

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 July 2024

DOCKET NUMBER: AR20230013121

APPLICANT REQUESTS: through his congressional representative, removal of the DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)), 28 November 2022, and associated documents from the restricted folder of his Army Military Human Resource Record (AMHRR).

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Memorandum (Request for Priority Consideration of Records Correction Application), 25 March 2024
- Office of Representative of Congress Digital Privacy Release Form, 25 April 2024
- U.S. Army Human Resources Command (HRC) Memorandum (Notification of Denial of Continued Active Duty Service under the Qualitative Management Program (QMP)), 22 May 2023
- HRC Memorandum (Headquarters, Department of the Army (HQDA), Flag (W) Acknowledgment Due to Selection under QMP), 22 May 2023
- DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), 22 May 2023
- Statement of Options, QMP Post-Board Notification, 5 June 2023
- U.S. Army Dental Health Activity (DENTAC), Fort Bliss, Memorandum for Record (Request Vacation of (Applicant's) Article 15 from his Record), 16 August 2023
- Fort Bliss DENTAC Memorandum (Notification of (Applicant's) Article 15 Vacation), 25 September 2023
- DA Form 4856 (Developmental Counseling Form), 26 September 2023
- DA Form 2627-2 (Record of Supplementary Action under Article 15, UCMJ), 2 October 2023

FACTS:

1. The applicant states he currently has a DA Form 2627 issued in December 2022 filed in his AMHRR. In July 2023, his garrison commander vacated his nonjudicial punishment (NJP). He has a copy of the DA Form 2627-2 that sets aside the NJP. He

was considered under the QMP as a result of the NJP. The QMP Board recommended his non-retention in the Army and issued an HQDA flag against him. HRC cannot remove the DA Form 2627 from his AMHRR; removal of the DA Form 2627 requires Army Board for Correction of Military Records (ABCMR) action. HRC cannot remove the flag until the DA Form 2627 is removed from his AMHRR. He requests priority consideration as he is approaching mandatory retirement.

2. He enlisted in the Regular Army (RA) on 6 October 2004. He was promoted to the rank/grade of sergeant first class/E-7 effective 1 May 2020.

3. On 21 September 2022, he became the subject of an Army Regulation 15-6 (Procedures for Administrative Investigations and Board of Officers) investigation under the provisions of Rule for Court-Martial 303. An investigating officer (IO) was appointed and was instructed to address the following questions referring to the Fort Bliss DENTAC:

a. Determine the facts and circumstances relating to the professional and personal relationship, if any, (Redacted) had with (Redacted) before she was recently laterally promoted to corporal.

b. Determine whether (Redacted's) relationship with (Redacted) compromised the integrity of his supervisory authority, caused actual or perceived partiality or unfairness, or created an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the Fort Bliss DENTAC in violation of paragraph 4-14b of Army Regulation 600-20 (Army Command Policy), or included living and/or shared living accommodations or an intimate sexual relationship, in violation of paragraph 4-14c of Army Regulation 600-20.

c. Determine whether (Redacted's) relationship with (Redacted) caused actual or perceived partiality or unfairness, or created an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the Fort Bliss DENTAC in violation of paragraph 4-14b of Army Regulation 600-20, or included living and/or shared living accommodations or an intimate sexual relationship, in violation of paragraph 4-14c of Army Regulation 600-20.

d. Determine the facts and circumstances relating to whether (Redacted) engaged in favoritism by giving special treatment to a junior enlisted Soldier in violation of paragraph 1-11 of Army Regulation 600-100 (Army Profession and Leadership Policy).

e. Determine the facts and circumstances relating to whether (Applicant), (Redacted) failed to treat Soldiers fairly at a weapons qualification range by allowing a female Soldier to use an Advanced Combat Optical Gunsight (ACOG) to qualify, while requiring other Soldiers to qualify without using the ACOG.

f. Determine whether the actions of (Applicant), (Redacted) violated the provisions of Army Regulation 600-100, paragraph 1-11d.

4. On 12 October 2022, the IO completed the Army Regulation 15-6 investigation and noted (see attachment with auxiliary documents for details):

a. Bottom Line Up Front: She found by the preponderance of the evidence that (Redacted) and the applicant violated Army Regulation 600-20, paragraphs 4-14 and 4-16. She did not find that the applicant and (Redacted) violated Army Regulation 600-100, paragraph 1-11d.

b. Findings (Note: findings a through d are redacted):

(1) Determine the facts and circumstances relating to whether the applicant and (Redacted) failed to treat Soldiers fairly at a weapons qualification range by allowing a female Soldier to use an ACOG to qualify, while requiring other Soldiers to qualify without using the ACOG.

(a) She found insufficient evidence that the applicant and (Redacted) failed to treat Soldiers fairly at the weapons qualification range on 21 July 2022 by allowing a female Soldier to use an ACOG to qualify while requiring other Soldiers to qualify without using the ACOG. According to the William Beaumont Army Medical Center noncommissioned officer (NCO) who allowed the ACOG to be used to qualify, any Soldiers still on the range when the ACOG was produced were allowed to use the optic to qualify if they chose to. Additionally, all firers were allowed to shoot multiple iterations to qualify or increase their scores as long as ammunition was still available.

(b) A violation of Article 92 of the UCMJ did not occur in this situation.

(2) Determine whether the actions of the applicant and (Redacted) violated the provisions of Army Regulation 600-100, paragraph 1-11d.

(a) She found there was insufficient evidence that the applicant and (Redacted) violated the provisions of Army Regulation 600-100, paragraph 1-11d at the weapons qualification range. Army Regulation 600-100, paragraph 1-11d, requires Army professionals to guard against counterproductive leadership behaviors that have detrimental impacts on individuals, the unit, and the accomplishment of the mission. According to the William Beaumont Army Medical Center NCO who allowed the ACOG to be used to qualify, any Soldiers still on the range when the ACOG was produced were allowed to use the optic to qualify if they chose. Additionally, all firers were allowed to shoot multiple iterations to qualify or increase their score as long as ammunition was still available.

(b) Even though Army Regulation 600-100, paragraph 1-11d, lists many examples of counterproductive leadership, she did not find that the actions of any of the above three named NCOs violates this regulation even though it was perceived by other junior enlisted Soldiers that favoritism was being given to the female qualifying with the ACOG.

(3) During the course of this investigation, she obtained sworn statements from the 17 Soldiers she interviewed, and two additional sworn statements from repeat interviewees when she found she had additional follow-up questions. The applicant and (Redacted) were all suspected of violations under Article 92 of the UCMJ so they were each read their rights and all five chose to waive their rights to an attorney and their rights to not be questioned or say anything.

(4) During this investigation, when Soldiers were asked to name any inappropriate relationships or fraternization, multiple witnesses stated the applicant and then-Specialist (SPC) S\_\_\_\_ G\_\_\_\_ were in an inappropriate relationship. First, because SPC G\_\_\_\_ was a junior enlisted Soldier when the relationship began, but also because the applicant is married. This additional information and evidence supports the culture of inappropriate relationships that appear to exist in the DENTAC. An additional investigation could be done into this additional notable violation of Army Regulation 600-20, paragraphs 4-14 and 4-16, with possible undue favoritism and violation of Army Regulation 600-100, paragraph 1-11d, but the evidence contained here is blatant enough to include in her findings and recommended action pertaining to these additional violations.

(5) She found the applicant violated Army Regulation 600-20, paragraph 4-14 and paragraph 4-16, when he had an inappropriate relationship and fraternized with SPC G\_\_\_\_. Army Regulation 600-20, paragraph 4-14c, provides that dating, shared living accommodations, and intimate or sexual relationships between NCOs and junior enlisted Soldiers is prohibited. Army Regulation 600-20, paragraph 4-16, prohibits fraternization. She found there was enough evidence and awareness of this relationship among the unit personnel that they compromised the integrity of the chain of command and caused the perception of partiality and favoritism among the junior enlisted Soldiers. There does not appear to be enough evidence of adultery under Article 134 of the UCMJ to hold the applicant accountable, but the videos and photographs of intimate physical familiarity between a married sergeant first class and one of his subordinates leads one to believe that a sexual relationship between them could exist and is blatantly inappropriate. It appears that this relationship also provided undue favoritism in violation of Army Regulation 600-100, paragraph 1-11d.

(2) Article 92 (Failure to Obey Order or Regulation) of the UCMJ states that a violation of a lawful general regulation and/or dereliction of duty occurred. Violations of

Army Regulation 600-20 and Army Regulation 600-100 fall under Article 92 and are applicable to this situation.

c. Recommendations (Note: recommendations a through c are redacted):

(1) Based on additional information that came to light during multiple separate interviews and visual evidence to support such, she found the applicant was and still is involved in an inappropriate relationship outside of his marriage with Sergeant (SGT) S\_\_\_\_ G\_\_\_\_, who was his direct subordinate and an SPC at the time the relationship began. This is in violation of Army Regulation 600-20. She recommends appropriate punitive action under Article 92 of the UCMJ.

(2) Based on her finding that there was insufficient evidence that the applicant and (Redacted) violated the provisions of Army Regulation 600-100, paragraph 1-11d, at the weapons qualification range, she recommends no punitive action.

(3) She recommends the DENTAC NCOs conduct training on the significance of upholding the standards and values of the NCO Corps and what it means to be "the backbone of the Army."

(4) She recommends the DENTAC staff conduct retraining on fraternization and the command team reinforce that violations will not be tolerated and individuals will be held accountable.

5. He accepted NJP under the provisions of Article 15, UCMJ, on 28 November 2022 at or near Fort Bliss, TX, for the following offenses:

a. violating a lawful general regulation, which was his duty to obey, between on or about 21 September 2022 and on or about 9 October 2022, to wit: Army Regulation 600-20, paragraph 4-14, dated 24 July 2020, by wrongfully engaging in an inappropriate relationship with SGT S\_\_\_\_ G\_\_\_\_, who was an SPC at the time the relationship began. This is in violation of Article 92, UCMJ;

b. making an official statement to Captain S\_\_\_\_ M\_\_\_\_, with intent to deceive, on or about 4 October 2022, to wit: "I am not aware of any inappropriate professional or personal relationships that exist or have existed in DENTAC," which statement was totally false and was then known by him to be false. This is in violation of Article 107 (False Official Statements), UCMJ; and

c. making an official statement to Captain S\_\_\_\_ M\_\_\_\_, with intent to deceive, on or about 4 October 2022, to wit: "I am not aware of any fraternization between NCOs and junior enlisted Soldiers occurring in DENTAC either in the past or currently," which

statement was totally false, and was then known by him to be false. This is in violation of Article 107, UCMJ.

d. He was afforded the right to consult with counsel. In a closed hearing and having considered all matters presented, the imposing commander found him guilty of all specifications. The punishment consisted of forfeiture of \$500.00 pay per month for 2 months.

e. He elected not to appeal. The imposing commander directed filing the DA Form 2627 in the restricted folder of his Official Military Personnel File (OMPF) on 14 December 2022.

6. A review of his AMHRR shows the subject DA Form 2627 and allied documents are filed in the restricted folder of his AMHRR.

7. The HRC memorandum from the Chief, Retirements and Separation Branch (Notification of Denial of Continued Active Duty Service QMP), 22 May 2023, states:

a. The QMP Selection Board conducted a comprehensive review of his record for potential denial of continued service under the QMP and recommended denial of continued active duty service.

b. As a result, the Director of Military Personnel Management approved the board recommendation and he will be involuntarily discharged from the Army not later than the first day of the month following the date that he reaches retirement eligibility due to having 18 years of active federal service on 1 December 2023. In lieu of involuntary discharge, he has the following options:

(1) Except as otherwise provided, he may request voluntary retirement under any provision of law for which he is otherwise eligible in lieu of involuntary separation as a result of QMP. Voluntary retirement will be approved for the date he requested, but will not be later than the first day of the month following the date he reaches 20 years of active federal service; however, voluntary retirement must occur no earlier than 90 days from the date he elects this option.

(2) He may request an earlier separation date; however, the date requested must allow for a minimum of 90 days for pre-separation counseling via the Soldier for Life Transition Assistance Program. Requests for earlier separation, once submitted, may not be withdrawn.

(3) To request reconsideration of this decision and request retention on active duty. If he elects reconsideration, it is limited to the subsequent removal of documents from his AMHRR or material error. These requests are validated in accordance with the

rules established by Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 16-11, as superseded by Army Directive 2014-06.

8. The HRC memorandum (HQDA Flag (W) Acknowledgment Due to Selection under QMP), 22 May 2023, notified him that he was denied continued active duty service.

a. According to Army Regulation 600-8-2 (Suspension of Favorable Personnel Actions (Flag)), paragraph 2-2d, he was flagged up until the point when he is reassigned to a transition point.

b. He acknowledged receipt with his digital signature on 5 June 2023.

9. The DA Form 268, 22 May 2023, shows a flag was initiated against him effective 27 April 2023 for "HQDA – Involuntary Separation (W)."

10. His Statement of Options, QMP Post-Board Notification, 5 June 2023, shows he was notified of his denial of service under the QMP and elected the following option with his initials: "I have 18 but less than 20 years of active Federal service on 1 December 2023 and will apply for a regular retirement 9-12 months prior to a retirement effective date no later than 1 August 2023." He and the notifying official both digitally signed the form on 5 June 2023.

11. The memorandum for record from the Fort Bliss DENTAC Commander (Request Vacation of (Applicant's) Article 15 from His Record), 16 August 2023, states:

[Applicant] and his wife, SGT S\_\_\_\_ M\_\_\_\_, were both under investigation for alleged fraternization leading up to their marriage. The previous DENTAC Commander, COL J\_\_\_\_ O\_\_\_\_, imposed an Article 15 on both individuals as punishment for the alleged misconduct.

[Applicant] accepted his Article 15 in an attempt to be done with it and put the incident behind him, even though he did not agree with it. He believed that to be the path of least resistance so he could move on.

His wife, SGT S\_\_\_\_ M\_\_\_\_, fought her Article 15 and submitted a substantial amount of rebuttal evidence, proving there was no misconduct. The case was appealed and reviewed by the Garrison Commander, COL B\_\_\_\_, who agreed with SGT S\_\_\_\_ M\_\_\_\_ and overturned COL O\_\_\_\_'s Article 15.

Since the investigation of both [Applicant] and SGT M\_\_\_\_ was for the same offense (fraternization), both parties should be cleared of this incident.

I request that [Applicant's] Article 15 be vacated from his military record in preparation for his upcoming E-7 evaluation board in October 2023.

12. The memorandum for record from the Fort Bliss DENTAC Commander (Notification of (Applicant's) Article 15 Vacation), 25 September 2023, states:

a. The memorandum serves as a record of notification received by him, the DENTAC Commander, from the Military Justice Advisor for Fort Bliss Garrison, William Beaumont Army Medical Center and 528th Hospital Center, regarding vacating the applicant's NJP by the garrison commander on 17 July 2023. This notification was conveyed verbally over the telephone.

b. On 17 July 2023, he personally notified the applicant of the vacation of his and SGT S\_\_\_\_ M\_\_\_\_'s NJP that was delivered by text message.

c. It is essential to emphasize that this memorandum is established as the official document of record for these notifications. All previous notifications were either conveyed verbally or through email, and thus this memorandum serves to formalize the documentation of these critical events.

d. He lists the regulatory guidance authorizing this memorandum as an official document and states he would retain this memorandum as an official record for future reference and to ensure compliance.

13. The DA Form 4856, 26 September 2023, shows he was counseled by his battalion commander for the purpose of notifying him of the supplemental action to set aside his NJP.

a. His commander stated:

I, LTC R\_\_\_\_ S\_\_\_\_, as your commander, am providing you with this counseling statement to officially notify you of the vacation of your Non-Judicial Punishment – Article 15, in accordance with the provisions outlined in Army Regulation 635-200, Active Duty Enlisted Administrative Separations.

On 17 July 2023, I personally notified you that your Non-Judicial Punishment – Article 15 had been vacated by the Garrison Commander at the time, Colonel (COL) J\_\_\_\_ B\_\_\_\_. I received this notification from CPT [Captain] T\_\_\_\_ B\_\_\_\_, the Military Justice Advisor for Fort Bliss Garrison, William Beaumont Army Medical Center, and 528th Hospital Center. This notification was conveyed to you through text message. The vacation of your Article 15 means that the penalties and restrictions imposed as a result of the Article 15 proceedings are no longer in effect.



It is essential to understand the implications of this vacation on your service record and future assignment. Your current HQDA Flag will be lifted once the removal of DA Form 2627 from your OMPF is complete.

Your cooperation and adherence to military regulations and standards remain crucial to your continued success and career progression. I expect that you will continue to demonstrate the highest level of professionalism and dedication your duties.

b. He agreed with the counseling and digitally signed the form on 26 September 2023. His commander noted he would provide HRC Retirement Services for HQDA Flag removal and digitally signed the form on 27 September 2023.

14. The DA Form 2627-2, 2 October 2023, shows his NJP consisting of forfeiture of \$500.00 pay per month for 2 months imposed on 14 December 2022 was set aside. It further noted all rights, privileges, and property affected were restored.

15. His DA Form 2339 (Application for Voluntary Retirement), 1 May 2024 shows he applied for retirement with a retirement date of 1 August 2024 with 20 years, 1 month, and 3 days of total service creditable for retirement. His request was approved on the same date.

16. The HRC memorandum from the Retirements and Separations Branch Chief (Request for Voluntary Retirement – (Applicant), 9 May 2024, noted his request for retirement was approved for retirement effective 1 August 2024.

#### BOARD DISCUSSION:

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. Upon review of the applicant's petition and military records, the Board determined that the Article 15 imposed on 28 November 2022 and directed filing in the restricted section of the applicant's official military personnel file was later vacated on 25 September 2023 by the commander of the applicant's organization. The Board concluded that the evidence supports removal of the Article 15 from the applicant's Army Military Human Resource Record (AMHRR).

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 relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by removing the DA Form 2627, dated 28 November 2022, and all associated documents from the applicant's AMHRR.

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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 15-6 (Procedures for Administrative Investigations and Board 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.

2. Army Regulation 27-10 (Military Justice), prescribes the policies and procedures pertaining to the administration of military justice and implements the Manual for Courts-Martial. It provides that a commander should use non-punitive administrative measures to the fullest extent to further the efficiency of the command before resorting to NJP under the UCMJ. Use of NJP is proper in all cases involving minor offenses in which non-punitive measures are considered inadequate or inappropriate. NJP may be imposed to correct, educate, and reform offenders who the imposing commander determines cannot benefit from less stringent measures; to preserve a Soldier's record of service from unnecessary stigma by record of court-martial conviction; and to further military efficiency by disposing of minor offenses in a manner requiring less time and personnel than trial by court-martial.

a. Paragraph 3-6a addresses filing of NJP and provides that a commander's decision whether to file a record of NJP in the performance folder of a Soldier's OMPF is as important as the decision relating to the imposition of the NJP itself. In making a filing determination, the imposing commander must carefully weigh the interests of the Soldier's career against those of the Army to produce and advance only the most qualified personnel for positions of leadership, trust, and responsibility. In this regard, the imposing commander should consider the Soldier's age, grade, total service (with particular attention to the Soldier's recent performance and past misconduct), and whether the Soldier has more than one record of NJP directed for filing in the restricted folder. However, the interests of the Army are compelling when the record of NJP reflects unmitigated moral turpitude or lack of integrity, patterns of misconduct, or evidence of serious character deficiency or substantial breach of military discipline. In such cases, the record should be filed in the performance folder.

b. Paragraph 3-28 (Setting aside and restoration) notes:

(1) Setting aside and restoration is an action whereby the punishment or any part or amount, whether executed or unexecuted, is set aside and any rights, privileges, or property affected by the portion of the punishment set aside are restored. NJP is "wholly set aside" when the commander who imposed the punishment, a successor-in-command, or a superior authority sets aside all punishment imposed upon an individual

pursuant to UCMJ, Article 15. In addition, the imposing commander or successor in command may set aside some or all of the findings in a particular case. If all findings are set aside, then the UCMJ, Article 15 itself is set aside and removed from the Soldier's records. The basis for any set-aside action is a determination that, under all the circumstances of the case, the imposition of the UCMJ, Article 15 or punishment has resulted in a clear injustice. "Clear injustice" means that there exists an unwaived legal or factual error that clearly and affirmatively injured the substantial rights of the Soldier. An example of clear injustice would be the discovery of new evidence unquestionably exculpating the Soldier. Clear injustice does not include the fact that the Soldier's performance of service has been exemplary subsequent to the punishment or that the punishment may have a future adverse effect on the retention or promotion potential of the Soldier.

(2) Normally, the Soldier's uncorroborated sworn statement will not constitute a basis to support the setting aside of punishment.

(3) In cases where administrative error results in incorrect entries on DA Form 2627 or DA Form 2627-1 the appropriate remedy generally is an administrative correction of the form and not a setting aside of the punishment.

(4) The power to set aside an executed punishment and to mitigate a reduction in grade to a forfeiture of pay, absent unusual circumstances, will be exercised only within 4 months after the punishment has been executed. When a commander sets aside any portion of the punishment, the commander will record the basis for this action on DA Form 2627-2. When a commander sets aside any portion of the punishment after 4 months from the date punishment has been executed, a detailed addendum of the unusual circumstances found to exist will be attached to the form containing the set-aside action.

c. Paragraph 3-37b(2) states that for Soldiers in the ranks of SGT and above, the original will be sent to the appropriate custodian for filing in the OPMF. The decision to file the original DA Form 2627 in the performance folder or restricted folder of the OPMF will be made by the imposing commander at the time punishment is imposed. The filing decision of the imposing commander is subject to review by superior authority. However, the superior authority cannot direct filing a DA Form 2627 in the performance folder that the imposing commander directed to be filed in the restricted folder.

d. Paragraph 3-43 contains guidance for transfer or removal of DA Forms 2627 from the OPMF. Applications for removal of a DA Form 2627 from the OPMF based on an error or injustice will be made to the ABCMR. There must be clear and compelling evidence to support removal of a properly completed, facially valid DA Form 2627 from a Soldier's record by the ABCMR.

3. Army Regulation 600-8-104 (Army Military Human Resource Records Management), prescribes policies governing the Army Military Human Resource Records Management Program. 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 states 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 other authorized agency.

b. Appendix B states the original DA Form 2627 will be sent to the appropriate custodian for filing in the OMPF. The decision to file the original DA Form 2627 in the performance folder or the restricted folder in the OMPF will be made by the imposing commander at the time punishment is imposed. The filing decision of the imposing commander is subject to review by any superior authority. However, the superior authority cannot direct that a report be filed in the performance folder that the imposing commander directed to be filed in the restricted folder. Records of NJP presently filed in either the performance or restricted folder of the OMPF will remain so filed, subject to other applicable regulations.

4. 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. Unfavorable information will not be filed in the AMHRR unless the recipient has been given the opportunity to review the documentation that serves as the basis for the proposed filing and a reasonable amount of time to make a written statement in response.

5. 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 Program, the Army Harassment Prevention and Response Program, and the Army Sexual Harassment/Assault Response and Prevention Program.

a. Paragraph 4-14b (Relationships between Soldiers of Different Grades) states Soldiers of different grades must be cognizant that their interactions do not create an actual or clearly predictable perception of undue familiarity between an officer and an enlisted Soldier, or between an NCO and a junior enlisted Soldier. Examples of familiarity between Soldiers that may become "undue" can include repeated visits to bars, nightclubs, eating establishments, or homes between an officer and an enlisted Soldier, or an NCO and a junior enlisted Soldier, except for social gatherings, that involve an entire unit, office, or work section. All relationships between Soldiers of different grades are prohibited if they:

(1) compromise, or appear to compromise, the integrity of supervisory authority or the chain of command;

(2) cause actual or perceived partiality or unfairness;

(3) involve, or appear to involve, the improper use of grade or rank or position for personal gain;

(4) are, or are perceived to be, exploitative or coercive in nature; or

(5) create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.

b. Paragraph 4-14c states certain types of personal relationships between officers and enlisted Soldiers, or NCOs and junior enlisted Soldiers, are prohibited. Prohibited relationships include the following:

(1) ongoing business relationships between officers and enlisted personnel, or NCOs and junior enlisted Soldiers; and

(2) dating, shared living accommodations other than those directed by operational requirements, and intimate or sexual relationships between officers and enlisted personnel, or NCOs and junior enlisted Soldiers. This prohibition does not apply to the following:

(a) marriages between an officer and an enlisted member or an NCO and a junior enlisted Soldier. However, when evidence of fraternization between an officer and enlisted member or an NCO and a junior enlisted Soldier prior to their marriage exists, their marriage does not preclude appropriate command action based on the prior fraternization. Commanders have a wide range of responses available including counseling, reprimand, order to cease a relationship prior to marriage, reassignment, administrative action, or adverse action. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is appropriate. Generally, the commander should take the minimum action necessary to ensure that the needs of good order and discipline are satisfied;

(b) situations in which a relationship that complies with this policy would move into noncompliance due to a change in status of one of the members (for instance, a case where two junior enlisted members are dating and one is subsequently commissioned or selected to be a warrant officer, commissioned officer, or NCO). In relationships where one of the enlisted members has entered into a program intended to result in a change in his or her status from enlisted to officer or junior enlisted Soldier

to NCO, the couple must terminate the relationship permanently or marry within 1 year of the date of the appointment or the change in status occurs;

(c) personal relationships between members of the ARNG or USAR, when the relationship primarily exists due to civilian acquaintanceships, unless the individuals are on active duty (other than annual training), on full-time National Guard duty (other than annual training), or serving as a dual-status military technician; and

(d) personal relationships between members of the RA and members of the ARNG or USAR when the relationship primarily exists due to civilian association and the USAR member is not on active duty (other than annual training), on full-time National Guard duty (other than annual training), or serving as a dual-status military technician.

(3) Soldiers and leaders share responsibility for ensuring that these personal relationships do not interfere with good order and discipline. Commanders will ensure that personal relationships that exist between Soldiers of different grades emanating from their civilian careers will not influence training, readiness, or personnel actions.

c. Paragraph 4-16 (Fraternization) notes violations of paragraphs 4-14b, 4-14c, and 4-15 (Other Prohibited Relationships) may be punished under the UCMJ.

6. 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 1-11d (Core Leader Competencies, "Toxic" Leadership, and Destructive Leadership Styles) states Army professionals are required to uphold the Army Ethic and model the core leader competencies described above. They must remain vigilant to guard against counterproductive leadership behaviors from themselves as well as in the units with which they serve. Counterproductive leadership can take different forms, from incompetence to abusiveness, all of which have detrimental impacts on individuals, the unit, and the accomplishment of the mission. Counterproductive leadership behaviors can span a range of behaviors to include bullying, distorting information, refusing to listen to subordinates, abusing authority, retaliating, blaming others, poor self-control (loses temper), withholding encouragement, dishonesty, unfairness, unjustness, showing little or no respect, talking down to others, behaving erratically, and taking credit for others' work. One such type of counterproductive leadership is toxic leadership, which is defined as a combination of self-centered attitudes, motivations, and behaviors that have adverse effects on subordinates, the organization, and mission performance. To be classified as toxic, the counterproductive behaviors must be recurrent and have a deleterious impact on the organization's performance or the welfare of subordinates. An exacerbating factor may be if the behaviors demonstrate selfish reasons such as elevating one's own status, grabbing power, or otherwise obtaining personal gain. Counterproductive leadership

behaviors prevent the establishment of a positive organizational climate, preclude other leaders from fulfilling their requirements, and may prevent the unit from achieving its mission. They will lead to investigations and, potentially, removal from position or other punitive actions. Army leaders are required to utilize self-awareness programs (Multi-Source Assessment and Feedback, Commander 360, and others) to ensure they receive feedback indicating whether they exhibit appropriate behaviors for an Army leader. Army leaders are required to provide performance and professional growth counseling to subordinate leaders to prevent or remedy counterproductive leadership.

//NOTHING FOLLOWS//