



MOUNTAIN POST LEGAL BRIEF

A Preventive Law Service of The Office of the Staff Judge
Advocate

Headquarters, Fort Carson

Keeping You Informed On Personal Legal Affairs



ADMINISTRATIVE REPRIMANDS

Consider these questions and answers to determine your rights in response to an administrative reprimand.

Q: WHAT IS AN ADMINISTRATIVE REPRIMAND?

A: Reprimands are administrative tools that commanders use to censure a Soldier for substandard personal conduct. The Army expects Soldiers to demonstrate high moral character on and off duty. Reprimands are appropriate when Soldiers fall short of that expectation by engaging in questionable behavior. The Uniform Code of Military Justice authorizes the issuance of reprimands, and provides that they may be used in conjunction with judicial or non-judicial punishment. More commonly, however, a reprimand is issued as an administrative action. Administrative action is not punishment, in the strictest sense of the term. Confinement, restriction, or extra duties are punishment. In contrast, administrative action involves the filing of unfavorable information in a Soldier's personnel records. Unfavorable information, such as a reprimand, can have severe implications for career Soldiers. A reprimand may well prompt non-selection for promotion, a bar to reenlistment, or separation under the Qualitative Management Program (QMP). Because of these consequences, a reprimand may potentially be career ending if not successfully appealed or transferred from your official files.

Q: WHY IS THE FILING DETERMINATION SO IMPORTANT TO MY CAREER?

A: Filing of the reprimand is the most important consideration for a career Soldier. A local filing in a Soldier's Military Personnel Records Jacket (MPRJ) has no long-term effect on the Soldier's career. The reprimand does not become a part of his overall service record, and will be destroyed when the Soldier is reassigned (PCS). On the other hand, if filed in the Soldier's Official Military Personnel File (OMPF), the reprimand may be career ending. Army Regulation 600-37 sets forth policies and procedures for filing unfavorable information in a Soldier's official file. In accordance with the regulation, only general officers may order placement of a reprimand in a Soldier's OMPF. The Soldier will have the opportunity to submit a rebuttal statement for consideration before the filing decision. Army policy provides that reprimands associated with "minor behavior infractions or honest mistakes" ordinarily are not filed in a Soldier's OMPF.

Q: WHAT ARE THE PROVISIONS FOR REPRIMANDS CONCERNING DUI?

A: Army Regulation 190-5 requires issuance of a written general officer reprimand for all active duty Soldiers, for the following conduct:

- a. Conviction for driving under the influence of alcohol or drugs;
- b. Refusal to take, or failure of, a test designed to measure the presence of alcohol in the blood, breath, or urine;
- c. Operating a vehicle with a blood alcohol level of .08 percent or higher on a military installation or operating a vehicle with a blood alcohol level above the state limit.
- d. Operating a vehicle after taking illegal drugs and with those drugs still present in the body.

Soldiers will be notified of their right to submit a rebuttal statement before a decision is made on filing.

MOUNTAIN POST LEGAL BRIEF is one of a series of informative handouts from the Fort Carson Legal Assistance Division containing general information on topics that legal assistance attorneys frequently advise on. Information provided is general in nature and does not constitute legal advice. Consult an attorney for specific legal advice for your particular situation. You may schedule a legal assistance appointment by calling the Legal Assistance Division at 719-526-5572.

Q: WHAT ARE THE PROCEDURES FOR TRANSFERRING REPRIMANDS FROM THE PERFORMANCE PORTION OF MY OMPF?

A: The Department of the Army Suitability Evaluation Board (DASEB) has authority to review a Soldier's OMPF, and order transfer of unfavorable information from the Soldier's performance fiche to his or her restricted fiche. Promotion and other selection boards ordinarily examine only the performance fiche. Thus, transfer to the restricted fiche is beneficial for the career Soldier. In submitting an appeal for transfer, the Soldier must show that the reprimand's intended purpose has been served, and that transfer is in the best interests of the Army. Ordinarily, a Soldier must satisfy each of the following criteria before the DASEB will consider an appeal:

- a. The Soldier is a Staff Sergeant or above.
- b. At least one year has passed since imposition of the reprimand.
- c. An evaluation (OER or NCOER), dated after the reprimand, has been filed in the OMPF.

Showing that the reprimand has served its intended purpose may be hard to prove. The Soldier needs to show that he or she addressed the conduct which prompted the reprimand, accepted responsibility for it, corrected it, and then moved on to excel in the Army. An example may be a Staff Sergeant who received a reprimand ten years earlier as a Private. The Staff Sergeant has been promoted several times since, has received several awards, and has received a number of excellent evaluations. Service of intended purpose exists in the form of the motivation, hard work, and commitment to excellence that prompted those promotions, the awards, and the excellent NCOERs. The Soldier should show that he learned his lesson and moved on to excel in the Army. In support of the appeal for transfer, the Soldier should obtain statements from past commanders, supervisors, or anyone else knowledgeable of the Soldier's performance and, perhaps more importantly, potential for the future. The goal is to paint the picture of a dedicated Soldier who displays high moral character and who is dedicated to the life of a professional member of the military. The Soldier must show that, with those attributes, and with potential for advancement in rank and responsibility, it is in the best interests of the Army to transfer the reprimand and allow the Soldier to advance.

Q: WHAT SHOULD I DO IF I AM SERVED WITH A REPRIMAND, OR WISH TO APPEAL TO HAVE A REPRIMAND TRANSFERRED FROM MY OFFICIAL RECORDS?

A: Contact the Fort Carson Legal Assistance Division to arrange a consultation with a legal assistance attorney. We can help with the preparation of rebuttal statements and with transfer appeals.

Consultation with Army attorneys is free to eligible clients. If you have questions or need help with legal problems, call the Fort Carson Legal Assistance Office at 526-5572/5573 or come by the office (Building 6222) Monday through Thursday from 0900 to 1700 hours.

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