

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 November 2025

DOCKET NUMBER: AR20240005738

APPLICANT REQUESTS: in effect, to appeal her Relief for Cause Noncommissioned Officer Evaluation Report (NCOER) for the period 4 January 2023 through 15 February 2023, while serving in the rank/grade of sergeant first class (SFC)/E-7 and effectively remove the NCOER from her Army Military Human Resources Record (AMHRR).

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

- DD Form 149 (Application for Correction of Military Record)
- 3 DA Forms 4856 (Developmental Counseling Form)
- 3 emails
- DA Form 31 (Request and Authority for Leave)
- Patient Clinical Summary, Patients First, 20 January 2023
- 7 Memorandum of Support
- 4 DA Forms 2166-9-2 (NCOER)

FACTS:

1. The applicant states, in effect:

a. Under Part I (j) (Period Covered) of her NCOER, the thru date is incorrectly listed as 15 February 2023. In accordance with Department of the Army Pamphlet (DA PAM) 623-3 (Evaluation Reporting System), Chapter 3, paragraph 3-20(j), the thru date should be determined by the date of relief, which in her case was 1 February 2023. This date should serve as the official thru date of the NCOER.

b. Furthermore, DA PAM 623-3, Chapter 3, paragraph 3-20(f) stipulates that the minimum rating period for rater and senior rater qualifications is 30 rated days. This requirement is designed to provide the rated NCO with adequate time to respond to performance counseling. Of the DA Forms 4856 that she received, one of them relieved her of her duties as Platoon Sergeant based on events that occurred between 19 and 27 January 2023. This relief was preceded by two counseling sessions, that are erroneously back dated and neither of which cited any failures or shortcomings that would justify such a relief. During the period in question, she was under medical care and on quarters from 20 to 25 January 2023, followed by annual/mental health leave

from 25 January to 6 February 2023. Given the correct thru date of 1 February 2023, it is evident that she was provided with less than the required 30 days of rated time.

c. This oversight contravenes the regulations set forth in DA PAM 623-3 and has significant implications for the fairness and validity of the evaluation process. The evaluation appears to be influenced by personal biases rather than objective facts, and it lacks procedural fairness. The haste with which the judgment was made, without proper consideration of the evidence, suggests a disregard for due process.

2. The applicant is currently serving as a member of the U.S. Army Reserve/Active Guard Reserve.

3. The contested NCOER covering the period 4 January 2023 through 15 February 2023, shows she was rated for duty as a Platoon Sergeant while assigned to 1st Platoon, HR Postal, Tallahassee, AR. The form further shows in:

a. Part 1i (Reason for Submission) – "05 Relief for Cause"

b. Part II (Authentication) – the evaluation was signed by her rating chain. The applicant did not sign

c. Part IVc (Character), contains the block check "Did Not Meet Standard";

d. Part IVd-h (Performance Evaluation, Professionalism, Attributes, and Competencies), her rater checked block "Did Not Meet Standard"

e. Part IVi (Rater Overall Performance), her rater checked block "Did Not Meet Standard".

f. Part Va (Senior Rater Overall Potential), her senior rater checked block "Not Qualified" and entered the following –

- [The applicant] does not contain potential. Her perpetual failure to accept responsibility, communicate, or work as a member of a team has been detrimental to unit morale, mission success, and readiness. Do not promote.

4. A review of her Official Military Personnel File shows she received an administrative General Officer Memorandum of Reprimand, effective 8 February 2023, for misconduct in association with the contested NCOER.

5. The results of a Commander's Inquiry, Equal Opportunity, or Inspector General complaint addressing her concerns with the contested NCOER were not submitted to the Board.

6. The applicant provides, in part, the following in support of her appeal:

- DA Form 4856, 19 January 2023, Performance Counseling due to Lack of Communication and Failure to Complete Task as Assigned (all unsigned)
- DA Form 4856, 23 January 2023, Disrespect to a Senior NCO and Officer, Failure to Follow a Lawful Order, Failure to Complete Assigned Tasks (all unsigned)
- DA Form 4856, 31 January 2023, Notification of Removal from Platoon Sergeant Duties (all unsigned)
- DA Form 31, Ordinary Leave, 25 January to 6 February 2023, submitted 26 January, approved 26 January 2023
- Patient Clinical Summary, 20 January 2023
- 7 Memorandums of Support
- 3 NCOERs preceding the contested NCOER as Senior Human Resources Sergeant (2), and Operations NCOIC/Platoon Sergeant

7. Army Regulation 623-3 (Evaluation Reporting System) prescribes the policy for completing DA Form 2166-9-2) and associated DA Form 2166-9-1A (NCO Evaluation Report Support Form) that are the basis for the Army's Evaluation Reporting System (ERS). Procedures, tasks, and steps pertaining to the completion of each evaluation report and support form are contained in DA PAM 623-3.

a. Substantive appeals will be submitted within 3 years of the evaluations thru date. Failure to submit an appeal within this time may be excused only if the appellant provides exceptional justification to warrant this exception.

b. Administrative appeals will be considered regardless of the period of the report and a decision will be made in view of the regulation in effect at the time the report was rendered.

c. Evaluation reports accepted for inclusion in the Soldier's official record are presumed to be administratively correct, to have been prepared by the proper rating officials, and to represent the considered opinion and objective judgment or rating officials at the time of preparation. To justify deletion or amendment of a report, the applicant must produce evidence that establishes clearly and convincingly that the presumption of regularity should not be applied to the report under consideration or that action is warranted to correct a material error, inaccuracy, or injustice. Clear and convincing evidence must be of a strong and compelling nature, not merely proof of the possibility of administrative error or factual inaccuracy.

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 Noncommissioned Officer Evaluation Report (NCOER) for the period 4 January 2023 through 15 February 2023 filed in the applicant's Army Military Human Resource Record (AMHRR) contained an administrative error. Specifically, the Board majority concluded the 30-day requirement for rating officials was not met.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:XXX	:XXX	:XXX	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 Noncommissioned Officer Evaluation Report (NCOER) for the period 4 January 2023 through 15 February 2023 from the applicant's AMHRR and replacing it with a memorandum showing unrated time from 4 January 2023 to 15 February 2023.

X //SIGNED//

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 623-3 (Evaluation Reporting System) prescribes the policy for completing DA Form 2166-9-2 and associated DA Form 2166-9-1A that are the basis for the Army's ERS. Procedures, tasks, and steps pertaining to the completion of each evaluation report and support form are contained in DA PAM 623-3.

a. Paragraph 1-11 states, during the evaluation process or after it has been completed, when a commander or commandant discovers that an evaluation report rendered by a subordinate or a subordinate command may be illegal, unjust, or otherwise in violation of this regulation, her or she will conduct an inquiry into the matter. The definition of a rendered evaluation report is one that is authenticated by all designated rating officials with a senior rater's intent to present the final evaluation report to the rated Soldier for authentication or apply the appropriate statement in the absence or inability for the rater Soldier to authenticate. The Commander's or Commandant's Inquiry will be confined to matters related to the clarity of the evaluation report, the facts contained in the evaluation report, the compliance of the evaluation with policy and procedures established by Headquarters, Department of the Army, and the conduct of the rated Soldier and members of the rating chain. The official does not have the authority to direct that an evaluation report be changed; command influence may not be used to alter the accurate evaluation of a rated Soldier by a rating official that was made in good faith. The procedures used by the commander or commandant to process such an inquiry are described in chapter 4.

b. Paragraph 3-56f states the minimum rater and senior rater qualifications and the minimum rating period are 30 rated days. The fundamental purpose of this restriction is to allow the rated NCO a sufficient period of time to react to performance counseling during each rating period. Authority to waive this 30-day minimum rating period and rater and senior rater qualification period in cases of misconduct is granted to the first general officer in the chain of command or an officer having general court-martial jurisdiction over the relieved NCO. The waiver approval will be in memorandum format and attached as an enclosure to the NCOER.

c. Paragraph 4-11b states clear and convincing evidence will be of a strong and compelling nature, not merely proof of the possibility of administrative error or factual inaccuracy. If the adjudication authority is convinced that an appellant is correct in some or all of the assertions, the clear and convincing standard has been met with regard to those assertions.

d. Paragraph 4-11d states 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 (see DA PAM 623-3). 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 report was rendered. The results of a Commander's or Commandant's Inquiry or AR 15-6 investigation may provide support for an appeal request.

2. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

//NOTHING FOLLOWS//