

Personnel - General
Evaluation Report Appeals

This memorandum does not contain information that affects the New Manning System.

Section I.	General	Paragraph
	Purpose.....	1
	References.....	2
Section II.	Authority and Responsibilities	
	Authority and Delegation.....	3
	Responsibilities.....	4
Section III	Policy and Procedures	
	Policy.....	5
	Procedures.....	6

Section I
General

1. Purpose

This DA memorandum establishes procedures, effective 1 January 1985, for altering, amending, or removing from Official Military Personnel Files (OMPF), those officer or enlisted evaluation reports appealed by members of the Total Army and determined to be inaccurate or unjust, in whole or in part, or to contain administrative error. For the purpose of this memorandum, the term "evaluation report" includes all official records of performance evaluation authorized by the regulations referenced in paragraph 2, below. The term "Total Army" refers to military members of the Active Army, Army National Guard, and the US Army Reserve, including commissioned officers, warrant officers, and enlisted personnel.

2. References

a. AR 623-1 (Academic Evaluation Reporting System) is a required publication.

b. AR 623-105 (Officer Evaluation Reporting System) is a required publication.

c. AR 623-205 (Enlisted Evaluation Reporting System) is a required publication.

Section II Authority and Responsibilities

3. Authority and Delegation

a. The authority to alter, amend, or remove from official records those evaluation reports rendered on military members of the Total Army that are determined to be inaccurate or unjust, in whole or in part, or to contain administrative error, has been delegated to the Deputy Chief of Staff for Personnel, (DCSPER), HQDA. This memorandum subdelegates the authority to evaluate and act upon evaluation report appeals.

b. Evaluation report appeals based upon the claims of administrative error (also referred to as administrative type appeals), as identified and ordered by the Secretary of the Army in referenced regulations.

(1) The Commander, U.S. Army Military Personnel Center (MILPERCEN), for commissioned and warrant officers, and the Commander, USAEREC, for enlisted members, are delegated the authority to evaluate and take action on administrative type appeals involving evaluation reports rendered on members while serving in the Active Army. They may further delegate this authority and may establish procedures consistent with this memorandum.

(2) The Commander, U.S. Army Reserve Components Personnel and Administration Center, is delegated the authority to evaluate and take action on administrative type appeals involving evaluation reports rendered on members while serving in the US Army Reserve. He may further delegate this authority and may establish procedures consistent with this memorandum.

(3) The Director, Army National Guard, for commissioned and warrant officers, and the appropriate State Adjutant General, for enlisted members, are delegated authority to evaluate and take action on administrative type appeals involving evaluation reports rendered on members while serving in the National Guard. They may further delegate this authority and may establish procedures, consistent with this memorandum.

c. Evaluation report appeals based upon claims of inaccurate or unjust evaluations contained in the substantive portions of those reports.

(1) The DCSPER Officer and Enlisted Special Review Boards (DCSPER OSRB and ESRB) have been established to evaluate and act upon evaluation report appeals of a substantive nature, including final action on all appeals of a substantive nature submitted by members of the Total Army, except in those type cases where such authority has been withheld.

(2) The DCSPER OSRB and ESRB are under the direct authority and supervision of the Director of Military Personnel Management (DMPM), ODCSPER. They are presided over by a single President. The President and the designated Assistant President for each board are delegated the authority to take final action, on behalf of the DCSPER, on all substantive type evaluation report

appeals except in those cases where authority has been specifically withheld to the DMPM or the DCSPER. In those cases, the President of the DCSPER OSRB/ESRB will make recommendations to the DMPM who is delegated the authority, on behalf of the DCSPER, to approve or disapprove the alteration, amendment or removal of evaluation reports referred to him by the boards. The President of the boards, with the concurrence of the DMPM, may establish policies and procedures to implement this authority consistent with this memorandum.

(3) Authority specifically withheld to the DMPM or the DCSPER includes, but is not limited to, the following:

(a) Cases that may warrant an exception to referenced regulations.

(b) Appeals where sexual harassment, sexual bias, or discrimination based upon race, color, religion, or national origin has been found by the board to have influenced the rating, in whole or in part.

(c) Cases involving high level interest or extremely sensitive issues.

(d) Any recommendation by the President, OSRB and ESRB contrary to the majority vote on a case.

(e) Recommendation to substantively alter or remove an evaluation rendered by a general officer.

4. Responsibilities.

a. The DMPM, ODCSPER will--

(1) Act as the DA Staff proponent for policy matters governing the preparation and adjudication of evaluation report appeals applicable to the Total Army.

(2) Supervise the operations for the DCSPER OSRB and ESRB; appoint a President to preside over both boards and appoint an Assistant President for each to administer day-to-day operations.

(3) Take final action on appeals referred by the OSRB and ESRB.

b. The President OSRB and ESRB will--

(1) Directly supervise the operations of both boards.

(2) Nominate to the DMPM an Assistant President for each board and, through appropriate personnel offices of the components concerned, arrange for membership to adequately staff the boards.

(3) Refer recommendations to the DMPM for final determination on those type appeals where final approval authority has been specifically withheld.

(4) In those type cases where approval authority has not been withheld, the President, or the Assistant Presidents of the boards, will take final action.

18 January 1985

c. The DCSPER OSRB will--

(1) Evaluate and act upon officer and warrant officer evaluation report appeals of a substantive nature submitted by commissioned officers and warrant officers of the Total Army.

(2) Provide advisory opinions to the Army Board for Correction of Military Records (ABCMR) (see paragraph 6b(9) below).

(3) Make determinations as to whether promotion reconsideration is warranted because of changes to the OMPF resulting from successful appeals.

(4) Notify the components concerned as to the determination and actions to be taken regarding adjudicated appeals.

d. The DCSPER ESRB will--

(1) Evaluate and act upon enlisted evaluation report appeals of a substantive nature submitted by enlisted members of the Total Army.

(2) Provide advisory opinions to the ABCMR (see paragraph 6b(9) below).

(3) Make determinations as to whether promotion reconsideration is warranted because of changes to the OMPF resulting from successful appeals.

(4) Notify the components concerned as to the determinations and actions to be taken regarding adjudicated appeals.

e. The Commander, MILPERCEN; Director, Army National Guard; and Commander, US Army Reserve Components Personnel and Administration Center will--

(1) Initiate administrative control over each evaluation report appeal received.

(2) Review all incoming appeals for basic regulatory compliance. In those cases where no substantiating evidence has been provided in support of either an administrative or substantive type appeal, as specified by the governing regulation, the appeal will normally be returned to the sender without action, along with a suitable explanation as to why this was done and what is required.

(3) Evaluate and act upon accepted appeals based solely upon claims of administrative error. This will be accomplished in accordance with priorities established for processing in referenced regulations.

(4) Prepare and retain on file a brief written summary concerning the resolution of each administrative type appeal.

(5) Forward to the DCSPER OSRB or ESRB, as applicable, those evaluation report appeals based solely upon claims of inaccuracy or injustice in the rendering of substantive portions of appealed reports. Appeals will be forwarded through any interested offices and will include those official records and files as required by the OSRB or ESRB (see paragraph 6a(4) below).

(6) Forward to the DCSPER OSRB or ESRB, as applicable, those appeals based both upon administrative error as well as substantive inaccuracy after resolution of the administrative claims. In cases of doubt whether an appeal is administrative or substantive in nature, it will be forwarded through any interested offices to the applicable board for resolution.

(7) In accordance with instructions received from the DCSPER OSRB and ESRB, retain without change, amend, or remove from the OMPF evaluation reports that have been appealed. Also, take necessary actions, if included in those instructions, to ensure promotion reconsideration when this is the outcome of a successful appeal.

(8) File or dispose of documentation and supporting evidence concerning substantive type appeals in accordance with instructions from the DCSPER OSRB and ESRB.

(9) Take action to indicate in the OMPF that periods covered by removed reports are designated as official non-rated periods.

(10) Ensure that evaluation reports are corrected to reflect approved changes or are destroyed, as applicable. Also, ensure that Master File tape records, as applicable, and the OMPF master fiche are corrected as necessary.

(11) Provide advisory opinions to the ABCMR concerning applications that are based upon claims of administrative error in the preparation of evaluation reports, when requested by the ABCMR.

(12) Advise appellants of final action taken on their appeals. Supporting documentation submitted by appellants, if not made a permanent part of the OMPF, will be disposed of in accordance with applicable filing regulations.

(13) File notification and correction documents IAW AR 640-10.

f. The Commander, MILPERCEN will--

(1) Submit nominations for membership on the DCSPER OSRB and ESRB to the President of the boards for approval.

(2) Provide full-time membership to the OSRB consisting of senior Army commissioned officers, including, as practicable, female and minority representation.

(3) Provide full-time membership to the ESRB consisting of field grade Army commissioned officers and senior Army noncommissioned officers, including, as practicable, female and minority representation.

(4) Provide supply and service type support, to include office automation, to the DCSPER OSRB and ESRB as appropriate and necessary.

g. The Director, Army National Guard and Chief, Army Reserve will provide membership to the DCSPER OSRB and ESRB to serve on-call in the resolution of appeals submitted by members of the Army National Guard and US Army Reserve respectively.

Section III Policy and Procedures

5. Policy

a. Policies and procedures for the preparation and submission of evaluation report appeals are set forth in the referenced regulations.

b. Officer and enlisted evaluation report appeals will be adjudicated under comparable standards that ensure the rights of the individual appellant are protected through fair and equitable consideration, while at the same time recognizing the Army's prevailing interest in retaining for record those evaluation reports that are rendered in accordance with applicable regulations and which have not been proven inaccurate or unjust; in whole or in part, or to contain administrative error. A report is considered "unjust" if the evaluation is at wide variance with the actual performance which occurred, reflects unfair or improper bias, or does not account for contributory or mitigating circumstances over which the rated member had little or no control. An evaluation report which is determined to be unjust cannot be considered to have been rendered in accordance with applicable regulations.

6. Procedures.

a. Administrative processing and resolution of evaluation report appeals (applicable to Commander, MILPERCEN; Director, Army National Guard; and Commander, U. S. Army Reserve Components Personnel and Administration Center).

(1) Incoming appeals will be initially reviewed for regulatory compliance (see paragraph 4e(2) above).

(2) The standard for corrective action is clear and convincing evidence (that which produces a firm belief or conviction) as to the correctness of an appellant's administrative challenge to a contested evaluation report. In cases of doubt raised by an appellant's evidence, additional information will, as practicable, be sought from official sources that otherwise might not be available to the appellant.

(3) In the resolution of each administrative type appeal, a brief written summary will be prepared and retained on file which sets forth the appellant's primary claims, the manner in which they are supported and the basic rationale for determinations made with respect to its outcome. Corrective actions resulting from approved or partially approved administrative type appeals will be taken and the appellant notified of the outcome of his/her appeal. In those cases where the removal of or substantive changes to an evaluation report are made as the result of a successful

administrative appeal and the appellant has been considered but not selected for promotion with the uncorrected report on file, the case will be referred to the DCSPER OSRB or ESRB, as applicable, for a determination as to whether promotion reconsideration by a special board for such purposes is warranted.

(4) For appeals forwarded to the DCSPER OSRB or ESRB, the following additional documentation and files will be forwarded with the appeal: a copy of the performance (P) fiche, restricted (R) fiche (if on file) and service (S) fiche of the appellant; his/her record brief; a copy of the P fiche of the primary rating officials, if maintained; and a hard copy of the evaluation report(s) being appealed. In the case of ARNG enlisted personnel, the hard copy of the OMPF will be provided the ESRB until records are converted to microfiche. The forwarding documents should also make note of any promotion non-selections as well as any administrative actions planned or underway which could or will result in near term (6 months) involuntary separation. This will permit proper prioritization in the resolution of substantive type appeals.

(5) Upon receipt of the determinations of the DCSPER OSRB and ESRB, appellants will be notified of the outcome of their appeals by the appropriate component (i.e., MILPERCEN, RCPAC, or Director, Army National Guard). This will be in the form of a letter which will also advise, in the case of denials or partial approvals, that resubmission of an appeal is authorized only upon presentation of new substantive evidence; otherwise, an application for relief may be submitted to the ABCMR in accordance with AR 15-185. Letters of denial will be placed on the P fiche, or in the case of ARNG enlisted personnel, the letter will be placed in the permanent section of the appellant's OMPF in accordance with AR 640-10. Correspondence announcing DCSPER Special Review Boards' decisions will use "FOR THE DEPUTY CHIEF OF STAFF FOR PERSONNEL" as the authority line.

(6) Additional policies and procedures may be established in the administrative processing and resolution of appeals, consistent with this memorandum.

b. Processing and resolution of substantive type evaluation report appeals (applicable to DCSPER OSRB and ESRB).

(1) The evidence in support of a substantive type appeal is usually in the form of statements from third parties or rating officials and other documentation from official sources. The boards will evaluate such evidence, along with any other information obtained, based upon a "clear and convincing" evidentiary standard, defined as the amount of proof that will produce in the voting board member a firm belief or conviction as to the correctness of an appellant's challenge to a contested evaluation report. The boards may request additional information from the appellant, the rating officials, other persons in the chain of command, or any other person known or believed to have first hand knowledge of the circumstances of the case under consideration. This information may be obtained by personal contact, phone, letter, or any other appropriate means. Normally, the appellant will be contacted, if necessary, by official correspondence only. Personal appearance before the DCSPER OSRB or ESRB by appellants and/or their representatives is not permitted. Personnel who provided third party statements will not usually be

contacted unless there is a need for clarification. The boards may also request reports of investigation or inquiry that may be pertinent to a case under consideration. Commander inquiries, if conducted and available, will be sought by the boards.

(2) Each case coming before the boards will be independently reviewed and evaluated by three board members (a quorum), all of whom will be senior to the appellant, and with female and minority representation, if practicable, where the appellant is a female or of a minority, or with Reserve Component representation when the appellant served in the Army National Guard or U.S. Army Reserve during the period of a contested evaluation. No member, however, will participate as a voter in an appeal in which he or she was personally involved, or in which he or she knowingly has any bias for or against any of the parties concerned.

(3) Recommendations made by the boards will be based upon a majority vote of the three voting members on each appeal. Minority views will be authorized for submission. Such determinations involving the granting of full, partial, or no relief will be based upon the merits of the individual appeal and in no way will be constrained by quotas, ceilings, or floors.

(4) The President and Assistant President for each board will, within that authority granted them, take final action based upon a majority vote, where this authority has not been specifically withheld to the DMPM or the DCSPER. These officials will not, however, take final action on any case in which he or she participated as a voting member. In cases where final action has been withheld, a recommendation for appropriate disposition will be made to the DMPM. Depending on the final action taken, the appropriate office concerned will be instructed to alter, amend or remove the report, in whole or in part. The boards may recommend actions other than those specifically requested by an appellant, usually the result of only partial approval of an appeal. Recommendations by the boards will normally consist of eliminating all or part of a report in those cases where an appeal is not otherwise denied. Only in the most exceptional cases will a report be altered to increase a rating or add to an evaluation report. In cases where discrimination on the basis of race, color, religion, gender, or national origin is established to the satisfaction of the boards, normally the entire affected portion of the appealed report will be removed. This may be the entire report, the evaluations of one of the rating officials, or only portions thereof.

(5) In those cases where significant relief is to be granted and the appellant has failed of selection for promotion with the inaccurate or unjust report(s) in his or her OMPF, the boards will determine whether reconsideration for promotion by a special board is warranted. The appropriate agency concerned will be notified accordingly.

(6) Except where authority to take final action has been withheld, when the boards determine that the evidence presented does not support the alteration, amendment, or removal of appealed reports, they will be returned to the appropriate agency concerned, along with the correspondence that announces the decision for denial and filing disposition of the denied appeal correspondence.

(7) Cases accepted for reconsideration after denial (see paragraph 6a(5), above) will be reviewed in accordance with the standards set forth in this memorandum. When possible, the board members who previously reviewed the case will not participate in its reconsideration.

(8) The boards will direct the disposition of supporting documentation in each case.

(9) When requested, the boards will review and evaluate substantive type evaluation report appeals submitted to the ABCMR. Normally, this will constitute reconsideration of an appeal previously denied by one of the boards. If, upon reconsideration, the applicant's evidence warrants relief, such action will be taken and the ABCMR notified accordingly. For those applications not warranting relief, the ABCMR will be provided an advisory opinion, along with supporting documentation, setting forth the rationale for recommending disapproval or partial disapproval of an application.

(10) The findings, conclusions and recommendations of the boards will, in each case, be documented in a case summary. These documents will be considered as internal communications within HQDA and, as such, will normally be exempt from release outside the Department of the Army. However, an appellant may obtain a copy of the case summary pertaining to his or her appeal under the Privacy Act.

(11) In that evaluation report appeals often contain information of a very personal nature, they will be treated with the utmost confidentiality by members of the boards.

(12) The president of the boards may establish additional policies and procedures for the adjudication of substantive type appeals, providing they are consistent with this memorandum and meet with the concurrence of the DMPM.

(DAPE-MPD-OP)

By Order of the Secretary of the Army:

Official:

DONALD J. DELANDRO
Brigadier General, United States Army
The Adjutant General

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

Distribution:

Headquarters, Department of the Army