



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



NCOER APPEALS

Q: WHAT MAY YOU APPEAL?

A: 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.

Q: WHAT ARE THE TIME LIMITS FOR AN APPEAL?

A: There is no time limit for administrative appeals. You have three years to make a substantive appeal.

Q: WHAT ARE THE FIRST STEPS IN PREPARING AN APPEAL?

A: The first step is to review AR 623-205. 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. 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.

Q: HOW DO I WRITE AN APPEAL?

A: Appendix F of AR 623-205 contains several examples. 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. Please remember, your appeal will not be processed unless you identify your name, rank, SSN, period of the report, and the priority of your appeal.

Q: HOW DO I KNOW MY APPEAL IS COMPLETE?

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).**

Q: WHERE DO I SEND MY APPEAL?

A: 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 S1. Don't forget to sign your appeal! Active Duty Soldiers should send their appeal to:

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

Q: WHAT HAPPENS AFTER I SUBMIT MY APPEAL?

A: Once you submit your appeal, the Board will contact you and acknowledge receipt. The time required to process an appeal varies greatly depending on the complexity of the issues involved, the priority of the appeal, and by the date of receipt. Typically, appeals should be submitted no later than nine months prior to a promotion board convening date.

When the Board grants an appeal, in whole or in part, resulting in the removal or substantive alteration of an evaluation report that was seen by one or more promotion boards that previously failed to select the appellant, the Army Special Review Boards (ASRB) will make a determination whether promotion reconsideration is justified. The reviewing agency will notify each appellant by memorandum of the appeal decision and promotion reconsideration eligibility, if applicable.

If the appeal is denied, you may seek new or additional evidence and submit a new appeal, or submit an application to the next agency in the Army's redress system, the Army Board for Correction of Military Records (ABCMR). The ABCMR is governed by AR 15-185.

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 Friday from 0900 to 1600 hours. Appointments are made on the last duty day of every week, you can call or walk-in to schedule an appointment.

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.