



APPEALING YOUR EVALUATION REPORT FACT SHEET



U.S. Army officers and noncommissioned officers (NCOs) regularly receive evaluations, but they do not always agree with their evaluation. Army Regulation (AR) 623-3, Chapter 6, Evaluation Redress Program, outlines the procedures for appealing Officer Evaluation Report (OERs), Noncommissioned Officer Evaluation Reports (NCOERs), and Academic Evaluation Reports (AERs).

The redress program consists of five elements, which include communication, regulatory requirements, commander's inquiries, appeals, and Army Board for Correction of Military Records (ABCMR). This paper is designed to assist the Soldier with a Commander's Inquiry and the appeals system. When the Soldier comes to the Legal Assistance Office, the evaluation report has been prepared and submitted to the Soldier. The communication process has been completed. The Command has correctly or incorrectly followed the regulatory requirements for completing the evaluation.

The Soldier has two options: (1) the Soldier may request a Commander's Inquiry or (2) immediately appeal the evaluation. If you decide to request a Commander's Inquiry, then it should be initiated first. The evaluation appeal should be completed last because the Commander's Inquiry can be used as evidence to support your appeal. If the Soldier elects not to pursue a Commander's Inquiry, then the Soldier can immediately commence with the appeal.

What is a Commander's Inquiry?

The Commander's Inquiry is a written request to the commander for your evaluation report to be investigated. The request is submitted to the commander one level higher than those in the evaluated Soldier's rating chain. The request should address the issues and problems with the evaluation. Commanders will look into alleged errors, injustices, and illegalities in evaluation reports. The inquiry can prevent and correct errors before they become a matter of permanent record. The commander may determine through his or her inquiry that the report has serious irregularities or errors, such as improperly designated or unqualified rating officials; inaccurate or untrue statements; or lack of objectivity or fairness by rating officials. The commander will not pressure or force rating officials to change their evaluations and may not evaluate the rated individual, either as a substitute for, or in addition to, the designated rating officials' evaluations. The results of a Commander's Inquiry, being forwarded to HQDA, will include findings, conclusions, and recommendations in a format that can be filed with the report in the OMPF. The results of a Commander's Inquiry may be used in support of an appeal.

What is an Appeal?

The rated Soldier can appeal any report that is believed to be incorrect, inaccurate, or in violation of the intent of this regulation. The appellant has the burden to produce clear and convincing evidence that—(1) the presumption of regularity should not be applied to the report under consideration, and (2) action is warranted to correct a material error, inaccuracy, or injustice. Clear and convincing evidence must be of a strong and compelling nature. The appeal may be based on administrative error, substantive error, or both. For claims of substantive error, such as inaccuracy or injustice, evidence must include statements from third parties, rating officials or other documents from official sources. Third parties are persons who have knowledge of the rated Soldier's performance during the rating period. Statements have more weight if they are from persons who served in positions affording them opportunity to observe, firsthand, the rated Soldier's performance as well as interactions with rating officials. Such statements should include specific details of events or circumstances leading to inaccuracies, misrepresentations, or injustice at the time the report was rendered.

Once the decision has been made to appeal an evaluation, the appellant should state succinctly what he or she is appealing and the basis for the appeal. It should state: (1) whether the entire report is contested or only a specific part or comment, (2) the basis for his or her belief that the rating officials were not objective or had an erroneous perception of his or her performance. A personality conflict between the appellant and a rating official does not constitute grounds for a favorable appeal; it must be shown conclusively that the conflict resulted in an inaccurate or unjust evaluation. The appellant must decide whether to submit the appeal with the available evidence or forgo the appeal entirely. Appellants should consider including whether evidence exists to support the allegation. Remember, the case will be reviewed by a board of impartial officers and/or noncommissioned officers who will be influenced only by the available evidence. Their decision will be based on their best judgment.

How much time do I have to appeal?

It is important to the Army and the Soldier that an erroneous report be corrected as soon as possible. As time passes, people forget and documents and key personnel are less available. The preparation of a successful appeal becomes more difficult as time passes. Substantive appeals must be submitted within three years of the evaluation thru date. Failure to submit an appeal within this time may be excused only if the appellant provides exceptional justification to warrant this exception. Administrative appeals will be considered regardless of the period of the report, and a decision will be made based on the regulation in effect at the time the report was rendered. Therefore, prompt submission is strongly recommended.

What happens after I submit my appeal?

Once you submit your appeal, the Board will contact you and acknowledge receipt. The time required to process an appeal varies greatly depending on the complexity of the issues involved, the priority of the appeal, and by the date of receipt. Typically, appeals should be submitted no later than nine months prior to a promotion board convening date.

When the Board grants an appeal, in whole or in part, resulting in the removal or substantive alteration of an evaluation report that was seen by one or more promotion boards that previously failed to select the appellant, the Army Special Review Boards (ASRB) will make a determination whether promotion reconsideration is justified. The reviewing agency will notify each appellant by memorandum of the appeal decision and promotion reconsideration eligibility, if applicable.

If the appeal is denied, an appellant may seek new or additional evidence and submit a new appeal, or he or she may submit an application to the next agency in the Army's redress system, the Army Board for Correction of Military Records (ABCMR). The ABCMR is governed by AR 15-185.

If you have any questions or would like to initiate a Commander's Inquiry or an appeal, please contact the Fort Benning Legal Assistance Office 706-545-3281/3282.



Office of the Staff Judge Advocate
Legal Assistance Office
6930 Morrison Avenue
Bldg 130
Fort Benning, GA 31905
706-545-3281

