



## 7<sup>th</sup> JMTC Legal Assistance Information

# NCOER APPEALS

Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.

This handout contains the basic information you will need to prepare an appeal to your Noncommissioned Officer Evaluation Report (NCOER). It includes an explanation of what you may appeal, the time limit for appeals, and what information you should include in your appeal. Be sure to use the checklist on the last page to ensure your appeal meets the requirements for review and will not be returned to you without being considered. For additional information, refer to Chapter 4 and Appendix F of Army Regulation 623-205, Noncommissioned Officer Evaluation Reporting System.

### What You May Appeal:

Grounds for appeal include: (1) an inaccurate or unjust evaluation of your performance and potential, (2) administrative errors, (3) violation of the Army Regulation in effect at the time of preparation, or (4) a combination of these. If you received a good rating, it is extremely difficult to appeal simply because you believe you deserved a better rating. Even if successful, the remedy applied would probably be to just remove the portions proven inaccurate or unjust, rather than raising the scores or block placements.

In deciding what to appeal, you must consider whether you can gather useful evidence in support of an appeal. The report is presumed to be correct until you prove that it is not. Your self-authored statement alone is not sufficient evidence. The fact that the report is not on a level with previous or subsequent periods is not sufficient proof that the report is wrong. Your success in appealing a report depends mainly on your efforts to locate and present clear and convincing evidence that the evaluation is inaccurate or unjust.

### When You May Appeal:

There is no time limit for administrative appeals. If you want to make a substantive appeal, however, you must do so within five years. You should begin preparation of an appeal as soon as possible. As time passes, people forget and documents and key personnel are less

available. The likelihood of successfully appealing a report diminishes with the passage of time. Therefore, we recommend prompt submission.

### Preliminary Steps in Preparing an Appeal:

The first step in preparing an appeal is to review the Army Regulation that was in effect at the time the challenged report was prepared. The current regulation is AR 623-205, which became effective on 30 April 1992. As you look over the regulation, refer to your report. Note any instances where provisions of the governing regulation were not followed. Also watch for errors such as your name, grade, SSN, MOS, inclusive rated period, non-rated periods, duty description and rating chain. You may want to seek assistance from your local Personnel Service Center (PSC) or Legal Assistance Attorney in accomplishing this task. While minor inconsistencies or irregularities in the preparation of an evaluation report are not usually the sole basis for removal, they do add to the overall consideration of the merits of an appeal. Some serious irregularities, such as improper rating officials, may, themselves, warrant full or partial relief.

Next, look at the substantive portions of the report. These portions include the numerical scores, block placements, and narrative comments- Make note of each evaluation and narrative comment with which you have good reason to disagree.

Make a list of those individuals who were in a position to observe your performance during the rated period. More specifically, identify and list those who can respond to the specific shortcomings or incidents for which you were faulted. Also, identify those who knew the expectations and demands of your rating officials and your working relationship with them. (Example: Bn CSM in support of rated Operations Sergeant).

Make a list of any records or reports that might serve to refute portions of the challenged evaluation. Try to recall whether any inspections or investigations occurred during that time. Published rating schemes are useful to contest the correctness of the evaluation officials. Other documents that might be helpful include: APFT results (DA Form 705), medical records verifying your height and weight, leave and earnings statements (LES), and orders.

### Collecting Statements and Documents:

Once you've listed the individuals and records that might support your appeal, you must locate them. For individuals still on active duty, check with your local PSC to find out who has a copy of the US Army Locator on your installation. Make arrangements to either review that file, or have someone review it for you. If you know the person retired or otherwise left active duty, send your correspondence to HQDA, A TIN : DACF -FSR, 2461 Eisenhower Avenue, Alexandria, VA 22331-0521 (for retirees) or to the National Personnel Records Center, 9700 Page Blvd., St. Louis, MO 63132-5260 (other than retirees). You must include the individual's full name and SSN along with the correspondence you want forwarded. To protect the privacy of individuals no longer on active duty, these agencies will normally forward correspondence to

the appropriate individual rather than provide an address. When requesting addresses, always indicate that your request is for official use in support of an evaluation report appeal.

To locate records and reports, write to the S-1 or Adjutant of your former unit and request copies of documents applicable to you or your job. If an inspection report was prepared by a higher headquarters, write to that headquarters. In each request, state that it is for official use in conjunction with an evaluation report appeal.

While awaiting the addresses and documents requested, prepare the letters you intend to send to solicit support for your appeal. Army Regulation 623-205 shows a sample letter in

Figure F-5. In your letters, you should identify yourself and why you are writing. It is a good idea to include a copy of the report and identify the specific portions you are contesting. You should advise the person to identify his or her position during the period of the challenged report and the degree of observation of your performance and interaction with your rating chain during the same period. Most importantly, you should ask the person to offer any first hand observation or knowledge that might refute any of those portions of the report being challenged. In this regard, a statement that merely says you were "a good soldier," without refuting the shortcomings for which you were faulted, does not provide convincing support for your appeal.

Once you receive the addresses you requested, mail your letters requesting support. As a courtesy and to encourage a speedy response, you should include a Stamped return envelope. Also include a copy of the format for a letter of support shown in the regulation (See AR 623-205, Figure F-6).

#### Writing Your Appeal:

Appendix F of AR 623-205 contains several examples of formats for appeals. Your appeal should be a typed, military memorandum on letterhead or white bond paper. In whatever form your appeal is presented, all enclosures should be tabbed and listed for easy reference. You should also refer to them in the written appeal as evidence to support each contention you are making. Your appeal will not be processed unless you identify your name, rank, SSN, period of the report, and the priority of your appeal. Include an AUTOVON/DSN or commercial phone number and current mailing address. In order to keep the appeal as confidential as possible, you may wish to use your home address.

Identify the specific portion(s) of the report which you contest and clearly state your disagreement. The evidence you will provide must justify the specific changes. You may request a combination of changes to the report or total removal of the report. 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 contact you.

#### Review and Mail Your Appeal:

Before submitting the appeal, ask a trustworthy person to review the entire packet. This third party review will help remove excessive emotion and poor logic from your appeal. You should not submit your appeal until you are satisfied that it is logical, well-constructed, and as fully documented as possible. Mail the finalized original appeal and one complete copy directly to the appropriate address for your component. All supporting statements and documents provided must be original or certified as a true copy. Documents may be certified by your PSC. Don't forget to sign your appeal!

ACTIVE DUTY:

Commander,  
USA Enlisted Records and Evaluation Center  
ATTN: PCRE-RE-A  
Fort Benjamin Harrison, IN 46249-5301  
AUTOVON: 699-3699 OR 3695  
Commercial: (317) 542-3699 or 3695

ARMY RESERVE:

USA Reserve Personnel Center  
ATTN: DARP-PRE-A 9700 Page Blvd.  
St. Louis, MO 63132-5200  
AUTOVON: 693-6916  
Commercial: (314) 263-6916

NATIONAL GUARD:

Chief, National Guard Bureau  
ATTN: NGB-ARP-CM 5600 Columbia Pike  
Falls Church, VA 22041-5125  
AUTOVON: 289-1339 or 1340  
Commercial: (202) 756-1339 or 1340

Processing and Disposition of Appeals:

The Appeals and Corrections Branch of the respective Active, Reserve, or National Guard component will review the case and notify you that the appeal has been accepted or that the case fails to meet the minimum requirements for an appeal and is being returned to you. Administrative appeals are resolved by the Appeals and Corrections Branch for your component. Substantive appeals are forwarded for final review and decision by the DCSPER Enlisted Special Review Board (ESRB). Upon final determination of the case, the appropriate agency will notify you of the outcome. Notify the agency in writing if your address or the priority of your appeal changes. Do not make frequent calls to check on the appeal.

Upon final decision, if your appeal is not totally approved, you have further recourse. If the ESRB decided your case, you may request a copy of the ESRB Case Summary under the Freedom of Information Act/Privacy Act (FOIA/PA). This may enable you to submit a second appeal or reconsideration strengthened by additional evidence. To request a copy of the case summary in accordance with AR 340-17 and AR 340-21 under the FOIA/P A write to:

Commander, PERSCOM  
ATTN: TAPC-ALS  
200 Stovall Street  
Alexandria, VA 22332-0400

As an alternative to reconsideration by the ESRB, you may apply to the Army Board for ...Correction of Military Records (ABCMR) Under the provisions of AR 15-185.

### **CHECKLIST FOR NCOER APPEALS**

#### Appellant's Letter:

- Typed, military memorandum on letterhead or white bond paper.
- First paragraph identifies name, rank, SSN, period of report and priority of the appeal.
- Include AUTOVON or commercial phone number and correct mailing address.
- Concisely explain the nature of your disagreement and what corrective action you are requesting (If a  
detailed explanation of the circumstances of a report is required, add a statement as an enclosure to the  
appeal).
- List and identify all enclosures.
- Sign and date the memorandum.

#### Evidence:

- Packet includes a copy of the challenged report.
- Packet includes DA Form 2A and DA Form 2-1 certified by the custodian of your Military Personnel  
Records Jacket (MPRJ).
- All documents and statements are originals or certified true copies.

#### Review and Mail:

- A trustworthy person reviewed the packet.
- Include two copies of everything -one set of originals and one duplicate copy. All enclosures are listed  
and included.
- Signatures and dates are on all documents.

\_\_\_\_\_ The correct address is on the envelope or mailing container. (Do not use fancy binders or covers, as they make it more difficult to process the appeal and take up unnecessary storage space).