

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 December 2024

DOCKET NUMBER: AR20230009237

APPLICANT REQUESTS:

- removal of a General Officer Memorandum of Reprimand (GOMOR), dated 25 March 2022, from the Army Military Human Resource Record (AMHRR)
- removal of DA Form 2166-9-2 (Noncommissioned Officer (NCO) Evaluation Report (staff sergeant (SSG) - first sergeant (1SG)/ master sergeant (MSG)) (NCOER), for Relief of Cause, for the period ending 18 May 2022, from the AMHRR
- removal of the Army Regulation 15-6 (Procedures for Administrative Investigations and Board of Officers) investigation and allied documents, from the AMHRR
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement, 8 June 2023

FACTS:

1. The applicant states he reported his senior rater, along with other members of the command, to the office of the inspector general (IG) for violations of Army Regulations. Shortly after, he was investigated for allegedly creating a hostile work environment for a civilian employee, and a senior NCO of his command. The investigation was biased and violated Army Regulations. The investigation findings resulted in a relief for cause NCOER, a GOMOR being filled in his AMHRR, and removal from selection of promotion to MSG. His statement and the self-authored letter, in which he further explains the aforementioned events in a chronological and detailed manner, are available in their entirety for the Board's review.

2. The applicant's service record shows:

a. He enlisted in the Regular Army on 11 July 2000, followed by multiple reenlistments and extensions administered on:

- 4 February 2004, 6-year reenlistment
- 10 November 2010, 6-month extension
- 19 January 2011, 7-month extension
- 1 June 2015, reenlistment for an indefinite period

b. The applicant served in Iraq in support of Operation Iraqi Freedom (OIF) from 24 April 2003 to 15 July 2004. He served Afghanistan, in support of Operation Enduring Freedom (OEF) from 30 June 2008 to 25 June 2009.

c. His NCOER for the period 16 August 2020 through 15 July 2021, shows he received favorable ratings such as ranking in the top 20 percent (%) of his peers, he exceeded the standards, and was recommended for promotion to MSG.

d. Department of the Army, William Beaumont Army Medical Center Memorandum for Record, subject: Sexual Harassment Complaint Regarding [REDACTED] by [Applicant], dated 1 March 2022, provides details of the events that occurred as it pertains to the complaint. Mrs. [REDACTED] explains that the applicant frequented to workspace and found reasons to begin conversations with her, compliment her and stare at her chest, and in one instance he even waited around till the end of her duty day so he can walk her to her car. Ms. [REDACTED] further discusses how the applicant frequently engages in long conversations with women, however, she felt that with her it was a continued extensive engagement. This memorandum is available in its entirety for the Board's review.

e. Department of the Army, William Beaumont Army Medical Center Memorandum for Record, subject: Mrs. [REDACTED] Sexual Harassment/Assault Response and Prevention (SHARP) Complaint Against [Applicant], dated 1 March 2022 by Lieutenant Colonel (LTC) JAM documents his observations surrounding the sexual harassment complaint. This memorandum is available in its entirety for the Board's review.

f. Department of the Army, William Beaumont Army Medical Center Memorandum for Record, subject: Memorandum for Record Regarding Sexual Harassment of [REDACTED] by [Applicant], dated 2 March 2022 by Sergeant First Class (SFC) [REDACTED] discusses the events regarding the sexual harassment of Mrs. [REDACTED] from his perspective. This memorandum is available in its entirety for the Board's review.

g. On 8 March 2022, Mrs. [REDACTED] submitted a sworn statement, to officially document the details concerning her complaint against the applicant.

(1) She states on 2 February 2022, the applicant entered the command suite to perform rounds with the staff and approached her desk and began to initiate conversation about events throughout the day. She asked the applicant about equal opportunity training and he proceeded to provide the information. Afterward, he made a

compliment about her shirt, asked if her name was printed on the right side of her shirt, and requested information about how to inquire one for himself. She noticed his gaze was directed toward her chest and he proceeded to undo the buttons to his coat, open his coat revealing a light blue shirt with his name located in his chest region and stated this is my shirt.

(2) On 28 February 2022, the applicant entered the command suite from an entrance not viewable from her desk. His initial response to her was "WOW! You shocked to see me!" instead of an initial greeting of help, or how are you, as he would have done in the past. He replied with "You are dress very nice today." This continued on for more than a few minutes and began to make her uncomfortable.

(3) She states the applicant's behavior created an intimidating work environment and she attempted to ignore him.

h. DA Form 3881 (Rights Warning Procedure/Waiver Certificate), dated 9 March 2022, reflects the applicant was given all his rights including a right to request a lawyer. The applicant was suspected/accused of violating a lawful general regulation. He signed this document and requested a lawyer.

i. The following sworn statements reflect additional information as it relates to the sexual harassment of Mrs. [REDACTED] by the applicant. These documents provide details according to five eyewitness accounts. These statements are available in their entirety for the Board's review.

(1) On 9 March 2022, SFC [REDACTED] describes the details of what he witnessed, in regard to the complaint against the applicant.

(2) On 10 March 2022, LTC [REDACTED] elaborates on the circumstances surrounding the complaint and provides the history of the applicant's behavior leading up to the incident.

(3) On 10 March 2022, MSG [REDACTED] corroborates the aforementioned statement concerning the applicant's behavior by further stating she too experienced inappropriate behavior from him. MSG [REDACTED] was subjected to increasing unannounced visits to her workplace, to participating in social activities outside the workplace together, and even inappropriate advances. She consulted with friends regarding the incident, and the possibility of filing a complaint regarding his unwanted advances, however she never proceeded to do so.

(4) On 11 March 2022, [REDACTED] explains she witnessed the applicant's inappropriate behavior towards MSG [REDACTED]

(5) On 11 March 2022, SSG [REDACTED] states how long he's known both, the applicant, and MSG [REDACTED]. He further shares his opinions regarding their personalities and behavior while on duty.

j. On 7 March 2022, an Army Regulation 15-6 investigation was initiated. The investigation was completed on 16 March 2022.

k. In a memorandum subject: Army Regulation 15-6 investigation - Allegations Pertaining to the applicant, 15 March 2022, reflects the findings and recommendations of the investigation as follows:

(1) The applicant violated Army Regulation 600-20 (Army Command Policy), paragraph 7-7, when he made unwelcomed advances and comments towards Mrs. [REDACTED] the afternoon of 28 February 2022. Army Regulation 600-20, paragraph 7-7a(3) states that any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature shall be considered sexual harassment, the investigating officer found that the repeated nature of applicant's actions degraded workplace integrity and fostered an intimidating work environment.

(2) During the investigation it was found that MSG [REDACTED] experienced similar circumstances to which Mrs. [REDACTED] did in the workplace, on the 2 February 2022 and 28 February 2022.

(3) In many circumstances throughout the investigation it was found that individuals presume the applicant has difficulty in reading social cues. Although he may be unaware of his actions and advances curtailing discomfort towards others, this is not justification for verbal and non-verbal sexual harassment towards others. He had precedent behavior similar to the original allegations on 28 February 2022. Given this historical behavior it was found that it gives strength to Mrs. [REDACTED] claim of sexual harassment.

(4) The leading indicator in the investigation findings of sexual harassment are the applicant's precedent behavior involving MSG [REDACTED] as well as the advances in regards to inquiring about activities outside the workplace with Mrs. [REDACTED].

l. Recommendations provided by the investigating officer (IO):

(1) Based on the finding that the applicant committed sexual harassment in violation of Army Regulation 600-20, IO recommend appropriate punitive action be taken, and that he be removed from his position as Military Equal Opportunity Advisor.

(2) The applicant has shown repeated behaviors considered to be sexual harassment, recommend Uniform Code of Military Justice (UCMJ) action.

(3) Based on the statement of LTC [REDACTED] and MSG [REDACTED] the IO recommends LTC [REDACTED] be given verbal counseling regarding interventions required when staff notify her of discomfort around individuals in the workplace, regarding potential sexual harassment.

m. On 18 March 2022, a legal review was conducted of the report of investigation (ROI) provided by the IO, relating to the sexual harassment allegations against the applicant, shows:

- The proceedings comply with the applicable legal requirements
- A greater weight of evidence supports the findings than supports contrary conclusions
- The recommendations are consistent with the findings
- No substantial errors affect the ROI

n. On 25 March 2022, the applicant was reprimanded and given a GOMOR by Major General (MG) [REDACTED] Commander, Headquarters, 1st Armored Division and Fort Bliss, Fort Bliss, Texas.

(1) "I reprimand you for violating the Army's Sexual Harassment/Assault Response and Prevention Program."

(2) "An AR 15-6 investigation revealed that you sexually harassed Ms. [REDACTED] and MSG [REDACTED] by making deliberate and repeated unwelcomed verbal and nonverbal comments of sexual nature. On 3 February 2022, MSG [REDACTED] intentionally tried to avoid contact with you due to your persistent harassment. When she was at her vehicle, she noticed you staring at her as she changed clothes. On 28 February 2022, you commented on Ms. [REDACTED] attire and noticeably stared at her body and chest area, making her feel uncomfortable. Later in the day, you were again noticeably staring at Ms. [REDACTED] and approached her at her desk, leaned in closely to her, and whispered in her ear. Your actions are in violation of the Uniform Code of Military Justice.

o. On 29 March 2022, the applicant acknowledged receipt of the reprimand, and submitted a statement in his own behalf.

p. Nine character references, which state, in pertinent part:

(1) On 7 April 2022, SFC [REDACTED] states he is impressed by the professional nature of the applicant's behavior, to include verbal and non-verbal communication. He cannot recall any conduct that could be considered anything other than the behavior of a professional military leader.

(2) On 10 April 2022, Major (MAJ) [REDACTED] requested the GOMOR be reconsidered after carefully considering his exemplary military service. He is the definition of an outstanding NCO.

(3) On 10 April 2022, Sergeant Major (SGM) Retired [REDACTED] discusses his experiences with the applicant during and after their service in OIF. He further describes the applicant as a great communicator, an active listener, selfless and with a kind heart.

(4) On 11 April 2022, SSG [REDACTED] describes the applicant as a professional that adheres to military standards. He has been mentored by the applicant and has never witnessed any unprofessional behavior by him.

(5) On 12 April 2022, Sergeant (SGT) [REDACTED] was the applicant's direct subordinate. He explains how the applicant assisted him and his family while SGT [REDACTED] was deployed, he always upheld the standard, and was not afraid to make corrections when he witnessed any type of violation.

(6) On 13 April 2022, Captain (CPT) [REDACTED] states she was surprised to learn of the situation the applicant has been associated with. It is completely out of character for him, and she can't help but wonder if there were mitigating circumstances. He is one of the best NCOs she has worked with, and she would not hesitate to recommend him for retention.

(7) On 14 April 2022, SGM [REDACTED] was the applicant's supervisor, mentor, and friend. He has observed him respectfully interact with others, and at no time has he lost his military bearing.

(8) First Lieutenant (1LT) [REDACTED] has had the opportunity to witness his work ethic, professionalism, and commitment to making a difference in the Army. He also describes him as a genuinely spiritual man with a high degree of ethics and character.

(9) On 17 April 2022, Ms. [REDACTED] states the applicant has been nothing less than professional in all direct interactions or those he observed. His demeanor was always appropriate, and he is always quick to correct inappropriate behavior especially when it comes to using verbiage that can be perceived as discriminatory or behaviors that violate Army or Command policy.

q. His NCOER for the period 16 July 2021 through 18 May 2022, shows he failed to adhere to the Army Sexual Harassment Prevention and Response Program standards and the Army Values when he sexually harassed a female civilian employee and a female senior NCO. He received unfavorable ratings such as "do not promote", a relief for cause from his position after an investigation substantiated two separate instances of sexual harassment.

r. DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), convened on 15 June 2023, wherein the applicant was found physically unfit with a recommended disability rating of 50%, and that the disposition be placement on the Temporary Disability Retired List (TDRL), and reexamined during March of 2024, due to severe combat-trauma exposure during deployment to Iraq on or about 2003 to 2004. Onset of this condition is 2004. The condition was aggravated by his deployment to Afghanistan on or about 2008 to 2009. Functional activity limitations associated with this condition make this Soldier unable to reasonably perform required duties. The applicant concurred with the findings, waived a formal hearing of his case, and did not request reconsideration of his Department of Veterans Affairs (VA) rating. This document further shows the PEB made the following administrative determinations:

(1) This condition:

- Was incurred or aggravated in the line of duty in a duty status
- It was not due to intentional misconduct, willful neglect, or unauthorized absence
- It is not permanent and stable

(2) The disability disposition is based on disease or injury incurred in the line of duty in combat with an enemy of the United States and as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war (5 USC 8332, 3502, and 6303). (This determination is made for all compensable cases but pertains to potential benefits for disability retirees employed under Federal Civil Service).

(3) Evidence of record reflects the Soldier was not a member or obligated to become a member of an armed force or Reserve thereof, or the NOAA or the USPHS on 24 September 1975.

(4) The disability did result from a combat-related injury under the provisions of 26 USC 104 or 10 USC 10216.

s. DD Form 214 (Certificate of Release or Discharge from Active Duty), shows he was honorably retired from active duty on 18 October 2023, due to a combat related disability. He completed 23 years, 3 months, 8 days of active service and 8 years, 11 months, 18 days of foreign service. His grade at the time of discharge was SFC/E-7. He was awarded and/or qualified for the following awards:

- Meritorious Service Medal
- Army Commendation Medal (fifth award)
- Army Achievement Medal (second award)

- Meritorious Unit Commendation
- Presidential Unit Citation
- Army Good Conduct Medal (eighth award)
- National Defense Service Medal
- Afghanistan Campaign Medal with one bronze service star
- Global War on Terrorism Expeditionary Medal
- Global War on Terrorism Service Medal
- Korea Defense Service Medal
- Noncommissioned Officer Professional Development Ribbon (third award)
- Army Service Ribbon
- Overseas Service Ribbon (sixth award)
- North Atlantic Treaty Organization Medal
- Combat Medical Badge

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

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy, and regulation.

a. Removal of the General Officer Memorandum of Reprimand. Deny. Upon review of the applicants petition and military records, the Board determined that the applicant did not demonstrate by a preponderance of evidence that procedural error occurred prejudicial to the applicant and by a preponderance of evidence that the contents of the General Officer Memorandum of Reprimand, issued on 25 March 2022 is substantially incorrect and supports removal. The Board noted the applicant's assertion of injustice based on a biased investigation; however, the Board concluded the issued GOMOR reflects the circumstances as they existed and therefore, the Board denied relief.

b. Removal of the Noncommissioned Officer Evaluation Report. Deny. The Board determined the applicant's NCOER with the comments concerning he failed to adhere to the Army Sexual Harassment Prevention and Response Program standards and the Army Values when he sexually harassed a female civilian employee and a female senior NCO were valid and as a MEO, he was well-informed.

c. Removal of the AR 15-6 Investigation and allied document from his AMHRR. Deny. The Board found no evidence to support removal of the investigation and noted

the applicant has the burden to prove an error or injustice occurred and the Board was not convinced that an error or injustice existed.

2. 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 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.

3/26/2025

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 (ABCMR)), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

2. Army Regulation 15-6 (Procedures for Administrative Investigations and Board of Officers), currently in effect, sets forth procedures for the conduct of informal and formal investigations. Informal investigations are those that usually have a single investigating officer who conducts interviews and collects evidence. In contrast, formal investigations normally involve due process hearings for a designated respondent. Formal procedures are required whenever a respondent is designated. Paragraph 3-7, Rules of evidence and proof of facts states:

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

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

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

3. Army Regulation 600-37 (Unfavorable Information), in effect at the time, sets forth policies and procedures to ensure the best interests of both the Army and Soldiers are

served by authorizing unfavorable information to be placed in, transferred within, or removed from an individual's Army Military Human Resource Record (AMHRR).

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

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

c. Paragraph 1-1 states, in relevant part, that the intent of Army Regulation 600-37 is to ensure that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and, to ensure that the best interests of both the Army and the Soldiers are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

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

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

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

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

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

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

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

(2) A memorandum, regardless of the issuing authority, may be filed in the AMHRR, and managed by the U.S. Army Human Resources Command or the proper State Adjutant General (for Army National Guard personnel) upon the order of a general officer (to include one frocked to the rank of brigadier general). The general officer directing filing must exercise general court-martial convening authority over the recipient, be the designee or delegate of the individual exercising general court-martial convening authority over the recipient, be a filing authority from the recipient's losing command pursuant to paragraph (f)(1) below, or be the chief of any designated special branch pursuant to Title 10, U.S. Code, section 3064, acting pursuant to their statutory authority over members of their respective special branches. Memoranda filed in the AMHRR will be filed in the performance folder.

g. Paragraph 7-2 (Policies and Standards) states that once an official document has been properly filed in the OMPF, it is presumed to be administratively correct and to have been filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the OMPF.

h. Paragraph 7-2a, states that once an official document is properly filed in the AMHRR, it is presumed to be administratively correct and filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the AMHRR. Appeals that merely allege an injustice or error without supporting evidence are not acceptable and will not be considered.

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

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

a. Paragraph 3-6 (Authority for Filing or Removing Documents in the AMHRR Folders) provides that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or another authorized agency.

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

5. Army Regulation 623-3 (Evaluation Reporting System), prescribes the policy for completing evaluation reports and associated support forms that are the basis for the Army's Evaluation Reporting System (ERS). This includes DA Form 2166-9-2 (NCO Evaluation Report (NCOER) (SSG-1SG/MSG)).

a. "Relief for Cause" evaluation report (DA Form 2166-9 series). An NCO can be relieved for cause regardless of the rating period involved; however, a waiver is required to render "Relief for Cause" NCOERs covering a period of less than 30 days. "Relief for cause" is defined as the removal of an NCO from a specific duty or assignment based on a decision by a member of the NCO's chain of command or supervisory chain. A relief for cause occurs when the NCO's personal or professional characteristics, conduct, behavior, or performance of duty warrants removal in the best interest of the U.S. Army.

b. Removal of an evaluation report for administrative reasons will be allowed only when circumstances preclude the correction of errors, and then only when retention of the evaluation report would clearly result in an injustice to the Soldier.

c. Senior raters will comment on any substantiated finding, in a finalized Army or DOD investigation or inquiry, that a rated NCO committed an act of sexual harassment

or sexual assault, failed to report a sexual harassment or assault, failed to respond to a complaint or report of sexual harassment or sexual assault, or retaliated against a person making a complaint or report of sexual harassment or sexual assault.

d. 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.

6. 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 Military Equal Opportunity (MEO) Program, the Army Harassment Prevention and Response Program, and the Army Sexual Harassment/Assault Response and Prevention (SHARP) Program.

a. The SHARP Program implements Department of Defense (DoD) and Army policy regarding sexual harassment and sexual assault. The Army does not tolerate or condone sexual harassment, sexual assault, or associated retaliatory behaviors. The SHARP Program enhances Army readiness by fostering a culture free of sexual harassment and sexual assault through prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety, well-being, readiness. This regulation implements DoDD 1350.2, DoDD 6495.01, DoDI 1020.03, DoDI 5505.18, DoDI 6400.07, DoDI 6495.02, and DoDI 6495.03.

b. Responsibilities. Commanders, supervisors, and managers at all levels are responsible for the effective implementation of SHARP Policy and execution of the SHARP Program. Military and DA Civilian officials at each management level will advocate a strong SHARP Program and provide education and annual training that will enable them to prevent and appropriately respond to sexual harassment and sexual assault. Commanders are the center of gravity for execution of the SHARP Program. Commanders and leaders are responsible for the climate in their organizations. Other agencies and individuals, including the inspector general (IG), MEO, provost marshal

officer (PMO), Staff Judge Advocate (SJA), or chaplain, will refer Soldiers to a servicing full-time brigade Sexual assault response coordinator (SARC), to file a formal complaint.

c. Sexual harassment. Title 10 USC 1561 defines the term “sexual harassment” to mean any conduct that involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature. Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a member of the Armed Forces or a Civilian employee of the DoD. Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature by any member of the Armed Forces or Civilian employee of the DoD.

(1) Hostile environment. A hostile environment, to include the work environment, can occur when Soldiers or DA Civilians are subjected to offensive, unwanted, and unsolicited comments, or conduct of a sexual nature. An abusive or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive. A hostile environment brings the topic of sex or gender into the environment in any one of a number of forms. Conduct considered under the hostile environment definition generally includes nonviolent, gender-biased sexual behaviors (for example, the use of derogatory gender-biased terms, comments about body parts, suggestive pictures, and explicit jokes).

(2) Verbal. Examples of verbal sexual harassment may include telling sexual jokes; using sexually explicit profanity, threats, sexually oriented cadences, or sexual comments; whistling in a sexually suggestive manner; and de-scribing certain attributes of one’s physical appearance in a sexual manner. Verbal sexual harassment may also include using terms of endearment such as “honey,” “babe,” “sweetheart,” “dear,” “stud,” or “hunk” in referring to Soldiers, DA Civilian coworkers, or Family members.

(3) Nonverbal. Examples of nonverbal sexual harassment may include cornering or blocking a passageway; in-appropriately or excessively staring at someone; blowing kisses; winking; or licking one’s lips in a suggestive manner. Nonverbal sexual harassment also includes offensive printed material (for example, displaying sexually oriented pictures or cartoons); using electronic communications; or sending sexually oriented faxes, notes, or letters.

//NOTHING FOLLOWS//