

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 May 2025

DOCKET NUMBER: AR20240008690

APPLICANT REQUESTS:

- Remove the General Officer Memorandum of Reprimand (GOMOR) from her Army Military Human Resource Record (AMHRR)
- Return of wrongfully taken leave
- Deletion of DA Form 2166-9-1 (Noncommissioned Officer Evaluation Report (NCOER)) for the period ending 11 December 2022 from her AMHRR

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

- DD Forms 149 (Application for Correction of Military Record)
- Training Certificates
- Emails Regarding Access
- Letters from doctors
- Medical Documents
- Email Army Guard/Reserve (AGR) Convalescent Leave, 22 August 2022
- DA Form 31 (Request and Authority for Leave), 26 September 2022
- DA Form 4856 (Development Counseling Form), 27 September 2022
- Excuse from Work, School, or Physical Activity, 28 September 2022
- Email Counseling/Request for Information, 2 October 2022
- DA Form 1559 (Inspector General (IG) Action Request), 2 October 2022
- DA Form 4856 (Developmental Counseling Form), 3 October 2022
- Text Messages, 3 October 2022
- Email Counseling/Request for Guidance, 3 October 2022
- Email Request for Immediate Assistance, 3 October 2022
- Text Messages, 4 October 2022
- Email Counseling/Request for Guidance, 4 Oct 2022
- Email Telework Package, 6 October 2022
- Telework Agreement, 6 October 2022
- Text Messages, 13 October 2022
- Document Leave Charged, December 2022
- Email Documentation Personnel Status (PERSTAT), 7 Mar 2023
- Email Follow-up, 19 Apr 2024

- List of Appointments
- Good Soldier Book

FACTS:

1. The applicant requests removal of a GOMOR from her AMHRR; however, a review of her service record shows a GOMOR was not filed; therefore, this portion of her request will not be discussed further in the Record of Proceedings. The Board will make a determination regarding the remaining requests.

2. The applicant states, in pertinent part:

- Her correction request should be made because she was not absent without leave (AWOL)
- She was in constant communication with her leadership, while under the care of a physician after contracting COVID
- She was marked as AWOL as a personal retaliatory act by her leadership
- She was alleged to be AWOL on 3, 4, 13, and 25 October 2022
- She was in the office on the 4th of October; her AWOL status for 13 October was removed
- On 25 October 2022 she was advised if she submitted a medical telework agreement with medical documentation it would be approved
- On 3 October 2022, she was instructed to figure out how to catch public transportation to the office, which she did
- She then slept in her office on a table, during battle assembly weekends, to prevent being targeted further
- The errors occurred because no one know how to properly respond to COVID and the effects it had on individuals
- The other reason was due to lack of professionalism and the ability to react and respond as a leader
- The abuse of rank and position prevailed over doing what was right and her health, marriage, and family were profoundly affected

3. The applicant provides and her service record shows:

- On 11 August 2008, she enlisted in the U.S. Army Reserve
- On 21 January 2016, orders were published ordering her to AGR status effective 19 February 2016 for a period of 3 years; these orders were amended changing the end date to 30 April 2023 and then to 10 March 2025
- On 24 July 2020, her command published a policy memorandum on time and attendance

- On 26 January 2021, orders were published promoting her to the rank of sergeant
- NCOERs (excluding the referred NCOER) show she was consistently rated as met standard and qualified/highly qualified
- On 11 December 2022, she received a referred NCOER (the NCOER in question) which shows she did not meet standards in intellect, leads, and achieves; her senior rater rated her as not qualified
- On 15 February 2022, she completed a System Authorization Access Request for the interactive Personnel Electronic Records Management System (iPERMS)
- On 17 February 2022, she was counseled to inform her she needed iPERMS access; she agreed with the counseling and signed the form
- Emails regarding her access to iPERMS
- Letters from her doctor stating she contracted COVID and her inability to work in the office due to her COVID related health issues
- Emails regarding the applicant's convalescent leave
- On 26 September 2022, she completed a Request and Authority for Leave requesting convalescent leave from 7 July 2022 for a period of 30 days (to 6 August 2022)
- On 27 September 2022, she received a Development Counseling Form to discuss her periods of absence from work and the command's decision concerning her status; the command approved 20 days of convalescent leave and would charge her annual leave for the remaining days; she disagreed with the counseling stating she felt charging her annual leave was an act of reprisal
- On 28 September 2022, her doctor completed an excuse from work, school, or physical activity stating she needed to be excused from work through 30 September 2022
- On 2 October 2022, she completed an IG Action Request regarding her return to work order
- On 3 October 2022, she received an email stating given the length of time and her ongoing health issues it was necessary for the Army to conduct a comprehensive fit for duty evaluation
- On 3 October 2022, she received a Developmental Counseling Form informing her of the pending fit for duty evaluation and her rights regarding the evaluation; she disagreed with the counseling but intended to comply
- On 3 October 2022, she and her commander texted each other regarding her not being physically in the office
- On 3 October 2022, she sent her first sergeant an email asking how she could avoid being marked as AWOL
- On 4 October 2022, she texted a member of the command regarding her arrival at work and trying to work out the bus schedule
- On 6 October 2022, she completed a Telework Agreement

- On 13 October 2022, she texted a member of the command regarding her appointments; the command representative stated she was going to be declared AWOL due to her appointments being elective and could be accomplished outside of work hours
- A document from the Defense Finance Accounting Service website shows she was charged leave from 6 August 2022 through 31 August 2022
- Medical documents show she was recommended to be excused from work from 1 August 2022 thru 22 August 2022 and that she could work remotely from 23 August 2022 thru 6 September 2022 and would be re-evaluated
- On 2 May 2024, orders were published ordering her AGR status effective 2 May 2024 for a period of 4 years
- Her service record is void of documentation showing she was marked as AWOL and a fit for duty evaluation

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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. In evaluating the applicant's claim, the Board considered whether the leave charge constituted an error or injustice under the relevant regulatory framework. The governing regulation provides clear guidance on the accrual, use, and charge of leave, and the evidence presented confirmed that the applicant's leave was administered in strict compliance with those provisions. The applicant did not establish that the leave charge was erroneous, nor did the evidence demonstrate that the applicant was subjected to any inequitable treatment.

2. The Board further noted that relief may only be granted where a material error or injustice is substantiated, and no such showing was made in this case. Therefore, the Board denied relief. In assessing the applicant's claim, the Board applied the standards set forth in the applicable regulation governing evaluation reports. The regulation provides that administrative errors must be substantiated by clear evidence and that applicants are required to exhaust available remedies, including the commander's inquiry process, prior to seeking Board relief.

3. The applicant failed to demonstrate that the contested DA Form 2166-9-1 contained any administrative error. Moreover, the applicant did not initiate a commander's inquiry, thereby foregoing the procedural avenue specifically designed to address such concerns. The absence of both substantiated error and compliance with regulatory procedures precluded a finding of injustice. Therefore, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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.

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), effective 1 April 2014 and in effect at the time, prescribed the policies and tasks for the Army's Evaluation Reporting System.

a. The rater will document any substantiated finding an an Army or Department of Defense investigation or inquiry, that the rated Soldier committed an act of sexual harassment or sexual assault. Paragraph 2-14 (The Senior Rater) will do the same.

b. Army Regulation 60-20 (Army Command Policy) provides policy for when items will be mentioned in a Soldier's evaluation report when substantiated by a completed command or other official investigation to include investigations by civil authorities.

c. No reference will be made to an incomplete investigation concerning a Soldier. References will be made only to actions or investigations that have been processed to completion, adjudicated, and had final action taken before submitting and evaluation.

d. Any verified derogatory information may be entered on an evaluation report. This is true whether the rated Soldier is under investigation, flagged or awaiting trial. While the fact that a rated Soldier is under investigation or on trial may not be mentioned in and evaluation until the investigation or trial is completed, this does not preclude the rating chain's reference to verified derogatory information. For example, when an interim evaluation report with verified information is made available to a commander, the verified information may be included in the evaluation report. For all evaluation reports, if previously reported information later proves to be incorrect or erroneous, the Soldier will be notified and advised of the right to appeal the evaluation report.

e. An appeal will be supported by substantiated evidence. An appeal that alleges an evaluation report is incorrect, inaccurate, or unjust without usable supporting evidence will not be considered. The determination regarding adequacy of evidence may be made by the HQDA Evaluation Appeals Branch, National Guard Bureau Appeals Section, or the appropriate State Adjutant General (Army National Guard).

f. Substantive appeals will be submitted within 3 years of an evaluation report "THRU" date. Failure to submit an appeal within this time would require the appellant to submit his or her appeal to the ABCMR. The Army Special Review Board will not accept appeals over 3 years old or appeals from Soldiers who are no longer serving on active duty or as part of the U.S. Army Reserve or Army National Guard.

g. The burden of proof in the appeal process rests with the appellant. Accordingly, to justify deletion or amendment of an evaluation report, the appellant will produce evidence that establishes clearly and convincingly that:

(1) the presumption of regularity will not be applied to the evaluation report under consideration and

(2) action is warranted to correct a material error, inaccuracy, or injustice.

h. 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.

i. For a claim of inaccuracy or injustice of a substantive type, evidence will include statements from third parties, rating officials, or other documents from official sources. Third parties are persons other than the rated officer or rating officials who have knowledge of the appellant's performance during the rating period. Such statements are afforded more weight if they are from persons who served in positions allowing them a good opportunity to observe firsthand the appellant's performance as well as interactions with rating officials. Statements from rating officials are also acceptable if they relate to allegations of factual errors, erroneous perceptions, or claims of bias. To the extent practicable, such statements will include specific details of events or circumstances leading to inaccuracies, misrepresentations, or injustice at the time the evaluation report was rendered. The results of a Commander's or Commandant's Inquiry or Army Regulation 15-6 (Procedures for Administrative Investigations and Boards of Officers) investigation may provide support for an appeal request.

2. Department of the Army Pamphlet 623-3 (Evaluation Reporting System), 31 March 2014, provided procedural guidance for completing and submitting evaluation reports and associated support forms to HQDA that are the basis for the Army's Evaluation Reporting System. Paragraph 6-1 (Deciding to Appeal) states an appellant who perceives that an evaluation report is inaccurate in some way has the right to appeal for redress to the appropriate agency. However, before actually preparing an appeal, an objective analysis of the evaluation report in question should be made.

3. Army Regulation 600-8-104 (AMHR Management) prescribes Army policy and procedure for the creation, utilization, administration, maintenance, and disposition of the AMHRR.

a. This regulation states the OMPF is reflective of a Soldier's permanent record stored in iPERMS. There are various folders within the OMPF, which document a Soldier's military career. Not every Soldier's OMPF will have the same number and types of folders. The types and number of folders will differ based on career path and status. Table 3-1 notes the OMPF folders in the AMHRR.

b. The performance folder of the OMPF contains performance related information. The primary purpose of this folder is to provide necessary information to officials and selection boards tasked with assessing Soldiers for promotion, special programs, or tours of duty. This folder populates various board related applications (for example, Army Selection Board System and National Guard Army Board System).

c. The restricted folder of the OMPF contains documents that may normally be considered improper for viewing by selection boards or career managers. Includes masked documents defined in paragraph 3-10.

4. Army Regulation 600-8-10 (Leaves and Passes) prescribes policies and operating tasks governing military personnel absences.

a. Leave accrual is based on law (see 10 USC 701). Soldiers accrue leave at the rate of 2.5 calendar days for each month of active duty service. Soldiers may accrue and carry forward up to 60 days leave at the end of each FY.

b. Chargeable leave will begin and end on post, at the duty station, or in the location from which the Soldier regularly commutes to duty. Soldiers will be physically present in the local area (defined as on post, duty station, or in the location from which the Soldier regularly commutes to duty) at the beginning and ending of leave. For chargeable leave, the Battalion S1 will determine chargeable leave and enter chargeable leave dates on DA Form 31, block 17 when no official travel is performed. Leave will be charged for day of return unless—

- the Soldier works more than half of the normally scheduled duty day;
- the Soldier returns on a regularly scheduled nonduty day.

c. When processing approved ordinary leave through departure with return to same unit of assignment, the original and the organization copy of the DA Form 31 will be maintained in suspense file until the day before leave begins. On DA Form 31, enter departure date, time, authority in block 14 and provide copy to Soldier prior to his or her departure on leave. During nonduty hours, provide DA Form 31 of departing Soldiers to staff duty personnel. If the DA Form 31 is corrected to change the dates of chargeable leave, state reason for correction in block 17.

d. When the finance office has posted incorrect chargeable leave date to the leave and earnings statement and the data has previously been reconciled by submitting the reconciliation memorandum in the regulation, do a corrected DA Form 31. Contact the finance office for a copy of the original DA Form 31 if needed.

//NOTHING FOLLOWS//