



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

█
Docket No. 4834-25
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 11 February 2026. 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 5 May 2025 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB) and the 14 March 2025 advisory opinion (AO) provided to the PERB by the Manpower Management Performance Branch (MMPB-23). Although you were afforded an opportunity to submit a rebuttal to the AO, you chose not to do so.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your fitness report for the reporting period 1 January 2023 to 30 June 2023, Administrative Remarks (Page 11) dated 11 May 2023, and Administrative Remarks (Page 11) dated 10 April 2014. You also request an Enlisted Remedial Selection Board (ERSB) for earlier consideration for E-6 and E-7. The Board considered your contentions that: (1) your command improperly initiated an investigation for a Prohibited Activities and Conduct (PAC) complaint, specifically by failing to conduct the Equal Opportunity Advisor (EOA) review, failing to conduct a proper legal review, failing to notify

you of any findings, and not providing you with an opportunity to formally rebut the initial findings; (2) your command improperly referred you for investigation to the Naval Criminal Investigative Service (NCIS) for the same PAC violation; (3) the counseling entry dated 11 May 2023 was improperly issued; (4) your efforts to obtain records were stonewalled; and (5) the fitness report does not have an "A" marked in any attribute. You claim the Marine identified as the victim lacked so much credibility that no weight should have been assigned to any allegation of misconduct. In an update to your application, you contend the counseling entry dated 10 April 2014 was also improperly issued since "military studies" assigned to you that had no deadline, you lacked the computer resources to complete the online course, the course was completed within one week of the counseling, and it was improperly signed by a sergeant instead of the commanding officer.

In its review, the Board noted the following:

- You acknowledged being the subject of a PAC complaint on 15 March 2023. On 11 May 2023, you acknowledged your Commanding Officer notified you that the PAC complaint was substantiated and that you had 30 days to appeal. On the same day, in Part IV of the Offender Acknowledgment Record, you elected not to appeal the administrative decision to the General Court Martial Convening Authority.
- On 11 May 2023, pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual, you were issued a counseling entry for a substantiated PAC complaint involving repeated unwanted contact with subordinate Marines. You acknowledged the entry and explained in your statement that you intended to enforce leadership traits and were unaware your engagement was interpreted incorrectly.
- According to the Marine Corps PAC order, a requirement exists to submit all reportable information to the EOA office and direct the EOA to open an initial report, which occurred in this case (█). While EOAs conduct the intake process, the commander determines the appropriate course of action. In this case, your Commander determined the complaint was substantiated and that a counseling entry was the appropriate response.

The Board determined your contentions regarding the investigation, notification, and opportunity to appeal lack merit. The record shows an appropriate PAC inquiry was conducted, you were notified of the complaint and its findings, and you were provided an opportunity to appeal, which you declined. Other than your statement, the Board found no evidence that you were stonewalled, that the complainant lacked credibility, or that your command failed to conduct the EOA or legal review. Accordingly, the Board determined your command's processing of the PAC complaint was done in accordance with policy, and the resulting counseling entry is valid.

Concerning the removal of your fitness report, the Board concurred with the PERB's decision that you did not demonstrate probable material error, substantive inaccuracy, or injustice. Your fitness report is deemed adverse due to the receipt of derogatory material, the Reporting Senior's recommendation that you not be promoted, and the Reviewing Officer's unsatisfactory

comparative assessment. This is consistent with the Performance Evaluation System (PES) Manual, which states a report is adverse if it contains such material or recommendations.

Concerning your counseling entry dated 10 April 2014, the Board noted this entry served as notification that you were not recommended for promotion for failing to complete the required Professional Military Education (PME) course, "Leading Marines." You acknowledged the entry and elected not to submit a statement. Your completion of the PME one week after the counseling does not invalidate the entry. Furthermore, the Individual Records Administration Manual (IRAM) requires Commanders to make a service record book entry for each month a Marine is not recommended for promotion. Finally, you provided no evidence to substantiate your claim that the entry was improperly signed. Accordingly, the Board determined this counseling entry is valid.

Based on the forgoing determinations, the Board found no basis for an ERSB.

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 public officers have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. Therefore, the Board 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 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,

3/11/2026

