



NCOER Appeals



So, you think your evaluation has an administrative error or is unfair, unjust, or factually inaccurate? What do you do?

- Has the NCOER/OER been iPermed? If not, you should consider requesting a Commander's Inquiry. (See AR 623-3, para 4-3 thru 4-6) Submit a written request to your commander asking him or her to look into the NCOER/OER. Specifically identify the administrative error or how the evaluation is unfair, unjust, or factually inaccurate.
- Is the "Thru" date of the NCOER/OER more than three years ago or have you left the Army (no longer on active duty or in the Reserves)? If so, you must submit your request for correction to the Army Board for Correction of Military Records (ABCMR). Go to <https://arba.army.pentagon.mil/abcmr-overview.html>.
- *If the evaluation is part of your permanent file, you are still in the Army, and the evaluation is not more than three years old, you can appeal the NCOER/OER to the Army Special Review Board.*

You should not make the decision to appeal lightly. Just because you disagree with the NCOER/OER is not a sufficient basis for an appeal. The standard for an appeal is very high. Unless you present clear and convincing proof of the error, the time and effort put into your appeal will be wasted. If you decide to appeal, and you are eligible for service, you can make an appointment to meet with a legal assistance attorney.

Here is what you must do **before** your legal assistance appointment.

1. Print out two copies of the evaluation you are thinking about appealing.
2. Take one copy of the NCOER/OER, grab a highlighter, and highlight every portion of the evaluation you think is in error. Number each "error". On a separate sheet of paper, or, preferably in a Microsoft Word document, explain in detail why the highlighted portion of the evaluation is in error. Why is the evaluation entry inaccurate, unfair, or unjust? Discuss the errors in the order they appear on the evaluation (in paragraph one discuss the error highlighted and labeled number one on the evaluation, etc.).
3. **The next step is the most important.** An honest assessment of the NCOER/OER should guide you in deciding whether to appeal or not. So be honest. What evidence can you present to prove the evaluation is inaccurate, unfair, or unjust? You **MUST** be able to present such evidence or it is useless to appeal.

As you make your honest assessment of what evidence you can present, keep in mind the following:

- You must present “[c]lear and convincing evidence [that is] of a **strong and compelling nature**, not merely proof of the possibility of administrative error or factual inaccuracy.” (AR 623-3, para 4-11b)
- “A personality conflict between [you] and a rating official does not constitute grounds for a favorable appeal; it must be shown **conclusively** that the conflict resulted in an inaccurate or unjust evaluation.” (AR 623-3, para 4-12b(2))
- “[N]o appeal may be filed solely because the information on a support form or associated counseling document was omitted from an evaluation, or because the comments of rating officials on the evaluation report are not identical to those in the applicable support form or counseling document.” (AR 623-3, para 4-11e)
- “[N]o appeal may be filed solely based on the contention that [you were] **never counseled**.” (AR 623-3, para 4-11e)
- “An evaluation report that is inconsistent with others in [your] AMHRR does not mean it is inaccurate or unjust.” (DA Pam 623-3, para 6-1c(1))
- “Pleas for relief citing past or subsequent performance or assumed future value to the Army are rarely successful.” (AR 623-3, para 4-12b(1))
- “Limited support is provided by statements from people who observed [your] performance before or after the period in question (unless performing the same duty in the same unit under similar circumstances), letters of commendation or appreciation for specific but unrelated instances of outstanding performance, or citations for awards, inclusive of the same period.” (AR 623-3, para 4-12b(2))

4. Lastly, determine how you are going to obtain and present the clear, convincing, strong, and compelling evidence that will support your appeal.

- To be successful, this evidence should “include **specific details** of events or circumstances leading to inaccuracies, misrepresentations, or injustice at the time the evaluation report was rendered.” (AR 623-3, para 4-11d)
- “For a claim of inaccuracy or injustice of a substantive type, evidence **will include** statements from **third parties**, rating officials, or other documents from official sources.” (AR 623-3, para 4-11d)

- “Appealing an evaluation report on the sole basis of a ***self-authored statement*** of disagreement ***will not be successful***.” (DA Pam 623-3, para 6-1c(2))

5. If you decide an appeal is appropriate, you can make an appointment to discuss the matter with a legal assistance attorney. Bring both copies of the NCOER/OER, your written or printed analysis of the errors in the evaluation, and any supporting evidence you have already gathered to your legal assistance appointment. If you show up for your appointment without these documents you will not be seen.