

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 July 2023

DOCKET NUMBER: AR20220011978

APPLICANT REQUESTS:

- removal of the general officer memorandum of reprimand (GOMOR), 9 June 2020, from the restricted folder of his Army Military Human Resource Record (AMHRR)
- removal of the DA Form 67-10-1 (Company Grade Plate (O1-O3; WO1-CW2) Officer Evaluation Report (OER)) covering the period 24 February 2019 through 17 February 2020 from his AMHRR
- reconsideration for promotion to the rank/grade of major (MAJ)/O-4 by a special selection board (SSB)
- adjustment of his mandatory removal date (MRD) from 1 January 2023
- any other relief the Board considers just and appropriate under the circumstances
- a personal appearance hearing before the Board

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Counsel's Petition, undated, with 18 exhibits –
  - Exhibit 1 – Department of the Army Suitability Evaluation Board (DASEB) Docket Number AR20220002974, 12 April 2022
  - Exhibit 2 – U.S. Army Human Resources Command (HRC) Memorandum (Notification of MRD due to Non-Selection for Promotion), 30 June 2022
  - Exhibit 3 – Board of Inquiry (BOI) Officer Elimination Board, 26 October 2020
  - Exhibit 4 – Officer Record Brief (ORB), 9 July 2020
  - Exhibit 5 – Army Commendation Medal Certificate, 19 June 2020
  - Exhibit 6 – Army Achievement Medal Certificate, 16 December 2011
  - Exhibit 7 – Army Commendation Medal Certificate, 20 June 2014
  - Exhibit 8 – Army Commendation Medal Certificate, 4 March 2016
  - Exhibit 9 – Meritorious Service Medal Certificate, 29 January 2020
  - Exhibit 10 – DA Form 638 (Recommendation for Award), 18 December 2019

- Exhibit 11 – seven OERs covering the periods 16 March 2013 through 23 February 2019 and 18 February 2020 through 17 February 2021
  - Exhibit 12 – 92nd Civil Affairs Battalion (Special Operations) (Airborne) Memorandum (Findings and Recommendations for Army Regulation 15-6 (Procedures for Investigating Officers and Boards of Officers) Investigation of (Applicant)), 6 March 2020
  - Exhibit 13 – Memorandum (Response to GOMOR), 16 June 2020
  - Exhibit 14 – Memorandum ((Applicant) OER Appeal), 13 March 2020
  - Exhibit 15 – HRC Memorandum (Evaluation Report Appeal (14 February 2019 through 17 February 2020)), 12 April 2022
  - Exhibit 16 – Headquarters, 1st Special Forces Command (Airborne), Memorandum (GOMOR), 9 June 2020
  - Exhibit 17 – 92nd Civil Affairs Battalion (Special Operations) (Airborne) Memorandum (Statement Clarifying DA Form 2823 (Sworn Statement), 25 February 2020), 10 August 2020
  - Exhibit 18 – Letter of Support, 6 August 2020
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- Additional Evidence – OER covering the period 10 December 2021 through 9 December 2022

#### FACTS:

1. The applicant defers to counsel.

2. Counsel states the GOMOR and referred OER are erroneous and inaccurate because the applicant did not violate Article 93 (Cruelty and Maltreatment) of the Uniform Code of Military Justice (UCMJ) and he did not pressure anyone to enter false data on a military form. On 18 April 2022, the DASEB agreed to transfer the GOMOR and all related documents to the restricted folder of his AMHRR.

a. The GOMOR violates Title 5, U.S. Code, section 552a (Records Maintained on Individuals), and Army Regulation 600-37 (Unfavorable Information), and the referred OER violates Army Regulation 623-3 (Evaluation Reporting System); therefore, they should be removed from the applicant's records without any delays and he should be allowed to continue to serve and be promoted.

b. The applicant has served faithfully, selflessly, and honorably in the U.S. Army since 2007. He successfully deployed to Iraq for 12 months between 2009 and 2010. He has received several awards for his exceptionally meritorious service. He has received numerous OERs strongly recommending him for retention and promotion.

c. In January 2020, the departing battalion executive officer requested the applicant's OER-related information, including his Army Physical Fitness Test (APFT)

score and body composition information. The applicant panicked because he was assigned a restrictive physical profile preventing him from taking an APFT. In order to meet the deadline and provide an APFT score, he provided the APFT scorecard and body composition information before he took the actual test. He planned to take the APFT the following day. When the battalion executive officer questioned him about it, he readily admitted to not complying with the Army standards and immediately apologized for his error.

d. On 21 February 2020, an investigating officer (IO) was appointed to determine whether the applicant falsified documents and asked Soldiers to sign the falsified documents. The IO found that he influenced Soldiers to certify falsified documents and he abused his rank and position. There is no evidence of any sort of pressure, coercion, or duress.

e. On 16 June 2020, the applicant received a GOMOR for falsifying documents and engaging in cruelty and maltreatment by pressuring a Soldier to enter false data. In his response to the GOMOR, he took full responsibility for his actions and apologized. He strongly objected to the baseless allegation of using his rank to pressure others.

f. On 13 March 2022, the applicant appealed the referred OER, requesting correction of the erroneous entries concerning encouraging others or influencing others to falsify official documents. He noted there was no evidence to support these unfounded claims. On 12 April 2022, his appeal was denied.

g. Legal argument:

(1) The GOMOR erroneously states the applicant violated Article 93, UCMJ.

(2) The GOMOR and referred OER must be removed from the applicant's AMHRR because they contain erroneous and highly prejudicial information.

3. The applicant's ORB shows he entered active duty on 17 June 2008.

4. The applicant's DA Form 1059 (Service School Academic Evaluation Report), 9 December 2016, shows he completed the Chaplain Captain's Career Course.

5. U.S. Army Human Resources Command Order Number 326-045, 21 November 2008, promoted him to the rank/grade of captain (CPT)/O-3 effective 23 December 2008.

6. The applicant's six OERs covering the periods 16 June 2013 through 23 February 2019 show his raters consistently rated his performance as "EXCELS" or "PROFICIENT" and provided positive comments on his performance. His senior raters rated his

potential as "MOST QUALIFIED" or "HIGHLY QUALIFIED" and provided exemplary comments on his performance and potential.

7. The applicant's DA Form 3349-Surgeon General (Physical Profile Record), 15 January 2021, shows in:

- Section 2 (Permanent Profile) – a permanent physical profile rating of "2" for hearing
- item 23 – (Is Soldier Available to Take Record APFT?) – "NO" with an anticipated APFT availability date of 2 March 2020

8. The applicant's military awards, consisting of the Meritorious Service Medal, Army Commendation Medal, and Army Achievement Medal, and his DA Form 638 (Award Recommendation for his Meritorious Service Medal), testify to his performance, accomplishments, and honorable service.

9. The applicant's DA Form 5500 (Body Fat Content Worksheet), 31 January 2020, shows his height as 73 inches and weight as 240 pounds. His body fat percentage is shown as 26 percent in compliance with Army standards. The form was signed by a noncommissioned officer (NCO) in the rank/grade of sergeant (SGT)E-5 and approved by a supervisor in the rank/grade of master sergeant (MSG)/E-8.

10. The applicant's DA Form 5500, 5 February 2020, shows his height as 72.5 inches and weight as 265 pounds. His body fat percentage is shown as 34 percent, 8 percent over the allowed body fat percentage. His screening weight is 208 pounds. The form was signed by his first sergeant and approved by a supervisor in the rank/grade of CPT/O-3.

11. The applicant's OER covering the period 24 February 2019 through 17 February 2020 shows in:

a. Part II (Authentication), the rater digitally signed the form on 15 June 2020, his senior rater and intermediate rater both digitally signed the form on 28 July 2022, and the applicant digitally signed the form on 30 July 2020;

b. Part IId (This is a referred report, do you wish to make comments?), the rater marked this block and "No" is marked indicating comments are not attached;

c. Part IVa (APFT Pass/Fail/Profile), his height as 75 inches and his weight as 265 pounds. The rater entered "No" indicating he is not within standards and commented: "Did not meet Army body composition standards";

d. Part IVb (This Officer's Overall Performance is Rated as), his rater rated his overall performance as "UNSATISFACTORY" and commented: "[Applicant] performed his duties as a Battalion Chaplain with compassion and supported the service member and families of the unit well, however he had a serious lapse in judgement that compromised his integrity and his trusted position by encouraging NCOs to falsify an official document on his behalf";

e. Part IVc(1) (Character), his rater commented, in part: "[Applicant] falsified his DA Form 5500 and used his position to influence two NCOs to sign the document violating the Army Values, and exposing a lapse in judgement";

f. Part IVc(2) (Presence), his rater commented: "[Applicant] was a resilient member of the battalion, however was unable to maintain [A]rmy height and weight standards during the rating period";

g. Part IVc(3) (Intellect), his rater commented, in part: "[Applicant] lacked sound judgment when influencing NCOs to help him falsify a DA Form 5500";

h. Part V (Intermediate Rater), his intermediate rater commented, in part: "[Applicant] falsified [his] DA Form 5500" and provided positive comments on his performance; and

i. Part VI (Senior Rater), his senior rater rated his potential as "NOT QUALIFIED" and commented: "I directed the relief of [Applicant] for falsifying a DA Form 5500 Army Body Fat Composition sheet that illustrates a lack of future potential to serve in the United States Army as a Chaplain. Despite this lack of judgement his compassion and care for Soldiers is unmatched and provided great support to the unit throughout his tenure as the Battalion Chaplain."

12. The 92nd Civil Affairs Battalion (Special Operations) (Airborne) Memorandum (Appointment as IO), 21 February 2020, an IO was appointed to conduct an investigation into the facts and circumstances surrounding the allegation that (Applicant) falsified documents and asked Soldiers to sign said falsified documents.

13. The 92nd Civil Affairs Battalion (Special Operations) (Airborne) memorandum from the IO (Findings and Recommendations for Army Regulation 15-6 Investigation of (Applicant)), 6 March 2020, states:

a. After carefully considering the evidence, he makes the following findings:

(1) The applicant falsified a DA Form 5500 and a DA Form 705 (APFT Scorecard) on or around 31 January 2020. The applicant knew the statements to be false at the time of making and submitted the forms with the intent to deceive the

recipient, his rater, in order to give the appearance of passing Army standards for fitness and body composition for the purpose of influencing his OER. When the applicant actually conducted an Army Body Composition Program (ABCP) body fat screening on 5 February 2020, he failed to meet the Army standards.

(2) The applicant influenced SGT M\_\_\_\_ W\_\_\_\_ and MSG M\_\_\_\_ H\_\_\_\_ to certify the falsified documents. According to the sworn statement by SGT W\_\_\_\_, the applicant repeated his request for him to digitally initial and sign the DA Form 705 and DA Form 5500, thereby pressuring him not to question the applicant as a commissioned officer and Army chaplain. The applicant also influenced SGT W\_\_\_\_ through deception by stating he needed the documents to meet a Defense Ready deadline, furthering the pressure for SGT W\_\_\_\_ to sign the documents. The applicant also influenced MSG H\_\_\_\_ to digitally sign the documents by deceiving him into thinking that an APFT and ABCP body fat screening had, in fact, occurred and the NCO in charge was not available to digitally sign the documents.

(3) The applicant abused his rank and position by influencing SGT W\_\_\_\_ and MSG H\_\_\_\_ to certify the falsified documents.

b. In view of the findings, he recommended issuance of a GOMOR to the applicant for violating Article 107 (False Official Statements), UCMJ, and not adhering to Army Values. Although SGT W\_\_\_\_ and MSG H\_\_\_\_ falsified documentation without observing the APFT and/or adhering to body fat content screening, he recommended no adverse action taken against them. The applicant inappropriately influenced SFT W\_\_\_\_ to sign the false documentation using his position of authority and inappropriately influenced MSG H\_\_\_\_ to sign the documentation by lying to him.

14. The Headquarters, 1st Special Forces Command (Airborne), memorandum from the commanding general (GOMOR), 9 June 2020, reprimanded the applicant in writing for presenting false official documents to a superior commissioned officer. The commanding general stated:

a. In January 2020, the applicant knowingly presented a falsified DA Form 5500 to his rater to reflect his body fat percentage as within standards when, in reality, his body fat percentage exceeded Army standards by 8 percent.

b. In the process of falsifying these documents, he used his rank and position as the battalion chaplain to pressure a Soldier into entering false data and signing a false document. He particularly chose an enlisted Soldier with whom he had developed a chaplain/Soldier relationship to falsify these documents, thereby abusing his position.

c. As a commissioned officer, the applicant is charged with the responsibility of setting an example for subordinates. Pursuant to Army Regulation 165-1 (Army

Chaplain Corps Activities), as a chaplain he is charged with upholding the highest professional, moral, and ethical standards at all times, as he models the Army Profession and Ethic. His actions fell below the standards expected of a commissioned officer and chaplain in the U.S. Army.

d. This is an administrative reprimand imposed under the provisions of Army Regulation 600-37 (Unfavorable Information) and not as punishment under Article 15, UCMJ.

15. The applicant's memorandum (Response to GOMOR), 16 June 2020, states:

a. He humbly requests filing the GOMOR locally rather than in his AMHRR. He fully understands the gravity of this situation and is very grateful for the opportunity to respond. The damage he has done to himself, his unit, and his country is inexcusable and is not the conduct of a trained professional.

b. He accepts full responsibility and apologizes for his actions. He realizes he has foolishly put his career in peril based on his actions, and his future in the U.S. Army rests on the commanding general's decision. Serving his country is extremely important to him. The behavior he exhibited is not acceptable and will never be repeated again.

16. On 2 July 2020, the Commanding General, Headquarters, 1st Special Forces Command (Airborne), having reviewed the chain of command's recommendations, the applicant's rebuttal, and the GOMOR, directed filing the GOMOR in the applicant's AMHRR.

17. The applicant's ORB, 9 July 2020, indicates he successfully deployed to Iraq for 12 months between 2009 and 2010 and received the Army Commendation Medal for this deployment.

18. MSG M\_\_\_\_ H\_\_\_\_'s letter, 6 August 2020, states he supports the applicant's request to transfer the GOMOR to his restricted folder.

a. After reading the IO's findings regarding the applicant, he has two concerns. The IO was a field grade officer within SGT W\_\_\_\_'s battalion, which also places pressures and stresses on the service member. In retrospect, he was re-engaged by the IO with targeted and leading questions based on SGT W\_\_\_\_'s responses to the situation from his interview.

b. The applicant was reaching out for assistance in the same manner he has witnessed many others in the Civil Affairs organization at all levels do before him based on a short and critical suspense. This has become a double standard against his favor.

19. SGT W\_\_\_\_'s memorandum (Statement Clarifying DA Form 2823, 25 February 2020), 10 August 2020, states:

a. The applicant never verbally said to him that it "wasn't my place to question a Commissioned Officer let alone a Chaplain in the United States Army"; this was his own personal feeling about the situation. He realizes his statement may have been confusing, thus warranting a memorandum to clearly represent the actual facts of the events.

b. The applicant is an outstanding chaplain and it is truly his belief that he would never do anything unethical or pressure him to sign a fraudulent APFT scorecard. Furthermore, he does not feel the applicant used his position as the chaplain to influence him in anyway.

20. On 26 October 2020, a BOI convened as an Officer Elimination Board to consider whether the applicant should be involuntarily separated from the Army for misconduct – moral or professional dereliction.

a. The board, having carefully considered the evidence, found:

(1) Allegation 1 – falsifying a DA Form 705 and DA Form 5500 and presenting them to his rater is supported by a preponderance of the evidence.

(2) Allegation 2 – abusing his rank and position to pressure a Soldier into assisting him in falsifying a DA Form 705 and DA Form 5500 is not supported by a preponderance of the evidence.

(3) Allegation 3 – receiving a GOMOR, 9 June 2020, which was filed in his AMHRR on 2 July 2020, is supported by a preponderance of the evidence.

(4) Allegation 4 – committing conduct unbecoming an officer as indicated by the above-referenced misconduct is supported by a preponderance of the evidence.

b. In view of the above findings, the board recommended the applicant's retention and rehabilitative transfer to another unit.

21. The applicant's memorandum ((Applicant) OER Appeal), 13 March 2022, appealed the referred OER covering the period 24 February 2019 through 17 February 2020 to HRC based on substantive inaccuracy.

22. The applicant's subsequent OER covering the period 18 February 2020 through 17 February 2021 shows his rater rated his performance as "PROFICIENT" and



provided positive comments. His senior rater rated his potential as "HIGHLY QUALIFIED" and provided exemplary comments on his performance and potential.

23. The HRC memorandum from the Appeals and Corrections Section Human Resources Assistant (Evaluation Report Appeal (14 February 2019 through 17 February 2020)), 12 April 2022, notified the applicant that the Evaluation Appeals Office reviewed his appeal and returned his request without action. The Human Resources Assistant stated, in part:

a. The applicant has not provided sufficient evidence that supports the contested evaluation contains substantive inaccuracies or is unjust. In accordance with Army Regulation 623-3, paragraph 3-7b, "The choice of what to enter on the OER is ultimately up to the rating official." The supporting documentation the applicant submitted as evidence does not support his claim of substantive error in the contested evaluation and will not be considered as usable evidence.

b. In reference to the findings of the BOI, in accordance with Army Regulation 600-8-24, paragraph 6, "The Board of Inquiry's purpose is to give the officer a fair and impartial hearing, determining if the officer will be retained in the Army." The BOI findings and recommendations are limited to retention or elimination.

c. The HRC Commanding General does not have the responsibility or authority to amend the ratings or comments in an evaluation report based on a self-authored statement or the opinions of a third party. Only evidence that is of a strong and compelling nature will be accepted to justify amendment or deletion of an evaluation report from the Soldier's AMHRR. Likewise, the HRC Commanding General does not have the responsibility or authority to refute a field commander's findings and recommendations of an Army Regulation 15-6 investigation.

24. On 12 April 2022, the DASEB determined the evidence presented did not establish clearly and convincingly that the GOMOR is untrue or unjust and the overall merits of the case did not warrant removal of the GOMOR. However, the DASEB determined the evidence submitted was sufficient to warrant partial relief, transferring the GOMOR and allied documents to the restricted folder of the applicant's AMHRR. This action is not to be considered retroactive and therefore does not constitute grounds for promotion reconsideration if previously non-selected. The board discussion states:

a. The administrative reprimand is a management tool within the sole discretion of the issuing authority (IA). The IA determined he had sufficient evidence to make a decision to issue the GOMOR. Filing the GOMOR was not unjust. The governing regulation permits the issuance of a written reprimand when there is reasonable belief that someone has deviated from the Army values, personal conduct, or the expectations of a Soldier. The IA believed the preponderance of the evidence supported the

allegations. The applicant has not provided clear and convincing evidence showing the GOMOR is unjust or that he should not be held liable for the alleged misconduct addressed in the GOMOR.

b. The GOMOR clearly states the applicant knowingly presented a falsified DA Form 705 and DA Form 5500 to his rater to reflect his body fat percentage as within standards when, in reality, his body fat percentage exceeded Army standards by 8 percent.

c. The applicant stated the BOI proved the allegations were false (unsubstantiated). However, neither the IA nor the DASEB is bound by the BOI's findings or recommendations. The purpose of the BOI was to give the applicant a fair and impartial hearing, determining only if he would be retained in the Army.

d. Careful consideration was given to the applicant's letters of support; however, these individuals were not in a position to fully understand or appreciate the basis for the contested GOMOR and the overall concern of the IA.

e. Once a GOMOR is properly filed in the AMHRR, it is presumed to be administratively correct and filed pursuant to an objective decision by competent authority. Based on the available evidence, the applicant has not provided clear and convincing evidence showing the GOMOR is inaccurate, unjust, or otherwise flawed. Therefore, there was no basis for removal of the contested GOMOR.

f. In accordance with Army Regulation 600-37, paragraph 7-2b(1), the applicant has met the conditions to request transfer of the GOMOR from the performance folder to the restricted folder of his AMHRR because 1 year has elapsed and the applicant has received one non-academic evaluation report.

25. The applicant was not selected for promotion to MAJ/O-4 by the:

- Fiscal Year 2017, MAJ, Chaplain Corps, Promotion Selection Board
- Fiscal Year 2018, MAJ, Chaplain Corps, Promotion Selection Board
- Fiscal Year 2019, MAJ, Chaplain Corps, Promotion Selection Board
- Fiscal Year 2020, MAJ, Chaplain Corps, Promotion Selection Board
- Fiscal Year 2021, MAJ, Chaplain Corps, Promotion Selection Board
- Fiscal Year 2022, MAJ, Chaplain Corps, Promotion Selection Board

26. The HRC memorandum (Notification of MRD Due to Non-Selection for Promotion), 30 June 2022, notified the applicant:

a. The Department of the Army Fiscal Year 2022, MAJ, Chaplain Corps, Promotion Selection Board, convened; however, he was not selected for promotion.

b. Pursuant to Title 10, U.S. Code, section 632(a)(1), he must be removed from the Army no later than the first day of the 7th month from the approval of the promotion board's report. The promotion board's report was approved in June 2022; therefore, he must be separated no later than 1 January 2023.

27. The applicant's OER covering the period 10 December 2021 through 9 December 2022 shows his rater rated his performance as "PROFICIENT" and commented, in part: "[Applicant] is the #1 of 2 Chaplains I rate." His senior rater rated his potential as "MOST QUALIFIED" and commented, in part: "#1/2 CPTs in USASOC [U.S. Army Special Operations Command] HQ [Headquarters] Chaplain Section; top 10% of all Chaplain CPTs I have observed in my 16+ years of service."

28. The applicant was honorably released from active duty on 1 January 2023 and transferred to the 100th Chaplain Detachment, U.S. Army Reserve. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows in:

- item 12c (Net Active Service This Period) – 14 years, 6 months, and 15 days
- item 28 (Narrative Reason for Separation) – Non-Selection, Permanent Promotion

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records and applicable regulatory guidance. The Board considered the serious nature of the applicant's actions and agreed that he not only abused his rank but specifically chose an enlisted Soldier with whom he had developed a chaplain/Soldier relationship to falsify the data. As such his actions were not in keeping with the professional, moral, and ethical standards of his role. Based on the preponderance of the evidence available for review, the Board found no compelling reason to warrant a recommendation for relief.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned and removal of the general officer memorandum of reprimand or DA Form 67-10-1 is not warranted.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record; it is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
2. Army Regulation 15-6 (Procedures for Investigating Officers and Boards of Officers) establishes procedures for conducting preliminary inquiries, administrative investigations, and boards of officers when such procedures are not established by other regulations or directives. Paragraph 5-2 states IOs may use whatever method they deem most efficient and effective for acquiring information. Although witnesses may be called to present formal testimony, information may also be obtained by personal interview, correspondence, telephone inquiry, or other informal means.
3. Army Regulation 165-1 (Army Chaplain Corps Activities) establishes the policies, duties, and responsibilities of the U.S. Army Chaplain Corps in meeting the Army's religious and moral requirements. Paragraph 2-2 (Chaplain Sections and Unit Ministry Teams) states all chaplains and religious affairs specialists will remember that they represent their nations, the Army, and the Chaplain Corps. They are therefore charged to uphold the highest professional, moral, and ethical standards at all times as they model the Army Profession and Ethic.
4. Army Regulation 600-9 (The Army Body Composition Program), 28 June 2013, established policies and procedures for implementation of the ABCP.
  - a. Chapter 3 (ABCP) stated Soldiers are subject to many demands and challenges that may impact individual readiness. The ABCP provides commanders a systematic approach to enforce military standards across the unit, while supporting Soldiers with the resources they need to return to an optimum level of individual readiness.
  - b. Paragraph 3-2 (Standard) stated Soldiers are required to meet the prescribed body fat standard. Soldiers will be screened every 6 months, at a minimum, to ensure compliance with this regulation. Commanders are authorized to use the weight for height table as a screening tool in order to expedite the semi-annual testing process. Soldiers identified as exceeding the body fat standard will be flagged in accordance with

Army Regulation 600-8-2 (Suspension of Favorable Personnel Actions (Flag)) and enrolled in the ABCP. They must meet the body fat standard in this regulation in order to be released from the program.

c. Paragraph 3-11 (Temporary Medical Condition) stated all Soldiers found to exceed the allowable body fat standard will have a DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)) initiated and be enrolled in the ABCP. Soldiers found to have a temporary medical condition that directly causes weight gain or prevents weight or body fat loss will have up to 6 months from the initial medical evaluation date to undergo treatment to resolve the medical condition. The medical specialty physician may extend the time period up to 12 months if it is determined more time is needed to resolve the medical condition. During this time, the Soldier will participate in the ABCP, to include initiation of a DA Form 268, nutrition counseling, and monthly body fat assessment, but will not be penalized for failing to show progress.

d. Table B-1 (Weight for Height Table) shows the maximum weight for males 40 years and older with a height of 73 inches as 208 pounds.

5. Army Regulation 623-3 (Evaluation Reporting System) prescribes the policy for completing evaluation reports and associated support forms that are the basis for the Army's Evaluation Reporting System.

a. Paragraph 2-10 (The Rated Soldier) states the rated Soldier is the subject of the evaluation and has considerable responsibility in the evaluation process. The rated Soldier will review and sign the evaluation report after it has been completed by the senior rater. The rated Soldier's signature verifies that administrative data, including Department of Defense identification number, rating chain, counseling dates, APFT, and height and weight entries on the evaluation report are correct and confirms that the rated Soldier has seen the completed evaluation report. For referred OERs, the rated officer is responsible for acknowledging the senior rater's referral of the OER, signing the completed OER, and providing comments regarding the OER by the reasonable suspense date set by the senior rater.

c. Paragraph 3-7a(3)(b) states Part IV will be an assessment of a rated officer's professionalism, performance, and adherence to the attributes and core leader competencies of the Army Leadership Requirements Model (including the APFT, height and weight entries, and entry of compliance/noncompliance with Army Regulation 600-9), focusing on what a leader is (attributes) and what a leader does (competencies) during the rating period.

d. Paragraph 3-27 (Referred DA Form 67-10 Series) states OERs with the following entries, to include a "No" entry for the height and weight indicating noncompliance with the standards of Army Regulation 600-9, and any negative or derogatory comments, is

a referred or adverse report. Such OERs will be referred to the rated officer by the senior rater for acknowledgement and an opportunity to comment before being submitted to HQDA.

e. Paragraph 3-37 (Modifications to Previously Submitted Evaluations Reports) states an evaluation report accepted by HQDA and included in the official record of a rated Soldier is presumed to be administratively correct, to have been prepared by the properly designated rating officials who meet the minimum time and grade qualifications, and to represent the considered opinions and objective judgment of the rating officials at the time of preparation. For evaluation reports that have been completed and filed in a Soldier's AMHRR, administrative and substantive appeals will be submitted within 3 years of an evaluation report "THRU" date.

f. Paragraph 4-1 (Overview) states the Evaluation Report Redress Program consists of several elements at various levels of command. The program is both preventive and corrective, in that it is based upon principles structured to prevent and provide a remedy for alleged injustices or regulatory violations, as well as correct them once they have occurred.

g. Paragraph 4-4 (Purpose) states alleged errors, injustices, and illegalities in a rated Soldier's evaluation report may be brought to the commander's or commandant's attention by the rated Soldier or anyone authorized access to the report. The primary purpose of a Commander's or Commandant's inquiry is to provide a greater degree of command involvement in preventing obvious injustices to the rated Soldier and correcting errors before they become a matter of permanent record. A secondary purpose is to obtain command involvement in clarifying errors or injustices after the evaluation is accepted at HQDA. However, in these after-the-fact cases, this paragraph is not intended to be a substitute for the appeals process, which is the primary means of addressing errors and injustices after they have become a matter of permanent record.

h. Paragraph 4-7 (Policies) states an evaluation report submitted and accepted for inclusion in the rated Soldier's AMHRR is presumed to be administratively correct, to have been prepared by the proper rating officials, and to represent the considered opinion and objective judgment of the rating officials at the time of preparation.

i. Paragraph 4-8 (Timeliness) states a request for administrative appeal or correction, by either the rated Soldier or the rating chain, will be submitted and received not later than 3 years after an evaluation report "THRU" date for an administrative error so significant as to affect not only personnel management decisions, but selection board proceedings and career decisions. Substantive appeals will be submitted and received no later than 3 years after an evaluation report "THRU" date.

j. Paragraph 4-11 (Burden of Proof and Type of Evidence) states the burden of proof rests with the appellant. Accordingly, to justify deletion or amendment of an evaluation report, the appellant will produce evidence that establishes clearly and convincingly that the presumption of regularity will not be applied to the evaluation report under consideration and action is warranted to correct a material error, inaccuracy, or injustice. Clear and convincing evidence will be of a strong and compelling nature, not merely proof of the possibility of administrative error or factual inaccuracy. No appeal may be filed solely based on the contention that the applicant was never counseled.

6. Department of the Army Pamphlet 623-3 (Evaluation Reporting System) provides procedural guidance for completing and submitting to HQDA evaluation reports and associated support forms that are the basis for the Army's Evaluation Reporting System. Table 2-8 (Authentication for the DA Form 67-10-2) states action is required if referral of the DA Form 67-10-2 is required. The senior rater will place an "X" in the appropriate box in Part IId of the DA Form 67-10-2 before he or she has signed and dated the DA Form 67-10-2. The DA Form 67-10-2 will then be provided to the rated officer for placement of an "X" in the appropriate box in Part IId, signature, and validation of administrative data ("Yes" if the rated officer will provide comments as an enclosure to the DA Form 67-10-2 or "No" if the rated officer will not provide comments).

7. Army Regulation 600-8-29 (Officer Promotions) prescribes the officer promotion function of military human resources support operations. It provides for career progression based upon recognition of an officer's potential to serve in positions of increased responsibility. Additionally, it precludes promoting officers who are not eligible or become disqualified, thus providing an equitable system for all officers.

a. Paragraph 2-7 (Promotion Eligibility) states CPTs, MAJs, and lieutenant colonels must serve at least 3 years of time in grade to be considered for promotion.

b. Chapter 6 (SSBs) states an SSB may be convened to consider or reconsider commissioned officers for promotion when Headquarters, Department of the Army (HQDA), determines that one or more of the following circumstances exists:

(1) Administrative error. An officer was not considered from in or above the promotion zone by a regularly scheduled board because of an administrative error; or

(2) Material Unfairness. The action of the promotion board that considered the officer from in or above the promotion zone was contrary to law in a material to the division of the board or involved material error or fact or material administrative error; or the board that considered the officer from in or above the promotion zone did not have before it for its consideration material information.



8. Army Regulation 600-8-24 (Officer Transfers and Discharges) prescribes the officer transfers from active duty to the Reserve Component and discharge functions for all officers on active duty for 30 days or more. It provides principles of support, standards of service, and policies to support officer transfers and discharges.

a. Paragraph 4-6 (BOI) states the BOI's purpose is to give the officer a fair and impartial hearing determining if the officer will be retained in the Army.

b. Paragraph 4-15b(3) (Conclusion of Hearing) states the board may not recommend removal of documents such as OERs, DA Forms 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice), and memoranda of reprimand from an officer's AMHRR. The board recommendations are limited to either retention (with or without reassignment) or elimination.

d. Paragraph 4-18 (Elimination of Non-Probationary Officer) states elimination action may be initiated against an officer who is identified by one or more of the reasons outlined in paragraph 4-2.

e. Paragraph 5-6 (Separation of Commissioned Officers and Chief Warrant Officers Who Are Twice Non-Selected for Active Duty List Promotion by an HQDA Centralized Board) states commissioned officers on the active duty list twice non-selected for promotion to the grade of MAJ will be involuntarily released or discharged.

9. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to ensure the best interests of both the Army and Soldiers are served by authorizing unfavorable information to be placed in, transferred within, or removed from an individual's AMHRR.

a. An administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

b. A memorandum of reprimand may be filed in a Soldier's AMHRR only upon the order of a general officer-level authority and is to be filed in the performance folder. The direction for filing is to be contained in an endorsement or addendum to the memorandum. If the reprimand is to be filed in the AMHRR, the recipient's submissions are to be attached. Once filed in the AMHRR, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) provides that once an official document has been properly filed in the AMHRR, it is presumed to be administratively correct and to have been filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the AMHRR. Soldiers must have received at least one evaluation (other than academic) since imposition.

d. Paragraph 7-3(c) (Filing Authority to Redress Actions) states an officer who directed the filing in the AMHRR of an administrative memorandum of reprimand, admonition, or censure, may request its revision, alteration, or removal, if evidence or information indicates the basis for the adverse action was untrue or unjust, in whole or in part. An officer who directed such a filing must provide the DASEB with a copy of the new evidence or information to justify the request.

e. Only letters of reprimand, admonition, or censure may be the subject of an appeal for transfer to the restricted folder of the AMHRR. Such documents may be appealed on the basis of proof that their intended purpose has been served and that their transfer would be in the best interest of the Army. The burden of proof rests with the recipient to provide substantial evidence that these conditions have been met.

10. Army Regulation 600-8-104 (Army Military Human Resource Records Management) prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the AMHRR. Paragraph 3-6 provides that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or other authorized agency.

//NOTHING FOLLOWS//