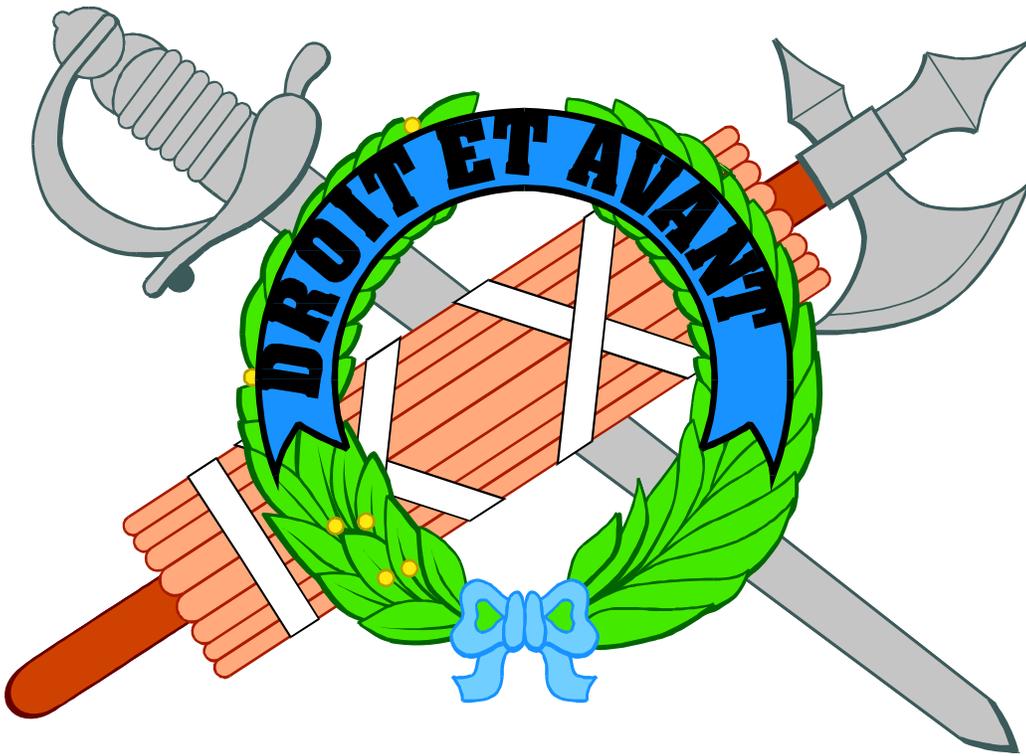


TNNG INSPECTOR GENERAL'S



DESKTOP GUIDE FOR LEADERS

**TNNG INSPECTOR GENERAL'S
DESKTOP GUIDE FOR LEADERS**

TABLE OF CONTENTS

SECTION	TITLE	PAGE
	Preface	1
Chapter 1	The Role of the Inspector General	2
Chapter 2	Seeking Inspector General Assistance	4
Chapter 3	Military Whistleblower Protection	5
Chapter 4	Nonsupport of Family Members	7
Chapter 5	Behavioral Health Evaluations	9
Chapter 6	General Counseling	15
Chapter 7	NCOER Counseling	17
Chapter 8	NCOER Appeals	18
Chapter 9	Suspension of Favorable Personnel Actions (Flags)	20

PREFACE

The TNNG Desktop Advisor is an effective and informative tool for Soldiers in leadership positions who support the working Soldiers' day-to-day issues. Leaders are encouraged to contact the Subject Matter Experts (SME) in resolving problems or answering questions. The TNNG Inspector General's (IG) staff is always available to assist Soldiers and leaders at all levels.

The modern Army IG is an extension of the eyes, ears, voice, and conscience of the Adjutant General. The IG is a personal staff officer providing the commander with a sounding board for sensitive issues. Inspectors General are honest brokers and consummate fact finders. Our functions include inspecting, assisting, investigating and teach/train. The IG works closely with commanders at all levels to resolve issues and provide solutions at the lowest level possible while protecting the confidentiality of all concerned.

This Desktop Advisor was staffed through SMEs, and is as current as of the date of the publication. The Desktop Advisor can be found in electronic version on the TNNG website at the following link: <https://tn.ngb.army.mil/tnmilitary/IG>. You may call any of the numbers listed below. This Desktop Advisor is only a guide so always refer to the appropriate policy or regulation for the current changes and updates.

Anyone may contact the Inspector General's Office for information or guidance by the following means:

COMM: (615) 313-3063/3064/3065/3066

Mailing Address:

Joint Force Headquarters
ATTN: JFHQ-TN-IG
P.O. Box 41502
Nashville, TN 37204-1502

CHAPTER 1

The Role of Inspector General

1. PURPOSE. To inform commanders and leaders of the role of the Inspector General (IG) IAW AR 20-1, Inspector General Activities and Procedures, and AR 1-201, Army Inspection Policy. This guide also serves as a tool to assist commanders and leaders in properly executing their duties and responsibilities IAW regulations, directives, and policies.

2. MISSION. The Tennessee National Guard IG serves as a personal staff officer to the Adjutant General and is charged with advising the Adjutant General, while inquiring into and periodically reporting on the discipline, efficiency, economy, morale, training, and readiness of units throughout the state. Inspectors General are the extension of the eyes, ears, voice, and conscience of the commander. They are fair, impartial, objective fact-finders, and confidential advisors to the commander.

3. OBJECTIVE. Focus on providing effective and accurate IG support to Tennessee National Guard personnel, family members, and civilians, or other personnel by performing its four primary functions: assistance, investigations, inspections, and teaching and training.

4. ASSISTANCE.

a. Assistance is provided to all Soldiers, family members, and civilians, and other personnel requesting assistance in matters of interest to the Tennessee National Guard. Commanders should be aware that preventing communication with an IG, taking reprisal actions against an individual who has gone to an IG, or making false official statements to an IG, are all violations of punitive regulations.

b. When individuals request assistance from an IG, the official receiving the complaint or assistance request will fill out DA Form 1559, Inspector General Action Request (IGAR). Individuals may lodge a request for assistance or complaint either in person, by phone, via letter or by email. Army regulation prohibits an IG from taking direct action on a matter where an appeal process exists to redress perceived problems or injustices until the appeal has run its course. During an appeal, the IG's role is limited to insuring due process in accordance with applicable laws and regulations were afforded to the individual. Their communication with the IG is kept confidential to the maximum extent possible; however confidentiality is never guaranteed to any client. Inspectors General are eager to assist Commanders and Leaders/Supervisors with timely assistance in arriving at solutions to issues or questions that arise in their command. Occasionally, requests for assistance will contain allegations, which may cause the IG to open an informal inquiry, formal investigation or advise the command to initiate an inquiry or investigation.

5. INQUIRIES AND INVESTIGATIONS:

a. An IG inquiry is an informal fact-finding process that normally results in a finding that the allegation is substantiated or non-substantiated. Conclusions are reached based on a preponderance of credible evidence (a lesser degree of evidence required than —beyond reasonable doubt necessary in a criminal trial). A substantiated allegation is maintained in the IG database for 30 years.

b. An IG investigation is a formal process that must be directed by the Adjutant General and is based on a written directive signed by him. The IG will normally notify the Adjutant General when allegations are made which may require a formal investigation. Again, conclusions are based on a —preponderance of credible evidence.

c. Any inspection or investigation conducted by an IG or IG team is considered an IG record. IG records can not be used as the basis for adverse action against any individual without the written approval of The Inspector General of the Army (TIG). IG records also may not be used to compare commands or commanders, used as the basis for any evaluation report, performance appraisal or award recommendation. IG records will not be converted for personal use.

6. INSPECTIONS:

a. The command is the proponent for the Organizational Inspection Program (OIP) which consists of three parts: the Command Inspection Program (CIP), Staff Assisted Visits (SAV), and IG Inspections. While the first two programs focus primarily on organizations, the IG inspection focuses either on organizations or functional areas, or both.

b. IG inspection results will not be used to compare units or organizations, or be used as criteria for unit competitive awards; IG inspections are not designed to reward or penalize units, commanders, or individuals. However, if an IG discovers serious deficiencies involving breaches of integrity, security violations, or criminality, he/she will inform the Adjutant General and recommend an appropriate course of action.

CHAPTER 2 Seeking Inspector General Assistance

THOUGHTS before seeing th IG

- 1. THERE MUST BE A PROBLEM.** We all have personal disagreements from time to time; however the IG can only attempt to resolve issues that present a violation of a standard or procedure.
- 2. GIVE YOUR CHAIN OF COMMAND AN OPPORTUNITY TO RESOLVE THE PROBLEM.** Ultimately, the IG will attempt to work matters back through the chain of command when appropriate.
- 3. SOLDIERS CAN NOT BE DENIED ACCESS TO AN IG.** Soldiers do not have to tell the chain of command why they want to see the IG. However, they must inform their chain of command of their whereabouts for accountability purposes.
- 4. CONFIDENTIALITY IS NEVER GUARANTEED.** Although communication with the IG is kept confidential to the maximum extent possible, confidentiality is never guaranteed.
- 5. BE HONEST AND STATE THE FACTS.** Be completely honest and avoid hearsay. IGs can only resolve problems or make recommendations based on factual evidence.
- 6. IG'S CAN ONLY MAKE RECOMMENDATIONS.** IGs find the facts and make recommendations to commanders. We can not order the chain of command to take action.
- 7. BE PREPARED TO TAKE "NO" FOR AN ANSWER.** IGs will not work cases for which redress procedures are available; however, IGs will ensure that due process was given. Although we are committed to finding the facts, everyone will not be happy with the results of our findings.

CHAPTER 3

Military Whistleblower Protection/Reprisal Factors

1. REFERENCES.

- a. 10 U.S.C 1034
- b. DoD Directive 7056.6, Military Whistleblower Protection, August 12, 1995
- c. IGDG 7056.6, Guide to Investigating Reprisal and Improper Referrals for Mental Health Evaluations, February 6, 1996.
- d. AR 20-1, Inspector General Procedures and Activities

2. GENERAL INFORMATION.

- a. A reprisal is defined as taking or threatening to take, withhold, or threaten to withhold a favorable personnel action against a military member for making or preparing to make a protected communication.
- b. Military members may, at any time, make a protected communications to Members of Congress, IGs, DoD, law enforcement agencies, or the chain of command.
- c. Persons making protected communications are protected against reprisal by the Whistleblower Protection Act of 1989. Allegations of reprisal will be investigated by service IGs with oversight by DOD IG.
- d. The burden of proof is on the supervisor/commander to prove there was no reprisal.

3. REPRISAL FACTORS. The following four questions must be answered before conducting a reprisal complaint:

- a. Did the Military member make or prepare a communication protected by statute?
(Example) Service member contacted Members of Congress, Inspector General.
- b. Was an unfavorable personnel action taken or threatened, or was a favorable action withheld or threatened to be withheld following the protected communication?
(Example) Soldier was transferred or reassigned; received poor performance evaluations.
- c. Did the official(s) responsible for taking, withholding, or threatening the personnel action know about the protected communication?
(Example) Commander transferred a Soldier after learning about his/her report to the Inspector General.

d. Does the evidence establish that the personnel action would have been taken, withheld, or threatened if the protected communication had not been made?

(Example) Soldier would not have received poor evaluation prior to notifying a Member of Congress

4. SOLDIERS RIGHT TO SEE IG. Anyone may submit a complaint, allegation, or request for assistance to any Army IG concerning matters of Army interest . (AR 20-1).

a. No one can be prevented from seeing an IG. Complainants do not have to tell the chain of command why they want to see the IG. However, they must inform their chain of command of their whereabouts for accountability purposes. Stopping someone from seeing the IG is a criminal offense and punishable under law.

b. Rest assured, TNNG IGs will always ask the Soldier if he/she has talked to his/her chain of command. Most of the Soldier's problems can be resolved by the Soldier's chain of command. If the problem is the chain of command, the IG will hear both sides of the issue and act impartially to resolve the problem in accordance with established policies and Army Regulations.

CHAPTER 4 Non-Support of Family Members

(*This section is applicable to Army national Guard Soldiers on Active Duty for 30 days or more)

1. REFERENCE. AR 608-99, Family Support, Child Custody, and Paternity

2. DEPARTMENT OF THE ARMY POLICY. The IG office works with company commanders on a wide range of issues, but one of the most common is spousal claims of non-support. Financial nonsupport of family members is a command issue. Soldiers are required to provide financial support to family members.

a. Soldiers will comply with all court orders regarding child support, alimony, and paternity. In the absence of a court order, the Soldier will provide support as required by AR 608-99, paragraph 2-6.

b. When a court order or written agreement exists establishing the amount of support, the Soldier is required to provide the amount specified.

c. In the absence of a court order regarding child support, even if a Soldier admits paternity and agrees to provide financial support, he or she may terminate financial support at any time for any reason if the Soldier is not receiving BAH-WITH dependents solely for the purpose of providing support for that child.

d. A commander does not have the authority to excuse a Soldier from complying with the interim support requirements of AR 608-99, excepted as listed in AR 608-99, paragraph 2-12 through 2-15. Subparagraph 3-10b states, Commanders will ensure that actions they take enhance the enforcement of this regulation. Commanders will also avoid taking actions that enable or foster the efforts of Soldiers to evade the requirements of this regulation or the application of laws or the enforcement of court orders addressed by this regulation.

e. A Soldier cannot fall into arrears without violating AR 608-99. Although the collection of arrearages based on the financial support provisions of a court order or written support agreement may be enforced in court, there are not legal means for the military to enforce collection of BAH arrearages. Nevertheless, in all cases, Soldiers should be encouraged but not ordered to pay arrearages. Soldiers who fall into arrears may be punished under the provision of Article 92 UCMJ for failing to make support payments when due.

3. COMMANDER RESPONSIBILITIES.

a. Inform Soldiers of the Department of the Army policy on support of family members.

b. Inform the Soldier who is the subject of the inquiry about the nature of the inquiry.

c. Gather information to determine whether or not a violation of AR 608-99 has occurred. If a violation has occurred, consult SJA on exact requirements.

d. Counsel the Soldier. If a support obligation is determined, advise the Soldier that failure to provide financial support to family members on a continuing basis is a violation of AR 608-99 and is punishable under UCMJ.

e. Strongly encourage the Soldier to fulfill this obligation by means of allotment from military pay. The Soldier cannot be forced to initiate an allotment.

f. Respond to all official messages and correspondence concerning nonsupport claims within 14 days IAW AR 608-99, paragraphs 3-5 through 3-9.

g. Follow up with the complainant and monitor the situation. Repeated failure to support Family members can be the basis for more extensive administrative or judicial actions. Additionally, the squadron/battalion commander of a Soldier will be informed of any inquiry alleging a repeated or continual violation of AR 608-99.

h. If a Commander determines that the Soldier has failed to comply with this regulation in the past, for whatever reason, or indicates any unwillingness to comply with this regulation in the future, the company or battalion Commander, as appropriate, will order the Soldier to comply with this regulation. The order should specify that financial support is to be provided not later than a specified date (no later than 30 days following receipt of inquiry).

NOTE: NON-SUPPORT IS CONSISTENTLY THE #1 DEPLOYMENT ISSUE FOR TNNG IGs. IF YOU'RE A COMMANDER OF A DEPLOYED UNIT, SAVE YOURSELF A LOT OF HEARTACHE BY KNOWING THIS REGULATION AND ENCOURAGING YOUR SOLDIERS TO DO "THE RIGHT THING" AND MAKE PROVISIONS TO ENSURE THEIR SPOUSE IS FINANCIALLY SUPPORTED WHILE DEPLOYED.

CHAPTER 5

Behavioral Health Evaluations

Military members may at any time make protected communications to a Member of Congress, IG, DOD, law enforcement agency, or the chain of command. Military leaders may not refer a military member for a Behavioral Health Evaluation (BHE) as reprisal for making a protected communication.

1. REFERENCES.

- a. DOD Directive 6490.1, Mental Health Evaluations of Members of the Armed Forces
- b. DOD Instruction 6490.4, Requirements for Mental Health Evaluations of Members of the Armed Forces
- c. MEDCOM 40-38, Command Directed Mental Health Evaluations, SEP 01

2. DEPARTMENT OF DEFENSE POLICY. Department of Defense policy requires the Commanding Officer consult with a mental health professional before referring a member for a Routine (nonemergency) mental health evaluation to be conducted on an outpatient basis. This requirement applies to both Soldiers in training and permanent party personnel.

3. COMMANDER RESPONSIBILITIES. Become familiar with the policy and procedures contained in DoD Directives 6490.1 and 6490.4. Ensure that Soldiers are not referred for mental health evaluations as a reprisal for making a protected communication, and that proper procedure is followed when it becomes necessary to refer a Soldier for a mental health evaluation (MHE).

4. NONEMERGENCY COMMAND REFERRAL. A “non-emergency command referral” is a mental health evaluation directed by a Soldier’s commanding officer as an exercise of the commanding officer’s authority. This is a situation that is not considered life threatening, but behaviors and actions warrant an evaluation. In non-emergency situations - Commanders upon determining a MH evaluation is needed will:

- a. Consult with a mental healthcare provider to discuss the Service member’s actions and behaviors that the commander believes warrant the evaluation.

- b. After consulting with a mental healthcare provider and the determination is made that the Soldier’s behavior warrants the evaluation, the commander must notify the Soldier in writing at least two business days before the mental health evaluation. The notification memorandum will include:

- (1) The reason for the referral, giving a brief description of behaviors that led to the decision for the referral.

- (2) The name of the mental health care provider the commander consulted.
 - (3) Notification of the Soldier's rights.
 - (4) The date, time and place of the evaluation, and the name and rank of the mental health care provider who will conduct the evaluation.
 - (5) The name and signature of the Soldier's commanding officer.
 - (6) Titles and telephone numbers of other authorities such as lawyers, the IG and Chaplains who can assist the Soldier who wishes to question the necessity for the evaluation.
- c. The Soldier will acknowledge in writing that he or she has been advised of the reasons for the mental evaluation and his or her rights. The service member will be provided a copy of the notification memorandum.
- d. No one will refer a Soldier for a mental health evaluation as reprisal for making or preparing a lawful communication to a member of Congress, any appropriate authority in the chain of command, an Inspector General or member of a DOD audit, inspection, investigation or law enforcement organization.

5. SOLDIER'S RIGHTS.

- a. Receive notice 2 business/working days prior to the appointment for Command-directed MH referral.
- b. Receive copy of Commander's notification memorandum for Request for Evaluation.
- c. Right to request advice from attorney (JAG or civilian @ own expense) as to how to seek redress, if soldier perceives referral is not justified.
- d. Right to submit complaint to IG, if soldier perceives referral is not justified.
- e. Right to be evaluated by a MH professional of his/her own choosing to include a civilian at soldier's own expense.
- f. No person may restrict a soldier's right to communicate with the IG, member of Congress, or any others concerning the MH referral.

6. EMERGENCY COMMAND REFERRAL. When a Soldier by action or words attempts or threatens violence, intends or is likely to cause serious injury to himself, herself, or others, or when the commander believes that the Soldier may be suffering from severe mental disorder, the commander shall refer the Soldier for an emergency mental health evaluation as soon as practicable. Examples of this kind of emergency situation are, but

not limited to, Suicidal/ Homicidal ideations, Hallucinations, and Paranoid/ Schizophrenic thoughts or actions as described by the BHE staff. The commander must take precautions to ensure the safety of the Soldier and others, pending arrangements for and transportation to the evaluation. Prior to transporting the Soldier, or shortly thereafter, the commander shall consult with a mental healthcare provider at the location where the Soldier is being transported.

7. VOLUNTARY SELF REFERRAL: Any Soldier can self refer himself/ herself by going to a Military Treatment Facility or a Primary Care Physician to request counseling. The commander normally does not have access to the Soldier's/Doctor's information in this type of referral. **Be aware that in certain cases where Soldiers use Tricare and certain medications are prescribed, Military Medical Support Office (MMSO) could notify the TNNG Medical Command, and this could prompt the need for a Mental Health Evaluation by a doctoral level Psychologist or Psychiatrist.**

8. GENERAL INFORMATION.

a. No person may refer a Service member for Behavioral Health Evaluation as a reprisal for making or preparing a lawful communication (PC) to a Member of Congress, any appropriate authority in the chain of command of the Service member, an IG or a member of a DoD audit, inspection, investigation or law enforcement organization.

b. No person may restrict a Service member from lawfully communicating with an IG, attorney, Member of Congress, or other person about the Service member's referral for a Behavioral Health Evaluation. Any violation of the above mentioned paragraphs by any person is subject to the Uniform Code of Military Justice (UCMJ) and punishable as a violation of Article 92 of the UCMJ.

Note: These procedures must be followed IAW the DoD directives. Failure to do so may lead to a possible inquiry or investigation regarding improper mental health referral or reprisal/whistleblower policies.

SAMPLE
SERVICE MEMBER NOTIFICATION OF COMMANDING OFFICER
REFERRAL FOR MENTAL HEALTH EVALUATION

Date:

MEMORANDUM FOR (Service member's rank, name and SSN)

FROM: COMMANDING OFFICER, (Name of Command)

SUBJECT: Notification of Commanding Officer Referral for Mental Health Evaluation
(Non Emergency)

References:

- (a) DoD Directive 6490.1 "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997
- (b) DoD Instruction 6490.4, "Requirements for Mental Health Evaluations of Members of the Armed Forces," August 28, 1997
- (c) Section 546 of Public Law 102-484, National Defense Authorization Act for Fiscal Year 1993, : October 1992
- (d) DOD Directive 7050.6, "Military Whistleblower Protection," August 12, 1995

1. In accordance with references (a) through (d), this memorandum is to inform you that I am referring you for a mental health evaluation.

2. The following is a description of your behaviors and/or verbal expressions that I considered in determining the need for a mental health evaluation; (**Provide dates and a brief factual description of the Service member's actions of concern.**)

3. Before making this referral, I consulted with the following mental health care provider(s) about your recent actions: (**list name of each provider consulted**) at (**name of Medical Treatment Facility (MTF) or clinic**) on (**date(s)**). (**Rank(s) and/or name(s) of mental healthcare provider(s)**) concur(s) that this evaluation is warranted and is appropriate.

OR

Consultation with a mental healthcare provider prior to this referral is (was) not possible because (give reason; e.g., geographic isolation from available mental healthcare provider, etc.)

4. Per references (a) and (b), you are entitled to the rights listed below:

a. The right, upon your request to speak with an attorney who is a member of the Armed Forces or is employed by the Department of Defense who is available for the purpose of advising you of the ways in which you may seek redress should you question this referral.

b. The right to submit to your Service inspector General or to the Inspector General of the Department of Defense (IG, DOD) for investigation an allegation that your mental health evaluation referral was a reprisal for making or attempting to make a lawful communication to a Member of Congress, any appropriate authority in your chain of command, an IG, or a member of a DoD audit, inspection, investigation or law enforcement organization or in violation of (reference (a)), DoD Instruction (reference (b)) and/or any applicable Service regulations.

c. The right to obtain a second opinion and be evaluated by a mental healthcare provider of your own choosing, at your own expense, if reasonable available. Such an evaluation by an independent mental healthcare provider shall be conducted within a reasonable period of time, usually within 10 business days, and shall not delay nor substitute for an evaluation performed by a DoD mental healthcare provider.

d. The right to communicate without restriction with an IG, attorney, Member of Congress, or others about your referral for a mental health evaluation. This provision does not apply to a communication that is unlawful.

e. The right, except in emergencies, to have at least two business days before the scheduled mental health evaluation to meet with an attorney, IG, chaplain, or other appropriate party. If I believe your situation constitutes an emergency or that your condition appears potentially harmful to your well being and I judge that is not in your best interest to delay your mental health evaluation for two business days, I shall state my reasons in writing as part of the request for the mental health evaluation.

f. If you are assigned to a naval vessel, deployed or otherwise geographically isolated because of circumstance related to military duties that make compliance with any of the procedures in paragraphs (3) and (4), above, impractical, I shall prepare and give you a copy of the memorandum setting forth the reasons for my inability to comply with these procedures.

5. You are scheduled to meet with (name and rank of the mental healthcare provider) at (name of MTF or clinic or location of evaluation) on (date) at (time).

6. The following authorities can assist you if you wish to question this referral:

a. Military Attorney: (Provide rank, name, location, telephone number and available hours.)

b. Inspector General: (Provide rank/title, name, address, telephone number and available hours for Service and IG, DoD. The IG, DoD number is 1-800-424-9098.)

c. Other available resources: (Provide rank, name, corps/title of chaplains or other resources available to counsel and assist the Service member.)

(Signature)
Rank and Name of Commanding Officer

I have read the memorandum above and have been provided a copy.

Service member's signature: _____ Date:

OR

The Service member declines to sign this memorandum which includes the Service member's Statement of Rights because (give reason and/or quote Service member).

Witness's signature: _____ Date:

Witness's rank and name: _____ Date:

(Provide a copy of this memorandum to the Service member.)

Behavioral health counseling in and of itself is not a reason to revoke or deny a clearance. See Federal Investigations Notice 08-01, which can be accessed on www.opm.gov, for explanation of Behavioral Health counseling as referred to on the SF 86 questionnaires for national security positions.

CHAPTER 6 GENERAL COUNSELING

1. REFERENCES.

- a. AR 600-9, The Army Weight Control Program
- b. AR 600-20, Army Command Policy
- c. AR 623-3 Evaluation Reporting System
- d. DA Pamphlet 623-3, Evaluation Reporting System
- e. FM 6-22, Army Leadership
- f. FM 7-21.13, The Soldier's Guide

2. DEPARTMENT OF THE ARMY POLICY.

- a. Commanders will ensure Soldiers clearly understand the counseling process.
- b. Counseling is used to provide a written record of a Soldier's performance. This record is used to support personnel actions such as promotions, awards, schools, and administrative and disciplinary actions, etc.
- c. Provide a written record of a supervisor's ability to counsel.

3. GENERAL INFORMATION.

- a. Counseling is one of the most important leadership development responsibilities for Army leaders. When properly and routinely used, the General Counseling Form (DA For 4856) ensures Soldiers being counseled are clearly aware of their demonstrated performance and potential. General counseling affords the Soldier the opportunity to improve based on specific goals and or noted deficiencies.
- b. General counseling provides a written record that protects the integrity of the chain of command and documents the command's responsibilities of its Soldiers. It also protects the basic right of Soldiers to clearly understand a supervisor's perceptions and expectations of their performance.
- c. Providing regular and effective performance counseling to all Soldiers, not just those who fail to meet standards, is a command responsibility. All commanders will ensure that their subordinate leaders have implemented and are maintaining an effective performance-counseling program.

4. COMMANDER RESPONSIBILITIES.

- a. Ensure counseling is done on a routine basis.
- b. Ensure Soldiers are counseled for performing well on specific missions or tasks.
- c. Ensure counseling is performed in a positive manner. All counseling should provide evaluation of the Soldier's performance, goals for future performance; and methods to affect improvement. Leaders should use this method even when counseling a Soldier for poor performance or disciplinary infractions.

CHAPTER 7 NCO EVALUATION REPORT (NCOER) COUNSELING

1. REFERENCE

- a. AR 623-3, Evaluation Reporting System
- b. DA PAM 623-3, Evaluation Reporting System

2. DEPARTMENT OF THE ARMY POLICY.

a. AR 623-3, paragraph 1-4 and DA Pamphlet 623-3, paragraph 3-6, requires a rater to conduct initial and performance counseling on NCOs they rate. Initial counseling will focus on communicating performance standards to the rated NCO and should let the NCO know what is expected of them during the rating period. It includes planning for the accomplishment of specific individual and professional goals and focuses on duty performance and professional development throughout the rating period. Counseling will be conducted as follows:

(1) Initial counseling within the first 30 days of a new rating period.

(2) Initial counseling within the first 30 days of promotion to Sergeant.

(3) Initial counseling within the first 30 days of assignment to a new unit or new duty position where the Soldier is assigned a new rater.

(4) Performance counseling once per quarter for AGR Soldiers and semi-annually for M-Day Soldiers.

b. The rater must prepare and use DA Form 2166-8-1 (NCO Counseling Support Form) when conducting performance counseling for each rated NCO. The DA Form 2166-8-1 is maintained by the rater until after the NCOER has been approved and submitted to the MILPO.

c. Senior raters will use all reasonable means to become familiar with the rated NCO's performance throughout the rating period, such as periodical review of the counseling checklist to ensure that initial and quarterly or semi-annual counseling is being accomplished. When counseling dates are omitted, the senior rater must include a statement in part V. e, explaining why the counseling was not accomplished.

3. COMMANDER RESPONSIBILITIES.

Commanders will ensure that rating officials give timely counseling to subordinates on professionalism and job performance, encouraging self-improvement when needed.

CHAPTER 8 NCO EVALUATION REPORT (NCOER) APPEALS

1. REFERENCE.

- a. AR 623-3, Evaluation Reporting System
- b. DA Pamphlet 623-3, Evaluation Reporting System

2. DEPARTMENT OF THE ARMY POLICY. AR 623-3, Chapter 6 and DA PAM 623-3, Chapter 6 outlines the specifics of the NCOER appeal process. The appeals system is designed to protect the Army's interests and ensure fairness to the NCO. It also avoids questioning the integrity or judgment of the rating official without sufficient cause. Preparation of the appeal will not delay submission of the original NCOER.

3. GENERAL INFORMATION

a. Deciding to appeal. Before submitting an appeal, an objective analysis of the report in question should be made. AR 623-3, paragraph 6-11 discusses the level of evidence that must be provided. The Soldier should be realistic in the assessment of whether or not to submit an appeal based on a careful review of the regulation. The Soldier should seek advice and assistance in determining whether an appeal is advisable. The Staff Judge Advocate, Enlisted Personnel Office and Personnel Sergeant are available to provide assistance.

b. Timeliness. Substantive appeals must be submitted within 3 years of the NCOER completion date. There is no time limit on administrative appeals. Appeals should be submitted as promptly as possible to enhance the likelihood of a successful appeal.

c. Burden of proof rests with the Soldier. Successfully appealing an NCOER depends on the strength of the evidence, the care with which the case is prepared, and the line of argument presented. The Soldier should obtain statements from third parties (persons who have knowledge of the rated Soldier's duty performance during the contested rating period). Official documents may also substantiate that an evaluation report is in error. To be acceptable, evidence must be competent and relevant to the Soldier's claim. Soldiers must ensure they submit all documentation to assist in their appeal request. Failure to do so hinders the appeals process and prevents the board from making an informed decision. The board will make a decision based on the evidence provided. Statements from rating officials will not be the sole basis of the appeal.

d. Prior to submitting the appeal, the Soldier should have the packet reviewed by a disinterested third party. This may help remove emotions and poor logic from the case. The case must be a logical, well-constructed case, and as fully documented as possible. Rated NCOs may seek an initial means of redress through the Commander's Inquiry provisions of AR 623-3, paragraphs 6-3 through 6-6.

4. SOLDIER'S RESPONSIBILITIES. Become thoroughly familiar with AR 623-3, Chapter 6 and DA PAM 623-3 Chapter 6 prior to submitting an appeal. Prepare the appeal in the format required and include necessary enclosures.

5. COMMANDER'S RESPONSIBILITIES. Provide assistance as needed.

CHAPTER 9

Suspension of Favorable Personnel Actions (Flags)

1. REFERENCES.

- a. AR 600-8-2, Suspension of Favorable Personnel Actions (Flags).
- b. AR 600-8, Military Personnel Management.
- c. NGR 600-200, Enlisted Personnel Management.

2. DEPARTMENT OF THE ARMY POLICY.

a. Flag actions guard against the accidental execution of favorable personnel actions for Soldiers not in good standing and support the Army's personnel life-cycle function of sustainment.

b. A flag will be submitted when an unfavorable action or investigation (formal or informal) is started against a Soldier by military or civilian authorities.

c. Flagging actions are classified into two categories: non-transferable and transferable (paragraph 1-11, AR 600-8-2).

3. COMMANDER RESPONSIBILITIES.

a. Commanders direct the flagging action when a Soldier's status changes from favorable to unfavorable. A flag action is to be removed immediately when the Soldier's status changes from unfavorable to favorable.

b. Initiate a separate flag for each investigation, incident or action.

c. Review active flag actions monthly.

d. Consult the security manager if determination is made to suspend access to classified information.

e. Ensure the rules for transferring and removing flags are being followed.

f. Ensure Soldiers who fail the APFT or fail to meet height and weight requirements are flagged.

g. Ensure the Soldier is informed of the flag action.

h. Ensure that the flag is removed when the action that required the flag has been corrected. Timeliness of the removal is essential for the Soldier to preclude delaying favorable personnel actions.

AGENCY FOR THIS PUBLICATION:

This Desktop Advisor was staffed through SME, and is as current as of the date of the publication. The Desktop Advisor can be found in electronic version on the TNNG website at the following link: <https://tn.ngb.army.mil/tnmilitary/IG>. You may call any of the numbers listed below. This Desktop Advisor is only a guide so always refer to the appropriate policy or regulation for the current changes and updates.

Anyone may contact the Inspector General's Office for information or guidance by the following means:

COMM: (615) 313-3063/3064/3065/3066

Mailing Address:

Joint Force Headquarters
ATTN: JFHQ-TN-IG
P.O. Box 41502
Nashville, TN 37204-1502