a statement. Enclosure (3).

c. Petitioner received a Special/Regular evaluation report for the reporting period 16 November 2024 to 3 January 2025. Block 36 of the evaluation report was marked 2.0. As justification, the RS commented, "Evaluation submitted due to NJP proceedings. Marked 2.0 due to NJP held on 3 January 2025 for violation of UCMJ Article 92... NJP not concluded due to pending appeal." The promotion recommendation was marked "Promotable." Petitioner acknowledged the report and indicated that he had no intent to submit a statement. Enclosure (4).

d. In a memorandum dated 7 March 2025, Commander, [REDACTED] noted Petitioner's claim that the guilty findings at NJP were unjust, he was wrongfully induced to accept NJP, and the allegations of CME0 violations made against him are unsupported by the evidence. The Commander found there was insufficient evidence for the Commanding Officer, [REDACTED] to determine that Petitioner committed the alleged offenses. The Commander granted Petitioner's appeal and set aside his NJP and its associated punishments. Enclosure (5).

e. On 24 March 2025, Commander, [REDACTED] reviewed the CME0 complaint and did not concur that the evidence established that Petitioner discriminated and or harassed the Sailor. Petitioner's appeal was granted and Commander [REDACTED] directed that the matter be stricken from Petitioner's record. Enclosure (6).

f. The advisory opinion (AO) provided by PERS-32 for the Board's consideration noted that reference (b) allows RSs to provide specific comments when they are a significant part of the member's duties or display particularly strong or weak performance. In this case, the RS stated the block 36 mark was due to a violation of CME0 policy resulting in a substantiated CME0 complaint against the service member. The AO determined the evaluation report ending 15 November 2024 is valid and recommended the report remain unchanged unless otherwise directed by this Board.

Regarding the evaluation report ending 3 January 2025, reference (b) directs RSs not to comment on or document judicial or NJP proceedings that are not concluded. The RS noted that the report was submitted due to pending appeal, which violates reference (b). The AO noted that correspondence submitted by the Commander [REDACTED] addressing Petitioner's appeal stated there was insufficient evidence for the commanding officer to determine Petitioner committed the offenses alleged and set aside the NJP and its associated punishments. The AO recommended the report ending 3 January 2025 be removed. Enclosure (7).

g. In his application, Petitioner contends that the evaluations were submitted due to legal and CME0 proceedings that were ultimately unsubstantiated via the appeal process. In response to

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN, XXX-XX-[REDACTED]

the AO, Petitioner contends that the evaluation report ending on 15 November 2024 should be removed as well. He acknowledged that the RS is permitted to comment about the CMEO complaint, however, due to the CMEO appeal, the RS's decision was overturned which makes the evaluation report invalid. Enclosures (1) and (8).

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief.

The Board determined Petitioner's request to remove the contested evaluation reports has merit. In this regard, the Board noted that the Reviewing Authority, Commander, NETC, did not concur with the substantiated findings of the CMEO investigation and directed that the matter be stricken from Petitioner's record. Thus, the Board determined that Petitioner's evaluation report ending 15 November 2024 should be removed. In this regard, the Board found that the RS's statement regarding "a substantiated CMEO complaint" was accurate at that time; however, the complaint was ultimately unsubstantiated by the Reviewing Authority upon appeal and directed to be stricken from Petitioner's record. Accordingly, the RS's statement became erroneous and retention of the evaluation report would be prejudicial, unjust, and contrary to the Reviewing Authority's intent.

Regarding Petitioner evaluation report ending 3 January 2025, the Board concurred with the AO that the evaluation report is in error and should be removed. In this regard, the Board noted that the Commander, [REDACTED] set aside Petitioner's NJP and associated punishments. The Board also noted that the RS violated reference (b) by commenting on Petitioner's NJP prior to its conclusion.

RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner's naval record be corrected by removing enclosure (3). Petitioner's evaluation report for the reporting period 16 November 2023 to 15 November 2024.

Petitioner's naval record be corrected by removing enclosure (4). Petitioner's evaluation report for the reporting period 16 November 2024 to 3 January 2025.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN, XXX-XX-[REDACTED]

corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

8/11/2025

[REDACTED]

Executive Director

Signed by: [REDACTED]