Legal Briefs

From the Fort Knox Legal Assistance Office

MEMORANDA OF REPRIMAND

What is a Reprimand?

Reprimands are an administrative tool used by commanders to censure a soldier for substandard personal conduct. Soldiers are expected to demonstrate high moral character on and off duty. Reprimands are appropriate when soldiers fall short of that expectation by engaging in questionable behavior. Reprimands are authorized by the Uniform Code of Military Justice, and 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, and extra duty 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 bring about non-selection for promotion, a bar to reenlistment, or separation under the Qualitative Management Program (QMP). Because of that, a reprimand may potentially end a military career.

Filing Unfavorable Information:

Filing of the reprimand is the most important consideration for a career soldier. Location is everything. A local filing in a soldier's unit personnel file 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 the reprimand is filed in the soldier's Official Military Personnel File (OMPF), the effect may be career ending. Army Regulation (AR) 600-37 sets forth policies and procedures for filing unfavorable information in a soldier's official file. In accordance with the AR, only general officers have authority to order placement of a reprimand in a soldier's OMPF. The soldier will be afforded the opportunity to submit a rebuttal statement for command consideration before a decision is made on filing. The AR indicates reprimands associated with "minor behavior infractions or honest mistakes" ordinarily are not filed in a soldier's OMPF.

Driving Under the Influence and General Officer Reprimands:

Army Regulation 190-5 requires issuance of a written general officer reprimand for commissioned and warrant officers and noncommissioned officers, including corporals, for the following conduct: 1) conviction for driving under the influence of alcohol or drugs; 2) refusal to take, or failure of, a test designed to measure the presence of alcohol in the blood, breath, or urine; 3) 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 (.08 in Kentucky starting July 2000) off-post; or 4) operating a vehicle after taking illegal drugs and with those drugs still present in the body. Issuance of a written general officer reprimand is optional for specialists and below. Soldiers will be notified of their right to submit a rebuttal statement before a decision is made on filing.

Removal of Unfavorable Information from OMPF - Transfer of Reprimands:

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, the following criteria must be met before the DASEB will consider an appeal: 1) the soldier is a staff sergeant or above; 2) at least one year has passed since

imposition of the reprimand; and 3) an evaluation (OER or NCOER), dated after the reprimand, has been filed in the OMPF.

Service of 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, which prompted those promotions, the awards, and the excellent NCOERs. The soldier learned his or her 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. 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.

What Legal Assistance Can Do:

We can help with the preparation of rebuttal statements and with transfer appeals. If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at www.knox.army.mil/center/sja/. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.