



APPEALING YOUR EVALUATION REPORT



Army Regulation (AR) 623-3, Chapter 4, Evaluation Redress Program and DA Pam 623-3 outlines the procedures for appealing Officer Evaluation Reports (OERs), Noncommissioned Officer Evaluation Reports (NCOERs), and Academic Evaluation Reports (AERs).

There are five elements of the redress program: Communication, Regulatory Requirements, Commander/Commandant Inquiries, Appeals, and the Army Board for Correction of Military Records.

A Commander's or Commandant's Inquiry and an evaluation report appeal are separate and distinct actions. The rated Soldier may seek initial redress by requesting a Commander's Inquiry; however, a Commander's Inquiry is not a prerequisite for submitting an evaluation report appeal. If the rated Soldier decides to request a Commander's Inquiry, it should be done first. If the rated Soldier later decides to submit an appeal, the results of the Commander's Inquiry can be used in support of the appeal.

Option 1: Commander's/Commandant's Inquiry

Commanders (OERs and NCOERs) or Commandants (AERs) are required to look into alleged errors, injustices, or illegalities in evaluation reports. A **Commander's Inquiry** is a **written request**, submitted to the commander one level higher than the Soldier's rating chain, to investigate the subject evaluation report. The request should specifically address the issues and problems with the evaluation report. The inquiry can prevent and correct errors before they become a matter of permanent record. A Commander's Inquiry will not be used to note differences of opinion among the rating chain; however, the Commander may determine through the inquiry that the report has serious irregularities or errors. The Commander will not force or pressure rating officials to change their evaluations, and may not evaluate the rated individual, either as a substitute for, or in addition to, the designated raters. However, the results of a Commander's Inquiry may be used in support of an appeal.

Option 2: Evaluation Report Appeal

The rated individual can **appeal** an evaluation report that is believed to be **incorrect, inaccurate or unjust**. A decision to appeal an evaluation report should not be made lightly. Before deciding whether or not to appeal, the rated individual should analyze the report objectively.

The appellant has the burden of proof and must provide substantial evidence that establishes clearly and convincingly that **(1)** the presumption of regularity should not be applied to the subject evaluation report, **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.

Office of the Staff Judge Advocate
Legal Assistance Office
2600 Lee Road
Fort Jackson, SC 29207

If you have any questions or would like to initiate a Commander's Inquiry or an appeal, please contact the Fort Jackson Legal Assistance Office: (803) 751-4287.

Appeals are sent directly to the agency that decides the appeal. All Regular Army appeals are sent to: U.S. Army Human Resources Command (AHRG-PDV-EA), Evaluation Appeals, 1600 Spearhead Division Avenue, Department 470, Fort Knox, KY 40122-5407. 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. The time required to process an appeal varies greatly depending on the complexity of the issues involved, the priority of the appeal, and by date of receipt. The Board will notify the appellant directly of any decision regarding the appeal.

Substantive appeals must be submitted within three years of an evaluation report "THRU" date. Administrative appeals will be considered regardless of the time that has elapsed since the period of the evaluation; however, the likelihood of successfully appealing an evaluation report diminishes with the passage of time.

The rated individual should succinctly state what is being appealed and the basis for the appeal. The appellant should state whether the entire evaluation report is contested or only a specific part or comment, and the basis for the belief that the rating officials were not objective or had an erroneous perception of the rated individual's performance. **The rated individual should keep in mind that a mere personality conflict between the appellant and a rating official does not constitute grounds for a favorable appeal.**

An appeal may be based on either administrative or substantive error, or both. For appeals alleging **administrative error**, appropriate evidence may include the published rating scheme used during the period of the subject report; assignment, travel or TDY orders; electronic BN/BDE S1 or human resources documents; leave records; or statements from military personnel officers or others who know about the situation pertaining to the report in question. For a claim of **inaccuracy or injustice** of the **substantive type**, evidence will include statements from third parties, rating officials, or other documents from official sources. These statements are given more weight if they come from individuals who had the opportunity to observe firsthand the appellant's performance as well as interactions with rating officials. Statements should include specific details of events or circumstances leading to inaccuracies or injustice at the time the report was written.