

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 July 2024

DOCKET NUMBER: AR20230004092

APPLICANT REQUESTS:

- reconsideration of her previous request for removal of the Summary of Credible Adverse Information under the Army Adverse Information Program (AAIP) from her Army Military Human Resource Record (AMHRR)
- 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)
- Memorandum for Commanding General (CG), 1st Special Forces Command (Airborne) (Profile Removal from the AAIP (Applicant)), 26 October 2022, with enclosures –
 - Army Board for Correction of Military Records (ABCMR) Memorandum (ABCMR Record of Proceedings for (Applicant), AR202190012703), 23 June 2021, with Record of Proceedings
 - U.S. Army Human Resources Command (HRC) Memorandum (ABCMR Record of Proceedings for (Applicant)), AR20190012703), 3 November 2021
 - Email (ABCMR Results), 3 November 2021
 - HRC Memorandum for Record (Nonrated Statement), 3 November 2021
 - HRC Email (Reply: ABCMR Results), 4 November 2021
- 1st Special Forces Command (Airborne) Memorandum (Response to Request for Reconsideration, AAIP), 13 December 2022
- Memorandum for CG, 1st Special Forces Command (Airborne) (Request for Redress Regarding Information in the AAIP, (Applicant)), 6 January 2022 (presumed to mean 2023)
- ABCMR Docket Number AR20190012703, 31 December 2020 (pages 1-6, 49, and 50 only)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20190012703 on 31 December 2020.

2. The applicant states her profile in the AAIP should be completely removed from her Army records.

a. She made a formal request to the CG, 1st Special Forces Command (Airborne), through the staff judge advocate (SJA) on 26 October 2022 to have her packet, including the Army Regulation 15-6 (Procedures for Administrative Investigations and Boards of Officers) investigation, removed from the AAIP. The ABCMR adjudicated her case in Docket Number AR20190012703 in November 2021 and directed HRC to expunge the general officer memorandum of reprimand (GOMOR), 24 March 2016; DA Form 67-10-2 (Field Grade Plate (O4-O5; CW3-CW5) Officer Evaluation Report (OER)) covering the period 3 March 2015 through 2 March 2016; and any document related to this case from her military records, which included the Army Regulation 15-6 investigation and her rebuttal.

b. On 2 January 2023, she received the 1st Special Forces Command (Airborne) response to her 13 December 2022 request, stating the Army Regulation 15-6 investigation would remain in the AAIP and the GOMOR would be removed. Currently, there are no Army regulations governing the AAIP; therefore, removal of information is at the discretion of the commander and if there is a denial or a partial denial, as in her case, a service member is not afforded the same opportunity to submit a rebuttal as in the Army Regulation 15-6 investigation process or the ABCMR process.

c. She notes three injustices:

(1) The CG's official response to her request for removal of the packet from the AAIP was based on a legal review/recommendation that used information from an Army Regulation 15-6 investigation, an investigation that generated an erroneous GOMOR in 2016. Therefore, the new response based on the Army Regulation 15-6 investigation is the same injustice as the GOMOR because the content was arbitrary and capricious, violating her due process rights and violating Title 10, U.S. Code, section 1552; Army Regulation 15-185 (Army Board for Correction of Military Records); Title 10, U.S. Code, section 1034 (Protected Communications; Prohibition of Retaliatory Personnel Actions); and Department of Defense Directive 7050.6 (Military Whistleblower Protection) since her case was adjudicated at the Secretary of the Army (SECARMY) level, clearing her of any wrongdoing.

(2) The SJA legal review/recommendation took precedence over the ABCMR decision, a SECARMY-level entity. Her due process rights and the process to correct military records in Title 10, U.S. Code, section 1552, and Army Regulation 15-185 were violated.

(a) Per Army Regulation 15-185, the SECARMY oversees the operations of the ABCMR and the ABCMR acts for the SECARMY. The ABCMR operates pursuant to law (Title 10 U.S. Code, section 1552) within the Office of the Secretary of the Army and the ABCMR's jurisdiction under Title 10, U.S. Code, section 1552, extends to any military record of the Department of the Army (DA).

(b) Per Army Regulation 15-185, "...an ABCMR decision is final when it – Grants any application in whole or in part without a hearing..." Despite the determination not specifically referencing the AAIP, information about her in the AAIP is still an extension of her military record. The SECARMY published policy that information in the AAIP would be used in all DA Secretariat boards for all grade plates. Per Title 10, U.S. Code, section 1552, paragraph (j), "In this section, the term "military record" means a document or other record that pertains to (1) an individual member or former member of the armed forces, or (2) at the discretion of the Secretary of the military department concerned, any other military matter affecting a member or former member of the armed forces, an employee or former employee of that military department, or a dependent or current or former spouse of any such person." Her military records were expunged; therefore, the information in the AAIP should be expunged as well.

(3) The SJA made a legal recommendation with limited information because the Army Review Boards Agency (ARBA) is the legal custodian of the documents used for their final decision. She submitted over 1,000 pages of evidence, comprised of 82 certified exhibits and 26 certified enclosures, to ARBA. The documents included, but were not limited to, a DA Inspector General (IG) whistleblower investigation that confirmed numerous acts of retaliation against her: an HRC investigation, 13 June 2016, that involved the 8th Special Forces Group (Airborne) Commander leaving her flag in place for over 4 months, forcing Special Management Division to replace her with another officer for a nominative position located in Virginia and a U.S. Army Special Operations Command 2017 investigation into allegations that the 8th Special Forces Group (Airborne) Commander threatened a female officer with her OER while intoxicated at the bar located at the Hale Koa Hotel while in a temporary duty status in Hawaii.

d. Since she is no longer the legal custodian, each document would have to be recertified, which would be costly, time-consuming, and inflict unnecessary emotional and mental distress on her and her family all over again for a case that was adjudicated at the SECARMY level.

3. Following prior enlisted service in the Regular Army, she was appointed as a Reserve officer of the Army in the rank/grade of second lieutenant/O-1 and executed her oath of office on 20 May 2002.

4. On 31 December 2020 in Docket Number AR20190012703, the ABCMR granted her request for removal of the GOMOR, 24 March 2016, with allied documents from her AMHRR; removal of the OER covering the period 5 March 2015 through 4 March 2016 from her AMHRR; placement of a statement of non-rated time in her AMHRR for the period 5 March 2015 through 4 March 2016; and consideration for promotion to lieutenant colonel (LTC) by a special selection board (SSB) for the years 2018 and 2019. However, the Board denied her request to correct the whistleblower reprisal investigation (see attachment for details).

a. The Board also determined partial relief was warranted. The letters of support written on her behalf regarding the award of a contract to Leonie Industries (including some directly communicating with the contractor during a period of contest) were of incredible concern. The Board found that the applicant showed exceptional leadership and courage in reporting the fraud, waste, and abuse and the subsequent investigation into her actions was connected to the reporting. Based on this, the Board concluded there was sufficient evidence of an injustice that warranted correction. The Board also determined that character statements in her behalf and her OER history clearly define an officer of great potential and value to our Army. As a result, the Board recommended expunging the GOMOR and OER, as well as sending her military records to an SSB for promotion consideration to LTC.

b. The Board, however, lacks the authority to make any changes to the whistleblower reprisal investigation report. Congress has reserved the right to correct a Military Whistleblower Protection Act IG record to the Department of Defense and Department of Defense IG. Therefore, the Board made no recommendation for correction to that record.

5. A review of her AMHRR revealed ABCMR Docket Number AR20190012703, 31 December 2020, is filed in the restricted folder.

6. The HRC memorandum from the Appeals and Corrections Section (ABCMR Record of Proceedings for (Applicant)), AR20190012703), 3 November 2021, informed her that the ABCMR determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, all DA records concerned were corrected by:

a. removing the GOMOR, 24 March 2016, and all related documents from her AMHRR;

b. deleting the DA Form 67-9 (meant to be DA Form 67-10-2) covering the period 5 March 2015 through 4 March 2016 from her AMHRR;

c. placing a statement of non-rated time in her AMHRR for the period 5 March 2015 through 4 March 2016; and

d. sending her records to an SSB for consideration for promotion to LTC for the years 2018 and 2019.

e. The Board further determined the evidence presented was insufficient to warrant a portion of the requested relief. As a result, the Board recommended denial of so much of the application that pertained to correcting the whistleblower reprisal investigation.

7. The HRC memorandum from the Appeals and Corrections Section (Nonrated Statement), 3 November 2021, states an annual evaluation report covering the period 5 March 2015 through 4 March 2016 was declared nonrated by authority of the ABCMR.

8. A review of her AMHRR revealed the GOMOR, 24 March 2016, and auxiliary documents, and the OER covering the period 5 March 2015 through 4 March 2016 are not filed in her AMHRR. A nonrated statement for the period 5 March 2015 through 4 March 2016 is filed in the performance folder of her AMHRR.

9. The HRC memorandum from the Appeals and Corrections Section (ABCMR Record of Proceedings for (Applicant)), AR20190012703, 3 November 2021, states:

As directed by the ABCMR, records [sic] of proceedings # AR20190012703 the promotion board file of [Applicant] will be considered for promotion by a Special Selection Board (SSB) under the criteria of the FY18 [Fiscal Year 2018] and FY19 [Fiscal Year 2019], LTC, OPS [Operations], PSB [Promotion Selection Board]. By law, regulation and policy, his (sic) board file will appear in accordance with the established MILPER [Military Personnel] message, by-laws, instructions, and the directives of the ABCMR. [Applicant] will be notified via his [her] official and alternate email address of the approval for consideration no later than 22 November 2021. The entire process may take 12 or more months to complete before the results are approved for release by the appropriate signature authority.

Approval of the SSB does not supersede any Law or doctrine as it relates to mandatory eliminations, mandatory retirement dates, and/or voluntary retirement dates, separations or transition services in general. Adjustments to rank, date of rank, or associated back pay and allowances will only occur upon a favorable outcome that leads to promotion (unless otherwise proven ineligible).

10. The HRC email (ABCMR Results), 3 November 2021 and 4 November 2021, informed her that her OER was removed from her AMHRR and replaced by a statement of nonrated time, the GOMOR was removed from her AMHRR, and her records would be considered for promotion to LTC by an SSB.

11. Her memorandum for CG, 1st Special Forces Command (Airborne) (Profile Removal from the AAIP (Applicant)), 26 October 2022, states:

I am formally requesting my profile to be removed from the Adverse Action Information Program (AAIP).

The Army Board of Corrections of Military Records (ABCMR) cleared me of any wrongdoing in November 2021. Upon receipt of ABCMR's determination, Human Resources Command (HRC) immediately removed the General Officer Memorandum of Reprimand (GOMOR) and the Officer Evaluation Record (OER).

Promotions Branch recommended that I request an AAIP profile removal from the [Army Regulation] 15-6 authority to prevent future promotions to be impacted.

Despite 7 years of challenges that my family and I had to overcome, I continued to serve with honor and treated everyone with dignity and respect. Furthermore, my husband, LTC (Retired) S____ W____ 18A [special forces officer], was also assigned to 1st SFC (A) [1st Special Forces Command (Airborne)] and he maintained his loyalty to the organization and the Army while encouraging me to move forward. I am requesting you direct that my file be removed from the AAIP so I can continue to serve in the Army.

12. The 1st Special Forces Command (Airborne) memorandum from the CG (Response to Request for Reconsideration, AAIP), 13 December 2022, states, in part:

IAW [in accordance with] Army Regulation (AR) 15-6, para[graph] 2-9, I have thoroughly reviewed the matters you submitted requesting reconsideration of an AR 15-6 Investigation approved on March 24, 2016, which substantiated the following findings against you:

Finding 1: [Applicant] engaged in a toxic leadership style inconsistent with AR 600-100 [Army Profession and Leadership Policy] and AR 600-20 [Army Command Policy], which fostered a negative command climate.

Finding 2: [Applicant] improperly used her position and authority to unfairly influence decisions.

Finding 3: [Applicant] improperly influenced personnel actions against civilian contractors which resulted in the termination of a contractor.

On 8 June 2017, the above findings and supporting documents were entered into the AAIP system, together with the General Officer Memorandum of Reprimand (GOMOR) you received and filed in your Army Military Human Resource Record on May 13, 2016, by Brigadier General X____ T. B_____.

IAW AR 15-6, para[graph] 2-9b.(2), I hereby waive the one (1) year requirement for good cause.

Approval Authority Action. After a thorough review of the matters you submitted, I hereby direct the following:

The finding that "[Applicant] improperly influenced personnel actions against civilian contractors which resulted in the termination of a contractor" is not supported by a preponderance of the evidence. This finding will be removed from the AAIP system.

The findings that "[Applicant] engaged in a toxic leadership style inconsistent with AR 600-100 and AR 600-20, which fostered a negative command climate," and "[Applicant] improperly used her position and authority to unfairly influence decisions," are supported by a preponderance of the evidence. These findings will be maintained in the AAIP system.

[Applicant's] GOMOR, dated 24 March 2016, will be removed from the AAIP system.

13. Her memorandum for CG, 1st Special Forces Command (Airborne) (Request for Redress Regarding Information in the AAIP, (Applicant)), 6 January 2022 (presumed to mean 2023), with ABCMR Docket Number AR20290012703, 31 December 2020, requests redress regarding removal of her profile from the AAIP (see attachment for details). She states:

a. Her case involving the 2016 Army Regulation 15-6 investigation was adjudicated at the SECARMY level in 2021. She was cleared of any wrongdoing and all the erroneous/injustices in her military record were expunged, including the Army Regulation 15-6 investigation. However, the response to her request was based on a legal review/recommendation using the same Army Regulation 15-6 investigation that generated an erroneous GOMOR in 2016 as a primary source document. Therefore, the legal review/recommendation used to generate the CG's official response was arbitrary and capricious; violated her due process rights; violated the processes to correct military records outlined by law in Title 10, U.S. Code, section 1552, and Army

Regulation 15-185; and violated her protection for being a whistleblower outlined in Title 10, U.S. Code, section 1034.

b. On 2 January 2023, she received the CG's response to her 13 December 2022 request, stating the Army Regulation 15-6 investigation would remain in the AAIP and the GOMOR would be removed. Currently, there are no Army regulations that govern the AAIP; therefore, removal of information is at the discretion of the commander and if there is a denial or a partial denial, as in her case, a service member is not afforded the same opportunity to submit a rebuttal as in the Army Regulation 15-6 investigation process/ABCMR process.

c. Her case was extremely complex and took several years to adjudicate because it involved reprisal/retaliation by senior psychological operations leaders, a whistleblower investigation which cited numerous counts of retaliation, an information operations contract in Afghanistan that wasted 450 million dollars of taxpayers' money, and a misogynist.

d. She cited three grievances:

(1) The CG's determination was based on an investigation that generated an erroneous GOMOR in 2016, which was the basis for the entry in the AAIP. Therefore, it was the same injustice because the content was arbitrary and capricious and violated her due process rights and violated statutory and regulatory guidance since her case was adjudicated at the SECARMY level, clearing her of any wrongdoing.

(2) The SJA legal review/recommendation took precedence over the ABCMR decision, a SECARMY-level entity, which is the highest level of administrative review within the DA, thereby violating her due process to correct her records.

(3) The SJA made a legal recommendation with limited information and did not utilize all the evidence submitted to the ABCMR. These documents demonstrated the inconsistencies in the Army Regulation 15-6 investigation, character statements, and the DA whistleblower investigation that proved reprisal by the 8th Special Forces Group (Airborne) Commander while in Afghanistan.

e. She requested redress of her grievances and removal of her profile from the AAIP and from the 8th Special Forces Group (Airborne) SJA files. When the SECARMY announced her policy regarding promotion screenings using the AAIP in July 2021, the ABCMR had already convened to consider her application in February of 2021; therefore, she is submitting a separate request to ARBA to amend the ABCMR's decision to include the AAIP. Since there is no formal Army process to submit a rebuttal to a decision regarding the AAIP, she followed the process outlined in Army Regulation 27-10 (Military Justice) when this occurs for a service member.

14. DA Orders 0004424139, 6 April 2023, promoted her to the rank of LTC effective 1 December 2018.

15. She is currently serving as the Deputy Colonel Management Office Chief Coordinator (National Capital Region), Army Senior Leader Development Office, Arlington, VA.

BOARD DISCUSSION:

1. 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 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 are no Army regulations that govern the AAIP; therefore, removal of information is at the discretion of the commander and if there is a denial or a partial denial, as in her case, a service member is not afforded the same opportunity to submit a rebuttal as in the Army Regulation 15-6 investigation process/ABCMR process. The noted the removal of the applicant's GOMOR, however, the removal of the Summary of Credible Adverse Information under the Army Adverse Information Program (AAIP) from her Army Military Human Resource Record (AMHRR) is not within our purview. The Board found reversal of the previous determination is without merit and denied relief.

2. The Board noted, the AAIP is a system implemented to meet statutory requirements to provide DA selection boards, PSBs, and CSLs with "any credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry." The trigger for an AAIP entry is a substantiated adverse finding against a commissioned officer in an administrative investigation.

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.

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:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20190012703 on 31 December 2020.

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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 policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Board members will review all applications that are properly before them to determine the existence of an error or injustice and direct or recommend changes in military records to correct the error or injustice, if persuaded that material

error or injustice exists and that sufficient evidence exists in the record. 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 Administrative Investigations 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. Even when not specifically made applicable, this regulation may be used as a general guide for investigations or boards authorized by another regulation or directive, but in that case, its provisions are not mandatory.

a. The primary function of any preliminary inquiry, administrative investigation, or board of officers is to ascertain facts, document and preserve evidence, and then report the facts and evidence to the approval authority. It is the duty of the investigating officer or board to thoroughly and impartially ascertain and consider the evidence on all sides of each issue, to comply with the instructions of the appointing authority, to make findings that are warranted by the evidence, and, where appropriate, to make recommendations to the approval authority that are consistent with the findings.

b. Paragraph 2-8c (Action of the Approval Authority – Referral of Adverse Information) states:

(1) When an investigation includes a finding containing adverse information (as defined in the glossary) regarding a field grade officer, the portion of the report of investigation and supporting evidence pertaining to the adverse information must be referred to that officer in accordance with paragraph 5-4.

(2) For those findings that are adverse to a field grade officer, which the approval authority intends to approve, the approval authority will give the officer notice and an opportunity to respond before taking final action. The servicing SJA or legal advisor will ensure that the referral is properly made (see subparagraph (5), below).

(3) A redacted copy of the investigation will be referred to the officer by memorandum (see figure 2-6). The referral must notify the officer of the general nature of the adverse information. In addition, the referral must notify the officer that:

(a) The officer has the right to remain silent, and that anything the officer may say or submit in response to the adverse information may be used against him or her in

ongoing or subsequent adverse administrative or Uniform Code of Military Justice proceedings;

(b) Adverse information from an officially documented investigation or inquiry must be furnished to a selection board for promotion to a grade above colonel in accordance with Title 10, U.S. Code, section 615, and may be provided to other selection boards;

(c) The approval authority will consider any response the officer provides and may use it to approve, modify, or disapprove any relevant finding(s) or recommendation(s), or as evidence in current or future actions resulting from the investigation.

(4) The officer will be granted at least 10 business days to respond to the referral. Reasonable requests for an extension of this deadline should be granted for good cause to ensure that the officer has an adequate opportunity to gather evidence and prepare a response.

(5) Action on Receipt of Rebuttal.

(a) Upon receipt of any material in response to the adverse information, the approval authority's servicing SJA or legal advisor will package the materials as an exhibit to the report of proceedings and provide them to the approval authority for his or her consideration. If the subject officer elects not to respond, or fails to do so within the period authorized, the servicing SJA or legal advisor will attach a memorandum stating that the officer elected not to respond or did not respond within the period authorized, along with the referral documents, to the report of proceedings.

(b) When considering the officer's response and whether to substantiate any finding as adverse, the approval authority should consider only evidence that is relevant to the matter under investigation. For instance, evidence of the officer's character or past performance is relevant only to the extent that it reflects on the officer's integrity if his or her statements are contrary to the statements of others.

c. Paragraph 2-9 (Request for Reconsideration) states:

(1) Right to request reconsideration. A subject, suspect, or respondent (such as an officer against whom an adverse finding was made) may request reconsideration of the findings of an inquiry or investigation upon the discovery of new evidence, mistake of law, mistake of fact, or administrative error. New evidence is that information that was not considered during the course of the initial investigation and that was not reasonably available for consideration. New evidence neither includes character letters nor

information that, while not considered at the time of the original investigation, the subject of the investigation could have provided during the course of the investigation.

(2) Limitations.

(a) A request for reconsideration is not permitted when the investigation resulted in administrative, nonjudicial, or judicial action, or any action having its own due process procedural safeguards.

(b) Requests for reconsideration must be submitted to the approval authority within 1 year of the approval authority's approval of the investigation. The approval authority may entertain a request outside of 1 year for good cause. While not exhaustive, good cause is the discovery of new relevant evidence beyond the 1-year time limitation, which the requester could not have discovered through reasonable diligence, or the requester was unable to submit, because duty unreasonably interfered with his or her opportunity to submit a request. The approval authority's determination of good cause is final.

(c) Standing. A request for reconsideration will only be considered if the material presented impacts a finding concerning the requester.

(3) Procedure.

(a) All requests for reconsideration must be submitted through the Office of the SJA/legal advisor responsible for advising the approval authority at the time he or she approved the original investigation. If the approval authority has changed assignments or duty location, the SJA or legal advisor receiving the request, will present it to the approval authority's successor who, for purposes of the request for reconsideration, will be the approval authority.

(b) Upon receipt of a request for reconsideration, the approval authority will determine whether the material presented would impact any finding concerning the requester and, if so, whether the impact is such that the finding is no longer supportable by a preponderance of the evidence.

(c) If, after considering a request for reconsideration, the approval authority determines that the finding is no longer supportable, the approval authority will modify the approved findings and update any database or record where the original findings were sent.

(d) Whether or not the approval authority takes favorable action, he or she will ensure the requester is informed of the action taken on the request. The failure to

inform, however, does not create a substantive right that impacts the request or the original findings.

3. Army Regulation 600-20 (Army Command Policy) prescribes the policies and responsibilities of command, which include the Army Ready and Resilient Campaign Plan, military discipline and conduct, the Army Equal Opportunity Program, and the Army Sexual Harassment/Assault Response and Prevention Program (formerly the Army Sexual Assault Victim Program). Paragraph 4-19 (Treatment of Persons) states the Army is a values-based organization where everyone is expected to do what is right by treating all persons as they should be treated – with dignity and respect. Hazing, bullying, and other behaviors that undermine dignity and respect are fundamentally in opposition to our values and are prohibited. This paragraph is punitive. Soldiers who violate this policy may be subject to punishment under the Uniform Code of Military Justice. Whether or not certain acts specifically violate the provisions of this paragraph, they may be inappropriate or violate relevant civilian personnel guidance. Commanders must seek the advice and counsel of their legal advisor when taking actions pursuant to this paragraph.

4. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to authorize placement of unfavorable information about Army members in individual official personnel files; ensure that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and ensure that the best interests of both the Army and the Soldier are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

a. 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.

b. Paragraph 3-2c states unfavorable information that should be filed in official personnel files includes 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.

5. Army Regulation 600-100 (Army Profession and Leadership Policy) establishes Army Profession and leadership policy by defining key terms and responsibilities associated with the Army Profession and appropriate leadership practices and methods for Soldiers and Army civilians. This includes assigning responsibilities and definitions among the Army Profession and leadership policy proponent, the Assistant Secretary of the Army (Manpower and Reserve Affairs); the Deputy Chief of Staff, G-1; and the Army leader development policy proponent, Deputy Chief of Staff, G-3/5/7, and CG, U.S. Training and Doctrine Command, the primary Army Profession and leadership action agent.

a. Paragraph 1-11 (Core Leadership Competencies, "Toxic" Leadership, and Destructive Leadership Styles) states that to produce an Army of trusted professionals in cohesive teams who adapt and win in a complex world, the Army has identified core leader competencies that pertain to all levels of leadership, both military and civilian. Core leader competencies are related leader behaviors that lead to successful performance, are common throughout the organization, and are consistent with the organizational mission and the Army Ethic. Core leader competencies support the executive core competencies that Army civilians are expected to master as they advance in their careers.

b. Army professionals are required to uphold the Army Ethic and model the core leader competencies described above. They must remain vigilant to guard against counterproductive leadership behaviors from themselves as well as in the units with which they serve. Counterproductive leadership can take different forms, from incompetence to abusiveness, all of which have detrimental impacts on individuals, the unit, and the accomplishment of the mission. Counterproductive leadership behaviors can span a range of behaviors to include bullying, distorting information, refusing to listen to subordinates, abusing authority, retaliating, blaming others, poor self-control (loses temper), withholding encouragement, dishonesty, unfairness, unjustness, showing little or no respect, talking down to others, behaving erratically, and taking credit for others' work. One such type of counterproductive leadership is toxic leadership, which is defined as a combination of self-centered attitudes, motivations, and behaviors that have adverse effects on subordinates, the organization, and mission performance. To be classified as toxic, the counterproductive behaviors must be recurrent and have a deleterious impact on the organization's performance or the welfare of subordinates. An exacerbating factor may be if the behaviors demonstrate selfish reasons such as elevating one's own status, grabbing power, or otherwise obtaining personal gain. Counter-productive leadership behaviors prevent the establishment of a positive organizational climate, preclude other leaders from fulfilling their requirements, and may prevent the unit from achieving its mission. They will lead to investigations and, potentially, removal from position or other punitive actions. Army leaders are required to utilize self-awareness programs (Multi-Source Assessment

Feedback, Commander 360, and others) to ensure they receive feedback indicating whether they exhibit appropriate behaviors for an Army leader. Army leaders are required to provide performance and professional growth counseling to subordinate leaders to prevent or remedy counterproductive leadership.

6. Secretary of the Army memorandum (Army Directive 2023-03 (AAIP), 22 February 2023, states:

a. Purpose. Pursuant to the 2020 National Defense Authorization Act, the requirements in references 1a and 1b were broadened to include pre-board adverse information screening for officers O-4 and above in the Regular Army and officers O-6 and above in the Reserve components. This directive updates and expands the AAIP, the repository for adverse information resulting from administrative investigations conducted pursuant to Army Regulation 15-6, to comply with the new screening requirements.

b. Applicability. This directive applies to the Regular Army, as well as the Army National Guard/Army National Guard of the United States and the U.S. Army Reserve (referred to collectively as the Reserve Components).

c. Policy.

(1) Army Regulation 15-6 is hereby amended as follows:

(a) Substantiated adverse findings from administrative investigations must be filed in the AAIP database for all officers in the grade of O-1 and above.

(b) Paragraph 3-19b is expanded to require adverse summaries against all officers O-1 and above to be filed in the AAIP and maintained in accordance with paragraph 3-19b.

(c) Paragraph 4-3b is expanded to include all officers in the grade of O-1 and above.

(d) The requirement to refer all potentially adverse information regarding an officer, currently limited to field grade officers in paragraph 2-8c, is expanded to include all officers in the grade of O-1 and above.

(e) The right to respond to adverse information, currently afforded to field grade officers in paragraph 5-4a, is expanded to include all officers in the grade of O-1 and above. Nothing precludes approval authorities from extending the right to respond to any individual who is the subject of adverse information. Only substantiated adverse

information regarding officers in the grade of O-1 and above is required to be uploaded to the AAIP database.

(f) The approval authority is responsible for ensuring any adverse information contained in an administrative investigation conducted pursuant to Army Regulation 15-6 meets the requirements of reference 1c, enclosure 4, paragraph 1a, prior to approval and is recorded in the AAIP database. The approval authority's SJA or legal advisor is responsible for completing the administrative tasks necessary to record the information under the direction of the investigation approval authority.

(2) To comply with the new screening requirements, National Guard complex administrative investigations, conducted pursuant to reference 1e, with adverse findings against Army officers in the grade of O-1 and above will be uploaded to the AAIP database.

(3) Army Regulation 135-155 (Promotion of Commissioned Officers and Warrant Officers) and Army Regulation 600-8-29 (Officer Promotions) will be updated to reflect use of the AAIP database in the officer promotion process pursuant to references 1a through 1c.

(4) AAIP entries will be recorded in accordance with reference 1f, paragraph 3-19b.

d. Effective Date. The provisions of this directive are effective 30 calendar days from the date of signature and apply to all administrative investigations conducted pursuant to Army Regulation 15-6 approved on or after the effective date.

e. Proponent. The Judge Advocate General is the proponent for this policy and will ensure the provisions of this directive are incorporated into Army Regulation 15-6 within 2 years of the date of this directive. The Deputy Chief of Staff, G-1, will ensure its provisions are incorporated into Army Regulation 135-155 and Army Regulation 600-8-29 within 2 years of the date of this directive.

//NOTHING FOLLOWS//