

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 March 2025

DOCKET NUMBER: AR20230011199

APPLICANT REQUESTS:

- removal of Army Regulation (AR) 15-6 (Procedures for Investigating Officers and Boards of Officers) adverse finding, 20 March 2023
- removal of adverse information contained in the Army Adverse Information (AAIP) database
- rescission of any Special Selection Review Board (SSRB) based on adverse information, restoration of rank and retroactive pay to the original effective date if not for the adverse findings
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)(duplicate and online)
- Two Executive Summaries
- Army Regulation (AR) 15-6 Investigation
- Report of Proceedings by Investigating Officer (IO) Findings and Recommendations
- Memorandum for Record (MFR), Subject, Chronology of IO Extensions
- MFR, Subject: Referral of Report of Investigation
- Witness Statements (11)
- MFR, Subject: Response to AR 15-6 Findings
- Judge Adjutant General (JAG) Summary of Credible Adverse Information
- MFR, Subject: Substituted Findings and Recommendations
- MFR, Subject: Request for Removal of Flag
- MFR, Subject: Request for Reconsideration
- MFR, Subject: Response to Request for Reconsideration
- Department of the Army Inspector General (DAIG) Email
- Applicant Supplemental Documents

FACTS:

1. The applicant, through counsel, states in his executive summaries:

a. The applicant's executive summary, 30 January 2023 shows the applicant states Colonel/COL NAJ___, the Investigating Officer (IO) did not perform her duties, did not follow the guidance of AR 15-6 in conducting her investigation and did not follow the directives of her appointment memorandum. The applicant hired this firm to reinvestigate his case after reviewing the IO's report of investigation and realized his case was not handled properly. The executive summary provides legal definitions of sexual harassment. 19 October 2022, the water bottle incident was inadvertent and non-sexual. Early August 2022, Ms. B___ was not "pinned" against a countertop. 29 August 2022, the applicant simply sat next to Ms. B___. On September 2022, the applicant did not rub Ms. B___ shoulder. The IO failed to follow AR 15-6 and her directives. The applicant is an officer with a long track record of high moral character as an outstanding Army officer, leader, and a happily married man. He has not deserved to be needlessly dragged through this process based on what amounts to obvious misunderstanding and exaggeration. The IO requested multiple extensions, yet she never bothered to interview the witnesses. This is unconscionable.

b. His executive summary, 23 August 2023 shows, the adverse findings of the applicant's AR 15-6 investigation were not supported by a preponderance of evidence. This is apparent because the appointing authority, Brigadier General (BG) G___, disapproved the original findings by the IO with different findings. However, he substituted a new adverse finding that was not part of the investigation, which was not provided to the applicant prior to approval, and is also not supported by a preponderance of the evidence. When BG G___ substituted the new finding, he did not substitute new evidence.

(1) On 19 October 2022, the applicant approached a civilian employee, Ms. KB___, at her work center to discuss a work product on which they had been collaborating and to follow up on a previous phone call and email exchange. The applicant noticed Ms. B___ leaned over her desk, and when she did not respond to him calling her name, he tried to get her attention by gently tapping on the back of her chair with his water bottle. As he did so, she shifted in her chair, and the water bottle grazed her neck by accident. As an objectively harmless, nonsexual, and unintended touching, this was not an offense of any kind. Two civilian employees, Mr. HP___ and Mr. TN___, were present at the time of this interaction and wildly misperceived the event, believing the applicant had leaned and kissed Ms. B___ or blew on her neck. No such thing ever occurred, nor did Ms. B___ ever say that it had.

(2) In response to Ms. B___ complaint, on 24 October 2022, BG DWG___ appointed an AR 15-6 investigation, which concluded on 8 December 2022. The Investigating Officer, Colonel/COL NAJ___, found that the applicant sexually harassed Ms. B___, but the IO's report was rampant with legal and factual errors, and her findings and conclusions were not supported by the evidence. Through counsel, the applicant submitted rebuttal package that thoroughly refuted the IO's findings and conclusions.

(3) On 20 March 2023, BG G__ approved the investigation but deleted the erroneous facts, findings, and recommendations of the IO. The IO found that the applicant did not engage in any sexual harassment. Inexplicably, and without providing any additional evidence, BG G__ entered a substituted finding that the applicant physically touched Ms. B__ without her consent on four occasions and thereby exhibited poor judgement by showing undue familiarity with Ms. B__. This finding and analysis was flawed.

(4) Beyond a preponderance of the evidence, the clear and convincing evidence is that the applicant did not engage in any professional misconduct. He did not treat Ms. B__ with a lack of dignity and respect, and he did not exercise poor judgment by engaging in undue familiarity with her. Her false claims of sexual harassment were motivated by her desire to deflect from unrelated workplace gossip that surrounded her. She wildly misconstrued normal, professional workplace interactions, which is more than proven by the applicant's sworn testimony, all the eyewitness testimonies, and the unimpeachable evidence of the applicant's outstanding personal character. The only just and appropriate outcome is to correct the substantial error and injustice caused by both procedural and substantive errors in the handling of this AR 15-6 investigation. The adverse finding against him should be rescinded and removed from the AAIP database.

2. The applicant provides:

a. Report of Proceedings by Investigating Officer (IO) shows the investigation commenced on 15 November 2022.

b. MFR, Subject: Findings and Recommendations of Army Regulation (AR) 15-6 Investigation, undated, shows the IO was appointed on 24 October 2022 to conduct a formal investigation into the facts and circumstances surrounding allegations of sexual harassment pertaining to the applicant. The IO found the applicant sexually harassed Ms. B__ on four occasions. The preponderance of the evidence indicates contact by the applicant. The sworn statements gathered in this investigation substantiates Ms. B's__ complaint of sexual harassment from the applicant were sexual gestures.

(1) The applicant did not remember any event that occurred the early part of August, or any touching of Ms. B's__ shoulder in September 2022. However, he did recall the two events on 29 August and 19 October, although his recall was different than Ms. B's__ and the other witnesses.

(2) Neither Ms. B__ nor the applicant makes any statement indicating the relationship between the two of them created any type of invitation to sexual gestures by the applicant. No other evidence indicates the applicant or Ms. B__ had a personal relationship. Their interpersonal interactions consisted of professional communications,

a small number of pleasantries about their families, and the sexual gestures from the applicant.

(3) Based on these findings, the IO recommended, the applicant retrain on Joint Readiness Training Center (JRTC) and Fort Polk, LA Policies pertaining to sexual harassment.

c. MFR, Subject: Chronology of AR 15-6 Investigation, 9 December 2022, reflects the IOs request for extensions, 1 November 2022, 7 November 2022, and 30 November 2022 and the IOs interviews.

d. MFR, Subject: Referral of Report of Investigation, 3 January 2023 shows the applicant was notified that the IO found he sexually harassed Ms. KB__ in early August 2022, on 29 August 2022, on 23 September 2022, and on 19 October 2022. The applicant was notified that any substantiated adverse finding or conclusion from an officially documented investigation or inquiry must be furnished to a selection board for promotion to a grade above colonel. If approved or modified in a manner which is adverse toward the applicant, the findings and/or recommendations of this investigation will constitute a substantiated adverse finding or conclusion from an officially documented investigation.

e. Witness statements regarding the incidents mostly reveal they did not know the applicant personally and had never heard anything negative about him prior to observations on 19 October 2022 and are available for review.

f. MFR, Subject: Response to Tentative AR 15-6 Findings, 29 January 2023 reflects the IO findings on 8 December 2022. Col J__, (IO) concluded that the applicant sexually harassed Ms. KB__ on four occasions and thereby violated JRTC and Fort Polk, LA policies. The applicant respectfully ask that his deputy commander disapprove these findings. The applicant states he has nothing to hide because he is not guilty of an offense. During his interview with the IO, he provided names of witnesses; however, the IO chose not to interview them. The IO claimed that his witnesses were the same as Ms. Bs__ witnesses, and she said that there would be no need to contact anyone else. After reading the report of investigation, the IO's statement was false. The witnesses he provided were not contacted by the IO.

g. The Judge Adjutant General (JAG) Summary of Credible Adverse Information, undated shows:

- Investigation Approval Date: 20 March 2023
- Findings: The applicant's interactions with Ms. B__ simply did not reflect professional
- interpersonal conduct commensurate with his rank

- Synopsis: On four occasions, the applicant exhibited poor judgment with respect to his showing of undue familiarity with Ms. B___, involving physical contact which was not wanted and not consented to
- Disposition: Investigation was approved by BG DWG___ and referred to COL
- H___, Commander, Operations Group, for follow on action
- Commander Comment: BG DWG___ - 4/27/2023, No additional comment

h. MFR, Subject: Substituted Findings and Recommendations, 20 March 2023 shows BG DWG___ approved the investigation however, he deleted Facts, Findings and Recommendations of the IO. Instead, he substituted the Facts, Findings, and Recommendations as:

(1) Facts: Ms. B___ provided details concerning four incidents which may have amounted to sexual harassment, either individually or taken together. The first physical contact initiated by the applicant in front of the CG's secretary's desk in early August 2022. The second was physical contact initiated by the applicant on 29 August 2022 while at the Warrior Center. The third was physical contact initiated by the applicant on 23 September 2022. The last was physical contact initiated by the applicant on 19 October 2022. The first, second, and fourth instances of physical contact were observed by third parties. The definition of sexual harassment was provided.

(2) Findings: the applicant's interactions with Ms. B___ did not reflect professional conduct commensurate with his rank. Consistent with Army Command Policy, a senior leader is expected to treat others with dignity and respect, and to engage in exemplary conduct. While none of the occasions involved overtly sexual touching it is clear that Ms. B___ felt victimized by the applicant's contact.

i. MFR, Subject: Request Removal of HQDA Flag Code (F) for the applicant, 20 April 2023 reflects, the applicant was flagged for a Commander's Investigation (Code L) on 20 October 2022. He was under investigation due to an allegation of sexual harassment.

(1) The outcome of the Investigation found the applicant did not engage in sexual harassment. The Investigation found the applicant's actions did not reflect conduct commensurate with his rank, and he has received corrective training. The case was closed unfavorably, and the applicant's code L flag was lifted effective 30 March 2023.

(2) No further derogatory information or adverse action will be filed in his AMHRR to include a Referred Officer Evaluation Record (OER), GOMOR, Article 15 or other Uniform code of Military Justice (UCMJ) action, as a result of this Investigation. In light of this, the officer's chain of command requests the removal of the HQDA code F flag.

(3) BG G__ found that the applicant's actions or conduct did not violate § 7233, Title 10 U.S. Code. Therefore, BG G__ believes a Promotion Review Board (PRB), or Special Selection Review Board (SSRB) is not warranted.

j. MFR, Subject: AR 15-6 Request for Reconsideration, 12 May 2023 shows the applicant requested reconsideration based on new evidence, mistake of law, mistake of fact and administrative error. Without adverse findings being disapproved, followed by removal from the AAIP database, with notification to the U. S. Army Human Resources Command (HRC), he will face an SSRB, putting in jeopardy his promotion to COL, and potentially triggering an Officer Grade Determination (OGD) retirement.

(1) The applicant asked for issuance of a new decision memorandum disapproving the substituted additional findings of the 20 March 2023 memorandum as well as the original adverse findings, stating that the case was closed favorably without any substantiated adverse findings.

(2) Based on the rescission of the adverse findings, order the removal of the adverse information from the AAIP database.

(3) Based on the rescission of the adverse findings, issue a new memorandum for the Commander, HRC, requesting removal of my HQDA Flag Code (F), stating the case was closed "favorable" and deleting the language that currently reads, "The investigation found the applicant's actions did not reflect conduct commensurate with his rank, and he has received corrective training."

k. MFR, Subject: Summary of Interviews by investigator employed by applicant's law firm, 12 May 2023 shows COL P__ was the Chief of Staff for the JRTC, Fort Polk, LA. He was the senior rater for Ms. KB__ during an unspecified portion of his time as the Chief of Staff. COL P__ stated that, during his time as the Chief of Staff, he was made aware of many rumors alleging an inappropriate relationship between Ms. KB and the previous Commanding General, then-Brigadier General DSD__. COL P__ said the rumors reached a point where he informed General D__ out of concern for the reputation of the unit. Neither he nor any person he spoke with had directly witnessed inappropriate behaviors between Ms. KB__ and General D__. He added that if he had been provided first-hand factual information regarding an inappropriate relationship, he would have immediately reported this to the legal advisor. Ms. H__ confirmed she had previously counseled Ms. KB__ on proper procedures for scheduling meetings with senior leaders through the secretary because Ms. KB__ had a bad habit of going directly to the offices of senior leaders unannounced. Ms. H__ did not recall when she counseled Ms. KB__ or whether she did so verbally or in writing.

l. MFR, Subject: Response to Request for Reconsideration and Disapproval of AR 15-6 Adverse Findings, 8 June 2023 reflects after the review of your request and

materials provided, BG G__ affirmed his initial adverse finding in the 15-6. The applicant's request and material provided did not impact any findings that BG G__ made on 20 March 2023 and your request for reconsideration does not contain information pertaining to new evidence, mistake of law or fact, or administrative error as defined by AR 15-6. The findings BG G__ made on 20 March 2023 were and still are supported by a preponderance of the evidence from the 15-6. The request to remove the Headquarters Department of the Army (HQDA) Flag that BG G__ signed on 20 April 2023 reflects the adverse finding BG G__ made in the 15-6 and makes a recommendation only to HQDA that this does not warrant a PRB/SSRB.

m. DAIG email, 10 April 2024, reflects the applicant was contacted because they believed he may have information regarding an investigation they were conducting. The applicant was a witness in this matter.

n. MFR, Subject: Submission of Supplemental Documents for the applicant's application, undated, shows the applicant submitted additional documents and information pertinent to his case requesting the removal of adverse information placed in the AAIP database on 20 March 2023. These supplementary materials provide critical context and evidence supporting the request to correct his military records.

(1) He has obtained details from an ongoing DAIG investigation that is directly related to his situation. This information sheds light on the ulterior motives of the individual who accused him of wrongdoing. New and outcome-altering evidence shows that the allegations against him were timed to coincide with the accuser's attempt to be reassigned to follow now Major General (MG) D__.

(2) Additional Witness Statements: Familiar with Army investigative process and a former brigade Commander, the applicant asked COL AM__, National Defense University Faculty assesses the accuser's allegations were all unfounded. The accuser's allegations are not credible. Other witnesses attending the same official meetings observed only professional interactions. Ms. PG__ provided a statement stating that in all her SHARP training, it is made clear that any sexual harassment must be reported immediately. She also attests to the applicant's excellent reputation and character, as well as acknowledges the rumors that circulated around Ms. B__.

o. He included a polygraph report that was administered to him, 19 May 2024. He voluntarily subjected himself to a polygraph examination regarding this allegation. The polygraph examiner- with over 30 years of experience-opined that the applicant was truthful/not deceptive when he explained in detail that all of his interactions with the accuser (Ms. B__) between May and November 2022 were professional, conducted only through official email and official phone calls, and she never indicated anything to the contrary until late October 2022.

p. He included his personal military record. He has served faithfully and honorably in the U.S. Army since 2002. He completed seven deployments, including four deployments to Afghanistan and one to Iraq. His OERs indicate that he has served faithfully, honorably, with distinction and that he wholeheartedly supports the Army Values, EO, and SHARP.

q. The Due Process Violations are extremely disconcerting in this case. Federal courts have consistently held that agency decisions that are arbitrary, capricious, or contrary to law or evidence will be set aside.

3. A review of the applicant's service record shows:

- a. The applicant enlisted in the Army National Guard (ARNG) on 6 September 2000.
- b. His NGB Form 22 shows the applicant was discharged from the ARNG on 14 May 2002 for appointment as a commissioned or warrant officer.
- c. His Officer Record Brief shows his Basic Active Service Date (BASD) as 15 May 2002 with a date of rank to second lieutenant as 1 June 2002. The applicant served in Afghanistan on four occasions and in Iraq from 30 August 2007 through 28 October 2008.
- d. Orders 100-101, 10 April 2018 shows the applicant was promoted to lieutenant colonel/LTC with an effective date and date of rank of 1 May 2018.
- e. Orders Number 0010451035, 9 December 2024 shows the applicant was promoted to COL/O6 with an effective date of 1 October 2023, on time.
- f. The applicant is currently serving on active duty.

4. MILPER Message 21-186, issued 2 June 2021 shows Selection boards will convene on or about 6 October 2021 to consider eligible LTCs on the Active-Duty List (ADL) for promotion to COL. The board will recess on or about 22 October 2021. Officers eligible for consideration have the following Active-Duty Dates of Rank (ADOR):

- Above Zone: 31 July 2017 and earlier
- In Zone: 1 August 2017 thru 31 July 2018
- Early Consideration: 1 August 2018 thru 31 July 2019

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board found that relief was 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 AR 15-6 Investigation Adverse Finding. Grant. The Board majority determined the AR 15-6 Investigation, dated 20 March 2023 demonstrates an injustice and supports removal. The Board weighed the applicant's account of events and determined he was credible. The Board additionally weighed the supplemental statements provided by witnesses and found some inconsistencies in the processing of the AR 15-6 investigation that warrant removal. The Board minority determined there was no error or injustice in the processing of the AR 15-6 Investigation.

b. Removal of adverse information from AAIP database. Grant. Based on the Board majority's determination to remove the underlying AR 15-6 Investigation, the Board majority determined the applicant's adverse summary should also be removed from the AAIP database. The Board minority determined there was no error or injustice in the processing of the AR 15-6 Investigation and therefore no error or injustice in the applicant's adverse information in the AAIP database.

c. Recission of the SSRB based on adverse information. Grant. The Board further determined, based on the removal of the AR 15-6 Investigation and removal of the adverse summary from the AAIP database, he should be considered by a special selection board (SSB) for promotion to colonel/O-6 without such information present. If selected, he should retroactively promoted and receive any additional pay and allowances he would then be due as a result of the promotion and correction.

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 Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- removing the record of the AR 15-6 investigation from any relevant databases
- removing the applicant's adverse summary from the AAIP database
- referring his records to a special selection board (SSB) to be considered for promotion to COL/O-6 under the criteria for any years in which he was in or above the primary zone of consideration based on his date of rank for LTC/O-5
- if selected for promotion by an SSB, retroactively promoting him to COL/O-6 and paying him any additional pay and allowances he would then be due as a result of the promotion and correction

█

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 600-8-104 (Army Military Human Resource Records Management) prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the Army Military Human Resource Record (AMHRR). The military personnel records jacket, military personnel file, and career management information file are no longer authorized for use by any component. This does not eliminate the need for documents to be filed locally. Examples include, but are not limited to, local training records DA Form 705 (Army Physical Fitness Test Scorecard, weapons qualification record, and administrative documents, such as general counseling documents.

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) shows memorandums of reprimand, censure, and admonition are filed in accordance with Army Regulation 600-37.

2. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 600-8-29 (Officer Promotions) prescribes the officer promotion function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing all work required in the field to support officer promotions. Chapter 7 provides for SSBs.

a. Paragraph 7-2 states the SSBs may be convened under Title 10, U.S. Code, section 628 to consider or reconsider commissioned or warrant officers for promotion when HQDA discovers one or more of the following:

(1) An officer was not considered from in or above the promotion zone by a regularly scheduled board because of administrative error. This would include officers who missed a regularly scheduled board while on the temporary disability retired list and who have since been placed on the active-duty list (SSB required).

(2) The board that considered an officer from in or above the promotion zone acted contrary to law or made a material error (SSB discretionary).

(3) The board that considered an officer from in or above the promotion zone did not have before it some material information (SSB discretionary).

b. Paragraph 7-3 (Cases not considered) states an officer will not be considered or reconsidered for promotion by an SSB when the following occurs.

(1) The officer is pending removal from a promotion or recommended list, and the removal action was not finalized by the Secretary of the Army 30 days before the next selection board convened to consider officers of his or her grade. The officer will be considered by the next regularly scheduled selection board.

(2) An administrative error was immaterial, or the officer, in exercising reasonable diligence, could have discovered, and corrected the error in the Officer Record Brier (ORB) or OMPF. It is the officer's responsibility to review his or her ORB and OMPF before the board convenes and to notify the board, in writing, of possible administrative deficiencies in them.

c. Paragraph 7-11, officers who discover that material error existed in their file at the time they were non-selected for promotion may request reconsideration.

4. Army Regulation 15-6 (Procedures for Investigating Officers and Boards of Officers) establishes procedures for investigations and boards of officers not specifically authorized by any other directive.

a. Preliminary investigations. Even when formal procedures are contemplated, a preliminary informal investigation may be advisable to ascertain the magnitude of the problem, to identify and interview witnesses, and to summarize or record their statements. The formal board may then draw upon the results of the preliminary investigation.

b. The primary function of any investigation or board of officers is to ascertain facts and to report them to the appointing authority. It is the duty of the investigating officer or board to ascertain and consider the evidence on all sides of each issue, thoroughly and impartially, and to make findings and recommendations that are warranted by the facts and that comply with the instructions of the appointing authority.

c. The following individuals may appoint investigations after consulting with the servicing judge advocate or legal advisor; any general court-martial or special court-martial convening authority, any general officer, any commander, or principal staff officer in the grade of COL or above at the installation, activity, or unit level.

d. The following individuals may appoint an informal investigation; any officer authorized to appoint a formal board, a commander at any level, a principal staff officer or supervisor in the grade of major or above.

e. Informal investigations and boards may be appointed orally or in writing. Formal boards will be appointed in writing but, when necessary, may be appointed orally and later confirmed in writing. Any written appointment will be in the form of a memorandum of appointment.

5. Army Regulation 15-185 (ABCMR) 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, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

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

c. Paragraph 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.

d. 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 a copy of the new evidence or information to the Department of the Army Suitability Evaluation Board to justify the request.

7. AR 600-8-2 (Suspension of Favorable Personnel Actions (Flag)):

a. Paragraph 2-1 states DA Form 268 is prepared to remove a Flag when the Soldier's status changes from unfavorable to favorable and the Flag is removed from the HR systems within 3 working days.

b. Paragraph 2-9 states only officers authorized to direct initiation of a Flag may direct removal of a Flag (for example, the unit commander, a general officer, commandant, or head of a Department of the Army staff or field operating agency) unless otherwise directed by this regulation or Commander, Human Resource Command.

8. Title 10, USC, section 1552 states the Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice.

9. Army Directive 2023-03, Army Adverse Information Program (AAIP), 22 February 2023. This directive updates and expands the AAIP to better comply with commissioned officer promotion screening requirements of the FY20 National Defense Authorization Act (NDAA). The most significant changes expand AAIP requirements to all commissioned officers (O-1 and above), in the Active and Reserve components. The

directive extends AR 15-6 notice and response rights to all commissioned officers (O-1 and above) prior to approval of AR 15-6 investigations containing potentially adverse information about the officer.

10. Army Regulation 600–8–29 (Officer Promotions) provides that for Chapter 2–7. Promotion eligibility:

a. To be considered for promotion by a selection board, an officer must be on the ADL on the day the board convenes. Officers under suspension of favorable personnel actions (see AR 600–8–2) or in a non-promotable status (see para 3–6) remain eligible for consideration.

(1) Captain, major, and lieutenant colonel. These officers must serve at least 3 years of TIG to be considered for promotion. This requirement may be waived by the SECARMY only for consideration from below the zone (BZ) (see glossary).

(a) If selected, officers may be promoted without regard to any additional TIG requirements, except as provided in paragraph 2–7c(4)(b).

(b) To the extent permitted by 10 USC 622, promotion zones for Medical or Dental Corps officers will be established to ensure that those in the zone, if selected, will be promoted on the sixth anniversary of their ADOR, except as provided in this regulation.

(2) Colonel and brigadier general. Officers must serve 1 year of TIG to be considered for promotion. If selected, they may be promoted without regard to any additional TIG requirements.

//NOTHING FOLLOWS//