

EVALUATION REPORT APPEALS

Occasionally, an evaluation report (NCOER or OER) is written that does not accurately reflect the performance of potential of the rated Soldier. In these rare situations, Army Regulation (AR) 623-3 provides the process to redress the problems with the evaluation report.

The appeals process

Step 1: Upon receipt of an evaluation report which you feel is unjust or unwarranted, you should immediately attempt to clarify the issue with you rating chain of command. If that proves unsuccessful, you can request a Commander's Inquiry. A Commander's Inquiry allows Officers above you rating chain of command to investigate the evaluation report and correct obvious errors before evaluation report becomes filed in your Official Military Personnel File (OMPF). The Commander's Inquiry must be requested immediately because the inquiry must be completed no later than 120 days after the through date of the evaluation report.

Step 2: If you decide not to request a Commander's Inquiry, or if the inquiry is unsuccessful, or if the inquiry cannot be done within the prescribed time requirements, the next step is to submit an appeal. Although appeals based upon the comments and ratings of the rating officials (referred to as "substantive appeals") may be submitted within 3 years of the through date on the evaluation report, the sooner an appeal is filed, the better. Waiting too long to submit an appeal could hinder your ability to locate others who may be willing to make written statements on your behalf.

What is needed to successfully appeal?

To successfully appeal an evaluation report based on substantive error, you must present clear and convincing evidence to the appeals board that the original evaluation is inaccurate or unjust. This evidence is usually in the form of statements from third parties who have firsthand knowledge of your performance during the rating period. The evidence may also be awards or counseling statements received throughout the rating period. Meeting the standard to overturn an evaluation report is difficult. This is why the more probative evidence you can provide in your appeal packet, the better off you will be. If an appeal is based on technical or administrative error, you must provide originals or certified copies of the appropriate documents showing the error exists.

If you have questions, contact the Fort Bliss Legal Assistance Office at (915) 568-7141/7150 for an appointment to speak with an attorney.