

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 September 2024

DOCKET NUMBER: AR20230003520

APPLICANT REQUESTS:

- Removal of a General Officer Memorandum of Reprimand (GOMOR), 22 November 2017, from the restricted portion of his Army Military Human Resource Record (AMHRR)
- Removal of any Board of Inquiry (BOI) actions from the restricted portion of his AMHRR
- Removal of any United States Army Human Resources Command (HRC) derogatory actions from AMHRR (this request is unclear of the specific actions and of the filing location)
- Retroactive consideration for any and all promotion boards
- A personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Timeline of events
- Pictures of text messages
- Memorandum subject: Unrestricted access control roster, 24 August 2017
- DA Form 4856 (Developmental Counseling Form), 16 November 2017
- Memorandum subject: Access to C-CURE 9000 System Log, 12 December 2017
- Second Army Regulation (AR) 15-6 (Procedures for Administrative Investigations and Board of Officers) investigation, 5 January 2018, complete redacted packet,
- Command Recommendations -Reprimand Filing, 28 January 2018
- DA Forms 2823 (Sworn Statement)
- Letter issued by the Moore County, North Carolina (NC), Sheriff, 13 March 2019
- Computerized Polygraph Examination, 24 April 2019
- Self-Authored letter and supporting documentation, previously considered by the Department of the Army Suitability Evaluation Board (DASEB), 14 February 2020
- Memorandum subject: Approval for release of verbatim transcript, 11 March 2021
- Deputy Assistant Secretary of the Army for Review Boards (RB) Retention approval, 13 April 2021, and elimination action closure
- Affidavit issued by the Moore County, NC, Sheriff, 5 August 2021

- Two email conversations
- Five-character references
- NC Statute 14-277.3A (Stalking)
- Department of the Army Publications description of All Army Activities (ALARACT) messages
- Argument map
- Time magazine article: Signs of Lying
- Original Research: Lie Detection Through a Videotaped Interview
- Memorandum subject: Request for Army Board for Correction of Military Records (ABCMR) to remove GOMOR, 20 February 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the ABCMR conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states he requests the removal of an administrative GOMOR and that he should be afforded a retroactive reconsideration for all previous promotion boards. He has exhausted all available administrative avenues in order to bring this matter before this Board. It is predicated on the complainant's untrue statements and without due consideration of important aspects of the situation. The GOMOR was for untrue and unjustified allegations of harassing a female officer and abuse of power. Specifically, making a female officer uncomfortable, accusing her of having an inappropriate relationship, and deleting a noncommissioned officer (NCO) out of a building access roster. There was a secondary investigation that substantiated the fraternization of this female officer. The applicant did not abuse his power, nor did he intend to harass anyone. He provides sheriff affidavits, computer logs, and a statement from a Soldier that admits he was on the computer at the time of the deletion, witness statements, and a polygraph attesting to this.

3. The applicant provides:

a. A chronological memorandum, which detailed how all persons involved in this incident came to encounter one another and actions taken by the applicant from November 2015 through 27 April 2019. This document is available in its entirety for the Boards Review. This document provides in pertinent part:

(1) The applicant and the female officer, Captain (CPT) B. F., started a romantic relationship in April 2017.

(2) On 31 August 2017, Staff Sergeant's (SSG) R. N., account was deleted according to the computer log.

(3) On 1 September 2017, the applicant discovered CPT B. F. and SSG R. N., were previously and currently intimately involved, so he terminated the relationship. He confronted her and she admitted it was inappropriate. While accompanied by Sergeant First Class (SFC) E. P. to bear witness, he collected his personal belongings from the home, and he surrendered CPT B. F. key.

(4) On 5 September 2017, CPT B. F. accused him of harassment.

(5) On 5 September 2017, CPT W. H. informs the applicant he is being investigated and issues a no contact order for CPT B. F. and SSG R. N.

(6) On 26 September 2017, investigating officer (IO) closed the investigation 10 days early so he could attend jump master school. While the applicant was on leave, evidence was requested of him with a six-hour deadline. The IO did not fully investigate personnel, false statements were ignored but were acknowledged in findings and furthermore, he provided his own evidence as to the applicant's personal intentions, contrary to physical evidence.

(7) On 22 November 2017, the applicant received a GOMOR for harassing CPT B. F., abuse of power, and conduct unbecoming of an officer and a gentleman. In addition, the applicant also made false allegations of CPT B. F. having an inappropriate relationship, which was also listed on his GOMOR.

b. Pictures of text messages that are available in their entirety for the Boards Review.

c. A memorandum subject: Unrestricted access control roster, 24 August 2017, reflects the applicant was listed as having unrestricted access to the control roster.

d. A memorandum for record, subject: Access to C-Cure 9000 System Log, 12 December 2017, shows the applicant requested the complete system log from 31 August 2017 to 5 September 2017.

e. On 5 January 2018, a second AR 15-6 investigation was conducted. This investigation is redacted, and omits information, therefore it is unclear what the complete findings are. This document is available in its entirety for the Boards review. However, this document does show, in pertinent part, when CPT B. F. was questioned during the investigation, she stated the following:

(1) She admitted she made these allegations both to protect her career and

because she was uncomfortable.

(2) She discusses how an investigation into her fraternization would have repercussions on herself and her team.

(3) When further questioned because she was not answering the question, "Are you concerned for your safety from the applicant, or are you concerned at the fact that your career is potentially going to be damaged because of your own actions", she claims she was concerned for her safety and that she has been honest.

(4) The AR 15-6 investigation into her false statements, spillage/operation security (OPSEC) violation, and fraternization demonstrates she was successful at damaging his reputation, while she gained leniency from the Command for her regulatory violations.

(5) Findings. After careful consideration the IO determined CPT B. F.:

- Violated Army Regulation 600–20 (Personnel–General Army Command Policy), by having an intimate or sexual relationship with an NCO. She demonstrated good judgement by terminating the relationship
- She did not knowingly submit false official statements
- Due to insufficient evidence to substantiate a clear OPSEC violation. The sharing of the photos via text messages, containing unit operations on a personal electronic device is in the grey area of OPSEC policy

g. On 28 January 2018, the applicant's chain of command (COC), unanimously recommended his GOMOR is filed with AMHRR. The following comments were provided:

(1) His commanding officer stated "Due to the nature of this infraction, primarily the abuse of power and the highlighted shortfalls in CPT R. character, I recommend this GOMOR is filed with AMHRR. This investigation has caused the Headquarters and Headquarters Company (HHC) command team to question CPT R. ability to conduct his duties as an intelligence officer in a trustworthy manner, and question if he has the character values required of an Army Officer."

(2) His battalion commander stated "Recommend filing in AMHRR. A complete break in trust and inappropriate use of power. If CPT R. had taken responsibility in his rebuttal and sought assistance to learn from the incident and better himself as a leader my recommendation would be different."

(3) Due to the totality of facts, his brigade commander also recommended the GOMOR is filed in the applicant's AMHRR.

h. DA Forms 2823 (Sworn Statements) state:

(1) On 22 April 2018, SSG M. B. made the following statement under oath: "On the afternoon of 31 August 2017, I was in CPT R. office in the 98th Civil Affairs (CA) Battalion (BN). I was troubleshooting the access badge system because multiple people came in that day claiming they could not get into the Battalion. I rebooted the server and restarted the access badge computer. While troubleshooting the system CPT R. and I were discussing some personal affairs. He suspected his girlfriend was cheating on him, but he didn't know who at the time. The system was taking an abnormal amount of time to reboot, and CPT R. did not want to wait for it to reboot as it was getting late and most of the staff had gone home, so we left for the day. I was tasked to be a range safety officer (RSO) at Camp Lejuene for a validation exercise the following week. Once I returned, I noticed that CPT R. was out of the S2 section. I heard there was an ongoing investigation; something to do with his girlfriend. He was in and out for a few months and then I heard he was moved to Brigade. On 16 April 2018, CPT R. contacted me asking if i would be willing to fill out a sworn statement."

(2) On 19 June 2018 SSG E. P. made the following statement under oath: "On 7 June 2018, CPT R. texted me and asked if I would be willing to give a sworn statement on events that happened specifically on Tuesday, 5 September 2018. Around lunchtime on Tuesday 5 September 2017, I went to lunch at the post exchange (PX) with CPT R. On the way to the PX, he asked me to not mention the breakup over the weekend to anyone. Then he told me that the breakup was over the fact that CPT B. F. was cheating on him with a noncommissioned officer (NCO) in 98th CA BN, SSG R. N. He told me he did not care about the cheating, since it was over between him and CPT B. F. He did not go into specifics and seemed a little sad. In the parking lot on our way to the PX Food Court, we walked past SSG R. N. I told him that was SSG R. N., CPT R. said oh really? Turned around to look. I asked him, did you not know? CPT R. looked back and said "No, but I feel bad for the guy, pretty sure he was lied too as well". Later that day after work, CPT R. seemed irritated. We talked in the parking lot for a little before going home, he told me that he was being investigated and the rumor was for breaking and entering and harassment. He had asked her to drop it after the breakup. He said he did not understand why she would report him if he had a key, practically lived there most of the time and bought her some expensive dog. I told him he should report whatever he had to avoid any trouble. He said that he did not know what to do but he should probably seek assistance he just didn't who to ask. I told him that was probably why she did it, to get ahead of him. I went home and he never mentioned anything again until now. At the time I knew CPT R. for 2 years, always professional with everyone and no doubt an outstanding Leader."

i. A letter issued by the Moore County, NC, Sheriff, 13 March 2019, shows the applicant's case was closed on 1 September 2019 and there is no further investigation in reference to a call made by CPT B.F. regarding the applicant.

k. On 24 April 2019, pursuant to the applicant's request, he underwent a computerized polygraph examination. The polygraph results showed no deception in his statements concerning the events in his GOMOR. This examination is available in its entirety for the Boards review.

l. A self-authored letter and supporting documentation, previously considered by the DASEB, 9 June 2020, in which he requests the GOMOR be removed from his AMHRR, due to untrue and unjust allegations, which have hurt his career. This is the only derogatory document in his records. He served for 11 years prior to this incident and 7 years have now passed all without any negative actions or reprimands against him. This document is available in its entirety for the Boards review.

m. A memorandum subject: Request to release verbatim transcript of the applicant's BOI, 11 March 2021, was approved.

n. A memorandum subject: Officer Elimination Case, 13 April 2021, reflects a Board of Inquiry recommended the applicant be involuntarily eliminated from the United States Army, on 15 May 2020, based on misconduct and moral or professional dereliction, and derogatory information with a General (Under Honorable Conditions) characterization of service. An Ad Hoc Review Board subsequently reviewed this case. The Deputy Assistant Secretary of the Army (RB), by Order of the Secretary of the Army, determined he would be retained in the United States Army. The elimination action was subsequently closed by HRC.

o. An affidavit issued by the Moore County, NC, Sheriff, 5 August 2021, provides Deputy P. spoke with CPT B. F. over the phone in reference to an ex-boyfriend that may cause issues with her employment. She stated that he had entered her residence, accessed her lpad and taken pictures of conversations she had with another Soldier. She ended their relationship, and notified her commander and was now requesting a copy of the report for information purposes. The report was closed and was unfounded due to no evidence of a crime. At no point did the Deputy state that this incident was trespassing or breaking and entering. CPT B. F. stated the applicant was given a key to her residence.

p. Email conversations that are available in their entirety for the Board's review, in which the applicant requested a character reference from Lieutenant Colonel (LTC) O. K. and information from Mr. M. S., who served the legal advisor from his case. The applicant also requested what advice the legal advisor provided the COC, and did he actually direct anyone to be biased toward CPT B. F's. perspective.

q. Five-character references that are available in their entirety for the Boards review, reflect the following:

(1) On 2 July 2019, Ms. L. B. expresses how the applicant has earned her complete trust through his actions, high work ethic and standards. He is a superior Army officer that loyal and dedicated with unquestionable integrity. The Army would be best served if the GOMOR was removed from his AMHRR, and he continued to serve our Nation.

(2) On 21 October 2019, Mrs. E. H. explains how even while the investigation was occurring, he always demonstrated the highest standard of professionalism, maintained a diligent work ethic, and was honest. He has undergone a lot of reflection and accepted responsibility for his behavior towards his ex-girlfriend. He has taken measures to improve himself, not something most individuals would bother to undertake. He did not let this be a setback to his performance or service in the Army. As far as his abuse of power, there is evidence that shows he never deleted the account. I firmly believe that the investigating officer did not do their due diligence in determining the access revocation. He has been unfairly accused and punished as a result. He also had to contact the company and request evidence to support his innocence because the IO did not bother to. I am embarrassed that my own organization failed to properly investigate, and then punished a Soldier without evidence.

(3) On 22 October 2019, LTC J. K. stated he has grown personally and professionally in the time following the incident and has vigorously recommitted himself to honorable service to the nation. He did not let this incident define him. All indications point to a one-time instance of poor decision making. He has taken time to self-reflect, accept personal responsibility for his actions, and invested time in professional growth. He was a committed and innovative officer prior to the incident, as indicated in his performance reviews, and by all the available evidence has returned to those same high-performance levels.

(4) On 23 October 2019, Lieutenant General (LTG) F. B., endorsed the applicant's appeal to transfer the administrative reprimand, dated 22 November 2017, from his performance fiche to his restricted fiche. LTG F. B. issued the reprimand and believes a transfer to the restricted fiche will be in the best interest of the Army. The GOMOR served its intended purpose as the applicant had shown dedication to the mission and the ability to live the Army values. His teammates state he performed exceptionally well. His devotion to the Army and its Soldiers has been apparent, and he should have the opportunity to redeem himself; transferring the reprimand to this restricted fiche will allow this.

(5) On 2 February 2020, Major (MAJ) F. H. stated he also supports request for the removal of the GOMOR. Prior to this incident, He was a committed and innovative officer that is excelling as indicated in his performance reviews. That isolated incident was untimely and unfortunate but is in no way indicative of his commitment to the nation. He accepted full responsibility for his actions, has been honest throughout this entire process, and is determined to show that he learned valuable lessons that will help him serve at increased levels of responsibility.

4. The applicant's service record shows:

a. DA Form 71 (Oath of Office), 6 May 2011, reflects he was appointed as a U.S. Army Reserve Commissioned Officer.

b. Officer Record Brief (ORB), provides the following in:

(1) Section III- Service Data (Date of Rank (DOR)).

- First lieutenant (1LT)/O2: 21 November 2012
- CPT/O3: 1 May 2015

(2) Section VI-Military Education (Course Name-Year)

- Infantry Officer Basic, 2011
- Military Intelligence Basic Officer Leader Course (BOLC), 2015

c. Pursuant to Army Regulation 600-8-29 (Officer Promotions), the applicant's eligibility date for minimum TIG requirement to be considered for promotion to MAJ/O4, was 1 May 2018. Had this promotion taken place, his eligibility date for minimum TIG requirement to be considered for promotion to LTC/O5 would have been 1 May 2021.

d. On 22 November 2017, the applicant was reprimanded and given a GOMOR by Major General (MG) F. B., Commander, Headquarters, 1st Special Forces Command, Fort Bragg, NC, which states:

(1) For harassing a female Civil Affairs officer and for using his official duty position as the Battalion S2 to wrongfully revoke the security access of an enlisted Soldier. An AR 15-6 investigation determined that he sent her, and members of her team, text messages that made her feel uncomfortable. He also accused the female officer of having an inappropriate relationship with an enlisted Soldier. Then, he wrongfully used his official duty position and authority to remove and revoke that enlisted Soldier's security badge and access privileges."

(2) The GOMOR was imposed as an administrative measure and not as punishment under Article 15 of the UCMJ.

(3) On 21 December 2017, he submitted a response to the GOMOR in which he requested the imposing authority (IA) withdraw the GOMOR or file it locally. He fully accepted responsibility for not maintaining his military bearing, failing to provide the IO all evidence and failing to report a possible spillage and OPSEC to his Commander. He further denied the allegations related to abuse of power and harassment.

(4) On 20 February 2018, the IA stated he reviewed the enclosures to the GOMOR and directed the GOMOR be placed permanently in the applicant's AMHRR.

(5) On 22 February 2018, he acknowledged that he had read and understood the unfavorable information against him.

e. DA Forms 67-10-1 (Company Grade Plate (O1-O3; WO1-CW2) Officer Evaluation Report), reflect the following:

(1) Extended Annual Evaluation the period 21 November 2016 to 15 January 2018, the applicant was rated as highly qualified. He ranked in the top 20 percent (%) of the 46 CPTs in the battalion. His great potential was also noted, and he was recommended for promotion to MAJ, ahead of his peers. This evaluation is void of any derogatory information.

(2) Change of Rater Evaluation the period 15 January 2018 to 15 January 2019, the applicant was rated as highly qualified. He ranked in the top 15% among his peers. His tenacity in dealing with challenges was also noted, as it sets him apart from his peers. He has shown the desire and intellect to succeed within the Military Intelligence branch. He was recommended for promotion with his peers. This evaluation is void of any derogatory information.

f. On 5 November 2019, an elimination action was initiated against the applicant for misconduct and derogatory information. The elimination board, having carefully considered the evidence, including the GOMOR, dated 22 November 2017, which was filed in his AMHRR, was supported by a preponderance of the evidence. This document also states:

(1) That the applicant has substantiated derogatory activity and that he engaged in conduct unbecoming of an officer by harassing a female officer and using his official position to wrongfully revoke the security access of an enlisted Soldier is supported by a preponderance of the evidence.

(2) In view of those findings, the board recommended he be separated from the United States Army with a characterization of service of General (under honorable conditions).

(3) Ad Hoc Review Board subsequently reviewed this case. The Deputy Assistant Secretary of the Army (RB), by Order of the Secretary of the Army, determined he will be retained in the United States Army and elimination action was subsequently closed by HRC.

5. In the DASEB Case Number AR20200004084, 9 June 2020, the applicant requested the removal or transfer of an administrative GOMOR and all related documents from the performance portion to the restricted portion of his AMHRR. The applicant's imposing authority supported the transfer of the GOMOR, and the applicant provided sufficient evidence to show the GOMOR has served its intended purpose. Therefore, the DASEB voted partial approval. The GOMOR would be transferred from the performance portion of the AMHRR to the restricted portion of record. All other relief was denied.

6. In the DASEB Case Number AR20220003609, 19 May 2022, the applicant requested the removal of an administrative GOMOR and all related documents from the restricted portion of his AMHRR. The DASEB voted to deny removal of the GOMOR. The evidence presented did not clearly and convincingly establish that the document under consideration is untrue or unjust.

7. Army Regulation 15-185 (Army Board for Correction of Military Records), currently in effect, states an applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records the Board determined the applicant did not demonstrate sufficient evidence to support removal of the GOMOR from his restricted fiche. Evidence in the record show the applicant positively responded to the reprimand as evidenced by his subsequent evaluations and continued service. Removal of a GOMOR is generally not warranted unless it is factually incorrect.

2. The Board noted, the imposing general officer recommended the GOMOR and BOI met the intent and the applicant continued to perform and noted the GOMOR should be moved to his restricted fiche. Evidence shows the GOMOR and the Board of Inquiry has already been moved to his restricted fiche. However, there is insufficient evidence to support removal of the GOMOR and BOI from the applicant’s AMHRR. Furthermore, the Board noted removal of any United States Army Human Resources Command (HRC) derogatory actions from AMHRR (this request is unclear of the specific actions and of the filing location) and retroactive consideration for any and all promotion boards is unwarranted.

3.. The purpose of maintaining the Army Military Human Resource Record (AMHRR). is to protect the interests of both the U.S. Army and the Soldier. In this regard, the AMHRR serves to maintain an unbroken, historical record of a Soldier's service, conduct, duty performance, and evaluations, and any corrections to other parts of the AMHRR. Once placed in the AMHRR, the document becomes a permanent part of that file and will not be removed from or moved to another part of the AMHRR unless directed by an appropriate authority. There does not appear to be any evidence the contested GOMOR or the DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ) was unjust or untrue or inappropriately filed in the applicant's AMHRR. Therefore, relief is denied.

4. The applicant’s request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

X//Signed//

CHAIRPERSON

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. Title 10 (Armed Forces), U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Army Regulation 15-185 (Army Board for Correction of Military Records), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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.
3. Army Regulation 15-6 (Procedures for Administrative Investigations and Board of Officers), currently in effect, sets forth procedures for the conduct of informal and formal investigations. Informal investigations are those that usually have a single investigating officer who conducts interviews and collects evidence. In contrast, formal investigations normally involve due process hearings for a designated respondent. Formal procedures are required whenever a respondent is designated. Paragraph 3-7, Rules of evidence and proof of facts states:
 - a. General. Proceedings under this regulation are administrative, not judicial.

Therefore, investigating officers (IOs) and boards are not bound by the rules of evidence for courts-martial or court proceedings generally. Subject only to the provisions of subparagraph d, below, anything that a reasonable person would consider relevant and material to an issue may be accepted as evidence. For example, medical records, counseling statements, police reports, and other records may be considered, regardless of whether the preparer of the record is available to give a statement or testify in person. All evidence will be given the weight warranted by the circumstances. (See para 3–5 regarding who decides whether to accept evidence.)

b. Access to documents, records, evidence, and other data. No officer, Department of the Army employee, or Service member may deny IOs and boards access to documents, records, or evidentiary materials needed to discharge their duties, to include data stored in official Department of the Army repositories, except as permitted by law and applicable regulations.

c. Official notice. Some facts are of such common knowledge that they need no specific evidence to prove them (for example, general facts and laws of nature, general facts of history, the location of major elements of the Army, and the organization of the Department of Defense and its components), including matters of which judicial notice may be taken.

4. Army Regulation 600-20 (Army Command Policy), in effect at the time, prescribes the policies and responsibilities of command, which include the Army Ready and Resilient Campaign Plan, military discipline and conduct, the Army Military Equal Opportunity Program, the Army Harassment Prevention and Response Program, and the Army Sexual Harassment/Assault Response and Prevention (SHARP) Program.

a. Paragraph 4-14, Relationships between Soldiers of different grades. The term "officer" used in this paragraph includes both commissioned and WOs, unless otherwise stated. The term "noncommissioned officer" refers to a Soldier in the grade of corporal to CSM/SGM. The term "junior enlisted Soldier" refers to a Soldier in the grade of private to specialist. The provisions of this paragraph apply to both relationships between Soldiers in the RA and USAR, and between Soldiers and personnel of other military services. Soldiers of different grades must be cognizant that their interactions do not create an actual or clearly predictable perception of undue familiarity between an officer and an enlisted Soldier, or between an NCO and a junior enlisted Soldier. Examples of familiarity between Soldiers that may become "undue" can include repeated visits to bars, night-clubs, eating establishments, or homes between an officer and an enlisted Soldier, or an NCO and a junior enlisted Soldier, except for social gatherings, that involve an entire unit, office, or work section. All relationships between Soldiers of different grades are prohibited if they:

- Compromise, or appear to compromise, the integrity of supervisory authority or the chain of command
- Cause actual or perceived partiality or unfairness
- Involve, or appear to involve, the improper use of grade or rank or position for personal gain
- Are, or are perceived to be, exploitative or coercive in nature
- Create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission

b. Paragraph 4-19, the Army Harassment Prevention and Response Program (hazing, bullying, and discriminatory harassment). Hazing is a form of harassment that includes conduct through which Soldiers or DA Civilian employees (who haze Soldiers), without a proper military authority or other governmental purpose but with a nexus to military service, physically or psychologically injures or creates a risk of physical or psychological injury to Soldiers for the purpose of: initiation into, admission into, affiliation with, change in status or position within, or a condition for continued membership in any military or DA Civilian organization. Hazing can be conducted through the use of electronic de-vices or communications, and by other means including social media, as well as in person

5. Army Regulation 600-37 (Unfavorable Information), in effect at the time, 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 Official Military Personnel File (OMPF) 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 OMPF, the recipient's submissions are to be attached. Once filed in the OMPF, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 1-1 states, in relevant part, that the intent of Army Regulation 600-37 is to ensure that unfavorable information that is unsubstantiated, irrelevant, untimely, or

incomplete is not filed in individual official personnel files; and, to ensure that the best interests of both the Army and the Soldiers are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

d. Paragraph 1-4 stipulates that the objectives of Army Regulation 600-37 are to apply fair and just standards to all Soldiers; protect the rights of individual Soldiers and, at the same time, permit the Army to consider all available relevant information when choosing Soldiers for positions of leadership, trust, and responsibility; to prevent adverse personnel action based on unsubstantiated derogatory information or mistaken identity; to provide a means of correcting injustices if they occur; and, to ensure that Soldiers of poor moral character are not continued in Service or advanced to positions of leadership, trust, and responsibility.

e. Paragraph 3-2c states that unfavorable information that should be filed in official personnel files include indications of substandard leadership ability, promotion potential, morals, and integrity. These traits must be identified early and shown in permanent official personnel records that are available to personnel managers and selection board members for use in making decisions that may result in selecting Soldiers for positions of public trust and responsibility, or vesting such persons with authority over others. Other unfavorable character traits of a permanent nature should be similarly recorded.

f. Paragraph 3-5 (Filing of Nonpunitive Administrative Memoranda of Reprimand, Admonition, or Censure) states:

(1) Authority to issue and direct the filing of such memoranda in an officer's local file is restricted to:

(a) The recipient's immediate commander or a higher-level commander in the chain of command (if such commander is senior in grade or date of rank to the recipient).

(b) The designated rater, intermediate rater, or senior rater, under the officer evaluation reporting system.

(c) The general officer (to include one frocked to the rank of brigadier general) who is senior to the recipient, or an officer who exercises general court-martial jurisdiction over the recipient.

(2) A memorandum, regardless of the issuing authority, may be filed in the AMHRR, and managed by the U.S. Army Human Resources Command or the proper State Adjutant General (for Army National Guard personnel) upon the order of a general officer (to include one frocked to the rank of brigadier general). The general officer directing filing must exercise general court-martial convening authority over the

recipient, be the designee or delegate of the individual exercising general court-martial convening authority over the recipient, be a filing authority from the recipient's losing command pursuant to paragraph (f)(1) below, or be the chief of any designated special branch pursuant to Title 10, U.S. Code, section 3064, acting pursuant to their statutory authority over members of their respective special branches. Memoranda filed in the AMHRR will be filed in the performance folder.

g. Paragraph 7-2 (Policies and Standards) states that once an official document has been properly filed in the OMPF, 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 OMPF.

h. Paragraph 7-2a, states that once an official document is properly filed in the AMHRR, it is presumed to be administratively correct and 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. Appeals that merely allege an injustice or error without supporting evidence are not acceptable and will not be considered.

i. Paragraph 7-3c (Filing Authority to Redress Actions) states an officer who directed filing an administrative memorandum of reprimand, admonition, or censure in the AMHRR 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 a copy of the new evidence or information to justify the request.

6. Army Regulation 600-8-104 (Army Military Human Resource Records Management), in effect at the time, prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the AMHRR. The AMHRR includes, but is not limited to the OMPF, finance-related documents, and non-service-related documents deemed necessary to store by the Army.

a. Paragraph 3-6 (Authority for Filing or Removing Documents in the AMHRR Folders) 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 another authorized agency.

b. Appendix B (Documents Required for Filing in the AMHRR and/or Interactive Personnel Electronic Records Management System) states memoranda of reprimand, censure, and admonition are filed in accordance with Army Regulation 600-37.

7. Army Regulation 600-8-24, (Officer Transfers and Discharges), in effect at the time, prescribes the officer transfers from active duty (AD) to the Reserve component (RC) and discharge functions for all officers on AD for 30 days or more. It provides principles of support, standards of service, policies, tasks, rules, and steps governing all work required to support officer transfers and discharges.

a. Paragraph 4-6 states 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. Through a formal administrative investigation conducted under AR 15-6 and this regulation, the Board of Inquiry establishes and records the facts of the Respondent's alleged misconduct, substandard performance of duty, or conduct incompatible with military service. Based upon the findings of fact established by its investigation and recorded in its report, the board then makes a recommendation for the officer's disposition, consistent with this regulation. The Government is responsible to establish, by preponderance of the evidence that the officer has failed to maintain the standards desired for their grade and branch or that the officer's Secret-level security clearance been permanently denied or revoked by appropriate authorities acting pursuant to DODD 5200.2-R and AR 380-67. In the absence of such a showing by the Government, the board will retain the officer. However, the respondent is entitled to produce evidence to show cause for his retention and to refute the allegations against him. The Respondent's complete AMHRR will be entered in evidence by the Government and considered by the Board of Inquiry.

b. Paragraph 4-15b (3) states the board may not recommend removal of documents such as OERs, Article 15s, and Memoranda of Reprimand from an officer's AMHRR. The board recommendations are limited to either retention (with or without reassignment) or elimination.

8. Army Regulation 600-8-29 (Officer Promotions), in effect at the time, prescribes policies, operating rules, and steps governing promotion of Army commissioned and warrant officers on the active-duty list and 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 to be considered for promotion by a selection board, an officer must be on the active-duty list (ADL) on the day the board convenes. Captains, majors, and lieutenant colonels must serve at least 3 years of time in grade to be considered for promotion. If selected, officers may be promoted without regard to any additional TIG requirements. This requirement may be waived by the Secretary of the Army, for consideration from below the zone. Officers currently on active duty based on a recall from retired status.

b. Chapter 7 (Special Selection Boards), states a special selection board may be convened to consider or reconsider commissioned officers for promotion when Headquarters, Department of the Army, 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.

(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.

c. Chapter 6-5 (Convening special selection boards) Special selection boards (SSB) will normally be convened within 120 days after a case is approved for consideration. Authority to approve cases for referral to an SSB is delegated to the CG, HRC, or his or her designee, or the Army Review Boards Agency (ARBA). The same SSB may not consider an officer for the same grade under two successive boards' criteria.

//NOTHING FOLLOWS//