

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 September 2024

DOCKET NUMBER: AR20230005664

APPLICANT REQUESTS:

- removal of the DA Form 2166-9-3 (Noncommissioned Officer (NCO) Evaluation Report (NCOER) (Command Sergeant Major/Sergeant Major (SGM)) covering the period 15 December 2019 through 14 December 2020 from his Army Military Human Resource Record (AMHRR)
- a personal appearance hearing before the Board via video/telephone

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 Army Board for Correction of Military Records (ABCMR) ((Applicant) NCOER Appeal), 26 April 2023, with 29 enclosures (ENCLs) –
 - ENCL 1 – NCOER covering the period 15 December 2019 through 14 December 2020
 - ENCL 2 – 927th Combat Sustainment Support Battalion (CSSB) Fragmentary Order 20-006-08 ((COVID-19), 20 March 2022
 - ENCL 3 – Memorandum for The Adjutant General Florida National Guard (Calendar Year 2021 Retention Board Results Notification (Non-Retention) Appeal Request, (Applicant)), 7 February 2022, with Rating Scheme
 - ENCL 4 –
 - Memorandum for Applicant (Retention Board Results Notification (Non-Retention), 22 February 2022
 - Memorandum for Applicant (Request for Qualitative Retention Board Reconsideration), 1 March 2022
 - ENCL 5 through ENCL 21 – Various Mission Related Email Correspondence between 3 April 2020 and 13 October 2020
 - ENCL 22 – 94 pages of Handwritten Notes between January 2020 and April 2022 (not in chronological order)

- ENCL 23 – Counsel's Interview of Lieutenant Colonel (LTC) [REDACTED] 13 March 2023
- ENCL 24 – Counsel's Interview of Major (MAJ) [REDACTED] 21 January 2023
- ENCL 25 – Counsel's Telephonic Interview of First Lieutenant [REDACTED] undated
- ENCL 26 – Counsel's interview of Chief Warrant Officer 5 [REDACTED] 27 October 2022
- ENCL 27 –
- Counsel's Interview Notes of Sergeant First Class (SFC) [REDACTED] 28 November 2022
- SFC [REDACTED] Obituary, 15 October 2022
- ENCL 28 – Counsel's Interview of Staff Sergeant [REDACTED] 13 March 2023
- ENCL 29 – Counsel's Email Correspondence with Ms. [REDACTED] (Reply: Contact Information), 6 August 2022 and 12 September 2022

FACTS:

1. The applicant states the contested NCOER contains substantive inaccuracies and injustice.

a. As factual background, he notes:

(1) Prior to being separated from the Army, he worked for [REDACTED] Army National Guard ([REDACTED] ARNG). On 20 March 2020, he was detached from his normal duty assignment to work for the State Quartermaster as part of the State's COVID-19 response (see ENCL 2). He was the program manager for the Activation Response and Recovery Operations System (ARRO).

(2) Prior to being assigned to the Quartermaster in March 2020, his rater was MAJ [REDACTED] and his senior rater was LTC [REDACTED]. Upon being assigned to the State Quartermaster, he worked directly for Colonel (COL) [REDACTED], COL [REDACTED] and LTC [REDACTED]. Due to the COVID-19 pandemic, he was not drilling on a regular basis with his unit, which would have been his only interactions with MAJ [REDACTED] and LTC [REDACTED].

(3) On 25 February 2021, LTC [REDACTED] signed the referred NCOER covering the period 5 December 2019 through 14 December 2020. He did not sign the NCOER, as he did not agree that the rater and senior rater were correct, and no supplementary review was conducted (see ENCL 1).

(4) The NCOER contains the following comments (see ENCL 1):

(a) In Part IVc (Character), his rater marked "DID NOT MEET STANDARD" and commented:

[Applicant] spoke in a disloyal manner on several occasions about unit leadership to subordinates within the organization. This does not reflect a proper display of the NCO Creed, Army Values, discipline, and the Warrior Ethos. This included displays of disrespect towards commissioned officers within the unit.

(b) In Part IVd (Comments), his rater commented:

[Applicant] managed a team of 4 Soldiers that were integral to State Quartermaster efforts to transition from the Integrated Emergency Operation Management System (IEOMS) platform to the Activation Response and Recovery Operations System. Although technically proficient in his duties, at times he displayed a lack of commitment to his leadership, self-control when addressing subordinate Soldier's regarding unit and battalion leadership, and unwillingness to fully integrate as a team player and several instances of disrespect towards commissioned officers.

In Part IVe (Overall Performance), his rater marked "DID NOT MEET STANDARD" and commented in Part IVf:

His performance during this rating period was not reflective of that of a Senior Non-Commissioned Officer. He became intolerably insubordinate when counseled in regard to corrective criticism and ignored verbal and written directives. The rated Soldier has been notified of the reason for the relief. I am directing a relief for cause as a result of insubordination, continually bypassing the chain of command and for toxic leadership.

(c) In Part V (Overall Potential), his senior rater marked "NOT QUALIFIED" and commented:

NCO Refuses to sign. [Applicant] is uncooperative with leadership and his combative attitude is counter-productive. He was relieved from his position for continuously bypassing his chain of command and for toxic leadership. He resists suggestions for improvement and actively works against the orders of his superiors. At this time I do not recommend any positions of greater responsibility.

(5) The NCOER took him by surprise, as he was not supervised or observed by MAJ [REDACTED] or LTC [REDACTED] during the rated time period; he was working for the State

Quartermaster. Furthermore, he received nothing but positive feedback during the rated period.

(6) Subsequently, he was notified that he was facing separation from the Army because of the NCOER in question. He submitted a rebuttal, highlighting his good performance and that the NCOER had an improper rater and senior rater (see ENCL 3). On 1 March 2022, he was notified that he was going to be separated from the Army (see ENCL 4).

(7) He has been separated from the Army and can no longer apply to the Army Special Review Board. Therefore, he has exhausted all administrative remedies and his appeal is ripe for the ABCMR.

b. As a basis for his appeal, he notes:

(1) First, the rating scheme was never published and he did not work for MAJ [REDACTED] or LTC [REDACTED] in any capacity during the rated period. He was working for the State Quartermaster and did not drill during this period. Again, he was not supervised by the listed rater or senior rater during this rated period and they had no basis to evaluate him or to give him the negative comments and ratings on the NCOER in question.

(2) Furthermore, the ratings and comments on the NCOER are completely incorrect. He was never disloyal, always supported the Army Values, and never disrespected anyone. He followed all orders and guidance and was not a toxic leader. He finds it strange that he was never notified or counseled regarding his negative performance and that this NCOER is not supported by any official investigation, letter of reprimand, nonjudicial punishment, etc.

(3) It is difficult to prove that he did not work for MAJ [REDACTED] or LTC [REDACTED] however, he included email messages from the relevant time period to demonstrate that he was working as the ARRO Program Manager and was working for COL [REDACTED] COL [REDACTED] and LTC [REDACTED] as opposed to MAJ [REDACTED] and LTC [REDACTED] (see ENCLs 5 through 21). He also included notes from his notebook during the time period in question to demonstrate that he was working for the State Quartermaster as the ARRO Program Manager (see ENCL 22).

c. He provided counsel's interviews with specific highlighted notes as follows:

(1) In ENCL 23, LTC [REDACTED] stated in response to counsel:

I know February or early March 2020 was the last time the [REDACTED] ARNG Soldiers performed a normal "drill" or MUTA [multiple unit training assembly] weekend.

[COVID] 19 put us into a virtual drill environment. I was on Active-Duty Special Work (ADOS) [orders] with the counter drug program and [Applicant] was on a COADOS [contingency operations active duty for operational support] order[s] starting on or about March 2020 working for COL [REDACTED] and [COL] [REDACTED]

During this time period what was [Applicant's] role?

[Applicant] was the Senior Enlisted Leader/SGM with the 153rd Finance unit, went on [COVID] 19 COADOS orders in March 2020. He was detached from the 50th RSG [Regional Support Group] and attached the Joint Force Headquarters [JFHQ] under the State Quartermaster to oversee payroll activity (monitoring auditing etc.) (EOMS) [end of month] and as a project manager for the on boarding on a new system in the state called ARRO.

(2) In ENCL 24, MAJ [REDACTED] stated in response to counsel:

During the time period, should MAJ [REDACTED] have been [Applicant's] rater? Why do you feel that way?

No. MAJ [REDACTED] was assigned to Battalion and not JFHQ/SQM [State Quartermaster].

During this time period, who do you believe [Applicant's] senior rater on his NCOER should have been? Why do you feel this way?

ARRO military sponsor was the SQM which falls under Chief of Staff, who I believe was COL [REDACTED]

During this time period should LTC [REDACTED] have been [Applicant's] senior rater? Why do you feel this way?

No. It should be the SQM who had oversight and touchpoints with ARRO and [Applicant].

During this time period, how would you assess [Applicant's] performance? Please be as specific as possible.

Superior as he focused on bringing a new system to the state, focusing on the onboarding of ARRO and reporting/monitoring for the SQM.

(3) In ENCL 25, First Lieutenant [REDACTED] stated in a telephonic response to counsel:

Okay. Did he spend, to your knowledge, most of his time supporting those different operations, or most of the as the Command Sergeant Major?

I would say he spent most of supporting the different operations. I believe he got assigned maybe a fulltime role, either at Camp [inaudible 00:02 53] or JFHQ. Might have been for a hurricane, because I was just thinking, on three weekends, he was our Command Sergeant Major in addition to that, I believe he got assigned to a different role that's full time. Yeah, I believe he was assigned to an additional role full time, however I was not on that assignment, I wasn't working side by side with him or under his supervision on that assignment.

Okay do you think he should have been rated by the people he was working on that assignment with?

Yes, absolutely. [inaudible] He was incorrectly rated on the NCOER from LTC [REDACTED] That was an incorrect rating.

(4) In ENCL 26, Chief Warrant Officer 5 [REDACTED] stated in response to counsel:

Did you work with [Applicant] from 15 December 2019 to 1 December 2020?

Not directly. [Applicant] and I worked together a few times on the ARRO state active-duty software program.

During this time period, what was [Applicant]'s role?

From my understanding, [Applicant] was on ADOS orders for ARRO project manager.

(5) In ENCL 27, SFC [REDACTED] stated in response to counsel (counsel annotated his response, prior to his demise):

In this capacity, I called SFC [REDACTED] on 20 July 2022. SFC [REDACTED] told me that he worked directly with [Applicant] from March 2020 until early 2021 and interacted with him daily. He told me that during this time period, [Applicant] did not work for MAJ [REDACTED] and MAJ [REDACTED] did not observe [Applicant]'s performance. SFC [REDACTED] also told me that during this time period, [Applicant] did not work for LTC [REDACTED] and LTC [REDACTED] did not observe [Applicant]'s performance. SFC [REDACTED] told me that [Applicant] was detailed away from these two individuals, working for the State Quartermaster on the ARRO program.

SFC [REDACTED] did not believe that MAJ [REDACTED] should be [Applicant's] rater for the time period that he worked with [Applicant].

SFC [REDACTED] told me that he read [Applicant's] NCOER with the dates of 15 December 2019 thru 14 December 2020. SFC [REDACTED] does not agree that [Applicant] should have received any negative ratings or comments on this NCOER. Based on SFC [REDACTED] daily interactions with [Applicant], SFC [REDACTED] said that the NCOER contained untrue statements and unjust assessments of [Applicant].

(6) In ENCL 28, Staff Sergeant [REDACTED] stated in response to counsel:

From 15 December 2019 to 14 December 2020, where was [Applicant] working and what was he doing?

Within that time frame, it was my understanding that [Applicant] was on Active-Duty [COVID] orders working as a Project Manager in the State Quarter Master, SQM on a State Software program called Arrow.

During this time period, was [Applicant] working for LTC [REDACTED]

I don't believe he was working for LTC [REDACTED] as he was not the SQM OIC [Officer in Charge]. LTC [REDACTED] is the 927th CSSB, Battalion Commander and SQM OIC.

During this time period, was [Applicant] working for MAJ [REDACTED]

I don't believe [Applicant] was working for MAJ [REDACTED] MAJ [REDACTED] is the 927th CSSB Executive Officer.

d. His counsel collected all of these statements despite being refused assistance from the State Judge Advocate General's Office (see ENCL 29). Please consider that he was blocked from contacting more individuals.

e. For the above reasons, he requests removal of the referred NCOER from his AMHRR. Not only were his rater and senior rater improper in accordance with Army Regulation 623-3 (Evaluation Reporting System), but the comments and ratings in the NCOER are inaccurate and unjust, especially when one considers the additional statements he collected showing his superior performance throughout his career as demonstrated in his entire AMHRR.

2. Counsel did not provide a statement for the Board.

3. The applicant was born in 1973. He will turn 60 in 2033. He enlisted in Army National Guard on 22 February 1991. He held military occupational specialty 44C/36B, Financial Management Technician. He served in a variety of assignment, including active duty mobilizations, and attained the rank of sergeant major (SGM) in December 2018.

4. 927th Combat Sustainment Support Battalion Fragmentary Order 20-006-08 (COVID-19), 20 March 2020, tasked his unit to "activate and detach 1x Mobile Purchase Team (2x Service Members) to the State Quartermaster IOT [in order to] conduct State Active Duty pay processing during the COVID-19 response. Reporting Instructions – Report to the Saint Francis Barrack, SQM conference room 200900MAR2020 [0900, 20 March 2020] in duty uniform. Bring any government computer issued."

5. He provided 17 mission-related email messages between April and December 2020 and 94 pages of notes written between January 2020 and April 2022 showing his duties while tasked by the Florida SQM as the 153rd Financial Management Support Unit Senior Financial Management Advisor.

6. His NCOER covering the period 15 December 2019 through 1 December 2020 shows the reason for submission as "Relief for Cause." His rater is shown as MAJ [REDACTED] his senior rater is shown as LTC [REDACTED] and there is no supplementary reviewer shown. The NCOER shows the ratings the applicant described above.

7. His memorandum for The Adjutant General [REDACTED] National Guard (Calendar Year 2021 Retention Board Results Notification (Non-Retention) Appeal Request (Applicant), 7 February 2022, requests reconsideration of the Qualitative Retention Board results recommending his non-retention and separation from the [REDACTED] ARNG. He enclosed a 153rd Financial Management Support Unit Rating Scheme for Training Year 2020, 1 June 2020. This rating scheme shows his rater as then-CPT [REDACTED] and his senior rater as LTC [REDACTED] (the rater and senior rater listed in the referred NCOER).

8. The memorandum for Applicant (Retention Board Results Notification (Non-Retention), On 22 February 2022, noted The Adjutant General, [REDACTED] ARNG, disapproved his appeal. A separate memorandum for Applicant (Request for Qualitative Retention Board Reconsideration), 1 March 2022, notified him that he would be discharged from the Army National Guard by 31 July 2022.

9. He provided counsel's email correspondence with Ms. [REDACTED] (Reply: Contact Information), 6 August 2022, showing counsel requested several unit personnel's contact information. On 12 September 2022, she notified counsel that she could not comply with his request.

10. A review of the applicant's AMHRR shows the contested NCOER is filed in the performance folder.

11. ■ ARNG Orders 0001956132.00, 29 July 2022, mandatorily transferred him to the Retired Reserve effective 31 July 2023 and noted he had not yet received Non-Regular retired pay.

12. The applicant was honorably transferred to the Retired Reserve on 31 July 2022. His National Guard Bureau Form 22 (National Guard Report of Separation and Record of Service) shows he completed 31 years, 5 months, and 9 days of service during this period.

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 applicant's contentions, his military records, and regulatory guidance were carefully considered.

a. The evidence of record shows the applicant received a Relief for Cause NCOER covering the rating period 15 December 2019 through 14 December 2020. In the category of Professionalism, Attributes, and Competences, his rater assigned a rating of "Did Not Meet the Standards" in both the "Character" and in the Overall Performance blocks. The rater provided narrative comments to justify such rating. The applicant's senior rater assigned a rating of "Not Qualified" in the area of "Overall Potential." The senior rater also provided narrative comments to support this rating. The rating officials signed the contested NCOER but the applicant did not. The NCOER is filed in his official record/AMHRR.

b. The Board thoroughly considered counsels' arguments but found insufficient evidence to support a conclusion that the contested report contains administrative or substantive errors or that it was not prepared in compliance with applicable regulations and policies. Furthermore, the applicant and counsel have not shown the evaluation rendered by the rating officials represented anything other than their objective judgment and considered opinions at the time the contested NCOER was prepared or that they exercised faulty judgment in evaluating him as they did.

c. In order to justify deletion or amendment of an evaluation report, the applicant must produce evidence that establishes, by a preponderance of the evidence, that the presumption of regularity should not be applied to the report under consideration or that action is warranted to correct an error, inaccuracy, or injustice. After a comprehensive review of the evidence in the appellant's official record, the raised contentions and arguments, and the evidence submitted in support of this application, the Board

determined the applicant has not shown by a preponderance of the evidence that his NCOER contained an error, inaccuracy, or injustice.

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.

9/9/2024

X

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. 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 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 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 623-3 (Evaluation Reporting System), 14 June 2019, prescribes the policies and tasks for the Army's Evaluation Reporting System.

a. Paragraph 3-37 (Modifications to Previously Submitted Evaluation Reports) states an evaluation report accepted by Headquarters, Department of the Army (HQDA). and included in the official record of a rated Soldier is presumed to:

- (1) be administratively correct,
- (2) have been prepared by the properly designated rating officials who meet the minimum time and grade qualifications, and
- (3) represent the considered opinions and objective judgment of the rating officials at the time of preparation.

b. Paragraph 4-3 (Commander's or Commandant's Inquiry) states:

(1) Commanders are required to look into alleged errors, injustices, and illegalities in evaluation reports.

(2) Upon receipt of a request for a Commander's or Commandant's Inquiry, the commander or commandant receiving the request will verify the status of the NCOER in question. If the evaluation has been submitted and received at HQDA for processing, but has not been filed in the Soldier's AMHRR, the commander or commandant will notify the Evaluations Appeals Office via email with a request to have the evaluation placed in an administrative temporary hold status until completion of the inquiry.

c. Paragraph 4-5 (Procedure) states:

(1) A Commander's or Commandant's Inquiry will not be used to document differences of opinion among members of the rating chain about a rated Soldier's performance and potential. The evaluation system establishes rating chains and normally relies on the opinions of the rating officials. Rating officials will evaluate a rated Soldier and their opinions constitute the organization's view of that Soldier. However, the commander may determine through inquiry that the report has serious irregularities or errors. Examples include:

(a) improperly designated, unqualified, or disqualified rating officials; that is, a rating official not in the published rating chain, a rating official without the minimum required time to render an evaluation report, or a rating official who, through an official

investigation, has had a substantiated adverse finding against them that results in their relief or calls into question the rating official's objectivity;

(b) inaccurate or untrue statements; and

(c) lack of objectivity or fairness by rating officials.

(2) The inquiry will be made by a commander in the chain of command or military school commandant above the designated rating officials involved in the allegations. In headquarters and other military organizations lacking a commander or commandant, the inquiry will be conducted by the next higher official in the rating chain above the designated rating officials involved in the allegations.

(3) To ensure the availability of pertinent data and timely completion of an inquiry conducted after the evaluation in question has been accepted at HQDA for inclusion in the rated Soldier's AMHRR, the inquiry will be conducted by either the commander or commandant at the time the evaluation was rendered who is still in the command position, or by a subsequent commander or commandant in the position. Requests for inquiry will occur no later than 60 days after the signature date of the rated Soldier (or senior rater, if rated Soldier's signature is omitted). The results of the inquiry will be forwarded to HQDA not later than 120 days after the signature date of the senior rater.

(4) The official conducting the inquiry will not pressure or force rating officials to change their evaluations.

(5) The official conducting the inquiry may not evaluate the rated Soldier, either as a substitute for, or in addition to, the designated rating officials' evaluations.

(6) The rating chain or official conducting the inquiry will not use the Commander's or Commandant's Inquiry provisions to forward information derogatory to the rated Soldier. If the inquiry reveals matters that might have resulted in a lower evaluation of a rated Soldier, the information will be addressed in the memorandum outlining the results of the inquiry by the commander or commandant responsible for the inquiry in accordance with paragraph 3-39. No changes will be made to an evaluation report to reflect a lower evaluation of a rated Soldier following the results of a Commander's or Commandant's Inquiry.

(7) If, upon completion of the inquiry, the official conducting the inquiry determines the report has serious irregularities or errors or any violation of policy, the official will ensure that all members of the original rating chain are allowed to correct or edit the evaluation as necessary. The commander's or commandant's memorandum to U.S. Army Human Resources Command will state that all members of the rating chain

have been allowed to add or change comments in accordance with the findings and recommendations, and it will list those who did not choose to edit the evaluation.

(8) If the evaluation was previously referred, and after editing the evaluation, it is still referred, the rating chain will refer the final evaluation to the rated Soldier for acknowledgment and the opportunity to submit comments before sending it (and any signed comments) to HQDA.

(9) The results of the inquiry forwarded to HQDA will include the specific findings, conclusions, and recommendations in a memorandum that will be filed with the evaluation report in the rated Soldier's AMHRR for clarification purposes. The results will include the commander's or commandant's signature, will stand alone without reference to other documentation, and will be limited to one page. Sufficient evidence and documentation, such as completed Army Regulation 15-6 (Procedures for Administrative Investigations and Boards of Officers) investigations, reports, and statements, will be attached to justify the conclusions.

(10) If the commander finds no fault with the evaluation, then the Commander's or Commandant's Inquiry is filed locally and a copy given to the rated Soldier. There is no requirement to send the Commander's or Commandant's Inquiry forward to HQDA.

d. Paragraph 4-7f states an appeal will be supported by substantiated evidence. An appeal that alleges an evaluation report is incorrect, inaccurate, or unjust without usable supporting evidence will not be considered. The determination regarding adequacy of evidence may be made by the HQDA Evaluation Appeals Branch, National Guard Bureau Appeals Section, or the appropriate State Adjutant General (Army National Guard).

e. Paragraph 4-8 (Timeliness) states substantive appeals will be submitted within 3 years of an evaluation report "THRU" date. Failure to submit an appeal within this time would require the appellant to submit his or her appeal to the ABCMR. The Army Special Review Board will not accept appeals over 3 years old or appeals from Soldiers who are no longer serving on active duty or as part of the U.S. Army Reserve or Army National Guard.

f. Paragraph 4-11 (Burden of Proof and Type of Evidence) states the burden of proof in the appeal process 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:

(1) the presumption of regularity will not be applied to the evaluation report under consideration and

(2) action is warranted to correct a material error, inaccuracy, or injustice.

g. Clear and convincing evidence will be of a strong and compelling nature, not merely proof of the possibility of administrative error or factual inaccuracy. If the adjudication authority is convinced that an appellant is correct in some or all of the assertions, the clear and convincing standard has been met with regard to those assertions.

h. For a claim of administrative error, appropriate evidence may include:

(1) the published rating scheme used by the organization during the period of the evaluation report being appealed;

(2) assignment, travel, or temporary duty orders;

(3) DA Form 705 (Army Physical Fitness Test Scorecard), DA Form 5500 (Body Fat Content Worksheet (Male)), and DA Form 5501 (Body Fat Content Worksheet (Female));

(4) leave records;

(5) organization manning documents;

(6) hospital admission, diagnosis, and discharge sheets;

(7) statements of military personnel officers or other persons with knowledge of the situation pertaining to the evaluation report in question;

(8) the results of a Commander's or Commandant's Inquiry, Inspector General, and/or Equal Opportunity investigation; and

(9) other relevant documents.

(10) Editable documents must be marked certified true copies. This applies to documents submitted as evidence in support of either an administrative or substantive claim.

i. For a claim of inaccuracy or injustice of a substantive type, evidence will include statements from third parties, rating officials, or other documents from official sources. Third parties are persons other than the rated officer or rating officials who have knowledge of the appellant's performance during the rating period. Such statements are afforded more weight if they are from persons who served in positions allowing them a good opportunity to observe firsthand the appellant's performance as well as

interactions with rating officials. Statements from rating officials are also acceptable if they relate to allegations of factual errors, erroneous perceptions, or claims of bias. To the extent practicable, such statements will include specific details of events or circumstances leading to inaccuracies, misrepresentations, or injustice at the time the evaluation report was rendered. The results of a Commander's or Commandant's Inquiry or Army Regulation 15-6 investigation may provide support for an appeal request.

j. Paragraph 4-12 (Appeals Based on Substantive Inaccuracy) states a decision to appeal an evaluation report will not be made lightly. Before deciding whether or not to appeal, the prospective appellant will analyze the case dispassionately. The prospective appellant will note that:

(1) pleas for relief citing past or subsequent performance or assumed future value to the Army are rarely successful and

(2) limited support is provided by statements from people who observed the appellant's performance before or after the period in question (unless performing the same duty in the same unit under similar circumstances), letters of commendation or appreciation for specific but unrelated instances of outstanding performance, or citations for awards, inclusive of the same period.

k. Once the decision has been made to appeal an evaluation report, the appellant will state succinctly what is being appealed and the basis for the appeal. For example, the appellant will state:

(1) whether the entire evaluation report is contested or only a specific part or comment and

(2) the basis for the belief that the rating officials were not objective or had an erroneous perception of the performance. A personality conflict between the appellant and a rating official does not constitute grounds for a favorable appeal; it must be shown conclusively that the conflict resulted in an inaccurate or unjust evaluation.

l. Most appellants will never be completely satisfied with the evidence obtained. A point is reached, however, when the appellant will decide whether to submit with the available evidence or to forgo the appeal entirely. The following factors are to be considered:

(1) The evidence must support the allegation. The appellant needs to remember that the case will be reviewed by impartial board members who will be influenced only by the available evidence. Their decision will be based on their best judgment of the evidence provided.

(2) Correcting minor administrative errors or deleting one official's rating does not invalidate the evaluation report.

3. Department of the Army Pamphlet 623-3 (Evaluation Reporting System) provides procedural guidance for completing and submitting evaluation reports and associated support forms to HQDA that are the basis for the Army's Evaluation Reporting System. Paragraph 6-1 (Deciding to Appeal) states an appellant who perceives that an evaluation report is inaccurate in some way has the right to appeal for redress to the appropriate agency. However, before actually preparing an appeal, an objective analysis of the evaluation report in question should be made.

4. Army Regulation 600-8-104 (Army Military Human Resource Records Management), 7 April 2014 and currently in effect, prescribes the policies and operating tasks for the Army Military Human Resource Records Management Program. The AMHRR includes, but is not limited to, the Official Military Personnel File (OMPF), finance-related documents, and non-service-related documents deemed necessary to store by the Army. It provides that once properly filed in the OMPF, a document becomes a permanent part of that file. The document will not be removed from the OMPF or moved to another part of the OMPF unless directed by competent authority.

//NOTHING FOLLOWS//