



OFFICE OF THE STAFF JUDGE ADVOCATE
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL
CLIENT SERVICES OFFICE
2765 KENTUCKY AVENUE
FORT CAMPBELL, KENTUCKY

NCOER and OER Appeal

Regulatory Authority. AR 623-3 Evaluation Reporting System, DA PAM 623-3, and AR 15-185 Army Board for Correction of Military Records.

OERs, NCOERs, and AERs may have administrative errors, or may not accurately record the individual's potential and/or performance. There are three ways to request redress if the requirements of the regulations were not correctly followed: request a commander's inquiry, appeal the evaluation, or file an ABCMR appeal if the deadline for substantive appeals has passed. *When deciding to submit an evaluation report appeal, refer to DA Pam 623-3, which clarifies the policies outlined in chapter 4 of AR 623-3.*

Option 1: Commander's/Commandant's Inquiry. Alleged errors, injustices, or illegalities in evaluation reports may be brought to the Commander's attention by the rated individual or other interested parties. See para. 4-7c.

- **Procedure.** Para. 4-5.
- The interested party must submit a written request to the Commander one level higher than the Soldier's rating chain *NLT 60 days after signing*. The request must specify the violation/injustice being alleged.
- Results will be forwarded to HQDA by email to usarmy.knox.hrc.mbx.tagd-eval-policy@mail.mil NLT 120 days after signature by senior rater/reviewing official. See table AR 623-3 table 1-1 for detailed steps.
- If errors/violations are discovered, all members of the original rating chain will be allowed to correct the evaluation, and the commanders report to HRC will explain the findings and recommendations. Para. 4-5g.
- If no errors are discovered, the inquiry is filed locally and a copy given to the interested party. No report is sent to HQDA.
- **Notes.** A soldier may not be rated lower because of a commander's inquiry. See para. 4-5f. The inquiry will not be used to document differences of opinion in the rating chain. The Commander's Inquiry is not intended to be a substitute for the appeals process, however the results of a Commander's Inquiry may be used in support of an appeal.

Option 2: Evaluation Report Appeal. The interested party may appeal any report that is believed to be incorrect, inaccurate, or in violation of the intent of the regulation. An evaluation report accepted for inclusion in a Soldier's OMPF is presumed to be administratively correct. *Appeals must be received within 3 years from the THRU date of the evaluation being appealed.* Appeals supported by statements from rating officials claiming administrative oversight or typographical errors will normally be returned without action unless accompanied by additional substantiating evidence such as the published rating chain, orders, leave records, hospitalization records, human resource documents, or the results of a Commander's Inquiry.

- The appellant has the burden of proof to produce evidence (see para. 4-11) that establishes, clearly and convincingly, that: (1) the presumption of regularity should not be applied to the report under consideration, and (2) action is warranted to correct a material error, inaccuracy, or injustice. Clear and convincing evidence must be of a strong and

compelling nature, not merely proof of the possibility of administrative error or factual inaccuracy.

- An appeal may be based on either administrative or substantive error, or both. Appeals will be submitted in writing to the adjudicative body identified below. See app. F, table F-1 for addresses. The rated Soldier must send the original appeal and supporting documentation, along with one duplicate copy of the appeal and supporting documentation. Upon receipt of the appeal, the Board will contact you and acknowledge receipt.
- **Administrative error.** Appeals based solely on administrative error will be adjudicated by HRC, Evaluation Appeals Branch (AHRC–PDV–EA). Administrative errors include deviation from the established rating chain, insufficient period of observation by the rating officials, errors in the report period, and errors in the height/weight. Bear in mind that the rated Soldier’s signature verifies administrative data on the report and that he or she has seen a completed evaluation report. Correction of minor administrative errors seldom serves as a basis to invalidate an evaluation report. Removal of a report for administrative reasons will be allowed only when retention of the report would clearly result in an injustice to the Soldier. Appeals based solely on the lack of full compliance with performance counseling requirements will rarely invalidate an evaluation report unless accompanied by additional evidence of inaccuracy or injustice. Appropriate evidence may include the published rating chain, orders, leave records, human resource documents, etc.
- **Substantive error.** Appeals alleging bias, prejudice, inaccurate or unjust ratings, or any matter other than administrative error are substantive and will be adjudicated by the Army Special Review Board (ASRB). After resolution of the appeal, the reviewing agency amends the Soldier’s official records, if appropriate. If the Soldier has been non-selected for promotion, the ASRB will also determine if promotion reconsideration is warranted because of the change to the evaluation report. Evidence must include statements from third parties, rating officials or other documents from official sources. Third parties are persons other than the Soldier or rating officials who have knowledge of the rated Soldier’s performance during the rating period. Such statements are afforded more weight if they are from persons who served in positions affording them good opportunity to observe, firsthand, the rated Soldier’s performance as well as interactions with rating officials. Statements from rating officials are also acceptable if they relate to allegations of factual errors, erroneous perceptions, or claims of bias. To the extent practical, such statements should include specific details of events or circumstances leading to inaccuracies, misrepresentations, or injustice at the time the report was rendered. Remember, the results of a Commander’s Inquiry may provide support for an appeal request.
- **Processing.** Appeals must be received NLT 3 years from the THRU date on the evaluation; appeals received outside of that time will not be considered unless the appellant can justify the delay. The time required to process an appeal varies greatly depending on the complexity of the issues involved, the priority of the appeal (see para. 4-10), and by date of receipt. The Board will notify the appellant directly of any decision regarding appeal. AR 623-3 provides sample appeal formats and lists the appropriate agency addresses for submitting the appeal. If you feel your NCOER, OER, or AER, was done in violation of the regulation, or if you just have questions, feel free to contact a Client Services attorney for further assistance.

Option 3: Apply to Army Board for Correction of Military Records. AR 15-185 governs application to ABCMR. Soldiers and former Soldiers of active Army, reserves, and National Guard (in certain cases) affected by an Army military record may apply. In special circumstances, a relative with proper interest may apply on another’s behalf (see para. 2-3). *Applications must be made within 3 years from when the error/injustice is discovered or reasonably should have been*

discovered.

- **Filing.** You may file either online by going to <https://actsonline.army.mil/> and creating an account. If you are not a CAC holder, you will need a DSLogon to proceed. Once your account is created simply follow the prompts to begin your claim.
- Alternatively, you can submit a DD 149, available at <https://armypubs.army.mil> by using the search bar for DD 149. Print and mail to Army Review Boards Agency, 251 18th Street South, Suite 385, Arlington, VA 22202-3531. For more information on the form and filing instructions, please go to ARBA's website at <https://arba.army.pentagon.mil>.

More Information. If you have any questions concerning these matters, please come to the Client Services Office (Building 2765) 2765 Tennessee Avenue, Fort Campbell, KY 42223. Office hours are Monday, Tuesday, Wednesday from 0900 to 1600 hours, on Thursday from 1300-1600, or on Friday 0900 to 1500 (we close for lunch every day from 1145-1300).