

- Enclosure 7 – Memorandum for BG [REDACTED] (Acknowledgement of Receipt of OER Referral Memorandum), 27 June 2020
- Enclosure 8 – OER covering the period 8 March 2020 through 31 July 2020
- Enclosure 9 – OER covering the period 1 August 2020 through 31 July 2021
- Enclosure 10 – OER covering the period 1 August 2021 through 30 May 2022
- Enclosure 11 – Entire AMHRR (403 pages)
- Enclosure 12 – Work Calendar for March through November 2019
- Enclosure 13 – 12 Letters of Support
- Enclosure 14 – Lieutenant Colonel (LTC) [REDACTED] Statement in Support of Applicant's OER Appeal, 25 May 2023
- Enclosure 15 – Major (MAJ) [REDACTED] Statement in Support of Applicant's OER Appeal, 31 May 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 the contested OERs contain substantive inaccuracy and injustice.

a. As factual background, he notes:

(1) On 8 November 2019, he signed a "Most Qualified" OER for the period 15 April 2018 through 14 April 2019 (see enclosure 3).

(2) On 10 December 2019, BG [REDACTED] appointed an Army Regulation 15-6 investigation into allegations of his alleged unprofessional conduct and whether he created a hostile work environment (see enclosure 4).

(a) On 19 December 2019, the investigating officer (IO) made the following findings and recommendations (see enclosure 4).

- his behavior created a counterproductive work environment but not a toxic one, specifically noting his use of profanity with subordinates
- his frequent absences were "justified" and "properly documented"
- he had received no Uniform Code of Criminal Justice (UCMJ) actions
- he was not relieved from his position
- he received a negative counseling for counterproductive leadership, erratic behavior, and unprofessional conduct

- he should have been transferred to a position of equal responsibility within the major subordinate command or at the State level, to facilitate growth and mentorship under a senior level officer

(B) On 9 January 2020, the investigation was found legally sufficient (see enclosure 4). He received the investigation referral on 15 January 2020 with an opportunity to submit a rebuttal (see enclosure 5). He submitted a rebuttal on 31 January 2020 (see enclosure 6).

(3) On 27 June 2020, he received a referred OER and elected to submit comments (see enclosure 7). His senior rater signed OER-1 on 7 July 2020 and signed another OER on 18 August 2020 without any additional investigation, rating him 8 out of 8 rated MAJs (see enclosure 2). He signed a "HIGHLY QUALIFIED" OER for the period 8 March 2020 through 31 July 2020 (see enclosure 8). He signed another "HIGHLY QUALIFIED" OER for the period of 1 August 2020 through 31 July 2021 (see enclosure 9). He signed a "MOST QUALIFIED" OER for the period of 1 August 2021 through 30 May 2022 (see enclosure 10).

b. His basis for appealing OER-1 covering the period 15 April 2019 through 31 October 2019 is the numerous incorrect statements unsubstantiated by the Army Regulation 15-6 investigation. Additionally, the OER states a general officer memorandum of reprimand (GOMOR) was filed in his record, which is inaccurate. He believes the provided calendar and numerous support letters (with highlighted text) are further evidence he was present and performing his duties. The evidence clearly and convincingly shows this OER is inaccurate and unjust and demonstrates that he did not deserve a referred OER and should have received at least a "HIGHLY QUALIFIED" rating.

c. His basis for appealing OER-2 covering the period 1 November 2019 through 7 March 2020 is due to it being overly negative, including the confusing and unclear comment: "He managed to balance his personal affairs with his work schedule and new position resulting in his need to miss work for long periods at a time." The rest of the OER is inaccurate and unjust. He provided numerous support letters to refute the mediocre/negative comments and ratings he received (see enclosure 13). He specifically wanted to highlight nine of the support letters included with his enclosures.

3. Following prior enlisted service in the [REDACTED] Army National Guard ([REDACTED] ARNG), he was appointed as a Reserve commissioned officer in the Field Artillery Branch in the rank/grade of second lieutenant/O-1 effective 9 August 2004. After several years of commissioned service, he was assigned in an Active Guard Reserve status in the grade of first lieutenant on 8 October 2009. He was promoted to the rank/grade of MAJ/O-4 effective 15 April 2018.

4. His annual OER covering the period 15 April 2018 through 14 April 2019 addressed his duty performance as the Joint Forces Headquarters Detachment Commander. His rater is shown as Colonel (COL) [REDACTED] Chief of Staff, and his senior rater is shown as BG [REDACTED] Assistant Adjutant General. His rater and senior rater digitally signed the OER on 18 October 2019 and 8 November 2019, respectively. The applicant signed the OER on 8 November 2019. His rater rated his overall performance as "EXCELS" and his senior rater rated his overall potential as "MOST QUALIFIED."

5. His change-of-rater OER-1 covering the period 15 April 2019 through 31 October 2019 (7 months) addressed his duty performance as the 1st Battalion, 204th Air Defense Artillery (ADA) Regiment, S-3 Operations Officer (see enclosure 1). His rater is shown as LTC [REDACTED] Battalion Commander; his intermediate rater is shown as COL [REDACTED] Deputy Major Subordinate Command Commander; his senior rater is shown as BG [REDACTED] Major Subordinate Command Commander; and there is no supplementary reviewer shown. His rater digitally signed the report on 2 June 2020, the intermediate rater signed the report on 3 June 2020, and the senior rater signed the report on 7 July 2020. The applicant did not sign the contested OER.

a. OER-1 shows in:

(1) Part II (Authentication), block d (This is a Referred Report, Do You Wish to Make Comments?), a checkmark was placed in the block signifying to the applicant that he was receiving a referred report and a checkmark was placed in the "Yes" block, indicating the applicant's comments were attached; and

(2) Part IV (Performance Evaluation – Professionalism, Competencies, and Attributes) (Rater), block e (This Officer's Overall Performance is Rated as), his rater rated his overall performance as "CAPABLE"; and

(3) Part V (Intermediate Rater), the intermediate rater commented: "[Applicant] was the full time Operations Officer and involved in an investigation regarding his toxic leadership and inability to show up for duty during this rating period. The [Army Regulation] 15-6 investigation substantiated the allegations proving his actions and behavior were unacceptable for a Field Grade officer and had a negative affect across the entire command"; and

(4) Part VI (Senior Rater), block a (Potential Compared with Officers Senior Rated in Same Grade), the senior rater marked "QUALIFIED" and commented: "Rated Soldier refuses to sign. [Applicant] was subject to a [Army Regulation] 15-6 investigation due to allegations of creating a toxic environment, failure to consistently report to his duty station, and behavior detrimental to good order and conduct. An AR [Army Regulation] 15-6 investigation confirmed the allegations and a GOMOR was filed.

[Applicant] has the potential to continue service as a deputy staff officer but has proven he's incapable of independent leadership positions. He should not be promoted."

b. The applicant's memorandum (Acknowledgement of Receipt of OER Referral Memorandum), 27 June 2020, shows he acknowledged receipt of his OER referral memorandum on 28 June 2020. He elected to submit the following written matters for consideration:

(1) During his time as the administrative officer /S-3 for the 1st Battalion, 204th ADA Regiment, he was not given an initial counseling, nor any written or verbal information that his performance was not to standard. He was told by several enlisted service members and other administrative officers that the major subordinate command administrative officer, COL ██████████ was "out to get me." He asked for time to sit down with him and get some guidance on several occasions and COL ██████████ response was, "keep doing what you are doing," that he had the best full-timers in the State, and he should stay out of their way and let them do their jobs. He acknowledged his comments.

(2) His battalion commander, LTC ██████████ never counseled him or mentioned he had any issues with his performance. They worked closely together, preparing for the deployment of the unit. On a Friday afternoon, he was told to go clean out his office and turn in all keys without any notice of any kind. He asked for some explanation and was told the reason for the action was personality conflicts and his treatment of other full-timers. To get some clarification, he asked COL ██████████ what was going on, and he referenced a conversation they had in April about his father having some issues, and it may require his attention later. Although his father's issues never materialized, that information was held against him through 25 October 2019 until he was moved.

(3) He was later subjected to an Army Regulation 15-6 investigation that lasted from 1 November 2019 until 5 March 2020. Although the IO for the Army Regulation 15-6 investigation recommended no UCMJ action and no relief-for-cause OER, the investigation resulted in a GOMOR from BG ██████████ to be filed permanently. Even after the BG told him that he knew he had the potential to continue his career. He appealed the GOMOR to the next higher authority, The Adjutant General, and he reserved judgment on the matter and filed a new GOMOR locally.

(4) On his own initiative and after the IO findings were released, BG ██████████ elevated the finding of the IO of a "counterproductive" work environment to a "toxic" work environment, and further added that he failed to "consistently be" at his assigned duty station, which he said led to the "toxic" work environment. These were elevated without any facts in evidence to support such a change. The IO report specifically references that and that there were many other

contributing factors to the overall work environment which were not his alone. The IO report also specifically referenced his calendar and spreadsheet that were produced in evidence to substantiate the showing that any missed days, including duty days, were indeed accounted for and had been approved by his higher leader. The travel authorization numbers were provided as well as his stated purpose for each trip or absence. Furthermore, the IO identified these were legitimate, "justified and properly documented." Those comments were contained in the IO report but ignored.

(5) Also, he never received initial, quarterly, or annual counseling as required. The IO recognized that and added it to his report of findings and conclusions, but that was ignored as well. Additionally, he did not receive a verbal or written notification that the 66th Troop Command team or the battalion commander was concerned with his performance. He was simply removed for "personality conflicts," reassigned to the 66th Troop Command, and told to clean out his office with the battalion commander present. Upon reporting to his new job, he still had not received any written counseling, only verbal orders to work on [REDACTED] and that his school was canceled and his final class attendance for Leadership [REDACTED] was canceled. It was a week later when he was told that he was under investigation.

(6) After his appeal, the 66th Troop Command changed his rating scheme and issued a referred OER outlining actions, not substantiated in the Army Regulation 15-6 investigation. COL [REDACTED] called, emailed, and called him again to tell him to sign the OER. He was at a doctor's appointment, which his current supervisor approved, but responded to the email from his phone. He let COL [REDACTED] know where he was and that he had a virtual class following the appointment but would call him back at his earliest opening. He got out of class online and called COL [REDACTED] following another callback to let COL [REDACTED] know he could not sign the OER based on legal counsel's advice. COL [REDACTED] berated him and insinuated that he was lying about the doctor's appointment and the online course. COL [REDACTED] continued to tell him that he was going to call his Trial Defense Service attorney and he better have his story straight. The doctor's appointment and online course were easily verifiable. The entire method of pressure seemed bizarre and highly unusual. Pressuring a field grade officer to sign a potentially career-ending OER should have been handled differently.

6. A review of the applicant's AMHRR revealed OER-1 is filed in the performance folder. His records contain no evidence indicating a Commander's Inquiry was initiated or completed.

7. He again became the subject of an Army Regulation 15-6 investigation on 3 November 2019. An IO was appointed on 8 November 2019 to investigate the facts and circumstances surrounding multiple complaints against him as the administrative officer and battalion or brigade operations staff officer (S-3) of the 1st Battalion,

204th ADA Regiment, Chaplain's Office. The IO was directed to address the following questions at a minimum:

- a. When did the applicant become the administrative officer and S-3 of the 1st Battalion, 204th ADA Regiment?
- b. When did the applicant arrive at and leave the armory on a typical workday?
- c. What work atmosphere did the applicant create as the administrative officer?
- d. Is there any evidence of threats, hostile actions, and/or inappropriate conduct by the applicant to any member of the Active Guard Reserve personnel at the 1st Battalion, 204th ADA Regiment? If so, fully describe same.
- e. Is there evidence of any instances of reprisal by the applicant against either Active Guard Reserve or man-day (M-Day) personnel, to include, but not limited to, actions involving First Lieutenant [REDACTED] If so, fully describe same.

8. On 10 December 2019, the IO completed the investigation and determined:

- a. Based on a preponderance of the evidence, the applicant did not commit any criminal acts that would warrant action under the UCMJ and [REDACTED] Code of Military Justice. There was direct evidence to support claims that the applicant created a "counterproductive" work environment by sworn statements of interviewees. The applicant made two inappropriate acts involving two female Soldiers which constituted a violation under the Sexual Harassment Assault Response and Prevention (SHARP) Program. The applicant had never received a formal initial, quarterly, or annual counseling. There was no evidence that he was formally counseled or documents showing a history of negative or unprofessional behavior.

- b. The IO recommended the applicant receive no UCMJ or [REDACTED] Code of Military Justice action, that he not be relieved for cause, and that he receive a negative counseling statement for counterproductive leadership, erratic behavior, and unprofessional conduct as administrative officer/S-3. The IO also noted his use of a counterproductive leadership style towards his staff was viewed as "toxic" from an organizational standpoint. The use of excessive vulgar language was not appropriate and highly regarded as unprofessional towards any member of the organization. The IO further recommended the applicant be transferred to a position of equal responsibility within the major subordinate command or at the State level to facilitate growth and mentorship under a senior-level officer, and that he attend a SHARP/Sexual Assault Response Coordinator Course to ensure compliance and understanding of his responsibility as a commissioned officer.

9. The memorandum for BG [REDACTED] (Legal Review for Army Regulation 15-6 Regarding the Nature of the Work Environment Created by (Applicant) as Administrative Officer and S-3 for 1st Battalion, 204th ADA Regiment), 9 January 2020, found the investigation legally sufficient and noted:

a. The IO found the applicant did create a "counterproductive" work environment, primarily through cursing at or in the presence of others and exhibiting sporadic unprofessional or hostile demeanor in interactions with subordinates. The IO expressly determined that the environment did not rise to the level of being "hostile" and that there were mitigating factors which impaired the applicant's ability to lead effectively, including but not limited to, his frequent absence on temporary duty assignments which resulted in limited time working at the [REDACTED] Center. Of additional concern were findings that the applicant violated SHARP policy by requesting to see nude pictures of two female subordinates.

b. The legal advisor recommended approval of the findings and recommendations.

10. The memorandum for the applicant (Referral of Report of Investigation), 15 January 2020, stated:

a. The IO made adverse recommendations against him. Specifically, the IO found that he created a counterproductive work environment, exhibited sporadic unprofessional conduct toward subordinates, and violated the Army's SHARP policy.

b. He was given until 31 January 2020 to provide additional material for the approval authority to consider before he acted on the investigation.

11. The applicant's counsel submitted a memorandum for BG [REDACTED] (Rebuttal in Response to Referral of Report of Investigation), 15 January 2020, noting:

a. The applicant did not disagree with the IO findings and recommendation, but after considering the evidence, he disagreed with and disputed that he violated the SHARP policy.

b. Counsel provided a detailed explanation of SHARP with sworn statements to support the applicant's dispute.

c. Counsel concluded "the matter required further investigation to resolve certain issues as to the definition of sexual harassment, whether [Applicant] actually committed sexual harassment, whether the matter was resolved through the counseling he received from COL [REDACTED] (Senior Leader and Mentor), and subsequent apology for any harm caused, whether further investigation was warranted into the conduct of other personnel in the unit that contributed to the insubordinate and defiant-like environment

and conditions of 1-204th ADA Battalion [1st Battalion, 204th ADA Regiment], particularly including SGM [Sergeant Major] [REDACTED]. These issues seem unresolved and the adverse findings against [Applicant] are not largely undisputed, but the above-mentioned issues do not appear to be supported by the greater weight of the evidence."

12. His change-of-rater OER-2 (see enclosure 2) covering the period 1 November 2019 through 7 March 2020 (4 months) addressed his duty performance as the 66th Troop Command operations officer. His rater is shown as LTC [REDACTED], S-3; his senior rater is shown as COL [REDACTED] Deputy Commander; and there is no supplementary reviewer shown. His rater and senior rater digitally signed OER-2 on 17 August 2020. The applicant signed the contested OER on 18 August 2020.

a. OER-2 shows in:

(1) Part IV (Performance Evaluation – Professionalism, Competencies, and Attributes) (Rater), block d2 (Provide Narrative Comments Which Demonstrate Performance Regarding Field Grade Competencies and Attributes in the Rated Officer's Current Duty Position), his rater states: "[Applicant] is a capable and knowledgeable officer. He managed to balance his personal affairs with his work schedule and new position resulting in his need to miss work for long periods at a time. [Applicant's] duty performance met the minimal requirements and at times he displayed the ability to be a staff officer";

(2) Part IV (Performance Evaluation – Professionalism, Competencies, and Attributes) (Rater), block e (This Officer's Overall Performance is Rated as), the applicant's rater rated his overall performance as "CAPABLE"; and

(3) Part VI (Senior Rater), block a (Potential Compared with Officers Senior Rated in Same Grade), the senior rater marked "QUALIFIED" and commented: "[Applicant] is 8 of 8 Majors I senior rate. He is a capable staff officer with supervision. Evaluate promotion potential after successful completion of next assignment."

b. The applicant submitted a memorandum for BG [REDACTED] (Acknowledgement of Receipt of OER Referral Memorandum), 27 June 2020, wherein he states he elected to submit a comment on his behalf. (The notes in his AMHRR are attached to the previous referred report at enclosure 1, no additional comments were found).

13. A review of the applicant's AMHRR revealed OER-2 is filed in the performance folder. His records contain no evidence indicating a Commander's Inquiry was initiated or completed.

14. The U.S. Army Human Resources Command memorandum (Notification of Eligibility for Retired Pay at Age 60 (20-Years)), 7 April 2020, notified him that he completed the required qualifying years of Reserve Component service for retired pay upon application at age 60.

15. His senior rater option OER covering the period 8 March 2020 through 31 July 2020 (a 5-month period) addressed his duty performance as the [REDACTED] ARNG Education Service Officer. His rater is shown as LTC [REDACTED] Deputy G-1, and his senior rater is shown as COL [REDACTED] G-1. His rater and senior rater digitally signed the OER on 25 September 2020. The applicant signed the OER on 28 September 2020. His rater rated his overall performance as "EXCELS" and his senior rater rated his overall potential as "HIGHLY QUALIFIED."

16. His annual OER covering the period 1 August 2020 through 31 July 2021 addressed his duty performance as the [REDACTED] ARNG Education Branch Chief. His rater is shown as LTC [REDACTED] Deputy G-1, and his senior rater is shown as COL [REDACTED] G-1. His rater and senior rater digitally signed the OER on 22 November 2021. The applicant signed the OER, on 26 November 2021. His rater rated his overall performance as "PROFICIENT" and his senior rater rated his overall potential as "HIGHLY QUALIFIED."

17. His change-of-rater OER covering the period 1 August 2020 through 30 May 2022 addressed his duty performance as the [REDACTED] ARNG Education Branch Chief. His rater is shown as LTC [REDACTED] Deputy G-1; his senior rater is shown as COL [REDACTED] G-1; and there is no supplementary reviewer shown. His rater and senior rater digitally signed the OER on 19 August 2022 and 23 August 2022, respectively. The applicant signed the OER on 23 August 2022. His rater rated his overall performance as "PROFICIENT" and his senior rater rated his overall potential as "MOST QUALIFIED."

18. The applicant provided the following for consideration:

- a copy of his entire AMHRR
- his work calendar from March through November 2019 showing he was present and performing his duties
- 12 highlighted letters of support, refuting the negative OER comments
- statements from LTC [REDACTED] and MAJ [REDACTED] attesting to a toxic work and negative racial environment in the [REDACTED] ARNG

19. He is currently serving in the rank/grade of MAJ/O-4 and was recently reassigned to the [REDACTED] ARNG, Joint Force Headquarters, Jackson, MS, with a reporting date of 1 December 2023.

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, available military records, the Board determined the applicant did not demonstrate by a preponderance of evidence that a procedural error occurred that was prejudicial to the applicant and by a preponderance of evidence that the contents of the referred Officer Evaluation Report (OER)) are substantially incorrect and support removal. The Board found the numerous witness statements to be compelling as a testament of his leadership, character and commitment to his Soldiers. However, the Board agreed the applicant evidence supports the applicant did receive a GOMOR and after appealing the general's ruling, it was filed locally.

2. Furthermore, the Board found insufficient evidence to support removal of the applicant's two Officer Evaluation Report (OER)) covering the periods 15 April 2019 through 31 October 2019) and 1 November 2019 through 7 March 2020 from his Army Military Human Resource Record (AMHRR). The Board determined there is not merit in the applicant's request to alter, delete, or amend the comments in Part V (Intermediate Rater) of his OER. Therefore, relief was denied.

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 OER was unjust or untrue or inappropriately filed in the applicant's AMHRR.

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.

5/6/2024

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. Title 10, 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 15-6 (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. Paragraph 5-2 states IOs may use whatever method they deem most efficient and effective for acquiring information. Although witnesses may be called to present formal testimony, information may also be obtained by personal interview, correspondence, telephone inquiry, or other informal means.
3. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to ensure the best interests of both the Army and Soldiers are served by authorizing unfavorable information to be placed in, transferred within, or removed from an individual's AMHRR.
 - a. An administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand.

Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

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

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

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

4. 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. Paragraph 1-11 discusses and describes core leader competencies, "toxic" leadership, and destructive leadership styles.

5. Army Regulation 623-3 (Evaluation Reporting System) prescribes the policies for completing evaluation reports that support the Evaluation Reporting System. It also provides guidance regarding redress programs, including commander's inquiries and appeals. The regulation provides that:

a. Evaluation reports are assessments of how well the rated Soldier met duty requirements and adhered to the professional standards of the Army Officer or Noncommissioned Officer Corps. Performance will be evaluated by observing action, demonstrated behavior, and results from the point of view of the values, leadership framework and responsibilities identified on the evaluation forms, counseling forms, and as explained in Department of the Army Pamphlet 623-3 (Evaluation Reporting System). Consideration will be given to the relative experience of the rated officer, the

efforts made by the rated officer, and the results that could be reasonably expected given the time and resources available. Potential evaluations will be performance-based assessments of the rated officers of the same grade to perform in positions of greater responsibility and/or higher grades. Assessment of potential will apply to all officers, regardless of their opportunity to be selected for higher positions or grades.

b. The senior rater is the senior rating official in the military rating chain or as officially designated by the academic institution. Senior raters use their positions and experience to evaluate the rated Soldier from a broad organizational perspective, military program of instruction, or civilian academic course standards. Senior raters will ensure support forms are provided to all rated Soldiers they senior rate at the beginning of and throughout the respective rating periods; use all reasonable means to become familiar with a rated Soldier's performance; assess the ability of the rated Soldier; ensure that rating officials counsel the rated Soldier individually and throughout the rating period on meeting their objectives and complying with the professional standards of the Army; consider the information on the applicable support forms when evaluating the rated individual; evaluate the rated Soldier's potential relative to their contemporaries; and ensure that all reports, which the senior rater and subordinates write, are complete and provide a realistic evaluation in compliance with procedures established in Department of the Army Pamphlet 623-3.

c. Each report will be an independent evaluation of the rated Soldier for a specific rating period. It will not refer to prior or subsequent reports. It will not remark on performance or incidents occurring before or after the period covered.

d. The burden of proof rests with the appellant.

(1) Accordingly, to justify deletion or amendment of an evaluation report, the appellant will produce evidence that establishes clearly and convincingly that:

(a) the presumption of regularity will not be applied to the report under consideration; and

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

(2) 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 may provide support for an appeal request.

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

6. Department of the Army Pamphlet 623-3 (Evaluation Reporting System) provides procedural guidance for completing and submitting evaluation reports and associated support forms to Headquarters, Department of the Army, that are the basis for the Army Evaluation Reporting System.

a. Paragraph 2-10 provides that:

(1) A documented supplementary review will be performed by a Uniformed Army advisor above the rating chain, when there are no uniformed Army designated rating officials for the rated officer, for relief-for-cause reports when the senior rater is the individual directing the relief, or if the relief has been directed by an individual other than the rating officials.

(2) The first U.S. Army officer above the senior rater in the organization or supervision will be designated as the Uniformed Army advisor and conduct a supplementary review. This officer will be designated by the commander establishing the rating chain and identified in the published rating scheme at the beginning of the evaluation period. The senior rater will mark "Yes" or "No" in block f1 to identify if the DA Form 67-10-2 requires a supplementary review.

b. Paragraph 2-28 provides that:

(1) If a referred OER is required, the senior rater will place an "X" in the appropriate box in Part II, block d, of the completed OER. The OER will then be given to the rated officer for signature and placement of an "X" in the appropriate box in Part II, block d.

(2) The rated officer may comment if he or she believes the rating and/or remarks are incorrect. The comments must be factual, concise, and limited to matters directly related to the evaluation rendered on the OER; rating officials may not rebut rated officer's referral comments.

(3) The rated officer's comments do not constitute an appeal. Appeals are processed separately. Likewise, the rated officer's comments do not constitute a request for a Commander's Inquiry. Such a request must be submitted separately.

c. Paragraph 2-29 provides that if a rated officer or warrant officer is officially relieved, the following specific instructions apply to completing a relief-for-cause OER.

(1) The performance evaluation box check in Part IV of the OER must reflect "Unsatisfactory" or "Capable." An "Unsatisfactory" recommendation is consistent with relief action and does not need further explanation. However, raters who select "CAPABLE" must explain their recommendation and reasons in view of the action to relieve.

(2) The senior rater's potential evaluation in Part VIa of the DA Form 67-10 series must reflect "NOT QUALIFIED" or "QUALIFIED." A "NOT QUALIFIED" recommendation by the senior rater in Part VIa is consistent with a relief action and does not need further explanation. However, senior raters who select "QUALIFIED" must explain their recommendation and reasons in view of the action to relieve.

d. Paragraph 2-30 provides that a mandatory review of relief-for-cause OERs is required following referral to the rated officer.

(1) When an officer (commissioned or warrant) is officially relieved of duties and a relief-for-cause OER is subsequently prepared, the OER will be referred to the rated officer or warrant officer as described in the referral process in Army Regulation 623-3. Note: This referral must be completed before taking any of the actions in the following subparagraphs.

(2) If the rater or intermediate rater directed the relief, the senior rater will perform the review, provided he or she is an Army officer or Department of the Army civilian when other rating officials are uniformed Army rating officials. Otherwise, the first U.S. Army officer, designated as the uniformed Army advisor in the organization or chain of supervision above the individual directing the relief will perform a supplementary review of the OER.

(3) Changed relief-for-cause OERs will be referred, again, by the senior rater (or other reviewer) in accordance with the referral process in Army Regulation 623-3, to the rated officer so that the corrected OER may be acknowledged, and comments can be provided, if desired. Only the final referral and acknowledgment are forwarded with the report to Headquarters, Department of the Army.

(4) If the senior rater is qualified to serve as the reviewer and is satisfied that the OER is clear, accurate, complete, and fully in accordance with the provisions of the regulation, they will continue to process the OER.

7. Army Regulation 600-8-104 (Army Military Human Resource Records Management) governs the composition of the Official Military Personnel File (OMPF) and states the performance folder is used for filing performance, commendatory, and disciplinary data. Once placed in the OMPF, a document becomes a permanent part of that file. The document will not be removed from or moved to another part of the OMPF unless directed by certain agencies, to include the ABCMR. Appendix B states the DA Form 67-9 and DA Form 67-10-1 are filed in the performance folder of the Soldier's OMPF.

//NOTHING FOLLOWS//