

Evaluation Appeals Guide

Evaluation Report Appeals

The purpose of this document is to provide information intended to assist the soldier in preparation of an evaluation report appeal. It should serve as a ready reference in deciding when and what to appeal and the steps / procedures involved in gathering evidence to support an appeal. **AR 623-3 and DA PAM 623-3**, Evaluation Reporting System, 10 Aug, 07, Chapter 6 outlines the appeals process.

What Should I Appeal?

If you receive an evaluation report which you firmly believe is an inaccurate or unjust evaluation of your performance and potential or one that contains administrative errors, that report may be a candidate for an appeal. A report that was not rendered in accordance with the Army regulations in effect at the time of preparation may also be considered for appeal.

If you are just dissatisfied with receiving a report because you believe it should be better, it's very difficult to successfully challenge the judgment of your rating officials. Clear and convincing evidence is necessary to prove you deserve better. Even if successful, the relief granted could be to remove only the portions prove inaccurate or unjust, rather than raising the evaluation rating.

In deciding what to appeal, you must consider early on whether you can gather useful evidence in support of an appeal. Your self-authored statement alone does not suffice as evidence of an inaccurate, unjust, or administratively flawed evaluation report. Remember, a report accepted by HDQA is presumed to be correct both administratively, in content and be an accurate portrayal of your performance and potential until you prove it is not.

When Should I Appeal?

The first step in the Army Evaluation Redress Program is the Commander's Inquiry. The primary purpose of the Commander's Inquiry is to provide a greater degree of command involvement in preventing obvious injustices to the rated NCO and correcting errors before they become a matter of permanent record. The secondary purpose is to obtain command involvement in clarifying errors or injustices after the Evaluation is accepted at HQDA. However, in these after-the-fact cases, this provision is not intended to be a substitute for the appeals process, which is the primary means of addressing errors and injustices after they have become a matter of permanent record. The inquiry must be completed not later than 120 days after the thru month of the Evaluation. Additional information concerning the Commander's Inquiry is contained in **AR 623-3**, Chapter 6, section II.

The second step in the Army Evaluation Redress Program is submission of an Evaluation Report appeal. You should begin preparation of an appeal immediately after receipt of an evaluation report that you have good reason to strongly disagree with. Waiting too long adds to the difficulty of locating those who might offer support or in gathering records that might serve as evidence.

Substantive appeals must be submitted within 3 years of the Evaluation Report thru date. Failure to submit an appeal within this time-frame may be excused only if you provide exceptional justification to warrant this exception, e.g., extended hospitalization. Administrative appeals will be considered regardless of the date of the report utilizing the regulation in effect during the report period; however, the likelihood of successfully appealing a report diminishes, as a rule, with the passage of time.

What Are My Chances of Successfully Appealing an Evaluation Report?

Statistics are not gathered on the approval / disapproval rate of evaluation report appeals because each evaluation report is unique. Your success in appealing a report depends largely on your ability to present clear and convincing evidence that the evaluation is inaccurate or unjust. The best evidence is obtained from third parties who were in a position to observe your performance from the same perspective as your rating officials. The bottom line is that **“The success of your appeal depends mainly on you.”**

Preparing to Appeal

If you decided to appeal, begin laying the groundwork by a thorough review of the appropriate Army regulation in effect at the time the challenged report was prepared. Using your copy of the challenged report, you should note any instances where provisions of the governing regulation were not followed. You may want to seek guidance from you unit S-1, local Staff Judge Advocate (SJA) and Personnel Office. They are available to advise and provide assistance in the preparation of an appeal.

While minor inconsistencies or irregularities of any given Evaluation Report are noteworthy in an appeal packet, they do not normally constitute removal of a report. They do, however, add to the overall consideration of the merits of an appeal. Serious irregularities, such as improper rating officials, may warrant full or partial relief.

Start by making a list of individuals who served in positions that would allow them to challenge or refute specific shortcomings or incidents for which you were faulted on the challenged report. Concentrate on identifying those who also have knowledge of the expectations and demands of your rating officials and your working relationship with them. Make a list of any records or reports that might serve to refute portions of the challenged evaluation. One example is a published rating scheme. This report may be used to contest correctness of the evaluation officials. Extracts from inspections or investigative reports are sometimes useful to challenge faulty remarks or ratings.

Having made a list of individuals who might support your appeal, the next step is locating them. Check the World Wide Locator for those still on active duty. For those known to have retired or otherwise left active duty, send a request to HQDA, ATTN: DACF-FSR, 2461 Eisenhower Ave., Alexandria, VA 22331-0521 (for retirees) or to the National Personnel Records Center, 9700 Page Blvd., St. Louis, MO 63132-5260 (for other than retirees). The individual’s full name must be provided along with the correspondence you want forwarded. To protect the privacy of individuals no longer on active duty, these agencies normally forward correspondence to the individuals rather than providing an address. When requesting an address or assistance, always indicate that your request is for official use in support of an Evaluation Report appeal.

Prepare the letter you intend to send while waiting for the addresses. Example for both your letter of request and the individual's letter of support are located in **AR 623-3**, Figures 6-5 and 6-6. You may want to provide your prospective supporter a copy of the response example or direct them to the example in the regulation.

Remember the requested supporting letter should offer first hand observation of knowledge that might refute any or all of those portions of the report(s) being challenged. Third party statements that merely say you were a good soldier, without addressing or refuting the shortcomings for which you were faulted, provide little in the way of convincing support for your appeal.

For records and reports that might be of assistance to you, write or contact the S1 or adjutant of your previous unit and request copies of documents applicable to the specific aspects of your appeal of job performance. Timeliness is essential when requesting these documents as most records are destroyed within 2 years.

Preparation of Your Appeal

While waiting for responses to your request, prepare your basic memorandum of appeal. Follow the format located in AR 623-3, Figure 6 for the appropriate type of request. These examples cover administrative, substantive, and administrative-substantive combined appeals. In order to keep the appeal as confidential as possible, we recommend using your home address for a return address.

Identify the specific portion(s) of the report which you contest and clearly state your disagreement. Be clear, brief, and specific. Limit your explanation to basic facts. If detailed information is essential, add your own statement as an enclosure to the appeal. Your self-authored statement is your only opportunity to talk to the board since the board will not be contacting you. Seek assistance from your S-1, Personnel Office, or local SJA.

Type of Evidence Needed

Evidence submitted includes statements from third parties, rating officials, and often includes documents from other sources, i.e., investigations, inspections, etc. There are no limits on type and amount of evidence submitted. See paragraph 6-11, AR 623-3 for guidance as to what will or will not be especially helpful. Vantage points and first-hand knowledge are important factors in selecting third parties to support an appeal. Remember, the specific changes you request should be justified by the evidence provided.

Submission

Upon receipt of supporting statements and evidence have the entire package reviewed by a disinterested third party that you trust and have confidence in. This third party review will help remove emotion and poor logic from your appeal. Your appeal should not be submitted until you are satisfied that you have presented a logical, well-constructed case.

Submit the finalized appeal, plus one complete copy directly to the address listed in this pamphlet. Verify all necessary information has been included before forwarding the appeal. All supporting statements must be originals and all documents provided must be original or certified true copies. The copy of the evaluation report does not have to be certified if it is already a matter of record on your OMPF. If you are aware of the current phone numbers of the rating officials on the contested report, please include them in your appeal.

Processing and Disposition of Appeals

The Appeal and Corrections Branch of the Active, Reserve, or National Guard component will review the case upon receipt and either notify you by letter that the appeal has been accepted or that the case is being returned for lack of useable evidence. Administrative appeals will be resolved by the appropriate Appeals and Corrections Branch. Substantive appeals will be forwarded for final review and decision by the Special Review Board (SRB). Upon final determination of the case, the appropriate agency will notify you of the outcome.

The time necessary to process an appeal varies with the type and complexity of the case. Some priority 3 cases may take six months or longer while priority 2 and 1 cases take less time. Processing priorities are explained in AR 623-3 paragraph 6-10. The fact that you are scheduled to be considered by a DA promotion Board will not cause your appeal to be expedited or change your priority. You may check on the current status of your appeal by viewing the Personnel Data Snapshot (IWRS) page available through the Army HRC Self-Service webpage.

In order to ensure full and just consideration of an evaluation report appeal, the primary members of the rating chain are normally contacted by the SRB for their comments. After approving an appeal where the individual was previously non-selected by a DA Selection Board for promotion, the SRB will also take into consideration whether promotion reconsideration is warranted. The appellant will be informed of this decision when notified of the SRB decision.

In all cases, whether the appeal is approved or denied, totally or in part, documentation is placed on the OMPF. The performance portion of the OMPF ("P" fiche) is amended to include either (1) a memorandum for record which documents the amendment or explains non-rated time or (2) the HQDA letter which notifies you the appeal was denied. When the appeal is denied, either totally or in part, a complete copy of the appeal correspondence is placed on the "R" fiche.

If the appeal is denied, you may gather new or additional evidence and submit another appeal or request relief from the next agency in the Army's redress system, the Army Board for Correction of Military Records (ABCMR) with DD Form 149. Operation of the ABCMR is governed by AR 15-185. If your case was decided by the SRB, a case summary of the Board's consideration is available by writing to:

Freedom of Information Act
HQDA (DAPE-ZM-IC)
300 Army, Pentagon

Washington, D.C. 203010-300
DSN: 225-2116 COML: (703) 695-0273

Summary Checklist for the Appellant: A detailed checklist, for use when assembling your appeal, is located in AR 623-3 Table 6-2.

Your Letter: Typed military memorandum on letterhead or white bond paper. First paragraph must contain your name, rank, PMOS, SSN, period of report and priority of the appeal. Include a DSN or commercial phone number and correct mailing address (home address may be used). Use this memorandum to transmit the appeal. Concisely explain the nature of your disagreement and what corrective action is requested. If a detailed explanation of the circumstances of a report is required, add a statement as an enclosure to the appeal. It is important to remember that the SRB will not contact you, but will more than likely contact the rating officials. Therefore, it is important that you provide as much information as possible in your own sworn statement. List and identify all enclosures and their relevance to your case. Sign and date the memorandum.

Evidence: Appeals based on administrative error must be proven by originals or certified true copies of appropriate documents, e.g. orders, leave and earning statements, appropriate medical documents verifying height/weight, APFT results (DA Form 705), DA Form 2-1/ERB/ORB.

Claims of inaccurate or unjust evaluations must be supported by originals of typed statements from knowledgeable observers during the report period. These statements must reference the specific allegations/contentions of your appeal. The statements must also be signed, dated, printed on letterhead or white bond paper and should be specific in content. Additional statements from rating officials are acceptable, but will not be the sole basis of the appeal. Documents such as ARTEP, AGI, CI results, etc., may be useful in supporting substantive appeals.

Copies: Original and one copy. Original packet must include originals of all statements and certified true copies of all other documents with the exception of the Evaluation Report.

Mailing: Before mailing, review to ensure all enclosures are included, signatures and dates are on all documents and addresses and phone numbers are included. Enclose your appeal in a secure container, mailing envelope or heavy wrapping as needed. Refrain from using fancy binders or covers. Mail to the appropriate address below.

Follow Up: You will be notified in writing by the Evaluation Review Appeals Branch that your appeal was received. It is your responsibility to notify HQDA promptly of your address changes. You will be notified in writing of the decision. Upon final decision, if not totally approved, you have further recourse. You may request a copy of the Special Review Board (SRB) Case Summary as mentioned earlier, then submit a second appeal strengthened by additional evidence. As an alternative to reconsideration by the SRB, appellants may apply to the Army Board for Correction of Military Records (ABCMR) IAW AR 15-185.

Mailing Addresses / POCs

ACTIVE OFFICERS

CDR, AHRC

ATTN: AHRC-MSE-A

200 Stovall Street

Alexandria, VA 22332-0442

ARMY RESERVE

CDR, AHRC-St. Louis

ATTN: AHRC-PAV-EA

1 Reserve Way

St. Louis, MO 63132-5200

ACTIVE ENLISTED

AHRC-Indianapolis

ATTN: AHRC-RE

8899 E. 56th St.

Indianapolis, IN 46249-5301

NATIONAL GUARD OFFICER

NGB, ARNG Readiness Center

ATTN: NGB-ARP-C (Appeals Section)

111 S. George Mason Dr.

Arlington, VA 2204-1382

NATIONAL GUARD ENLISTED

(1) For administrative error: The appropriate state Adjutant General

(2) For substantive error:

CNGB, ARNG Readiness Center

ATTN: NGB-ARP-PE

111 S. George Mason Dr.

Arlington, VA 2204-1382