

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 February 2025

DOCKET NUMBER: AR20230011918

APPLICANT REQUESTS: removal of a DA Form 67-10-1-R (Company Grade Plate (O1-O3; WO1-CW2) Officer Evaluation Report (OER)) from his official military personnel file (OMPF).

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

- DD Form 149 (Application for Correction of Military Record)
- Two memoranda
- DA Form 67-10-1
- Email correspondence
- DA Form 1559 (Inspector General (IG) Action Request)
- IG letter

FACTS:

1. The applicant states [REDACTED] Army National Guard ([REDACTED] ARNG) rating chain unjustly gave him a referred OER for the rating period 20191001 through 20200930 (hereinafter referred to as the contested report).

a. On 4 June 2020, the applicant advised his unit that, due to a financial hardship, he would have to submit an interstate transfer (IST) to [REDACTED] ARNG ([REDACTED] ARNG), and he acknowledged that the transfer might mean he would miss his unit's annual training (AT) in July.

b. At least initially, and despite the short notice, the applicant felt his [REDACTED] ARNG unit supported him. At his company commander's suggestion, the applicant explored the possibility of still participating in the [REDACTED] ARNG AT; however, the AT was to occur in Iowa and, due to his financial hardship, the applicant was unable to cover the travel expense. Additionally, his new employer [REDACTED] required him to attend 7 weeks of training, the dates of which coincided with the [REDACTED] ARNG AT.

c. Once the applicant knew he would be unable to attend AT, he promptly notified his company commander; the applicant nonetheless felt pressured to meet his

command's expectations. In an effort to balance his "emerging civilian career with military responsibilities," the applicant submitted a conditional release memo.

d. In or around December 2020, the applicant received a memorandum, referring the contested OER. The applicant argues:

(1) "It is crucial to clarify that there were no discussions between CPT (Captain) [REDACTED] (applicant's [REDACTED] ARNG company commander), LTC (Lieutenant Colonel) [REDACTED] (battalion commander), and myself regarding the classification of my inability to attend the AT with the (applicant's [REDACTED] ARNG unit) as Absent Without Leave (AWOL)."

(2) "Additionally, there were no indications that this situation would lead to a Referred OER. The current report does not provide an accurate representation of my performance, ethical values, or my commitment to my military service."

(3) "Upon reevaluating the circumstances that led to the issuance of the Referred OER, it has become clear that I did not fully comprehend the implications of such a report and the potential consequences associated with endorsing it. My submission of remarks was made without a complete understanding of the seriousness of the matter, primarily due to my unfamiliarity with the concept of a Referred OER."

2. The applicant provides a copy of the contested report and email correspondence between the applicant and his [REDACTED] ARNG unit; the applicant and the [REDACTED] ARNG IG; and internal emails with the applicant's [REDACTED] ARNG unit pertaining to the contested report.

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

a. On 3 April 2018, after completing enlisted service in both the [REDACTED] ARNG and the [REDACTED] ARNG, the applicant executed his oath of office as a commissioned officer in the [REDACTED] ARNG. On 30 August 2018, he graduated from Ordnance Basic Officer Leader Course, and effective 3 October 2019, order promoted the applicant to First Lieutenant (1LT)/O2.

b. On 25 February 2021, the applicant signed the contested report.

(1) Part I (Administrative) shows the report addressed the rating period 20191001 through 20200930.

(2) Part II (Authentication) lists the applicant's company commander as rater (CPT [REDACTED]) and his battalion commander (LTC [REDACTED]) as senior rater. Additionally, item d indicates this is a referred report and comments are attached.

(3) Part III (Duty Description) states the applicant's duty position is a Ground Support Equipment Platoon Leader, responsible for the welfare of 26 Soldiers tasked with providing generator and air unit maintenance support.

(4) Part IV (Performance Evaluation – Professionalism, Competencies, and Attributes (Rater))

(a) Part IVb (HQDA (Headquarters, Department of the Army) Comparison of the Rater's Profile and Box Check at the Time This Report Processed) rates the applicant as "Capable." The comments state the applicant led a successful remedial physical training program, maintained communication within his platoon, and ensured the completion of required training.

(b) Part IVc, subparagraphs 1 (Character) through 5 (Develops) all contain favorable remarks; however, subparagraph 6 (Achieves) states, "[Applicant] did not attend AT in FY20 (Fiscal Year 2020), [Applicant] letting the unit know he would (be) requesting an IST 1 month prior to AT."

(5) Part VI (Senior Rater). The applicant's battalion commander rated him as "Qualified," and wrote, "He ranks #11 of 11 1LTs that I senior rate. [Applicant] is not ready for command; he will need further development." "Consider for promotion to CPT after additional grooming."

(6) On 1 December 2020, the applicant submitted comments:

(a) The applicant explained how, on 6 June, he had contacted his command to advise them he required a hardship IST; the unit asked him to try and participate in AT, but his new employer required him to attend training during his first 7 weeks of employment. The applicant affirmed he immediately informed his company commander of the situation.

(b) The applicant apologized for the extremely short notice, but "that was all the notice I had and could give. It was a hardship, and I needed the unit to understand and help me through this, not give me a letter of referral."

(7) On 2 March 2021, HQDA accepted the contested report.

c. Effective 30 September 2020, [REDACTED] ARNG Orders transferred the applicant to another ARNG state. On 1 October 2020, [REDACTED] ARNG orders rehired the applicant; he is currently serving in the [REDACTED] ARNG.

BOARD DISCUSSION:

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. 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 OER for the rated period 1 October 2019 through 30 September 2020 are substantially incorrect and support removal. The Board noted the applicant missed annual training and had an unfortunate conflict with his employe; however, based on a preponderance of the evidence, denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

6/6/2025

X

[Redacted Signature]

CHAIRPERSON

[Redacted Name]

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:

Army Regulation (AR) 623-3 (Evaluation Reporting System), currently in effect, prescribed policies and procedures for evaluation reporting on commissioned officers, warrant officers, and noncommissioned officers (NCO).

a. Paragraph 1-8 (Standards of Service). The Evaluation Reporting System (ERS) encompasses the means and methods for developing people and leaders and involves the execution of leadership, the establishment of a rating relationship with personal interaction, the conduct of developmental counseling and reviews, and the determination of critical assessments. Its intent was to identify Soldiers who are best qualified for promotion and assignment to positions of greater responsibility and combines major elements of counseling, assessment, documentation, and integration with other personnel functions to meet the needs of the Army, rating officials, and rated Soldiers.

b. Paragraph 1-9 (Assessments of Performance and Potential on Evaluations). Army evaluation reports are independent assessments of how well the rated Soldier met duty requirements and adhered to the professional standards of the Army's Officer Corps or NCO Corps within the period covered by the report. Performance will be evaluated by observing actions, demonstrated behavior, and results from the point of view of the Army Leadership Requirements Model and responsibilities identified on evaluation reports and support forms. Rating officials will consider the following:

- The relative experience of the rated officer or NCO
- The efforts made by the rated officer or NCO
- The results that could be reasonably expected given the time and resources available

c. Paragraph 3-2 (Evaluation Report Requirements). Rating officials were expected to prepare evaluation reports that were forthright, accurate, and as complete as possible, giving due regard to the rated Soldier's rank/grade, experience, and military schooling, and highlighting accomplishments as well as failures.

d. Paragraph 3-7 (Rater). Concerning ratings for Part IVb (Performance Evaluation – Professionalism, Competencies, and Attributes – HQDA (Headquarters, Department of the Army) Comparison of the Rater's Profile and Box Check at the Time This Report Processed), will be an overall performance assessment of the rated officer during the rating period. Comments are mandatory and should compare the performance of the rated officer with their contemporaries during the evaluation period. The focus is on the results achieved and the manner by which they were achieved.

(1) This overall performance assessment is evaluated in terms of the rated officer compared against the total population of officers, in the same rank, the rater previously rated or currently rates in their population.

(2) If the performance assessment is consistent with the majority of officers in that rank, the rater will place an "X" in the "Proficient" box. If the rated officer's performance exceeds that of the majority of officers in the rater's population, the rater will place an "X" in the "Excels" box. The intent is for the rater to use this box to identify the upper third of officers for each rank.

(3) If the rated officer's performance is below the majority of officers in the rater's population for that rank, and the rater believes the rated officer should be further developed, the rater will place an "X" in the "Capable" box. If the rated officer's performance is below the majority of officers in the rater's population for that rank, and the rater believes the rated officer's performance does not meet standards required of an Army officer, the rater will place an "X" in the "Unsatisfactory" box.

e. Paragraph 3-9 (Senior Rater). With regard to the senior rater's evaluation of the rated Soldier's potential, the regulation gave the following guidance; senior raters were compare the rated officer's potential to other officers of the same grade within the senior rater's rating population.

(1) If the potential assessment is consistent with the majority of officers in that rank, the senior rater will place an "X" in the "Highly Qualified" box. If the rated officer's potential exceeds that of the majority of officers in the senior rater's population, the senior rater will place an "X" in the "Most Qualified" box. The intent is for the senior rater to use this box to identify the upper third of officers for each rank.

(2) If the rated officer's potential is adequate, but beneath the majority of officers in the senior rater's population for that rank, and the senior rater believes the rated officer should be retained for further development, the senior rater will place an "X" in the "Qualified" box. If the rated officer's potential is below the majority of officers in the senior rater's population for that rank and the senior rater does not believe the rated officer should be retained on active duty, the senior rater will place an "X" in the "Not Qualified" box.

f. Paragraph 3-27 (Referred DA Form 67-10 Series). Officer Evaluation Reports (OER) with the below-listed entries are referred or adverse reports. Such OERs will be referred to the rated officer by the senior rater for acknowledgment and an opportunity to comment before being submitted to HQDA:

- A rater performance evaluation of "Capable" in part IV where the required explanation has derogatory information

- A senior rater potential evaluation of "Qualified" where the required explanation has derogatory information
- Any negative or derogatory comments contained in parts IV, V (Intermediate Rater), or VI (Senior Rater) of the OER

g. Paragraph 3-29 (Referral Process for DA Form 67-10 Series and DA Form 1059 Series). The senior rater will refer a copy of the completed OER (an OER that has been signed and dated by the rating officials) to the rated Soldier for acknowledgment and comment.

(1) The senior rater will give the officer a reasonable suspense date and, in the referral memorandum, the rated officer will be advised that comments do not constitute an appeal. Confirmed acknowledgement is required.

(2) If comments are provided, they will be factual, concise, and limited to matters directly related to the officer's evaluation. If the senior rater decides the comments provide significant new facts about the rated Soldier's performance that could affect the evaluation of the rated Soldier, the senior rater may refer the comments to the other rating officials, as appropriate. The rating officials, in turn, may reconsider their evaluations of the rated Soldier.

h. Chapter 4 (Evaluation Report Redress Program) outlined the policies and procedures for filing an evaluation report appeal.

(1) Paragraph 4-4 (Commander's or Commandant's Inquiry– Purpose). The rated Soldier or anyone authorized access to an evaluation report may bring alleged errors, injustices, and illegalities in a rated Soldier's evaluation report to the commander's attention.

(a) The inquiry's primary purpose is to provide a greater degree of command involvement in preventing obvious injustices to the rated Soldier and correcting errors before they become a matter of permanent record.

(b) A secondary purpose is to obtain command involvement in clarifying errors or injustices after the evaluation is accepted at HQDA.

(2) Paragraph 4-5 (Procedure). A Commander's or Commandant's Inquiry may determine that a report has serious irregularities or errors and will be conducted by a commander in the designated rating officials' chain of command.

(a) The official conducting the inquiry cannot pressure or force rating officials to change their evaluations and cannot evaluate the rated Soldier, either as a substitute for, or in addition to, the designated rating officials' evaluations.

(b) If, upon completion of the inquiry, the official conducting the inquiry determines the report has serious irregularities or errors or any violation of policy, the official will ensure that all members of the original rating chain are allowed to correct or edit the evaluation as necessary.

(c) When irregularities or errors are found, the inquiry results are forwarded, via memorandum, to HQDA and will include the specific findings, conclusions, and recommendations for filing with the rated Soldier's evaluation report. If the commander finds no fault with the evaluation, then the Commander's Inquiry is filed locally and a copy given to the rated Soldier.

(3) Paragraph 4-7 (Policies) states, when HQDA accepts an evaluation report, it was presumed to be administratively correct; to have been prepared by the properly designated rating officials; and to represent the considered opinions and objective judgments of the rating officials at the time of preparation.

(a) The rated Soldier or other interested parties who know the circumstances of a rating may appeal any evaluation report they believe is incorrect, inaccurate, or in violation of the intent of this regulation. Other interested parties include HRC, the National Guard Bureau (NGB), and other individuals knowing of an alleged rating injustice.

(b) A appeal will be supported by substantiated evidence; an appeal that alleges an OER is incorrect, inaccurate, or unjust without usable supporting evidence will not be considered. Alleged bias, prejudice, inaccurate or unjust ratings, or any matter other than administrative error are substantive in nature and will be adjudicated by the Army Special Review Board (ASRB), when an appeal is submitted within the regulatory timeframe.

(4) Paragraph 4-8 (Timeliness).

(a) Because evaluation reports are used for personnel management decisions, it is important to the Army and the rated Soldier that an erroneous evaluation report be corrected as soon as possible. As time passes, people forget and documents and key personnel are less available; consequently, preparation of a successful appeal becomes more difficult.

(b) Substantive appeals will be submitted and received no later than 3 years of an evaluation report "Thru" date. Failure to submit an appeal within this time will require the appellant to submit their appeal to the Army Board for Correction of Military Records (ABCMR).

(5) Paragraph 4-11 (Burden of Proof and Type of Evidence).

(a) Soldiers filing OER appeals have the burden of proving, through clear and convincing evidence, that the presumptions outlined in paragraph 4-7 do not apply, and action was warranted to correct a material error, inaccuracy, or injustice.

(b) For claims based on substantive inaccuracy or injustice, the regulation referred the appellant Soldier filing to Department of the Army Pamphlet (DA PAM) 623-3 (Evaluation Reporting System) for additional guidance. Evidence should include statements from third parties, rating officials, and/or other officially sourced documents; to be acceptable, the evidence must be material and relevant to the Soldier's claim.

//NOTHING FOLLOWS//