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***Army Regulation 15–6**

Effective 22 June 2025

Boards, Commissions, and Committees

Procedures for Preliminary Inquiries, Administrative Investigations, and Boards of Officers

By Order of the Secretary of the Army:

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History. This publication is a mandated revision. The portions affected by this mandated revision are listed in the summary of change.

Authorities. The authorities for this regulation are 10 USC 1561, DoDI 1020.03, DoDI 1020.04, Army Directive 2022–13, Army Directive 2023–03, and Army Directive 2025–07.

Applicability. This regulation applies to the Regular Army, the Army National Guard/Army National Guard of the United States, and U.S. Army Reserves. This regulation also applies to Department of the Army Civilians.

Proponent and exception authority. The proponent of this regulation is The Judge Advocate General. The proponent has the authority to approve exceptions and waivers to this regulation that are consistent with controlling laws or regulations. The proponent has delegated exception and waiver approval and disapproval authority to the Office of The Judge Advocate General's Director of Military Law and the Office of The Judge Advocate General Administrative Law Division Chief. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's servicing legal office. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25–30 for specific requirements.

Army internal control process. This regulation contains internal control provisions in accordance with AR 11–2 and identifies key internal controls that must be evaluated (appendix J).

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to usarmy.pentagon.hqda-otjag.list.task-adlaw@army.mil.

Committee management approval. AR 15–39 requires the proponent to justify establishing/continuing committee(s), coordinate draft publications, and coordinate changes in committee status with the U.S. Army Special Programs Directorate at email usarmy.pentagon.hqda-hsa.mbx.commitee-management@army.mil. Further, if it is determined that an established "group" identified within this regulation later takes on the characteristics of a committee as found in the AR 15–39, then the proponent will follow all AR 15–39 requirements for establishing and continuing the group as a committee.

Distribution. This regulation is available in electronic media only and is intended for the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

*This regulation supersedes AR 15-6, dated 1 April 2016.

Summary of Change

AR 15–6
Procedures for Preliminary Inquiries, Administrative Investigations, and Boards of Officers

This mandated revision, dated 22 June 2025—

- Updates policy statement (chap 1).
- Clarifies the credibility assessment, prior to initiation of an inquiry or investigation (para 1–8).
- Adds guidance regarding knowingly false allegations and repeated frivolous allegations (para 1–10).
- Prescribes policy for specially trained investigating officers (para 2–1 and terms).
- Updates responsibilities (chap 2).
- Clarifies board procedures when an alleged victim is represented by Special Victims' Counsel (para 3–10*b*).
- Updates retention guidance for administrative investigations and boards (para 3–20).
- Removes the mandate to have a different legal reviewer and legal advisor (para 2–5).
- Updates terms and references, to include updating the terms "credible evidence/information" and "subject" (app A and glossary of terms).
- Replaces investigating officer's guide with an administrative investigation checklist (app C) and adds an administrative investigation release disclosure guide (app E).
- Updates and consolidates figures with sample memorandums appendixes (apps F–I).
- Implements all applicable executive orders (throughout).
- Implements Title 10, United States Code, 1561, DoDI 1020.03, and DoDI 1020.04 (throughout).
- Incorporates Army Directive 2022–13, Reforms to Counter Sexual Harassment/Sexual Assault in the Army dated 20 September 2022 (throughout).
- Incorporates Army Directive 2023–03, Army Adverse Information, dated 23 February 2023 (throughout).
- Incorporates Army Directive 2025–07, Standardization of Investigation and Personnel Action Processes, dated 22 May 2025 (throughout).
- Clarifies procedural requirements for investigating Department of the Army Civilians (throughout).

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Glossary of Terms

Chapter 1
General

1–1. Purpose
This regulation prescribes policies and procedures for completing preliminary inquiries, administrative investigations, and boards of officers.

1–2. References, forms, and explanation of abbreviations
See appendix A. The abbreviations, brevity codes, and acronyms (ABCAs) used in this electronic publication are defined when you hover over them. All ABCAs are listed in the ABCA directory located at https://armypubs.army.mil/.

1–3. Associated publications
This section contains no entries.

1–4. Responsibilities
Responsibilities are listed in chapter 2.

1–5. Records management (recordkeeping) requirements
The records management requirement for all record numbers, associated forms, and reports required by this publication are addressed in the Records Retention Schedule–Army (RRS–A). Detailed information for all related record numbers, forms, and reports are located in Army Records Information Management System (ARIMS)/RRS–A at https://www.arims.army.mil. If any record numbers, forms, and reports are not current, addressed, and/or published correctly in ARIMS/RRS–A, see DA Pam 25–403 for guidance.

1–6. Other governing regulations
This regulation, or any part of it, may be made applicable to investigations or boards that are authorized by another regulation or directive, but only by specific incorporation by that regulation or directive, or in the memorandum of appointment. In case of a conflict between the provisions of this regulation, when made applicable to an investigation or board that is authorized by another regulation or directive, and the provisions of the specific regulation or directive authorizing the investigation or board, the latter will govern. This regulation does not prescribe procedures for criminal investigations, which are governed by AR 195–2 (for felony equivalent offenses to be investigated by U.S. Army Criminal Investigation Division (USACID)) or AR 190–30 (for offenses to be investigated by military police (MP)). It also does not prescribe procedures for investigations conducted by Inspector General (IG) personnel under the provisions of AR 20–1. Appointing authorities will consult their servicing staff judge advocate (SJA) or legal advisor when determining the appropriate procedure to conduct fact-finding activities into a particular matter.

1–7. Policy
Preliminary inquiries, administrative investigations, and boards of officers are used to examine allegations or issues within a command or organization; gather facts; and help leaders make informed decisions. These investigative procedures serve several functions, to include, fact-finding, maintaining good order and discipline, enhancing operational effectiveness, determining appropriate actions, and preventing future issues. Leaders have many tools at their disposal to resolve issues, complaints, or concerns. A preliminary inquiry, administrative investigation, and board of officers are some of those tools for leaders. Leaders are encouraged to explore all appropriate options they may have, rather than defaulting to an investigation in every case. This includes, but is not limited to counseling, engaged leadership and mentorship, communicating with subordinates and peers, on-the-spot corrections, and proactive prevention to mitigate potential harmful behaviors and actions. If a leader then determines a preliminary inquiry, administrative investigation, or board of officers is either required or is the appropriate method to address an issue, the investigation or board will be completed in a thorough and timely manner consistent with law and policy.

1–8. Types of procedures

a. There are three types of fact-finding or evidence-gathering procedures under this regulation: preliminary inquiries (see chap 4), administrative investigations (see chap 5), and boards of officers (see chap 6).

b. Initial actions taken by a commander, supervisor, or other appropriate authority regarding allegations or complaints will depend upon the extent of the information provided or known, unless some other policy requires initiation of an administrative investigation or board of officers. Commanders, supervisors, or other appropriate authorities, in consultation with their servicing legal advisor, should assess all available information to determine if sufficient credible information exists to warrant further fact-finding or evidence-gathering. Given the credibility assessment is not considered one of the administrative investigative procedures prescribed in paragraph 1–8*a*, Soldiers will not be flagged while a credibility assessment is being made. If an allegation contains sufficient credible information or if the commander deems it appropriate, the commander may initiate a preliminary inquiry, administrative investigation, or board of officers. Once a preliminary inquiry, administrative investigation or board of officers is initiated, respondents and subjects will be flagged in accordance with AR 600–8–2. If an allegation or complaint does not contain sufficient information to initiate an inquiry or investigation, the commander (or his/her designee) may, though is not required to complete a memorandum for record (MFR) documenting the allegation or complaint. The MFR could note that a consultation with the servicing SJA or legal advisor occurred and annotate the disposition decision by the commander regarding the allegation or complainant (for example, the command took no further action into the matter). The MFR would be maintained by the legal office.

c. If an allegation contains sufficient credible information and meets the reportable activity criteria prescribed in AR 380–67, the commander must report the information to the designated security manager for submission of an incident report, whether or not an inquiry or administrative investigation is initiated.

1–9. Standard of proof

a. The standard of proof for a preliminary inquiry, administrative investigation, and board of officers is "preponderance of the evidence." A preponderance of the evidence is defined as the greater weight of credible evidence. Credible evidence is defined in the glossary. When the greater weight of credible evidence supports the alleged events, it means the events as alleged are more likely than not to have occurred and the investigating officer may consider the events proven. While the quantity of evidence is something to consider, less credible evidence should not trump a smaller amount of more credible evidence.

b. The factfinder, whether an investigating officer (IO) or a board of officers, must weigh conflicting evidence and make a reasoned judgment as to whether the allegations are proven by the preponderance of the evidence. Some additional factors to consider when weighing the evidence are witness demeanor, opportunity for knowledge, bias, motive, intent, and the ability to recall and relay events. Also consider the extent to which a witness is either supported or contradicted by other available direct or circumstantial evidence. Investigating officers and boards of officers are permitted to rely on the facts, established by evidence in the record, or to draw reasonable inferences (that is, logical conclusions, based on sound judgment and life experience, that can be drawn from a known or proven fact).

1–10. Knowingly false allegations and repeated frivolous allegations

Personnel who are found to have knowingly submitted a false allegation, and the false allegation is what initially triggered an inquiry or investigation, may be subject to adverse administrative or punitive action. Personnel who repeatedly submit or make frivolous allegations (as defined in the glossary) to appointing authorities, which trigger investigations, may be subject to adverse administrative or punitive action.

Chapter 2
Responsibilities

2–1. Appointing authority

The official who is appointing a preliminary inquiry, administrative investigation, or board is the appointing authority. See chapters 4, 5, or 6 for specific information on who may serve as appointing authorities for a preliminary inquiry, administrative investigation, or board of officers. The appointing authority—

a. Will ensure administrative investigations and boards of officers are completed in a timely manner, and in accordance with specific time constraints established by other regulations or directives (when applicable). Completion in a timely manner includes ensuring the IO is not assigned additional tasks and duties. Unless specifically prescribed in another regulation, a "timely manner" is no more than 30 business days. This time may vary given the complexity of the issue under investigation, and other factors.

b. Will appoint IOs and board members to conduct preliminary inquiries, administrative investigations, or boards of officers, pursuant to this regulation. Appointing authorities will ensure the IOs/board members meet the qualification requirements to serve (see para 3–6).

c. Pursuant to Secion 1561, Title 10, United States Code (10 USC 1561), will appoint specially trained IOs to serve as IOs for administrative investigations of formal sexual harassment complaints. For investigations stemming from formal sexual harassment complaints, the IO will be someone from outside the immediate chain of command of the complainant and the subject.

d. Will provide IOs clear guidance on the scope of the investigation, timeline to complete the investigation, and any other relevant matters to ensure a thorough and complete investigation is submitted to the approving authority.

e. Will prepare or have the servicing legal office prepare the appointment order for the preliminary inquiry (when applicable), administrative investigation, or board of officers.

f. In cases where a Department of the Army (DA) civilian is the subject of an administrative investigation, appointing authorities should also consult with the servicing labor and employment law attorney, in coordination with the servicing legal advisor or appointing authority's legal counsel. The purpose of the consultation is to help frame the scope of the administrative investigation and assist the appointing authority with any civilian employee-specific issues, like verifying proper notice of union rights and referencing the appropriate regulations and statutes specific to DA Civilians (if applicable).

g. In cases involving allegations of contract fraud, waste, or abuse, the servicing contract law or business law attorney should be consulted prior to appointing an investigation. Consultation in such instances is critical for working through complex acquisition concerns and coordinating with relevant stakeholders.

h. Will serve as the approval and disapproval authority for an extension request from the IO. Appointing authorities may delegate extension approval and disapproval authority to the appointing authority's servicing legal advisor.

i. Should periodically receive an update from the IO on the status of the preliminary inquiry or administrative investigation. This ensures the IO is meeting the appointing authority's intent and is on track to complete the investigation by the suspense date or be prepared to request an extension. See figure I–2 for a sample administrative investigation extension memorandum.

j. May designate one or more persons as respondents when using board procedures (see chap 6). Respondents will not be designated in preliminary inquiries or administrative investigations. For preliminary inquiries and administrative investigations, the appointing authority may designate one or more persons as subject(s).

k. Will ensure the subject's or respondent's commander emplaces a flag in accordance with AR 600–8–2, when applicable. Ensure the investigation flag is lifted in accordance with AR 600–8–2 at the conclusion of the investigation. In cases where an investigation is started with multiple subjects but during the investigation the appointing authority determines someone who has been designated as a subject should no longer be a subject of the investigation; the appointing authority can remove the designation as a subject, direct removal of the flag, and continue the investigation.

l. Appointing authorities are encouraged to consider the availability of the IO and not appoint individuals whose duties or circumstances would preclude them from giving the investigation their full attention (for example, IO who is having a family emergency). Appointing authorities should consult with their servicing legal office when considering ordering Reserve Component personnel on active duty to complete an investigation.

m. Will appoint the legal advisor in the appointment order for a board of officers and administrative investigation. While legal advisors are not required for preliminary inquiries, appointing authorities are encouraged to appoint a legal advisor or seek advice from their servicing legal office prior to and during the course of the preliminary inquiry.

n. In cases where the subject is a colonel promotable, or higher, or a member of the senior executive service (SES), the appointing authority will provide the matter to the servicing IG office in accordance with AR 20–1 and paragraph 3–1 of this regulation.

o. An appointing authority may relieve an investigating officer at any time and appoint a new investigating officer when the IO has failed to conduct the investigation in accordance with this regulation. The appointing authority will consult the legal advisor regarding counseling the relieved investigating officer and the inadequacy of their investigation.

2–2. Approval authority

The official taking action on a preliminary inquiry, administrative investigation, or board of officers is the approval authority. Generally, the appointing authority will be the same official as the approval authority; however, this is not always the case. For example, the appointing authority may not act as the approval authority if the appointing authority retires, changes duty station or assignment prior to the investigation being completed, or becomes a witness in the investigation; if a higher commander withholds approval authority from a subordinate appointing authority; or if the appointing authority did not have the requisite authority to appoint the investigation or board.

a. The following individuals may act as the approval authority:

(1) The appointing authority's successor if he or she meets the requirements of chapters 5 or 6;

(2) The appointing authority's next higher commander or supervisor if he or she meets the requirements of chapters 5 or 6; or

(3) The Director, Army Staff (DAS) for appointing authorities serving on the Army Staff or the DA Secretariat.

b. The approval authority—

(1) Upon receipt of a completed investigation or board file that has been legally reviewed, will conduct a review of the completed investigation or board file.

(2) Will approve, disapprove, or modify findings and recommendations, or direct further investigation of the administrative investigation or board of officers. The approval authority may also concur with or disagree with recommendations that cannot be implemented at his or her level. The approval authority may act different than that recommended with regard to a respondent or other individual, unless the specific regulation or directive under which the investigation or board was appointed provides otherwise.

(3) May direct the IO to conduct further investigation if warranted or necessary.

(4) Unless otherwise provided by another regulation or directive, is neither bound nor limited by the findings or recommendations of an IO or board.

(5) Except as provided in paragraph 3–13*d*, may consider any relevant information in making a decision to take adverse action against an individual, even information that the IO or board did not consider. The approval authority will attach that information to the report of investigation, if available.

(6) Will complete the applicable portion of the DA Form 1574–1 (Report of Proceedings by Investigating Officer) or DA Form 1574–2 (Report of Proceedings by Board of Officers), annotating his or her approval, disapproval, or modification of the findings and recommendations, and making comments regarding follow-on action. In addition to the 1574s, the approval authority may prepare a signed memorandum to document the disposition of the administrative investigation or board of officers. This memorandum should be incorporated by reference in the 1574s.

(7) Will ensure the administrative investigation or board of officers report, and associated documents, are properly retained for record keeping purposes (see para 3–20).

(8) Is responsible for ensuring any adverse information contained in an administrative investigation conducted pursuant to AR 15–6 meets the requirements of DoDI 1320.04, Enclosure 4, Paragraph 1a, prior to approval and is recorded in the Army Adverse Information Program (AAIP) database. The approval authority's SJA or legal advisor is responsible for completing the administrative tasks necessary to record the information under the direction of the investigation approval authority. Approval authorities are also responsible for ensuring adverse information meeting the reportable activity criteria prescribed in AR 380–67 is provided to the servicing security office for the submission of an incident report in accordance with AR 380–67.

(9) Will follow through with approved recommendations from the investigation or board of officers.

2–3. Investigating officer

The investigating officer—

a. Will conduct a fair and impartial preliminary inquiry or investigation, consistent with the policies and procedures in this regulation.

b. Will notify the appointing or approving authority if any perceived or actual conflict of interest arises during the investigation. Notify the appointing authority if any perceived or actual conflict of interest is known at the time of appointment.

c. Will complete the preliminary inquiry or investigation by the suspense date or request an extension to complete the preliminary inquiry or investigation. See figure I–2 for a sample administrative investigation extension memorandum.

d. Will receive a legal in-brief from his/her assigned legal advisor and review the IO checklist prior to commencing the investigation (see app C).

e. When authorized by the approval authority, will notify officers of adverse findings and refer relevant portions of the investigation to officers pursuant to paragraph 5–5 of this regulation. See figure H–1 for a sample adverse information notification memorandum.

f. Will only disclose information and documentation concerning the preliminary inquiry or administrative investigation, as authorized by this regulation, the appointing authority, or the approving authority. An IO must always consult with his or her assigned legal advisor prior to disclosing any information or documentation related to a preliminary inquiry or administrative investigation.

g. Will consult with USACID before starting the administrative investigation for a formal sexual harassment complaint. IOs will contact USACID at usarmy.belvoir.hqda-usacid.mbx.cid-sexual-harassment-liaison@army.mil.

h. Prioritize completion of the preliminary inquiry or administrative investigation as their primary duty.

2–4. Assistant investigating officer

When appointed, assistant IOs—

a. Will assist the IO with completing the administrative investigation in a timely manner, consistent with this regulation and the appointing authority's appointment memorandum.

b. Will only disclose information and documentation concerning the preliminary inquiry or administrative investigation, as authorized by this regulation, the appointing authority, or the approving authority.

c. Will prioritize completion of the preliminary inquiry or administrative investigation as their primary duty.

2–5. Legal advisor

The legal advisor—

a. Will be appointed for administrative investigations and boards of officers.

b. Will brief the IO prior to the IO starting an administrative investigation. This briefing must be comprehensive and sufficiently thorough to aid the IO in developing an efficient and effective investigative plan. This will include, but is not limited to: (1) orienting the IO to types of documentary evidence and where/how to find it; (2) how to elicit clear and useful testimony from witnesses (and how to ask meaningful and relevant follow-up questions); (3) understanding and applying the relevant legal standard (for example, sexual harassment and its elements) to the facts; (4) assessing witnesses' credibility; and (5) how to structure clear and concise written findings.

c. Will advise the IO throughout the investigative process and advise the board President during the board process. The legal advisor also addresses legal and procedural questions from the IO or board. In particular, the legal advisor helps the IO or board develop an investigative plan; identify necessary witnesses and develop appropriate questions; protect the rights of respondents and subjects; ensure the requirements established in the appointment memorandum are satisfied; ensure the evidence supports the findings; and ensure that the recommendations are logically related to the findings.

d. Shall review the findings and recommendations of an investigation prior to submission to the appointing authority to ensure the findings and recommendations are feasible, acceptable, suitable, answer the questions from the appointment memorandum, and are supported by the evidence included in the investigation. Legal advisors may also consult with the servicing labor and employment law attorney to ensure the acceptability of recommendations for civilian employees (when the subject is a civilian employee).

e. Normally, the legal advisor will not be the same attorney who conducts the legal review; however, the servicing SJA or senior legal official of an organization may determine that two separate attorneys is not required based on the circumstances. These circumstances will be annotated in the legal review and may include lack of personnel or other reasonable bases.

2–6. Legal reviewer

The legal reviewer—

a. Will review all administrative investigations or board of officers for legal sufficiency (legal reviews are not required for preliminary inquiries, except as noted in para 4–3*a*). The legal review should only be completed after a comprehensive review of the report of investigation by the investigating officer's legal advisor, and it should ensure that the investigation does not raise questions that it leaves unanswered; anticipates future uses of the investigation; resolves internal inconsistencies; makes appropriate findings; and makes recommendations that are feasible, acceptable, and suitable. Specifically, the legal advisor performing the legal review will determine—

(1) Whether the proceedings complied with legal requirements, including the requirements established in the appointing memorandum;

(2) Whether there are errors and, if so, whether the errors are substantial or harmless; the effect, if any, that the errors had on the proceedings; and, what action, if any, is recommended to remediate the errors (see para 3–16);

(3) Whether the findings of the investigation or board are supported by a greater weight of the evidence than supports a contrary conclusion; and

(4) Whether the recommendations are consistent with the findings.

b. Can advise the approval authority whether the evidence supports any additional relevant findings, whether modified and/or substituted findings would be supported by the evidence, or whether an additional investigation is appropriate to address additional concerns. In these cases, the legal review should also make clear whether the IO's recommendations would be consistent with the modified and/or substituted findings. Should the approval authority make any additional, modified, and/or substituted findings, a legal review of the additional, modified, and/or substituted findings will be conducted.

c. Legal reviews will be written in a memorandum format. The legal review should be appropriately marked as attorney work product and/or client advice, which is legally privileged and exempt from release under Freedom of Information Act (FOIA). See figure I–1 for a sample administrative investigation legal review memorandum.

d. See appendix E for additional guidance on releasing legal reviews to third parties.

Chapter 3
General Procedures

3–1. Allegations against senior officials

a. Only the Secretary of the Army, Under Secretary of the Army, Chief of Staff of the Army, Vice Chief of Staff of the Army, and the Department of the Army Inspector General (DAIG) can authorize or direct an investigation into complaints and allegations or incidents of impropriety or misconduct against senior officials. AR 20–1 defines who qualifies as a senior official. Investigations involving allegations against such senior officials must be processed in accordance with AR 20–1. In the event an appointing authority, IO, or board encounters allegations against a senior official, the appointing authority, IO, or board president will coordinate with the assigned legal advisor as to the procedures for notifying the servicing IG.

b. In cases where the subject is a colonel promotable or a member of the SES, if IG declines to take action on the matter, and the appointing authority determines an administrative investigation is warranted, the appointing authority will appoint a general officer or SES as the IO. The appointing authority may appoint a colonel promotable as the IO in cases where a general officer is not reasonably available.

3–2. Serious incident/Class A Mishap investigations

a. Only a General Court-martial Convening Authority (GCMCA) or a general/flag officer assigned to a command billet with a servicing SJA may normally appoint an administrative investigation or board of officers for Class A Mishaps, as defined in AR 385–10. Only the next superior authority to the GCMCA or general/flag officer authorized to appoint an administrative investigation or board of officers for Class A Mishaps (for example, corps commander) may appoint an administrative investigation or board of officers for: Class A Mishap resulting in, or likely to result in, the permanent total disability or death of one or more persons; or combat-related deaths involving non-DoD personnel or an insider (green on blue) attack.

b. In accordance with DoDI 6055.07, the combatant commander has the responsibility to convene an investigation to inquire into a friendly fire incident. Appointing authorities should check the combatant commander's guidance to determine if that authority has been delegated.

(1) The “next superior authority” is normally the next superior in the chain-of-command or supervision. The DAS is designated as the next superior authority when there is no next superior authority reasonably available. The DAS may delegate the authority to appoint an administrative investigation or board of officers to the commander of an Army command, Army service component command (ASCC), or direct reporting unit. No further delegation is authorized.

(2) For investigations of the death(s) of deployed U.S. forces from what is believed to be hostile fire, the GCMCA or general/flag officer commander may delegate appointing/approval authority, in writing, to a Special Court-martial Convening Authority (SPCMCA) or a subordinate general/flag officer. This authority may not be further delegated.

(3) If evidence is discovered during a hostile fire investigation that indicates that the death(s) may have resulted from friendly fire, the IO will immediately suspend the investigation and inform the appointing authority and legal advisor. The appointing authority, in turn, will immediately notify the combatant commander, or his or her delegee, as appropriate, who has the authority to appoint an investigation into the friendly fire incident. Any evidence from the hostile fire investigation may be provided to the IO or board conducting the friendly fire investigation or board. Friendly fire incidents are also governed by the provisions of DoDI 6055.07, AR 638–8, and DA Pam 385–40.

3–3. Concurrent Investigations

An administrative fact-finding or evidence-gathering procedure, whether designated as an administrative investigation or a board of officers, may be conducted before, concurrently with, or after an administrative investigation or board of officers, into the same or related matters by another command or agency. This most commonly occurs when other regulations prescribe a collateral investigation using procedures for investigations contained in this regulation.

a. Appointing authorities, IOs, and boards will ensure that procedures under this regulation do not hinder or interfere with:

(1) A concurrent investigation or board directed by higher headquarters or other Federal Agency with supremacy over the issue;

(2) A counterintelligence investigation;

(3) A safety investigation; or

(4) An investigation being conducted by a criminal investigative organization.

b. In cases of concurrent or subsequent investigations, coordination with the other command or agency will be made to avoid duplication of investigative effort, where possible.

c. Appointing authorities, IOs, and boards should notify the servicing SJA or legal advisor as soon as they become aware of a concurrent investigation into the same or related matters.

3–4. Use of results of preliminary inquiries, administrative investigations, and boards of officers in adverse administrative actions

a. This regulation does not require that a preliminary inquiry, administrative investigation, or board of officers be conducted before taking adverse administrative action, such as relief for cause, against an individual. Subject to the provisions of paragraphs 3–4*b*, 3–4*c*, and 3–4*d*, the evidence gathered during an inquiry, investigation, or board conducted under the provisions of this regulation may be used in any administrative action against an individual, regardless of the particular procedures used, and regardless of whether that individual was a subject or designated as a respondent.

b. Various statutes and regulations govern adverse personnel actions against DA Civilian employees. Supervisors should consult with the servicing Labor and Management Employee Relations specialist and labor and employment law attorney if formal disciplinary or adverse action is contemplated against a civilian employee (see 5 USC Chapter 43 and 75 and AR 690–752). Only those portions of preliminary inquiries, administrative investigations, and boards of officers relied upon in determining disciplinary or adverse action against a civilian employee may be released during such action. (See AR 690–752, AR 25–22, and AR 25–55). Supervisors should make their own findings of fact consistent with the “Douglas Factors” and should not solely rely on the findings and recommendations of an IO when proposing or deciding upon civilian employee discipline.

c. Subject to applicable Status of Forces Agreements or other agreements with the host nation, actions taken involving foreign national employees as a result a preliminary inquiry, administrative investigation, or board of officers must be consistent with DoDI 1400.25, Volume 1231 and should be coordinated with the Command’s servicing legal advisor.

d. Except as provided in paragraph 3–4*f*, when adverse administrative action is contemplated against a Soldier, including one designated as a respondent, based upon information obtained because of a preliminary inquiry, administrative investigation, or board of officers conducted pursuant to this regulation, the appropriate military authority must observe the following minimum safeguards before taking final action against the individual:

(1) Notify the Soldier, in writing, of the proposed adverse action and provide a redacted (as appropriate) copy, if not previously provided, of those parts of the findings and recommendations of the inquiry, investigation, or board and the supporting evidence gathered during the proceeding upon which the proposed adverse action is based.

(2) The servicing legal office of the appointing authority is normally responsible for redacting the investigation. As a general rule, (i) portions and pages of records that do not pertain to the adverse action should be redacted; (ii) pages containing both responsive and nonresponsive information should be identified and redacted accordingly; and (iii) the names of witnesses, accusers, and other relevant persons associated with the adverse action should not be redacted, but other third-party names and other personally identifiable information (PII) (for example, Social Security numbers, home addresses, and phone numbers) should be redacted from the relevant portions of the records unless doing so would substantially impair the respondent's or subject's ability to respond. See AR 25–55 for further guidance.

(3) Give the Soldier a reasonable opportunity, no less than 10 business days, to reply, in writing, and to submit rebuttal matters. For the Army National Guard (ARNG) and U.S. Army Reserve (USAR), a reasonable opportunity is 20 business days.

(4) Review and evaluate any matters submitted by the Soldier.

e. Other than as directed in paragraph 3–4*d*, there is no requirement to refer the inquiry, investigation, or board to the individual if the adverse action contemplated is prescribed in regulations or directives that provide procedural safeguards, such as notice to the individual and an opportunity to respond. For example, there is no requirement to refer an inquiry, investigation, or board conducted under this regulation to a Soldier prior to giving the Soldier an adverse evaluation report based upon the inquiry, investigation, or board, because the regulations governing evaluation reports provide the necessary procedural safeguards. AR 623–3; however, prescribes that the referral procedures specified in AR 15–6 will be followed before initiating or directing a relief for cause, if the relief is contemplated based on an AR 15–6 investigation.

f. When the inquiry, investigation, or board is conducted pursuant to this regulation and the contemplated administrative action is prescribed by a different regulation or directive with more stringent procedural safeguards than those outlined in paragraph 3–4*d*, the more stringent safeguards must be observed.

3–5. Multiple appointing authorities

When more than one appointing authority has an interest in a matter requiring investigation, a single investigation or board will be conducted whenever practicable. In case of doubt or disagreement as to who will appoint the investigation or board, the first common superior of all organizations concerned will resolve the issue.

3–6. Investigating officer qualifications and requirements

a. IOs and board members will be those persons who, in the opinion of the appointing authority, are best qualified for the duty by reason of their education, training, experience, length of service, demonstrated sound judgment, and temperament. IOs and board members must be impartial, unbiased, objective, and can complete the investigation in a timely manner. If an appointing authority determines that a person with the required experience and expertise is not available within his or her organization, he or she may request assistance from a superior in his or her chain of command or supervision or coordinate with a counterpart to obtain an IO or board member with the required education, training, experience, and expertise to conduct the investigation or board.

b. Except as provided in paragraph 3–6*e*, only commissioned officers, warrant officers, and DA Civilian employees permanently assigned to a position graded as GS–11 or above (or their equivalent, such as a civilian faculty member of a comparable grade appointed under the provisions of 10 USC) may be appointed as IOs. Non-commissioned officers in the grade of E–7 or above may be appointed as IOs when the appointing authority determines that military exigencies exist and no commissioned officers, warrant officers, or qualified DA Civilian employees are readily available. Voting members of boards may be

commissioned officers, warrant officers, non-commissioned officers in the rank of E–7 or above, or DA Civilian employees permanently assigned to a position graded as GS–11 or above (or their equivalent).

c. For the investigation of Class A Mishaps/serious incidents, only field grade commissioned officers and above, or DA Civilian employees in the grade of GS–12 and above (or their equivalent) will be appointed as an IO or board member.

d. Recorders and persons with special technical knowledge may be appointed to boards in a nonvoting capacity. Legal advisors will be appointed to boards in a nonvoting capacity.

e. Noncommissioned officers in the grade of E–6 and above may be appointed as assistant IOs.

f. In all cases, an IO or voting member of a board will be senior in rank (by grade or date of rank) to any person whose conduct or performance of duty may be investigated, or against whom adverse findings or recommendations may be made, except when the appointing authority determines this to be impracticable because of military exigencies (this should be noted in the appointment order). Inconvenience in obtaining an IO or the unavailability of senior persons within the appointing authority's organization are not military exigencies that would justify the above exception. Assistant IOs who are junior to the subject of the investigation in rank or grade (or their civilian equivalent) may be appointed to an investigation team. Assistant IOs, however, should not normally interview a more senior subject of the investigation without the senior IO being present during the interview.

(1) The IO or board president will, subject to the approval of the appointing authority, determine the relative seniority of military and civilian personnel. Actual superior-and-subordinate relationships, relative duty requirements, time in grade, and other sources may be used as guidance. Except where a material adverse effect on an individual's substantial rights results, the appointing authority's determination of seniority shall be final.

(2) An IO or voting member of a board who, during the proceedings, discovers that the completion of the investigation or board requires examining the conduct or performance of duty of, or may result in findings or recommendations adverse to, a person senior to him or her, will report this fact as soon as possible to the board president or the appointing authority. The appointing authority will then appoint another person, senior to the person affected, who will either replace the IO or member, or conduct a separate inquiry into the matters pertaining to that person. When necessary, the new IO or board may be furnished any evidence properly considered by the previous IO or board. The appointing authority may direct the previous IO to assist the newly appointed IO for the duration of the investigation.

(3) If the appointing authority determines that military exigencies make these alternatives impracticable, the appointing authority may direct the IO or member to continue. This direction will be written and will be included as an enclosure to the report of proceedings. If the appointing authority determines that proceeding with the same IO or member will result in specific prejudice, the appointing authority will request assistance in obtaining a more senior IO from superiors in the chain-of-command or supervision. If the appointing authority does not become aware of the problem until the results of the investigation or board are presented for review and action, the case will be returned for new or supplemental investigation only where specific prejudice (that is, harm) is found to exist. The assigned legal advisor will advise the appointing authority in determining whether the problem is harmless error.

(4) An O–6, regardless of time in grade, can investigate a GS–15 (or equivalent), regardless of the 'step' of the civilian employee. Similarly, a GS–15 can investigate an O–6 regardless of time in service. This also applies to circumstances where an O–5 is being asked to investigate a GS–14 (or equivalent) and vice versa.

g. The appointing authority must comply with other specific regulatory requirements that IOs or board members be military officers, be professionally certified, possess an appropriate security clearance, or meet other qualifications.

3–7. Completing the findings and recommendations for administrative investigations

a. Findings. A finding is a clear and concise statement of a fact that can be readily deduced from evidence in the record. It is directly established by evidence in the record, or it is a conclusion of fact by the IO or board supportable by the evidence in the record. A negative finding may be appropriate. For example, if there is insufficient evidence establishing that a subject violated the Army's prohibition on bullying, a finding that the subject did not engage in bullying in violation of AR 600–20 would be warranted. The number and nature of the findings required depend on the purpose of the investigation or board, and on the instructions of the appointing authority. The IO or board normally will not exceed the scope of the investigation authorized by the appointing authority without approval but may address issues encountered

during the investigation that are related to policies, procedures, resources, or leadership, if the IO or board determines that those issues are relevant to the matters under investigation. It might be appropriate for the IO or board to recommend additional inquiry into issues that are outside the scope of the investigation.

b. Form of the findings. Findings will clearly state the relevant factual conclusions that the evidence establishes. IO's must ensure their findings are supported by regulatory standard prescribed in the applicable regulation. For example, if an IO wants to make a finding that someone sexually harassed an individual, the IO must show that the subject's conduct met each element of sexual harassment as defined in law or Army policy. When the evidence in the record may reasonably support alternative findings, the IO must state why the finding they made is more credible and more probable than the other reasonable conclusion(s). If findings are required on only one subject, they normally will be stated in chronological order. If findings are required on several distinct subjects, they normally will be stated separately for each subject and chronologically within each one. The IO must cite the evidence (for example, witness statements) that supports each finding. Any evidence cited by the IO must be submitted as part of the record. For instance, if the IO uses a verbal statement as evidence that is not written in a witness's sworn statement, then the IO should memorialize the statement in an MFR and submit the MFR as an exhibit in the investigation. If the investigation or board is authorized by a regulation or directive that establishes specific requirements for findings, those requirements must be satisfied. See figure I–2 for a sample administrative investigation findings and recommendations memorandum.

c. Recommendations. The nature and extent of the recommendations required depends on the purpose of the investigation or board, and on the appointing authority's instructions. Each recommendation, including negative ones (that is, that no further action be taken) must be consistent with and logically based on the findings. IOs and boards will make their recommendations according to their understanding of the rules, regulations, policies, and customs of the service, guided by their concept of fairness to the Government and the individuals involved.

d. Recommendation criteria. Recommendations must be clearly written and should be feasible, acceptable, and suitable.

(1) *Feasible.* A recommendation is feasible if it is capable of being implemented.

(2) *Acceptable.* The recommendation must be executable. That is, it must be legal and fall within acceptable levels of risk.

(3) *Suitable.* A recommendation is suitable if it solves the identified problem or initiates a process to further assess and identify a solution.

e. Application of the criteria. A recommendation may not be feasible because the organization or unit lacks the resources to implement it. A feasible recommendation may be unacceptable because implementing it may divert personnel and degrade mission readiness. A feasible and acceptable recommendation may not be suitable because it fails to solve the identified issue. Recommendations that do not meet these criteria may result in a negative recommendation (for example, that no further action be taken), be discarded entirely, or be referred through appropriate channels to another organization.

f. Department of the Army Civilians.

(1) *Findings and recommendations.* An IO should consult with the servicing labor and employment law attorney, in coordination with the IO's legal advisor, to ensure findings and recommendations regarding DA Civilians are appropriate and written correctly. Findings regarding civilian employees should avoid unnecessary legal conclusions. If an investigation warrants potential disciplinary or adverse action against a civilian employee, the IO should consider recommending the approval authority refer the matter to the employee's first-level supervisor for review and appropriate action in accordance with the procedures set forth in AR 690–752.

(2) *Resignation prior to adverse findings.* If a DA Civilian who is the subject of an investigation resigns prior to the approval authority's action on the investigation under paragraph 2–2, the appointing authority will consult with his or her legal advisor to determine whether to continue or terminate the investigation with respect to the DA Civilian. If the investigation continues and the IO makes any findings regarding the subject DA Civilian, prior to action, the Approval Authority will consult his or her legal advisor to determine whether the findings are "adverse" within the meaning of 5 USC 3322. If the approval authority approves any adverse finding regarding a DA Civilian who resigned during the investigation, the approval authority will direct appropriate action to ensure compliance with Section 3322 of 5 USC and applicable Army implementing guidance regarding the procedures for annotating adverse findings in a DA Civilian's official personnel record.

3–8. Oaths

a. Requirement. Unless required by the specific regulation or directive under which appointed, IOs or board members need not be sworn. Reporters, interpreters, and witnesses appearing before a board will be sworn. The memorandum of appointment may require the swearing of witnesses or board members.

b. Administering oaths. An IO (or assistant IO), recorder (or assistant recorder), or board member is authorized to administer oaths in the performance of such duties under Article 136, Uniform Code of Military Justice (UCMJ) (for military personnel administering oaths) and 5 USC 303 (for civilian personnel administering oaths). See appendix B for the format for oaths during a board procedure.

3–9. Challenges

An IO using investigation procedures is not subject to challenge. An IO or board member under board procedures, where a respondent is designated, is subject to challenge as provided in paragraph 6–9, below. Any person who is aware of facts indicating a lack of impartiality or other disqualification on the part of an IO or board member will present the facts to the appointing authority.

3–10. Representation

a. Counsel. In general, only a respondent in a board is entitled to be represented by counsel. A subject of an investigation is not automatically entitled to representation by counsel, but the right to counsel could arise if, during the course of the investigation, the subject is suspected of committing an offense. Other interested parties in a board may obtain counsel, at no expense to the Government, who may attend, but not participate in proceedings of the board that are open to the public. The proceedings will not be unduly interrupted to allow the person to consult with counsel.

b. Special Victims' Counsel. In boards where an alleged victim is represented by a Special Victims' Counsel (SVC), the SVC will not be excluded from the board, whether the board is open to the public or closed, except for good cause shown (see para 3–11 for what constitutes good cause). The SVC may appear in person, by telephone, or by video teleconference. However, the proceedings will not be unduly interrupted due to an SVC's schedule. SVCs are responsible for funding their own travel and logistical support. SVCs have standing to address the legal advisor regarding evidentiary matters related to their client pursuant to paragraphs 3–13*d*(2) and 3–13*d*(3). SVCs are entitled to the same documents, evidence, or information to which their clients are entitled.

c. Collective bargaining unit. When a civilian employee is a member of a bargaining unit, the exclusive representative of the bargaining unit shall be given the opportunity to be present when an employee in the bargaining unit reasonably believes that the examination may result in disciplinary actions against the employee and the employee requests representation (see 5 USC 7114(a)(2)(B)).

3–11. Decisions

An IO or board arrives at findings and recommendations. A board decides challenges by a respondent as provided in paragraph 6–9. The IO or board president decides administrative matters, such as time of sessions, uniform, and recess. In a board, the legal advisor decides evidentiary and procedural matters, such as motions and acceptance of evidence. The legal advisor will determine whether to exclude members of the public and SVCs/victims from portions of board proceedings, when good cause is shown. For purposes of this regulation, good cause includes excluding SVCs when a matter before the board is not directly related to the alleged victim, classified matters, or when an alleged victim has declined to participate in any of the board proceedings or participate in the government's case. Additionally, the legal advisor determines challenges for cause, except against him/herself, in accordance with paragraphs 3–9 and 6–9.

3–12. Presence of the public and recording of the proceedings

a. The public. Proceedings of an investigation are not generally open to the public. If a question arises about whether the proceedings of a board or investigation should be open, the determination will be made based on the circumstances of the case. It may be appropriate to open proceedings to the public, even when there is no respondent, if the subject matter is of substantial public interest. It may be appropriate to exclude the public from at least some of the proceedings, even though there is a respondent, if the subject matter is classified. In any case, the appointing authority may specify whether the proceedings will be open or closed. If the appointing authority does not specify, the IO or board president decides. If there is a respondent, the legal advisor will determine whether to exclude the public from any portion of the

proceedings. Any proceedings that are open to the public will also be open to representatives of the news media.

b. Recording. Neither the public nor the news media will record, photograph, broadcast, or televise board proceedings. A respondent may record proceedings only with the prior approval of the appointing authority.

3–13. Rules of evidence and proof of facts

a. General. Proceedings under this regulation are administrative, not judicial. Therefore, IOs and boards are not bound by the rules of evidence for courts-martial or court proceedings generally. Subject only to the provisions of paragraph 3–13*d,* anything that a reasonable person would consider relevant and material to an issue may be accepted as evidence. For example, medical records, counseling statements, MP and USACID reports, and other records may be considered, regardless of whether the preparer of the record is available to give a statement or testify in person. All evidence should be given the weight warranted by the circumstances and indicia of reliability.

b. Access to documents, records, evidence, and other data.

(1) In order to ensure a complete and thorough investigation or board, no officer, DA employee, or Servicemember may deny IOs and boards access to any relevant documents, records, or evidentiary materials needed to discharge their duties, to include data stored in official DA repositories, except as permitted by law. In accordance with DoD Manual 6025.18 and AR 40–66, and except as noted below regarding Medical Quality Assurance Records, an IO or board is authorized access to medical records without the consent of the patient. When feasible, IOs and boards should obtain records directly from the original agency or organization generating the record. For example, IOs should obtain law enforcement reports directly from the serving Provost Marshal General or USACID office.

(2) Only the minimum necessary information will be released to the IO or board, and completion of request forms may be required prior to release of records. Examples of regulations that may limit IO or board access to documents, records, and other data are AR 385–10, which states that only non-privileged information acquired during a safety investigation may be shared with a legal accident investigation; AR 20–1, which provides guidance on the release and use of IG records; and AR 40–68, which provides that Medical Quality Assurance Records are privileged. Medical Quality Assurance Records will not be provided to an IO or board, unless authorized by AR 40–68.

(3) An example of a regulation that provides guidance on the release of official records or data to IOs is AR 25–2, which provides that a system or network administrator may access DA email data in response to a request from an AR 15–6 IO. IOs will consult with their legal advisor prior to requesting personal emails from Department of Army or other accounts.

c. Official notice. Some facts are of such common knowledge that they need no specific evidence to prove them (for example, general facts and laws of nature, general facts of history, the location of major elements of the Army, and the organization of the Department of Defense and its components), including matters of which judicial notice may be taken. (See Military Rules of Evidence (MRE) 201, sec II, part III, Manual for Courts-Martial (MCM), United States, 2024).

d. Limitations. Although administrative proceedings governed by this regulation generally are not subject to exclusionary or other evidentiary rules precluding the use of evidence, the following limitations do apply:

(1) *Relevance.* Evidence must be relevant. "'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." (See MRE 401, sec IV, part III, MCM, United States, 2024). "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the members, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." (See MRE 403, sec IV, part III, MCM, United States, 2024). Witnesses will not be asked whether they believe a particular individual, because it is not relevant. Additionally, relevant evidence is subject to the other limitations, listed below.

(2) *Privileged communications.* MRE, section V, part III, MCM, protects privileged communications with lawyers (MRE 502), clergy (MRE 503), spouses (MRE 504), psychotherapists (MRE 513), and victim advocates (MRE 514). Present or former IG personnel will not be required to testify or provide evidence regarding information that they obtained while acting as inspectors general. They also will not be required to disclose the contents of IG reports of investigation, inspections, IG action requests, or other memoranda,

except as approved by the appropriate (an official authorized to approve release of an IG investigation or inspection) or higher authority (see AR 20–1).

(3) *Investigations related to sex offense cases.* With limited exceptions, evidence of an alleged victim's sexual behavior or sexual predisposition is not relevant (see MRE 412, section IV, part III, MCM). Therefore, evidence of an alleged victim's sexual behavior or sexual predisposition will not be considered, unless the legal advisor determines that one of the exceptions in MRE 412 applies. A party desiring to enter such evidence during board proceedings shall provide advance written notice to the legal advisor, the opposing party, and the alleged victim or the alleged victim's guardian or counsel. Such notice shall describe the evidence and state the purpose for which it is offered. A person may not attempt to enter such evidence until the legal advisor has informed the board president and the parties of the determination regarding admissibility. The legal advisor will determine the admissibility of evidence under MRE 412 for administrative proceedings, including those appointed under the provisions of AR 600–8–24. The board president is encouraged to set deadlines for the receipt of such advance notice to avoid delays in the proceedings.

(4) *Polygraph tests.* No evidence of the results of, or the taking or refusal to take, a polygraph (lie detector) test will be considered without the consent of the person to whom the test was administered. In a board proceeding with a respondent, the agreement of the recorder and of any respondent affected is required before such evidence can be accepted.

(5) *"Off the record" statements.* Findings and recommendations of the IO or board must be supported by evidence contained in the report. Accordingly, witnesses will not make statements "off the record" to the IO or board members. Under the administrative investigation procedure, such statements will not be considered for their substance, but only as help in finding additional evidence.

(6) *Statements regarding disease or injury.* The IO will comply with the provisions of AR 600–8– 4 regarding warning a member of the Armed Forces that he or she need not make any statement related to the origin, incurrence, or aggravation of his or her injury (see 10 USC 1219).

(7) *Ordering witnesses to testify.*

(a) No military witnesses or military respondents will be compelled to incriminate themselves, to answer any question the answer to which could incriminate them, or to make a statement or produce evidence that is not material to the issues being investigated or that might tend to degrade them (see Article 31, UCMJ). An answer tends to incriminate a person if it would make it appear that the person is guilty of a crime or conduct punishable under the UCMJ.

(b) No witnesses or respondents not subject to the UCMJ will be required to make a statement or produce evidence that would deprive them of their rights against self-incrimination under the Fifth Amendment of the U.S. Constitution.

(c) A person who refuses to provide information under paragraphs 3–13*d*(7)(*a*) or 3–13*d*(7) *(b)*, must specifically state that the refusal is based on the protection afforded by Article 31, UCMJ, or the Fifth Amendment. The legal advisor will decide whether the witness may be ordered to answer if the reason for refusal is not based on the protection afforded by Article 31, UCMJ, or the Fifth Amendment.

(d) A Soldier who is suspected of an offense under the UCMJ will be advised of his or her rights under Article 31, UCMJ, before being asked any questions concerning the suspected offense. The Soldier, whether a witness or respondent, will be given a reasonable amount of time to consult an attorney, if requested, before answering any such questions. No adverse inference will be drawn against witnesses or respondents who invoke their rights under Article 31, UCMJ, or the Fifth Amendment. The IO or board should use DA Form 3881 (Rights Warning Procedure/Waiver Certificate) to explain the rights, and to memorialize the explanation and the suspect's decision.

(e) The right to invoke Article 31, UCMJ, or the Fifth Amendment, is personal. No one may assert the right for another person, and no one may assert it to protect anyone other than himself or herself.

(f) In certain cases, the appropriate authority may provide a witness or respondent a grant of testimonial immunity and require testimony notwithstanding Article 31, UCMJ, or the Fifth Amendment. Grants of immunity must be made under the provisions of AR 27–10 and any local supplements to AR 27–10.

(8) *Involuntary admissions.* A confession or admission obtained by unlawful coercion or inducement will not be accepted as evidence. IOs or boards should consult with their legal advisor, who will determine whether a confession or admission was obtained through unlawful coercion or inducement. In cases of a spontaneous utterance or confession, for example, the fact that a respondent was not advised of his or her rights under Article 31, UCMJ, or the Fifth Amendment, does not, by itself, prevent acceptance of a confession or admission as evidence.

(9) *Bad faith unlawful searches.* If members of the Armed Forces acting in their official capacity (such as MPs acting in furtherance of their official duties) violate an individual's Fourth Amendment right against unreasonable searches and seizures, the IO or board may not accept or consider evidence obtained because of that violation. Such evidence is acceptable only if the legal advisor reasonably determines that the evidence would inevitably have been discovered. In all other cases, the IO or board may accept or consider relevant evidence obtained as a result of any search or inspection, even if it has been or would be ruled inadmissible in a judicial criminal proceeding.

(10) *Adverse finding against a commissioned (O–1 and above) officer.* If the IO contemplates making an adverse finding against a commissioned officer, the IO must afford the officer an opportunity to be interviewed.

(11) *Recordings.* IOs must consult with legal advisors when in receipt of recorded conversations, as use depends on the statutes and policies in effect at the locations where the recording occurred.

(12) *Electronic communications.* IOs must consult with legal advisors to ensure evidence of electronic communications does not violate the Electronic Communications Privacy Act (18 USC 2510, *et seq*) or fraud and related activity in connection with computers (see 18 USC 1030).

3–14. Witnesses

a. General.

(1) IOs and boards generally do not have authority to subpoena witnesses to appear and/or testify. A commander or supervisor may, however, order military personnel and Federal civilian employees, over whom they exercise command or supervisory authority, to appear and testify (consistent with fifth amendment rights). IOs and board presidents should consult their legal advisor regarding interviewing Federal civilian employees and Reserve and National Guard military personnel who are not in an Article 2, UCMJ, status. Other civilians, to include contractor employees, non-DoD affiliated civilians, retired military personnel, and dependents of active duty military, who agree to appear, may be issued invitational travel authorizations in certain cases (see Joint Travel Regulations, Chap 3). The IO or board can invite civilians who are not Federal employees to testify, but the IO or board cannot compel them to testify. The IO or board president normally will inform witnesses of the nature of the investigation or board before taking their statements or testimony. The IO or board president, assisted by the recorder and the legal advisor, will protect every witness from improper questions, unnecessarily harsh or insulting treatment, and unnecessary inquiry into their private affairs.

(2) During an investigation or board under this regulation, a civilian employee witness who is a bargaining unit member may request the presence of the bargaining unit exclusive representative during the interview if the employee reasonably believes that the inquiry could lead to disciplinary action against him or her. Unless required by the collective bargaining agreement, there is no requirement for the IO or board to advise the employee of this right. If the employee makes such a request, the IO or board will allow a reasonable amount of time to enable the representative's presence. The IO or board president will consult the servicing civilian personnel office and SJA or legal advisor before denying such a request.

b. Attendance as spectators. Witnesses, other than respondents, normally will not be present at the investigation or board proceedings, except when they are testifying. In some cases, however, it is necessary to allow expert witnesses to hear evidence presented by other witnesses, so that they may be sufficiently advised of the evidence to give informed testimony as to the technical aspects of the case. In such instances, the report of proceedings will indicate that the expert witnesses were present during the testimony of the other witnesses. Though not officially participating in the investigation or board proceedings, personnel permanently or temporarily assigned to the local Trial Defense Service or the Office of the Staff Judge Advocate (OSJA) may be present at the investigation or board proceedings.

c. Taking testimony or statements.

(1) Witness statements normally will be elicited by questions and answers when using the board procedure, or if the appointing authority has directed a verbatim record. Narrative testimony may be used when appropriate.

(2) When using the investigation procedure, the IO may obtain statements of witnesses at informal sessions in any manner the IO deems most appropriate to elicit and memorialize evidence. Type written-as as opposed to handwritten-is the preferred method. This ensures legibility of the document. The IO will assist the witness in preparing a written statement to avoid the inclusion of irrelevant material or the omission of important facts and circumstances. Care must be taken, however, to ensure that the statement is phrased in the words of the witness. The IO must scrupulously avoid coaching the witness or suggesting

the existence or nonexistence of material facts. An IO may deliberately draw a witness's attention or testimony to a specific time, place, or event to focus the questioning in an efficient manner (for example, "I want to draw your attention to last Wednesday's physical training…"). The IO should ask the witness to read, correct, and sign the final statement whenever possible.

(3) The IO may use a recording device to facilitate later preparation of a witness statement but will inform the witness prior to using one. IOs are encouraged to limit their use of a recording device to the preparation of a written witness statement and nothing more. Legal advisors will remind IOs that reliance on audio testimony requires the audio file(s) to be maintained with the report of investigation as evidence. IOs, in consultation with their legal advisor, should consider how the use of recording devices impacts their ability to meet suspense dates (that, how much time would it take to transcribe what has been recorded).

(4) Unless otherwise directed by the appointing authority, the IO or board president has discretion to determine whether the witness swears to the statement. If the statement is to be sworn, the IO or board should use a DA Form 2823 (Sworn Statement), unless a summarized or verbatim record of the statement is prepared. If the witness is unavailable or refuses to sign, the person who took the statement will record, over his or her own signature, the reasons the witness did not sign, and will certify that the statement is an accurate summary of what the witness said.

(5) To save time and resources, witnesses may be asked to confirm written, sworn, or unsworn statements that have first been made exhibits during investigations and boards. The witnesses remain subject to questioning on the substance of such statements.

(6) Although the direct testimony of witnesses is preferable, the IO or board may use any previous statements of a witness as evidence on factual issues, whether or not the following conditions exist:

(a) The proceedings are an investigation or board.

(b) The witness is determined to be unavailable.

(c) The witness testifies.

(d) Prior statements were sworn or unsworn.

(e) Prior statements were oral or written.

(f) Prior statements were taken during the course of the investigation.

d. Discussion of evidence. An IO or board may direct witnesses who are subject to Army authority, and request other witnesses, not to discuss their statements or testimony with other witnesses, or with persons who have no official interest in the proceedings until the investigation is complete. This precaution is appropriate to eliminate possible influence on the testimony of witnesses still to be heard and to protect the integrity of the investigation or board proceedings. Normally, witnesses may not be precluded from discussing any relevant matter with the recorder, a respondent, or counsel for a respondent.

e. Privacy act statements.

(1) *When required.* A DA Form 7694 (Privacy Statement) will be provided to a witness if the report of proceedings will be filed in a system of records from which it can be retrieved by reference to the name or other personal identifier of that witness. Unless otherwise informed by the appointing authority, an IO or board may presume that the report of proceedings will be retrievable by the name of each person designated as a respondent, but that the report may not be retrievable by the name of any other witness. The DA Form 2823 (Sworn Statement) contains a Privacy Act statement at the top of the form. An additional Privacy Act statement is generally not required if this form is used. If any question arises as to the need for a Privacy Act statement, the IO or board will consult the legal advisor. If the investigative plan contemplates the acquisition or review of medical records of any person, the IO or board president must consider the applicability of the Privacy Act and 42 USC 1320d et seq (The Health Insurance Portability and Accountability Act) and consult his or her legal advisor.

(2) *Method of providing statement.* Appendix B provides guidance for preparing Privacy Act statements. The statement may be written or oral, but it must be provided before taking the witness's testimony or statement. A written statement will be attached to the report of proceedings as an enclosure. An oral statement will be noted in the report as either a part of a verbatim transcript, or as an enclosure in the form of a certificate by the officer who provided the Privacy Act statement.

(3) *Copy of the statement.* Anyone to whom this requirement applies is entitled to a copy of the Privacy Act statement in a form suitable for retention. Providing a respondent a copy of the part of the report of proceedings that includes the statement satisfies this requirement. Any other witness who is provided a Privacy Act statement will, on request, be furnished a copy of the statement in a form suitable for retention.

(4) *Personally identifiable information and the Privacy Act.* The IO or board president must ensure that PII is protected from inappropriate release. Only the minimum amount of personal information necessary to investigate the matter concerned should be included in the report of investigation. A Privacy Act statement must be used if an individual is asked to provide his or her Social Security number voluntarily for purposes of an investigation. Social Security numbers should not be obtained, except when it is essential to the conduct of the investigation. The IO or board president should consult his or her legal advisor to ensure that the minimum amount of personal information is included in a report of investigation. Title 32, Code of Federal Regulations, Part 505, provides guidance regarding protected personal information and the Privacy Act.

3–15. Administrative support

The appointing authority will arrange necessary facilities, clerical assistance, and other administrative support for IOs and boards. If not required by another regulation or directive, only the GCMCA (including higher headquarters' GCMCAs), in his or her sole discretion, may direct a verbatim transcript of the proceedings. The IO, however, may coordinate with his or her legal advisor and request additional legal assets to produce a verbatim transcript. In this case, the GCMCA's SJA may voluntarily provide a verbatim transcript. Before directing a verbatim transcript, the GCMCA will consult his or her servicing SJA or legal advisor. A contract reporter may be employed for a board, only if the appointing authority approves, and only if a military or DA Civilian court reporter is not reasonably available. The servicing SJA or legal advisor will determine the availability of a military or DA Civilian employee reporter. In serious, complex, and/or high-profile cases, the appointing authority may appoint a military or DA Civilian paralegal to the investigation team to assist with administrative tasks (for example, summarizing evidence) after consulting his or her servicing SJA or legal advisor.

3–16. Effects of errors

Generally, procedural errors or irregularities in an investigation or board, which do not have a material adverse effect on an individual's substantial rights, do not invalidate the proceeding, or any action based on it.

a. Harmless errors. Harmless errors are defects in the procedures or proceedings that do not have a material adverse effect on an individual's substantial rights. A harmless error does not prevent the approval authority from taking final action on the investigation or board.

b. Appointing errors. When an investigation or board is convened or directed by an official without authority, the proceedings are a nullity, unless ratified by an official with the authority to appoint such an investigation or board.

c. Substantial errors.

(1) Substantial errors are those that have a material adverse effect on an individual's substantial rights. Examples involving a board include failing to meet board composition requirements or denying a respondent's right to counsel.

(2) When such errors can be corrected without substantial prejudice to the individual concerned, the approval authority may return the case to the same IO or board for corrective action. Respondents who are affected by such a return, will be notified of the error, of the proposed correction, and of their right to comment on both.

(3) If the error cannot be corrected, or cannot be corrected without substantial prejudice to the individual concerned:

(a) The approval authority may not use the affected part of the investigation or board as the basis for adverse action against that person.

(b) The approval authority may set aside all findings and recommendations and refer the entire case to a new IO or board composed of entirely new voting members. Alternatively, the approval authority may take action on findings and recommendations not affected by the error, set aside the affected findings and recommendations, and refer the affected portion of the case to a new IO or board. In either case, the new IO or board may be furnished any evidence properly considered by the previous one. The new IO or board may also consider additional evidence. If the regulation or directive under which a board is appointed provides that the approval authority may not take less favorable action than the board recommends, the approval authority's action is limited by the recommendations of the original board, even if the case is referred to a new board that recommends less favorable action. In cases where the substantial error is a result of the approval authority's actions (and cannot be appropriately remedied by the approval

authority), the next superior authority may set all findings and recommendations of the investigation and initiate a new investigation.

d. Failure to object to board proceedings. No error is substantial within the meaning of this paragraph if there is a failure to object or otherwise bring the error to the attention of the IO, legal advisor, or board president, prior to the board adjourning. Accordingly, errors in board proceedings described in paragraph 3–16*c*, may be treated as harmless if the respondent or respondent's counsel fails to object.

e. Errors in reports of investigation. If there is an error in an investigation or board report, the error may be raised as part of any rebuttal matters submitted following service of the report on the individual.

3–17. The Army Adverse Information Program

a. The AAIP is a system implemented to meet statutory requirements to provide certain DA selection boards (officer promotion selection boards and command select list boards) with any credible information of an adverse nature. Substantiated adverse findings from administrative investigations must be filed in the AAIP database for all officers in the grade of O–1 and above (the AAIP requirement does not apply to warrant officers).

b. No entry will be made into the AAIP portal until there are approved adverse findings from an administrative investigation. Entry into the AAIP will not be unduly delayed for finalization of adverse administrative action. See appendix D for more information on the AAIP.

c. National Guard complex administrative investigations, conducted pursuant to Chief, National Guard Bureau Manual 0400.01A, with adverse findings against Army officers in the grade of O–1 and above will be uploaded to the AAIP database.

3–18. Requests for reconsideration

a. Right to request reconsideration. A subject, suspect, or respondent (such as an officer against whom an adverse finding was made) may request reconsideration of the findings of an inquiry or investigation upon the discovery of new evidence, mistake of law, mistake of fact, or administrative error. New evidence is that information that was not considered during the initial investigation and that was not reasonably available for consideration. New evidence includes neither character letters nor information that, while not considered at the time of the original investigation, the subject of the investigation could have provided during the investigation.

b. Limitations.

(1) A request for reconsideration is not permitted when the investigation resulted in administrative, nonjudicial, or judicial action, or any action having its own due process procedural safeguards.

(2) Requests for reconsideration must be submitted to the approval authority within 1 year of the approval authority's approval of the investigation. The approval authority may entertain a request outside of 1 year for good cause. While not exhaustive, good cause is the discovery of new relevant evidence beyond the 1-year time limitation, which the requester could not have discovered through reasonable diligence, or the requester was unable to submit, because duty unreasonably interfered with his or her opportunity to submit a request. The approval authority's determination of good cause is final.

(3) Standing. A request for reconsideration will only be considered if the material presented impacts a finding concerning the requester.

c. Procedure.

(1) All requests for reconsideration must be submitted through the OSJA/legal advisor responsible for advising the approval authority at the time he or she approved the original investigation. If the approval authority has changed assignments or duty location, the SJA or legal advisor receiving the request will present it to the approval authority's successor who, for purposes of the request for reconsideration, will be the approval authority.

(2) Upon receipt of a request for reconsideration, the approval authority will determine whether the material presented would impact any finding concerning the requester and, if so, whether the impact is such that the finding is no longer supportable by a preponderance of the evidence.

(3) If, after considering a request for reconsideration, the approval authority determines that the finding is no longer supportable, the approval authority will modify the approved findings and update any database or record where the original findings were sent.

(4) Whether or not the approval authority takes favorable action, he or she will ensure the requester is informed of the action taken on the request. The failure to inform, however, does not create a substantive right that impacts the request or the original findings.

3–19. Conflict of interest

a. An individual who is reasonably likely to become a witness to an inquiry, investigation, or board may not appoint an inquiry, investigation, or board. Similarly, an individual who has an actual or perceived bias for or against a potential subject of the investigation, or an actual or perceived conflict of interest in the outcome of the investigation, should not appoint an inquiry, investigation, or board. Instead, the potential appointing authority shall forward the matter to the next superior commander or appointing authority, who will determine whether to investigate the matter further and, if so, which proceeding (inquiry, investigation, or board) to use.

b. A potential appointing authority may have an actual or perceived conflict of interest in the outcome of an investigation if the investigation will examine the potential appointing authority's policies or decisions. Identifying an actual or perceived conflict of interest; however, does not necessarily mean that the potential appointing authority is a subject of the investigation.

3–20. Filing and record keeping of administrative investigations and board of officers reports

a. Approval authority filing requirements. The approval authority's servicing legal office will retain administrative investigations, and associated documents, in the Administrative Law Case Tracking System (ALCS/CTS). Boards of officers are retained in Military Justice Online (MJO). If reduced to writing, preliminary inquiries may be retained in a command's local shared drive or ALCS/CTS. The approval authority's servicing legal office may also retain records on local shared drives or organizational portals, but ALCS/CTS is the official repository for investigative and board records. For portions of investigations that cannot be uploaded to ALCS/CTS due to technical limitations (for example, video files), the approval authority's servicing legal office will store those portions in an alternative system (for example, share drive or MJO) and refer to storage location in ALCS/CTS. For administrative investigations used in criminal cases, OSJAs or approval authorities should upload applicable data into MJO, see AR 27–10.

b. Filing requirements for high-profile cases. Reports of proceedings in serious, complex, or high-profile cases that result in national media interest, Congressional investigation, and/or substantive changes in Army policies or procedures have value for historical and lessons-learned purposes regardless of whether there are adverse findings against a regular commissioned officer.

(1) The approval authority will keep the original and a digital copy of these reports on file for a period of not less than 10 years.

(2) The approval authority will also submit a copy of these reports through the Army Records Management Directorate, 9301 Chapek Road, Building 1458, to the National Archives Records Administration (NARA). NARA determines, on a case-by-case basis, when these records may be destroyed. AR 25–400–2 provides additional guidance for filing reports of proceedings.

(3) The approval authority will submit a copy of the report through command channels to the Office of The Judge Advocate General (DAJA–A), 2200 Army Pentagon, Washington, DC 20310–2200, at the same time the report is submitted to Human Resources Command, and before the next of kin is notified of the results of the investigation pursuant to AR 638–8, for Class A Mishaps resulting in, or likely to result in, the permanent total disability or death of one or more persons, and for combat-related deaths involving friendly fire, non-DoD personnel, or an insider (green on blue) attack.

c. Passing investigation or board reports to succeeding commands; requirement to return and maintain investigations at home station. When an investigation or board is conducted in a deployed environment and pertains to deployed operations, the approval authority should provide a copy of the final report of proceedings to the replacing unit prior to redeploying. The approval authority will keep the original and a digital copy of the report of proceedings at home station in accordance with the requirements of this paragraph and retains the authority to release the report.

d. Safeguarding a written report. When the report of proceedings contains material that requires protection because it is determined that disclosure of the information would cause harm to an interest protected by one or more of FOIA exemptions 2 through 9, but does not have a security classification, the report should be marked in accordance with AR 380–5. No one will disclose, release, or cause to be published any part of the report, except as required in the normal course of forwarding and staffing the report, or as otherwise authorized by law or regulation, without the approval of the appointing authority or other appropriate FOIA release authority.

e. Compliance with applicable disclosure guidance information security laws, and regulations. Information security laws and regulations. IOs and boards will comply with applicable information security practices, laws, and regulations when placing classification markings on investigation and board reports.

Reports that contain classified material must be marked and handled in accordance with applicable information security practices, laws, and regulations. The IO or board president should consult with the legal advisor and the command security manager to ensure compliance with applicable information security practices, laws, and regulations. AR 380–5 provides guidance on the Department of the Army Information Security Program. DoDD 5230.11 provides guidance on the disclosure of classified military information to foreign governments and international organizations.

Chapter 4
Preliminary Inquiry

4–1. Purpose

a. The purpose of a preliminary inquiry includes, but is not limited to, ascertaining the magnitude of a problem; identifying and interviewing witnesses; summarizing or recording their statements; and determining whether a more extensive investigation is warranted, and, if warranted, assisting in determining the scope of such investigation. A preliminary inquiry does not need to follow the procedural requirements of an administrative investigation or a board.

b. Preliminary inquiries cannot be used to investigate Class A Mishaps (see AR 385–10), suicide related incidents (see AR 600–92), formal sexual harassment complaints (see AR 600–52), or investigations related to serious training accidents and deaths. This list is not all inclusive and appointing authorities should consult with their servicing legal advisor to determine the appropriate investigative procedure to use.

4–2. Appointing authority

The following individuals may appoint a preliminary inquiry into matters within their areas of responsibility and personnel they supervise, manage, control, or oversee:

a. Any officer or civilian employee authorized to appoint a board (see para 6–2),

b. A commander at any level, and

c. A special, personal, or principal staff officer or supervisor in the grade of O–4/GS–13 and above (or equivalent).

4–3. Procedures

A preliminary inquiry will be accomplished in accordance with guidance and direction provided by the appointing authority. A preliminary inquiry may be appointed verbally or in writing (see fig F–1 for a sample preliminary inquiry appointment memorandum). The appointing authority can appoint an IO to complete a preliminary inquiry, or the appointing authority can conduct the inquiry him/herself. The findings of the inquiry may be documented in writing, and it is advisable to preserve any evidence gathered. See figure G–1 for a sample preliminary inquiry findings and recommendations memorandum.

a. Adverse action. If the appointing authority determines that further investigation is not required but contemplates adverse administrative action against a person because of the findings of the inquiry, the appointing authority will require the findings to be in writing and reviewed in accordance with paragraph 2–6. Additionally, the appointing authority will comply with the notice and referral requirements of paragraph 3–4 unless the contemplated administrative action is prescribed by a different regulation or directive with more stringent procedural safeguards.

b. Adverse finding. If the preliminary inquiry contains adverse information regarding officers, an administrative investigation must be conducted under the provisions of this regulation. The approval authority need not refer the preliminary inquiry to the officer.

c. Need for further investigation. Should the approving authority determine that further investigation or a board is required because of a preliminary inquiry, the evidence and results of the preliminary inquiry will be provided to the IO or board.

4–4. Legal consultation

Commanders and preliminary inquiry appointing authorities should consult with their legal advisor prior to conducting a preliminary inquiry but must consult with their servicing legal advisor before taking adverse administrative action against any person based upon the findings of a preliminary inquiry. As a

preliminary inquiry may lead to a criminal investigation, appointing authorities should remain cognizant of self-incrimination rules and other evidentiary rules that preclude the use of evidence.

Chapter 5
Administrative Investigations

5–1. Purpose
Administrative investigations are a tool used to ascertain facts, document and preserve evidence, and present the facts and evidence to the approval authority. The purpose of an administrative investigation is to provide the approval authority with a comprehensive examination of the facts and circumstances relevant to the matters or conduct under investigation, and to provide recommendations, as may be required by the appointing authority.

5–2. Appointing authority
a. The following individuals may appoint an administrative investigation into matters within their areas of responsibility and personnel they supervise, manage, control, or oversee:

(1) Any officer or civilian employee authorized to appoint a board (see para 6–2).

(2) A commander at any level.

(3) A special, personal, or principal staff officer or supervisor in the grade of O–4/GS–13 and above (or equivalent).

b. The appointment will be in writing and in memorandum format (see fig F–2 for a sample administrative investigation appointment memorandum). The appointing authority may provide additional instructions as determined necessary, but at minimum, the duties of the IO will include the following:

(1) Ascertain and consider the evidence and facts regarding relevant issue(s).

(2) Be thorough and impartial.

(3) Make findings and recommendations warranted by the evidence.

(4) Comply with the instructions of the appointing authority.

(5) Report the findings and recommendations to the approval authority.

5–3. Procedures
a. Administrative investigations may be composed of a single IO, who meets the qualifications in paragraphs 2–3 and 3–6, or by an investigation team consisting of an IO and one or more assistant IOs designated by the appointing authority to assist the IO in questioning witnesses, taking sworn statements, and otherwise facilitating evidence gathering. If assistant IOs are used, those designated as assistants must abide by the provisions of chapter 3. There is no recorder.

b. IOs may use whatever method they deem most efficient and effective for acquiring information. See chapter 3 for general guidance and appendix C for a checklist to assist the IO. An IO may divide the witnesses, issues, or evidentiary aspects of the investigation among assistant IOs for individual investigation and development.

5–4. Right to respond to adverse Information
a. Although the investigation procedures are not intended to provide a hearing for interested persons, regular commissioned officers have a right to respond to adverse information in a report of proceedings. This right exists regardless of whether adverse administrative action is recommended or contemplated against the officer.

b. When a regular commissioned officer has the right to respond pursuant to this paragraph, the portion of the report of investigation and supporting evidence pertaining to the adverse information will be referred to the officer after being properly redacted by the IO's legal advisor, in accordance with paragraph 5–5. The officer will have at least 10 business days to respond. The referral and processing of any response will be conducted in accordance with paragraph 5–5*c*(3).

c. The right of a regular commissioned officer to respond to adverse information should not influence the conduct of an investigation. The officer's right to respond to adverse information will not serve as a substitute for attempting to interview the individual during the investigation.

d. The regular commissioned officer's response to the adverse information may include anything that the officer deems to be relevant to the finding, including, but not limited to, a rebuttal memorandum

prepared by the officer or his representative, additional evidence in any format, and letters of support. All materials provided in response to adverse information will be included as an exhibit to the report of proceedings.

e. The right to respond to adverse information is extended by this regulation only to regular commissioned officers, and not warrant officers as described in 10 USC 571, or enlisted personnel, because such findings or recommendations may be considered in future promotion boards that will consider those officers for promotion. This does not require nor preclude approval authorities from extending this opportunity to any other individual who is the subject of adverse information in the report of proceedings.

5–5. Referral of adverse information

a. When an investigation includes a finding containing adverse information (as defined in the glossary) regarding a commissioned officer, from any of the three components, the portion of the report of investigation and supporting evidence pertaining to the adverse information must be referred to that officer in accordance with paragraph 5–4.

b. For those findings that are adverse to a commissioned officer, the approval authority will give the officer notice and an opportunity to respond before taking final action. The approval authority determines who will refer the adverse information, for example, the IO, the legal advisor, or the approval authority him/herself.

c. A copy of the investigation, redacted as stated below, will be referred to the officer by memorandum (see fig H–1 for a sample adverse information notification memorandum). The intent of the referral is to provide due process. Due process must be meaningful such that the responding officer is given sufficient information to adequately respond.

(1) The following information must be redacted from the report: portions of the investigation that do not pertain to the adverse information and PII unless doing so would substantially impair the responding officer's due process rights (see AR 25–55 for further guidance).

(2) The referral must notify the officer of the general nature of the adverse information. In addition, the referral must notify the officer that: The officer has the right to remain silent, and that anything the officer may say or submit in response to the adverse information may be used against him or her in ongoing or subsequent adverse administrative or UCMJ proceedings.

(3) The officer will be granted at least 10 business days to respond to the referral. Reasonable requests for an extension of this deadline should be granted for good cause to ensure that the officer has an adequate opportunity to gather evidence and prepare a response. A GCMCA and SPCMCA can delegate the authority to approve or disapprove an extension requested by an IO to their SJA or servicing legal advisor.

d. In the event that the officer is not available for service or otherwise outside of military control, notice and the investigation will be sent by certified mail, return receipt requested to the last known address. If the officer refuses to acknowledge receipt of notice or the IO receives no response, the individual who mails the notice will prepare a sworn affidavit of service by mail that will be inserted in the original investigation with Postal Service (PS) Form 3800 (Certified Mail Receipt). Notice delivered by mail will state that action on the investigation has been suspended until a specific date (not less than 30 days from the date of postmark) to give the officer the opportunity to respond. If the officer does not reply by the given date, the approving authority may take appropriate action on the investigation.

e. Rebuttal matters must be submitted to the IO for their consideration in order to determine if such matters change a finding and/or recommendation. Once the review of the rebuttal matters has been completed, the IO will update the findings and/or recommendations or include a memorandum stating whether the rebuttal matters have changed the IO's findings and recommendations. The completed report of proceedings and rebuttal matters will then be submitted to the approval authority's servicing SJA or legal advisor. The rebuttal matters will be marked as an exhibit to the report of proceedings. If the subject officer elects not to respond, or fails to do so within the period authorized, the IO will attach a memorandum stating that the officer elected not to respond or did not respond within the period authorized, along with the referral documents, to the report of proceedings.

f. Adverse information from an officially documented investigation or inquiry must be furnished to a selection board for promotion for regular commissioned officers in accordance with 10 USC 615 and for Reserve Component officers in accordance with 10 USC 14107 and may be provided to other selection boards.

g. The approval authority will consider any response the officer provides and may use it to approve, modify, or disapprove any relevant finding(s) or recommendation(s), or as evidence in current or future actions resulting from the investigation.

5–6. Report of administrative investigation

a. General. A DA Form 1574–1 will be used, but the IO may make his or her findings and recommendations in an attached memorandum. The DA Form 1574–1 and any enclosures and exhibits, will constitute the report of the proceedings.

b. Enclosures. In reports of investigations, all significant letters, memoranda, and other papers that relate to the administrative aspects of the investigation but are not evidence, will be numbered consecutively and made enclosures, including the following items:

(1) The memorandum of appointment.

(2) Written communications to or from the appointing authority.

(3) Privacy act statements.

(4) An explanation by the IO of any unusual delays, difficulties, irregularities, or other problems encountered, and

(5) Additional documents required in special cases. When a case is complex, serious, and/or high-profile, or when the report of investigation contains adverse information regarding an officer, the following additional items are encouraged to be included.

(a) A 1–2 page executive summary, and

(b) An index of the exhibits, with all the exhibits labeled in successive order.

c. Exhibits. Every item of evidence offered to or received by the IO or board will be marked as a separate exhibit. Unless a verbatim record is prepared, statements or transcripts of testimony by witnesses will also be exhibits. Exhibits should be marked and included consistent with this regulation and the appointment order. IO's should speak with their legal advisor to determine how to best capture an exhibit for the administrative investigation.

d. Legal reviews. These reviews are not included as an attachment or enclosure of the investigation. Legal reviews are provided to the approval authority by the servicing legal office. The servicing legal office will file and maintain the legal review in ALCS/CTS with the associated administrative investigation (see para 3–20).

Chapter 6
Boards of Officers

6–1. Purpose

Boards are convened to conduct investigations into complex or serious issues, where the issue requires a comprehensive hearing, when it is appropriate or necessary to designate a respondent, or when the appointing authority deems it appropriate to convene such a board. The board will similarly be used to ascertain facts, document and preserve evidence, and present the facts and evidence to the approval authority. The purpose of a board is to provide the approval authority with a comprehensive examination of the evidence, make findings of fact, and provide recommendations, as may be required.

6–2. Appointing authority

a. The following individuals may appoint a board of officers into matters within their areas of responsibility and personnel they supervise, manage, control, or oversee:

(1) Any GCMCA or SPCMCA, including those who exercise that authority for administrative purposes only.

(2) Any general/flag officer or SES.

(3) Any commander, deputy commander, or special, personal, or principal staff officer in the rank of colonel/SES (lieutenant colonel may appoint if assigned to a slot authorized a colonel) or above at Headquarters, Department of the Army (HQDA), the installation, activity, or unit level. As used in this paragraph, principal staff officers include individuals assigned to the following positions: Chief of Staff, Executive Officer, Deputy Commanding Officer, G–1/S–1, G–2/S–2, G–3/5/7 or /S–3, G–4/S–4, G–5/S–5, G–6/S–6, G–8/S–8, and G–9/S–9.

(4) Any State adjutant general.

(5) A DA Civilian supervisor permanently assigned to a position graded as a general schedule (GS)-14 (or equivalent) or above, who is assigned as the head of an agency, activity, division, or directorate.

(6) Principal deputies, assistant deputy chiefs of staff, and assistant secretaries of the Army are authorized to serve as appointing authorities at HQDA.

b. Appointing authorities who are general/flag officers may delegate to members of their staff the authority to select board members.

6–3. Members

a. Members. The members of a board will be appointed pursuant to paragraph 2–1 and the appointment memorandum will designate member roles as provided in this paragraph (see fig F–3 for sample board of officers appointment memorandum).

b. Voting members. All members of a board are voting members, except as provided elsewhere in this paragraph, in other applicable regulations or directives, or in the memorandum of appointment.

c. President. The senior voting member present acts as president. The senior voting member will be senior to any named respondent and at least a major, except where the appointing authority determines that such appointment is impracticable because of military exigencies. The president has the following responsibilities: The president will—

(1) Preserve order.

(2) Determine time and uniform for sessions of the board.

(3) Recess or adjourn the board as necessary (including recessing for the night and beginning on a later date).

(4) Decide routine administrative matters necessary for efficient conduct of the business of the board.

(5) Ensure that all business of the board is properly conducted (including complying with specific procedural requirements listed in other relevant regulations), and that the report of proceedings is submitted promptly. If the board consists of only one member, that member has the responsibilities of both the president and the recorder.

d. Recorder. The memorandum of appointment may designate a commissioned or warrant officer as recorder. It may also designate assistant recorders, who may perform any duty the recorder may perform. If the memorandum of appointment designates a recorder or assistant recorder, the recorder or assistant recorder is a nonvoting member of the board. If the memorandum of appointment does not designate a recorder, the junior member of the board acts as recorder and is a voting member. The appointing authority should appoint a judge advocate as recorder, if reasonably available.

e. Legal advisor. A legal advisor will be appointed as a nonvoting member. He or she rules finally on challenges for cause made during the proceedings—except for a challenge against the legal advisor decides evidentiary and procedural matters but may not dismiss any question or issue before the board. In appropriate cases, the legal advisor may advise the board on legal matters. If a respondent has been designated, the respondent and the respondent's counsel will be afforded the opportunity to be present when legal advice is provided to the board. If legal advice is not provided in person (for example, by telephone or in writing), the right to be "present" is satisfied by providing the opportunity to listen to, or read, the advice. The right to be present does not extend to general procedural advice given before the board initially convenes, to legal advice provided before the respondent is designated, or to advice provided under paragraph 6–12.

f. Members with special technical knowledge. Persons with special technical knowledge, to include members of other services and allied or coalition partners, may be appointed as voting members or, unless there is a respondent, as advisory members without a vote. Such persons need not be commissioned or warrant officers. If appointed as advisory members, they need not participate in the board proceedings, except as directed by the president (see para 6–12, regarding the participation in the board's deliberations). The report of proceedings will indicate the limited participation of an advisory member.

6–4. Attendance of members

a. General. Attendance at board proceedings is the primary duty of each voting member and takes precedence over all other duties. A voting member must attend scheduled sessions of the board, if physically able, unless excused in advance by the appointing authority. If the appointing authority is a GCMCA or a commanding general with a legal advisor on his or her staff, the authority to excuse individual members before the first session of the board may be delegated to the SJA or legal advisor. If the appointing authority is a SPCMCA, the authority to excuse individual members before the first session of the board

may be delegated to their legal advisor. The board may proceed, even though a member is absent, provided the necessary quorum is present (see para 6–4*b*). If the recorder is absent, the assistant recorder, if any, or the junior member of the board will assume the duties of recorder. The board may then proceed at the discretion of the president. In cases of significant administrative burdens, boards of officers for Composition 3 organizations may be held remotely.

b. Quorum. Unless another regulation or directive requires a greater number, a majority of the appointed voting members (other than nonparticipating alternate members) of a board constitutes a quorum and must be present at all sessions. If another regulation or directive prescribes specific qualifications for any voting member (for example, component, branch, or technical or professional qualifications), that member is essential to the quorum and must be present at all board sessions.

c. Alternate members. An unnecessarily large number of officers will not be appointed to a board with the intention of using only those available at the time of the board's meeting. The memorandum of appointment may, however, designate alternate members to serve on the board, in the sequence listed, if necessary to constitute a quorum in the absence of a regular member. These alternate members may be added to the board at the direction of the president without further consultation with the appointing authority. A member added at the direction of the president becomes a regular member with the same obligation to be present at all further proceedings of the board (see para 6–4*a*).

d. Member not present at prior sessions. A member who was not present at a prior session of the board, such as an absent member, an alternate member newly authorized to serve as a member, or a newly appointed member, may participate fully in all subsequent proceedings. The member must, however, become thoroughly familiar with the prior proceedings and the evidence. The report of proceedings will reflect how the member became familiar with the proceedings. Except as directed by the appointing authority, a member who was not available (because of having been excused or otherwise) for a substantial portion of the proceedings, as determined by the president, will no longer be considered a member of the board in that particular case, even if that member later becomes available to serve.

6–5. Duties of the recorder

a. Before a session. The recorder is responsible for administrative preparation and support for the board, and will perform the following duties before a session:

(1) Give timely notice of the time, place, and prescribed uniform for the session to all participants, including board members, witnesses, the legal advisor, and, if any, the respondent, counsel, reporter, and interpreter. Only the notice to a respondent, required by paragraph 6–6, must be in writing. It is also usually appropriate to notify the commander or supervisor of each witness and respondent.

(2) Arrange for the presence of witnesses who are to testify in person, including the attendance at Government expense of military personnel and civilian government employees ordered to appear, and of other civilians voluntarily appearing pursuant to invitational travel authorizations.

(3) Ensure that the site for the session is adequate and in good order.

(4) Arrange for necessary personnel support (for example, a paralegal, reporter, or interpreter), recording equipment, stationery, and other supplies.

(5) Arrange to have available all necessary Privacy Act statements and, with appropriate authentication, all required records, documents, and real evidence.

(6) Ensure, subject to security requirements, that all appropriate records and documents referred with the case are furnished to any respondent or counsel.

(7) Take whatever other action is necessary to ensure a prompt, full, and orderly presentation of the case.

b. During the session. The recorder will perform the following duties during the session:

(1) Read the memorandum of appointment at the initial session or determine that the participants have read it.

(2) Note for the record at the beginning of each session the presence or absence of the members of the board and the respondent and counsel, if any.

(3) Administer oaths as necessary.

(4) Execute all orders of the board.

(5) Conduct the presentation of evidence and examination of witnesses to elicit the facts.

c. After the proceedings. The recorder is responsible for the prompt and accurate preparation of the report of proceedings, for the authentication of the completed report, and for the delivery of the report to the approval authority or his or her designee.

6–6. Respondent designation

a. General. A respondent may be designated when the appointing authority desires to provide a hearing for a person with a direct interest in the proceedings. The mere fact that an adverse finding may be made or adverse action recommended against a person, does not mean that he or she will be designated a respondent. The appointing authority decides whether to designate a person as a respondent, except where procedural protections available only to a respondent under this regulation are mandated by other regulations or directives, or where designation of a respondent is—

(1) Directed by authorities senior to the appointing authority.

(2) Required by other regulations or directives.

b. Before proceedings. When it is decided at the time a board is appointed that a person will be designated a respondent, the designation will be made in the memorandum of appointment or referral memorandum.

c. During the proceedings.

(1) If, during board proceedings, the legal advisor or the president decides that it would be advisable to designate a respondent, the proceedings will be abated until the legal advisor makes such a recommendation and provides supporting information to the appointing authority, who will decide whether to designate a respondent or to continue the proceedings without designating a respondent.

(2) The appointing authority may designate a respondent at any point in the proceedings. A respondent so designated will be given a reasonable time to obtain counsel and prepare for subsequent sessions (see para 6–8).

(3) If a respondent is designated during the proceedings, the record of proceedings and all evidence received by the board to that point will be made available to the newly designated respondent and counsel. The respondent may request that witnesses who have previously testified be recalled for cross-examination. If circumstances do not permit recalling a witness, a written statement may be obtained. In the absence of compelling justification, the proceedings will not be delayed obtaining such a statement. Subject to evidentiary limitations, any testimony given by a person as a witness may be considered, even if that witness is subsequently designated a respondent.

6–7. Notice

The recorder will, at a reasonable time in advance of the first session of the board concerning a respondent (including a respondent designated during the proceedings), provide the respondent a copy of all unclassified documents in the case file and a letter of notification. In the absence of special circumstances or a different period established by the regulation or directive authorizing the board, a "reasonable time" is 10 business days (20 business days for ARNG and USAR). The letter of notification will include the following information:

a. The date, hour, and place of the session and the appropriate military uniform, if applicable.

b. The matter to be investigated, including specific allegations, in sufficient detail to enable the respondent to prepare.

c. The respondent's rights regarding counsel.

d. The contact information in the Government's possession for each witness expected to be called.

e. The respondent's rights to be present, present evidence, and call witnesses.

f. The procedures for examining relevant classified materials, on request and with the assistance of the recorder, if the board involves classified matters.

6–8. Counsel

a. Entitlement. A respondent is entitled to have counsel and, to the extent permitted by security classification, to be present with counsel at all open sessions of the board. Counsel may also be provided for the limited purpose of taking a witness's statement or testimony if a respondent has not yet obtained counsel. An appointed counsel will be furnished only to civilian employees or members of the military.

b. Who may act.

(1) Civilian counsel. Any respondent may be represented by civilian counsel not employed by, and at no expense to, the Government. A Government civilian employee may not act as civilian counsel for compensation, or if it would be inconsistent with the faithful performance of the employee's regular duties (see 18 USC 205). In addition, a DA Civilian employee may serve as a respondent's counsel only while on leave or outside normal hours of employment, except when acting as the exclusive representative of the bargaining unit pursuant to 5 USC 7114(a)(2)(b).

(2) Military counsel for military respondents. A military respondent is entitled to be represented by a designated military counsel. The retention of civilian counsel does not deprive the military respondent of the right to be represented by his or her designated military counsel. A military respondent who declines the services of a qualified designated military counsel is not entitled to have a different counsel designated.

(3) Military counsel for civilian employee respondents. Federal civilian employee respondents, including those of non-appropriated fund instrumentalities, will be provided a designated military counsel under the same conditions and procedures as if they were military respondents, unless it is determined that they will be represented by an exclusive representative of an appropriate bargaining unit.

c. Delay. Whenever practicable, the board proceedings will be held in abeyance pending a respondent's reasonable and diligent efforts to obtain counsel. The proceedings will not be delayed unduly to permit a respondent to obtain a particular counsel, or to accommodate the schedule of such counsel. The board president shall determine whether a delay is excessive.

d. Qualifications. Counsel will be sufficiently mature and experienced to be of genuine assistance to the respondent. Unless specified by the regulation or directive under which the board is appointed, counsel is not required to be a lawyer.

e. Independence. No counsel for a respondent will be censured, reprimanded, admonished, coerced, or rated less favorably as a result of the lawful and ethical performance of duties, or the zeal with which he or she represents the respondent. Any question concerning the propriety of a counsel's conduct in the performance of his or her duty will be referred to the servicing SJA or legal advisor.

6–9. Challenges for cause

a. Right of respondent. A respondent is entitled to have the matter at issue decided by a board composed of impartial members. A respondent may challenge for cause the legal advisor and any voting member of the board who the respondent believes does not meet that standard. Lack of impartiality is the only basis on which a challenge for cause may be made at the board proceedings. Any other matter affecting the qualification of a board member may be brought to the attention of the appointing authority.

b. Making a challenge. A challenge will be made as soon as the respondent or counsel is aware that grounds exist. Failure to do so normally will constitute a waiver. If possible, all challenges and grounds will be communicated to the appointing authority before the board convenes. When the board convenes, the respondent or counsel may question members of the board to determine whether to make a challenge. Such questions must relate directly to the issue of impartiality. Discretion will be used, however, to avoid revealing prejudicial matters to other members of the board. If a challenge is made after the board convenes, only the name of the challenged member will be indicated in open session, not the reason for believing the member is not impartial.

c. Deciding challenges. The appointing authority will decide any challenges made before the board convenes. Otherwise, a challenge is decided by the legal advisor or, if the legal advisor is challenged, by the president.

d. Procedure. Challenges for lack of impartiality not decided by the appointing authority will be heard and decided at a session of the board attended by the legal advisor, the president, the member challenged, the respondent and his or her counsel, and the recorder. The respondent or counsel making the challenge may question the challenged member and present any other evidence to support the challenge. The recorder may also present evidence on the issue. The person who is to decide the challenge may question the challenged member and any other witness and may direct the recorder to present additional evidence. If more than one member is challenged at a time, each challenge will be decided independently, in descending order of the challenged members' ranks.

e. Sustained challenge. If the person deciding a challenge sustains it, he or she will excuse the challenged member from the board at once, and that person will no longer be a member of the board. If this excusal prevents a quorum, the board will adjourn to allow the addition of another member; otherwise, proceedings will continue.

6–10. Presentation of evidence

a. Rights of respondent. Except for good cause shown in the report of proceedings, a respondent is entitled to be present, with counsel, at all open sessions of the board that deal with any matter concerning the respondent. The respondent may—

(1) Examine and object to the introduction of real and documentary evidence, including written statements.

(2) Object to the testimony of witnesses and cross-examine witnesses other than the respondent's own.

(3) Call witnesses and otherwise introduce evidence.

(4) Testify as a witness; however, no adverse inference may be drawn from the exercise of the privilege against self-incrimination. Additionally, the respondent may provide an unsworn statement (see Rules for Courts-Martial (RCM) 1001(d)(2)(A).)

b. Assistance.

(1) Upon receipt of a timely written request, and except as provided in paragraph 6–4*a*, the recorder will assist the respondent in obtaining documentary and real evidence in the possession of the Government, and in arranging for the presence of witnesses for the respondent.

(2) Except as provided in paragraph 6–4*b*, the respondent is entitled to attendance, at Government expense, of witnesses who are Soldiers or Federal civilian employees, to reimbursement of authorized expenses of other civilian witnesses who voluntarily appear in response to invitational travel authorizations, and to official cooperation in obtaining access to evidence in the Government's possession, to the same extent as the recorder on behalf of the Government. If the recorder believes any witness's testimony or other evidence requested by the respondent is irrelevant or unnecessarily cumulative, or that its significance is disproportionate to the delay, expense, or difficulty in obtaining it, the recorder will submit the respondent's request to the legal advisor or president, who will decide whether the recorder will comply with the request. Denial of the request does not preclude the respondent from obtaining the evidence or witness without the recorder's assistance, and at no expense to the Government.

(3) Nothing in this paragraph relieves a respondent or counsel from the obligation to exercise due diligence in preparing for and presenting his or her own case. Normally, the fact that any evidence or witness desired by the respondent is not reasonably available is not a basis for terminating or invalidating the proceedings.

(4) Evidence that is privileged will not be provided to a respondent or counsel, unless the recorder intends to introduce such evidence to the board and has obtained approval to do so.

6–11. Argument

After all evidence has been received, the recorder and the respondent or the respondent's counsel may make a final statement or argument. The recorder may make an argument first and, if argument is made on behalf of a respondent, the final argument in rebuttal.

6–12. Deliberation

After all the evidence has been received (and any arguments heard), the board members will consider the evidence carefully considering any instructions from the appointing authority. These deliberations will (and, if there is a respondent, must) be in closed session (in other words, with only voting members present). Nonvoting members of the board do not participate in the board's deliberations but may be consulted. The respondent and the respondent's counsel, if any, will be afforded the opportunity to be present at such consultations. The board may request the legal advisor to assist in putting findings and recommendations in the proper form after their substance has been adopted by the board. The respondent and counsel are not entitled to be present during such assistance.

6–13. Voting

A board arrives at its findings and recommendations by voting. All voting members present must vote. After thoroughly considering and discussing all the evidence, the board will propose and vote on findings of fact. The board will next propose and vote on recommendations. If additional findings are necessary to support a proposed recommendation, the board will vote on such findings before voting on the related recommendation. Unless another regulation or directive or an instruction by the appointing authority establishes a different requirement, a majority vote of the voting members present determines questions before the board. In case of a tie vote, the president's vote is the determination of the board.

6–14. After the hearing

a. If a verbatim record is produced, the transcript, a completed DA Form 1574–2, and any enclosures and exhibits will constitute the report of the proceedings. If a verbatim record is not produced, a completed DA Form 1574–2 and any enclosures and exhibits will constitute the report of the proceedings.

b. Upon approval or other action on the report of proceedings by the approval authority, the respondent or respondent's counsel will be provided a copy of the report, including all exhibits and enclosures that pertain to the respondent. Portions of the report, exhibits, and enclosures may be withheld from a respondent only as required by security classification or for other good cause determined by the appointing authority and explained to the respondent in writing.

Appendix A

References

Section I

Required Publications

This section contains no entries.

Section II

Prescribed Forms

Unless otherwise stated, Department of the Army forms are available on the Army Publishing Directorate website at https://armypubs.army.mil/.

DA Form 1574–1
Report of Proceedings by Investigating Officer (Prescribed in para 2–2*b*(6).)

DA Form 1574–2
Report of Proceedings by Board of Officers (Prescribed in para 2–2*b*(6).)

DA Form 7694
Privacy Statement (Prescribed in para 3–14*e*(1).)

Appendix B

Suggested Procedures for Board with Respondents

B–1. Appendix information
The dialogue provides a sample script that may be used for boards of officers conducted in accordance with this regulation.

B–2. Appendix terms defined
a. PRES: The president of the board of officers is a role filled by the senior voting member present.
b. LA: legal advisor.
c. LA (PRES): legal advisor, if one has been appointed; otherwise, the board president.
d. RCDR: recorder (junior member of the board if no recorder has been appointed). If the board consists of only one member, that member has the responsibilities of both PRES and RCDR.
e. RESP: respondent.
f. RESP (COUNSEL): respondent or respondent's counsel, if any.

Preliminary matters
PRES: This hearing will come to order. This board of officers has been called to determine_____.

When RESP is without counsel:_____.

PRES: _____, you may, if you desire, obtain civilian counsel at no expense to the Government for this hearing. If you do not obtain civilian counsel, you are entitled to be represented by a military counsel designated by the appointing authority. Do you have counsel?

RESP: No (Yes).

If RESP has counsel the RCDR should identify that counsel at this point for the record. If RESP does not have counsel, the PRES should ask this question:

PRES: Do you desire to have military counsel?

RESP: Yes (No).

If RESP answers "yes," the PRES should adjourn the hearing and ask the appointing authority to appoint counsel for RESP (see para 6–6b). If counsel is supplied, the RCDR should identify that counsel for the record when the board reconvenes.

A reporter and an interpreter, if used, should be sworn.

RCDR: The reporter will be sworn.

RCDR: Do you swear (or affirm) that you will faithfully perform the duties of reporter to this board, (so help you God)?

REPORTER: I do.

RCDR: The interpreter will be sworn.

RCDR: Do you swear (or affirm) that you will faithfully perform the duties of interpreter in the case now in hearing, (so help you God)?

INTERPRETER: I do.

RCDR: The board is appointed by Memorandum of Appointment, Headquarters_____ , dated _____. Have all members of the board read the memorandum of appointment? (If not, the memorandum of appointment is read aloud by RCDR or silently by any member who has not read it.)

When RESP has been designated by a separate memorandum of appointment, the same procedure applies to that memorandum of appointment.

RCDR: May the memorandum of appointment be attached to these proceedings as Enclosure l?

PRES: The memorandum of appointment will be attached as requested.

RCDR: The following members of the board are present:_____. The following members are absent:_____.

RCDR should account for all personnel of the board, including RESP and COUNSEL, if any, as present or absent at each session. RCDR should state the reason for any absence, if known, and whether the absence was authorized by the appointing authority.

PRES: _____, you may challenge any member of the board (or the legal advisor) for lack of impartiality. Do you desire to make a challenge?

RESP (COUNSEL): No. (The respondent challenges_____)

If RESP challenges for lack of impartiality, the legal advisor determines the challenge. See paragraph 6–9. If sustaining a challenge result in less than a quorum, the board should recess until additional members are added. See paragraph 6–9c. If RESP challenges the legal advisor, the PRES shall decide the challenge.

RCDR swears board members, if required. PRES then swears RCDR (if required).
RCDR: The board will be sworn.

All persons in the room stand while RCDR administers the oath. Each voting member raises his or her right hand as RCDR calls his or her name in administering the following oath:

RCDR: Do you, Colonel_____ , Lieutenant Colonel_____ , Major_____ swear (affirm) that you will faithfully perform your duties as a member of this board; that you will impartially examine and inquire into the matter now before you according to the evidence, your conscience, and the laws and regulations provided; that you will make such findings of fact as are supported by the evidence of record; that, in determining those facts, you will use your professional knowledge, best judgment, and common sense; and that you will make such recommendations as are appropriate and warranted by your findings, according to the best of your understanding of the rules, regulations, policies, and customs of the service, guided by your concept of justice, both to the Government and to individuals concerned (so help you God)?

MEMBERS: I do.

The board members lower their hands but remain standing while the oath is administered to LA and to RCDR, if required.

PRES: Do you,_____, swear (or affirm) that you will faithfully perform the duties of (legal advisor) (recorder) of this board (so help you God)?

LA/CDR: I do.

All personnel now resume their seats.

PRES may now give general advice concerning applicable rules for the hearing.

RCDR: The respondent was notified of this hearing on_____20____.

RCDR presents a copy of the memorandum of notification with a certification that the original was delivered (or dispatched) to RESP (para 6–5) and requests that it be attached to the proceedings as Enclosure___.

PRES: The copy of the memorandum of notification will be attached as requested.

Presentation of evidence by the recorder
RCDR may make an opening statement at this point to clarify the expected presentation of evidence.

RCDR then calls witnesses and presents other evidence relevant to the subject of the proceedings. RCDR should logically present the facts to help the board understand what happened. Except as otherwise directed by PRES, RCDR may determine the order of presentation of facts. The following examples are intended to serve as a guide to the manner of presentation, but not to the sequence.

RCDR: I request that this statement of (witness) be marked Exhibit____ and received in evidence. This witness will not appear in person because _____.

LA (PRES): The statement will (not) be accepted.

RCDR may read the statement to the board if it is accepted.

RCDR: I request that this (documentary or real evidence) be marked as Exhibit___ and received in evidence.

A foundation for the introduction of such evidence normally is established by a certificate or by testimony of a witness indicating its authenticity. LA (PRES) determines the adequacy of this foundation. If LA (PRES) has a reasonable basis to believe the evidence is what it purports to be, he or she may waive formal proof of authenticity.

RCDR: The recorder and respondent have agreed to stipulate_____.

Before LA (PRES) accepts the stipulation, he or she should verify that RESP joins in the stipulation.

LA (PRES): The stipulation is accepted.

If the stipulation is in writing, it will be marked as an exhibit.

RCDR conducts direct examination of each witness called by RCDR or at the request of PRES or members. RESP or COUNSEL may then cross-examine the witness. PRES and members of the board may then question the witness, but PRES may control or limit questions by board members.

RCDR: The board calls _____as a witness.

A military witness approaches and salutes PRES, then raises his or her right hand while RCDR administers the oath. A civilian witness does the same but without saluting. See MCM, Rules for Court-Martial 807, for further guidance with regard to oaths.

RCDR: Do you swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth (so help you God)?

If the witness desires to affirm rather than swear, the words "so help you God" will be omitted.

WITNESS: I do.

The witness then takes the witness chair. RCDR asks every witness the following question no matter who called the witness.

RCDR: What is your full name (grade, branch of service, organization, and station) and address?

Whenever it appears appropriate and advisable to do so, the board should explain the rights of a witness under Article 31 of the UCMJ or the Fifth Amendment to the Constitution. See paragraph 3–14.

If the report of proceedings will be filed in a system of records under the witness' name, the board must advise that witness in accordance with the Privacy Act. See paragraph 3–14e(1). Normally, this requirement applies only to RESP.

RCDR then asks questions to develop the matter under consideration.

RCDR: The recorder has no further questions.

RESP (COUNSEL) may cross-examine the witness. RCDR may then conduct a redirect examination, and re-cross may follow.

RCDR: Does the board have any questions?

Any board member wishing to question the witness should first secure the permission of the PRES.

If RCDR and RESP (COUNSEL) wish to ask further questions after the board has examined the witness, they should seek permission from the PRES. PRES should normally grant such requests unless the questions are repetitive or go beyond the scope of questions asked by the board.

When all questioning has ended, PRES announces:

PRES: The witness is excused.

PRES may advise the witness as follows:

PRES: Do not discuss your testimony in this case with anyone other than the recorder, the respondent, or his or her counsel. If anyone else attempts to talk with you about your testimony, you should tell the person who originally called you as a witness.

Verbatim proceedings should indicate that the witness (except RESP) withdrew from the room.

Unless expressly excused from further attendance during the hearing, all witnesses remain subject to recall until the proceedings have ended. When a witness is recalled, the RCDR reminds such witness, after he or she has taken the witness stand:

RCDR: You are still under oath.

The procedure in the case of a witness called by the board is the same as outlined above for a witness called by RCDR.

RCDR: I have nothing further to offer relating to the matter under consideration.

Presentation of respondent's evidence
RESP (COUNSEL): The respondent has (an) (no) opening statement.

RESP presents his or her stipulations, witnesses, and other evidence in the same manner as did RCDR. RCDR administers oath to all witnesses and asks the first question to identify the witness.

Should the RESP be called to the stand as a witness, the RCDR will administer the oath and ask the following preliminary questions, after which the procedure is the same as for other witnesses:

RCDR: What is your name, (grade, branch of service, organization, and station) (address, position, and place of employment)?

RESP: _____.

RCDR: Are you the respondent in this case?

RESP: Yes.

The board may advise RESP of his or her rights under Article 31 of the UCMJ, or the Fifth Amendment of the Constitution. See paragraph 3–14.

If the report of proceedings will be filed in a system of records under RESP's name, the board must advise RESP in accordance with the Privacy Act. See paragraph 3–14e(1).

When RESP has concluded his or her case, RESP announces:

RESP (COUNSEL): The respondent rests.

RCDR: The recorder has no further evidence to offer in this hearing. Does the board wish to have any witnesses called or recalled?

PRES: It does (not).

Closing arguments and deliberations
PRES: You may proceed with closing arguments.

RCDR: The recorder (has no) (will make a) closing argument.

RCDR may make the closing argument and, if any argument is made on behalf of RESP, the rebuttal argument. Arguments are not required (see para 6–8). If no argument is made, RESP or RCDR may say:

RESP (COUNSEL)/RCDR: The (respondent) (recorder) submits the case without argument.

PRES: Is there any other matter the respondent would like to submit to the board prior to the board adjourning?

PRES: The hearing is adjourned.

Adjourning the hearing does not end the duties of the board. It must arrive at findings based on the evidence and make recommendations supported by those findings. See chapter 3. Findings and recommendations need not be announced to RESP, but in certain proceedings, such as elimination actions, they customarily are. RCDR is responsible for compiling the report of proceedings and submitting properly authenticated copies thereof to the appointing authority.

Appendix C

Example Administrative Investigation Checklist

This appendix applies to the administrative investigation checklist see table C–1.

Table C–1
Administrative investigation checklist

	PHASE I: Preliminary matters
Appointment	Has the appointment been made in writing, or if verbally appointed, will the appointment be recorded in writing?
	Does the appointment memorandum clearly state the purpose and scope of the investigation?
	Does the appointment memorandum designate or clearly state a subject of the investigation? If yes, is the IO senior by date of rank or civilian equivalent grade to anyone being investigated?
	Does the appointment memorandum clearly state the nature of the findings and recommendations required?
	Does the appointment memorandum designate the legal advisor to the IO?
Background	Have the background materials been identified and/or provided to the IO?
	Are there any controlling regulations or directives mentioned in the appointment memorandum that need collected and reviewed?
Legal in-brief	Has the IO reviewed the background materials prior to the legal in-brief?
	Has the IO reviewed the requirements of AR 15–6, chapters 3 and 5 prior to the legal in-brief?
	Has the IO reviewed other regulations or directives incorporated in the appointment memorandum prior to the legal in-brief?
	Has the initial legal in-briefing been accomplished?
Subjects	Have all military personnel identified as subjects of the investigation or suspects been properly flagged?
Investigative Plan	Has the IO developed an investigative plan prior to conducting the investigation? And has the plan been discussed with the legal advisor?
	Are the background materials provided complete or has the IO identified additional relevant background information that must be gathered?
	Does the investigative plan outline the additional background information that must be gathered and identified where that information can be obtained?
	Does the plan identify the witnesses who must be interviewed?
	Does the plan order the interviews in the most efficient and effective manner? (for example, Efficient interviewing all background witnesses in a location at a similar time; Effective interviewing all background witnesses prior to interviewing identified subjects or suspects)
	Does the plan identify witnesses not locally available and address alternative ways of interviewing them?
	Does the plan identify information not immediately available and outline steps to obtain the information?
	Does the plan contemplate a need to acquire or review medical records of any person? If yes, has this been discussed and coordinated with the legal advisor?
	Does the plan address the suspense date and the anticipated time required interview witnesses and gather evidence?
	Does the plan address when and how requests for extension should be submitted, if such requests are anticipated?
	Does the plan identify required enclosures (see para 3–13)?
	PHASE II: Conducting the investigation
Timeline	Is a chronology required? If yes, is it being maintained insufficient detail to identify causes for unusual delay?
	Have unusual delays, difficulties , irregularities, or other problems encountered been documented? (for example, absence of material witnesses, difficulties conducting interviews, access to areas/evidence)
	Is routine coordination with the legal advisor being accomplished?

Table C–1
Administrative investigation checklist—Continued

Documentary/physical evidence	Has the relevant background information been collected?
	Have preliminary inquiry results or the results of collateral or concurrent investigations been collected, retained, and incorporated?
	If identified issues resulted from policies, procedures, training, or leadership--or a lack thereof--have any related documents been collected or missing records been documented?
	Have relevant unit or personnel records been authenticated, copied and/or collected, and retained?
	Has physical evidence been collected, photographed, or properly described, including a diagram or description of its original location? What type of evidence are you gathering: phone records, texts, social media posts, sworn statements, and recordings
	Have descriptions or diagrams of the locations visited been included?
	Have any other photographs or documents been collected?
	Is the information collected being retained, organized, and marked as exhibits in the order received?
	Is all the documentary or physical evidence relevant and material to the issue being investigated?
Witnesses	Have all of the identified material witnesses been interviewed?
	Have all of the witness statements been recorded and sworn to on a DA Form 2823?
	If witness statements were collected or documented without use of the DA Form 2823, have Privacy Act statements been completed?
	If witness statements interviews were completed remotely, have MFRs of phone or video conversations been included?
	Have all witnesses provided reliable contact information to facilitate future contact?
	If other military personnel were identified as being a subject or suspect during the course of the investigation, have they been properly flagged?
	Have all witnesses suspected of criminal misconduct been properly advised of their rights and recorded on a DA Form 3881 before being questioned?
	Does the IO contemplate making an adverse finding against a field grade officer? If yes, has that officer been afforded an opportunity to be interviewed?
	Has routine coordination with the legal advisor been accomplished?
PHASE III: Closing the investigation	
Preparing the Report	Have all of the required findings been addressed? Does the evidence support the findings? Are negative findings (such as a finding of no fault, no loss, or no wrongdoing) supported by the evidence? If an incident or allegation has been unsubstantiated, has all of the material relevant evidence been gathered?
	Has the IO made any additional findings? Does the evidence support the additional findings?
	Does each finding cite to the exhibit(s) that support it?
	Does each finding address inconsistent evidence? Has the IO clearly provided the reasoning for how the inconsistent evidence is addressed?
	Are the recommendation supported by the findings?
	Does each recommendation cite the finding(s) that support it?
	Are both the findings and recommendations responsive to the tasking in the appointment memorandum?
	Does the investigation address all the issues (including whether identified issues resulted from policies, procedures, resources, doctrine, training, or leadership--or lack thereof)?
	Has the IO coordinated with the legal advisor regarding the findings and recommendations?
	Is the evidence assembled in a logical and coherent fashion?

Table C–1
Administrative investigation checklist—Continued

	Have sections I III on the DA Form 1574–1 been completed? Have all "No" answers in Section III been addressed?
	Have all extensions or delays been documented and included in an enclosure?
	Have all the enclosures and exhibits been properly labeled?
	Will the findings and recommendations be submitted in a separate memorandum? If yes, has the IO annotated this in DA Form 1574–1, sections IV and V? If no, have the findings and recommendations been clearly and legibly entered/typed into Sections IV and V of the DA Form 1574–1?
	If the investigation involves a complex, serious, or high profile incident/allegation, has the IO included all of the required enclosures? (see para 3–13)
	Has the report of proceedings been assembled, tabbed, and organized as required?
	Has the IO provided a table of contents for the report?
	Has the IO certified that the report is complete and accurate by signing in DA Form 1574–1, section IV?
Final action	Was the investigation turned in on time?
	If not, were all extensions or delays been documented in writing?
	Has the investigation been submitted to the servicing SJA or legal advisor for a legal review?
	Has the approval authority directed any further or follow up investigation?
	If yes, has this been completed in a timely manner and as required?
	Did the approval authority approve the findings and recommendations?
	If not, have the appropriate amendments been made and approved?
	Have the approved findings and recommendations been forwarded to the appropriate authority for action?

Appendix D

Army Adverse Information Program Guidance

D–1. Responsibilities

a. The Chief, Administrative Law Division (ALD), Office of The Judge Advocate General (OTJAG), is responsible for conducting periodic quality control of the AAIP Portal. The Chief, ALD, OTJAG is further delegated authority to modify, amend, or remove erroneous entries in the AAIP when the entries in the portal do not reflect the approved findings or disposition of the underlying investigation, or a Commander has acted upon a request for reconsideration requiring amendment or deletion of a previously approved AAIP entry. Further, the Chief, ALD, OTJAG, is authorized to prescribe additional standards and requirements for AAIP entries, management, and access through publication of a supplemental AAIP user guide.

b. SJAs or their equivalents are responsible for ensuring there is at least one supervising attorney who may approve entries in the AAIP Portal, and one administrator—responsible for adding or removing contributors to the installation's AAIP portal—in a given office. SJAs are ultimately responsible for ensuring that AAIP entries at all echelons under their supervision accurately reflect the approved findings of investigations within their area of operations.

c. Brigade judge advocates or servicing legal advisors will coordinate with their higher headquarters concerning investigations regarding commissioned officers (O–1 and above) when their Commanders act as the approving authority for an investigation required to be filed in the AAIP portal.

D–2. Army Adverse Information Program portal data entry

No entry will be made into the AAIP portal until there are approved, adverse, findings from an administrative investigation. Entry into the AAIP will not be unduly delayed for finalization of adverse administrative action (Boards of Inquiry).

D–3. Joint commands

a. In the event an adverse finding is approved concerning an Army regular commissioned officer, the supporting ASCC OSJA will upload the investigation and any required documentation into the AAIP Portal.

b. Investigations conducted pursuant to other Service's regulations or instructions including an adverse finding concerning an Army regular commissioned officer may be uploaded into the AAIP Portal, so long as the governing regulation substantially complies with the due process protections extended by chapter 5 of this regulation, or such protections are afforded to the respondent by the approval authority.

D–4. Classified investigations

If a qualifying administrative investigation is classified, the servicing OSJA will attempt to enter the AAIP portal as much unclassified information as possible for an approved entry, and document in the comments section that the underlying investigation contains classified information. The servicing OSJA will note in the comments section where the classified investigation is stored.

Appendix E

Administrative Investigation Release and Disclosure Guide

The following table is a general release guide to assist legal offices with their analysis for releasing an administrative investigation. Each request must be assessed case-by-case, considering the facts of the situation and procedural posture of the investigation. Legal offices should also refer to the specific regulation prescribing procedures for the matter (for example, reviewing AR 600–52 for sexual harassment/assault response and prevention matters). See table E–1.

Table E–1
Releasing an administrative investigation·

Requester of the administrative investigation	Administrative investigation	Administrative investigation for sexual harassment	Administrative investigation for military equal opportunity (MEO)	Legal review
Subject (Servicemember)	Redacted copy provided to O1—O10 when referred in accordance with the AAIP.	Provide the subject a memo on whether the complaint was substantiated or unsubstantiated. In cases, where the subject is an O1—O10, provide a redacted copy of the investigation when referred in accordance with the AAIP.	Provide the subject a memo that summarizes the results of the investigation including whether the allegation was substantiated. In cases, where the subject is an O1—O10, provide a redacted copy of the investigation when referred in accordance with the AAIP.	Requires a FOIA request.
Complainant (Servicemember)	Requires a FOIA request.	Provide the complainant a memorandum on whether the complaint was substantiated or unsubstantiated.	Provide the complainant a memorandum that summarizes the results of the investigation including whether the allegation was substantiated.	Requires a FOIA request.
Individual Member of Congress (MOC) and PSMs	A MOC requests for access to an administrative investigation will be processed through the Office of the Chief of Legislative Liaison (OCLL) and OTJAG, ALD for appropriate release. Generally, assessed as a 3d party request.	A MOC requests for access to an administrative investigation will be processed through OCLL and OTJAG, ALD for appropriate release. Generally, assessed as a 3d party request.	A MOC requests for access to an administrative investigation will be processed through OCLL and OTJAG, ALD for appropriate release. Generally, assessed as a 3d party request.	A MOC requests for access to a legal review will be processed through OCLL and OTJAG, ALD for appropriate release. Generally, assessed as a 3d party request.
Congressional Committee	Congressional Committees may receive access to complete and unredacted investigations. All Congressional requests for access to an administrative investigation will be processed through OCLL and OTJAG, ALD.	Congressional Committees may receive access to complete and unredacted investigations. All Congressional requests for access to an administrative investigation will be processed through OCLL and OTJAG, ALD.	Congressional Committees may receive access to complete and unredacted investigations. All Congressional requests for access to an administrative investigation will be processed through OCLL and OTJAG, ALD.	Congressional requests for access to a legal review will be processed through OCLL and OTJAG, ALD.

Table E–1
Releasing an administrative investigation—Continued

Requester of the administrative investigation	Administrative investigation	Administrative investigation for sexual harassment	Administrative investigation for military equal opportunity (MEO)	Legal review
Media	Media submits FOIA requests for access to routine administrative investigations.	Media submits FOIA requests for access to sexual harassment investigations.	Media submits FOIA requests for access to MEO investigations.	Requires a FOIA request.
3d parties	3d Parties submit FOIA requests for access to routine administrative investigations.	3d Parties submit FOIA requests for access to sexual harassment investigations.	3d Parties submit FOIA requests for access to MEO investigations.	Requires a FOIA request.
DoDIG, DAIG, and unit IGs when IG has a need for the investigation, or relevant portions of the investigation, in the performance of their duties.	Approval authorities are the release authorities to unit IGs, DAIG, and DoDIG for routine administrative investigations. The investigation is normally unredacted.	Approval authorities are the release authorities to unit IGs, DAIG, and DoDIG for sexual harassment administrative investigations. The investigation is normally unredacted.	Approval authorities are the release authorities to unit IGs, DAIG, and DoDIG for MEO administrative investigations. The investigation is normally unredacted.	SJAs/SJA equivalents will use and provide IGs the memo prescribed in paragraph I–3 when unit IGs or DAIG requests the legal review. The Judge Advocate General is the release authority for DoDIG's requests for legal reviews.
Equal Employment Opportunity Commission and Merit Systems Protection Board (DA Civilian Subjects)	Redacted copy for matters/rebuttal.	See AR 600–52 and AR 690–600.	See AR 690–600 and see also, AR 690–12.	Requires a FOIA request.

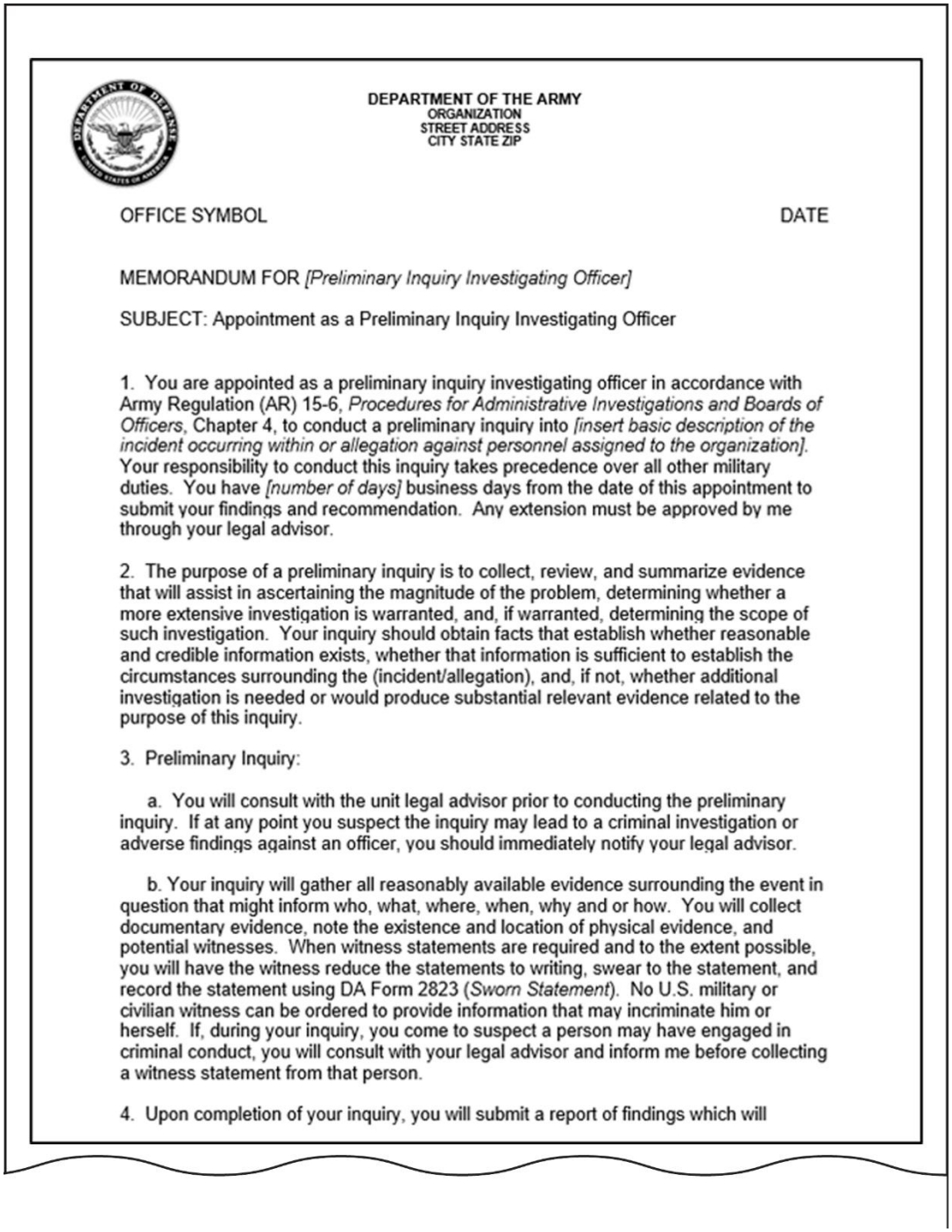
* For victims of misconduct that fall within the definition of a "sex-related" offense as defined by 10 USC 1044e(h), which are violations of Article 120, 120b, 120c, or 130 of the UCMJ (or any attempt), the victims are entitled to notification of the disciplinary action taken against the Soldier.
**See figure for a sample notification to complainant, sexual harassment investigation results.
***Nothing in this guide precludes any of the personnel or offices listed in the table from submitting a FOIA request for an administrative investigation.
****While not entitled to a copy of the investigation in all cases, subjects of investigations should be informed of when an investigation is complete and when they are no longer the subject of an investigation. Approval authorities will determine the way to inform the subject.
*****When appealing an investigation, pursuant to another regulation, the subject is normally entitled to a PII redacted copy of the relevant portions of the investigation that the approval authority relied on for their decision.

Appendix F

Sample Preliminary Inquiry Appointment Memorandum

F–1. Sample preliminary inquiry appointment memorandum

See figure F–1.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR *[Preliminary Inquiry Investigating Officer]*

SUBJECT: Appointment as a Preliminary Inquiry Investigating Officer

1. You are appointed as a preliminary inquiry investigating officer in accordance with Army Regulation (AR) 15-6, *Procedures for Administrative Investigations and Boards of Officers*, Chapter 4, to conduct a preliminary inquiry into *[insert basic description of the incident occurring within or allegation against personnel assigned to the organization]*. Your responsibility to conduct this inquiry takes precedence over all other military duties. You have *[number of days]* business days from the date of this appointment to submit your findings and recommendation. Any extension must be approved by me through your legal advisor.

2. The purpose of a preliminary inquiry is to collect, review, and summarize evidence that will assist in ascertaining the magnitude of the problem, determining whether a more extensive investigation is warranted, and, if warranted, determining the scope of such investigation. Your inquiry should obtain facts that establish whether reasonable and credible information exists, whether that information is sufficient to establish the circumstances surrounding the (incident/allegation), and, if not, whether additional investigation is needed or would produce substantial relevant evidence related to the purpose of this inquiry.

3. Preliminary Inquiry:

a. You will consult with the unit legal advisor prior to conducting the preliminary inquiry. If at any point you suspect the inquiry may lead to a criminal investigation or adverse findings against an officer, you should immediately notify your legal advisor.

b. Your inquiry will gather all reasonably available evidence surrounding the event in question that might inform who, what, where, when, why and or how. You will collect documentary evidence, note the existence and location of physical evidence, and potential witnesses. When witness statements are required and to the extent possible, you will have the witness reduce the statements to writing, swear to the statement, and record the statement using DA Form 2823 (*Sworn Statement*). No U.S. military or civilian witness can be ordered to provide information that may incriminate him or herself. If, during your inquiry, you come to suspect a person may have engaged in criminal conduct, you will consult with your legal advisor and inform me before collecting a witness statement from that person.

4. Upon completion of your inquiry, you will submit a report of findings which will

Figure F–1. Sample preliminary inquiry appointment memorandum

OFFICE SYMBOL
SUBJECT: Appointment as a Preliminary Inquiry Investigating Officer

include a list of the people you contacted, the materials you reviewed, and a summary of your findings that indicate what is known and may still be unknown about the event in question. Your recommendation should indicate whether: no further investigation is warranted; further investigation is warranted by initiating an administrative investigation; the matter should be referred to CID or another law enforcement agency; or the matter should be referred to another command.

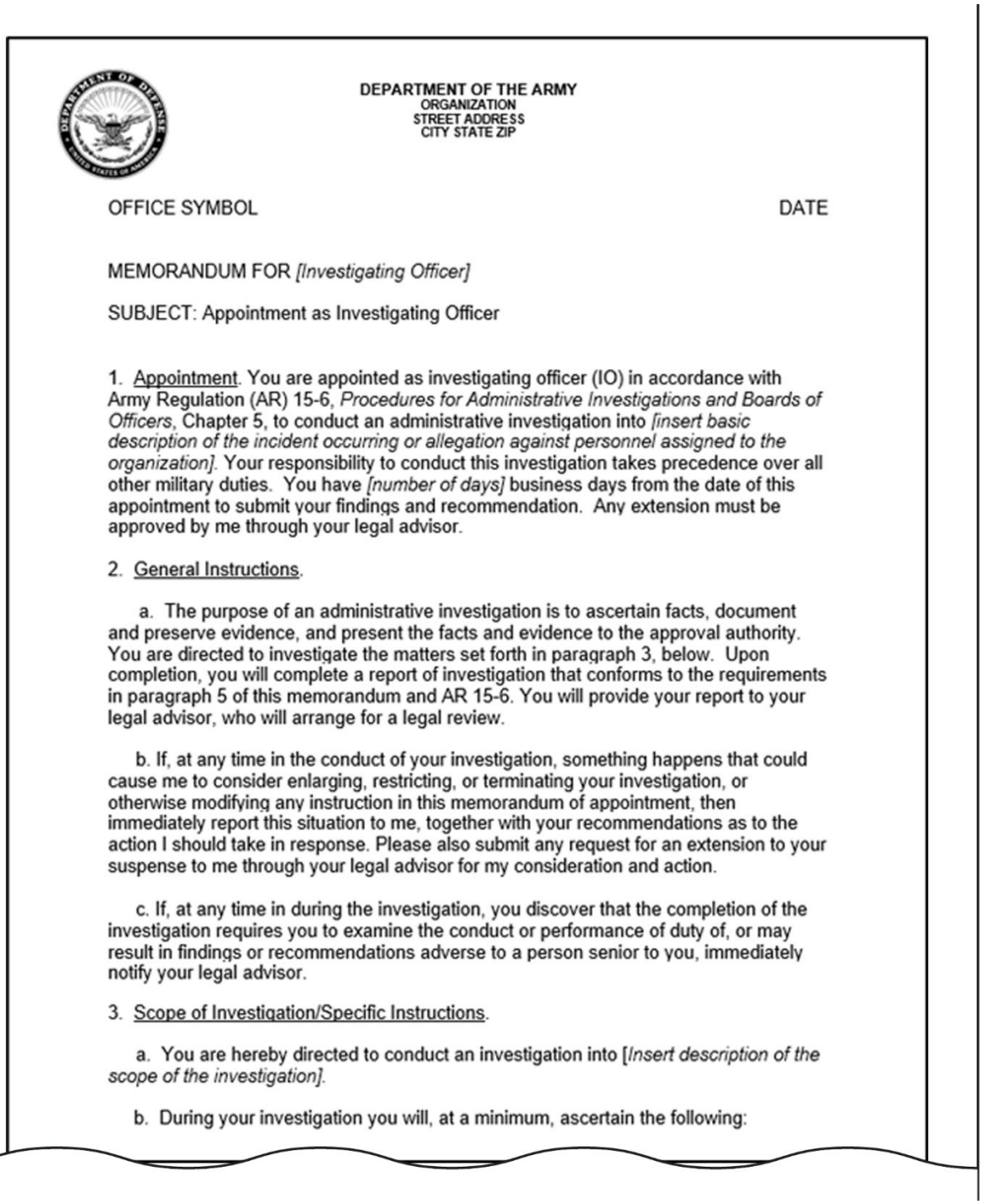
5. The point of contact for this memorandum is your legal advisor, *[legal advisor's name and contact information]*.

Appointing Authority signature block

Figure F–1. Sample preliminary inquiry appointment memorandum--Continued

F–2. Sample administrative investigation appointment memorandum

Note. Legal offices should tailor appointment orders to account for specific types of investigations, that is, appointed for a line of duty, suicide, or sexual harassment/assault response and prevention incident. See figure F–2.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR *[Investigating Officer]*

SUBJECT: Appointment as Investigating Officer

1. Appointment. You are appointed as investigating officer (IO) in accordance with Army Regulation (AR) 15-6, *Procedures for Administrative Investigations and Boards of Officers*, Chapter 5, to conduct an administrative investigation into *[insert basic description of the incident occurring or allegation against personnel assigned to the organization]*. Your responsibility to conduct this investigation takes precedence over all other military duties. You have *[number of days]* business days from the date of this appointment to submit your findings and recommendation. Any extension must be approved by me through your legal advisor.

2. General Instructions.

a. The purpose of an administrative investigation is to ascertain facts, document and preserve evidence, and present the facts and evidence to the approval authority. You are directed to investigate the matters set forth in paragraph 3, below. Upon completion, you will complete a report of investigation that conforms to the requirements in paragraph 5 of this memorandum and AR 15-6. You will provide your report to your legal advisor, who will arrange for a legal review.

b. If, at any time in the conduct of your investigation, something happens that could cause me to consider enlarging, restricting, or terminating your investigation, or otherwise modifying any instruction in this memorandum of appointment, then immediately report this situation to me, together with your recommendations as to the action I should take in response. Please also submit any request for an extension to your suspense to me through your legal advisor for my consideration and action.

c. If, at any time in during the investigation, you discover that the completion of the investigation requires you to examine the conduct or performance of duty of, or may result in findings or recommendations adverse to a person senior to you, immediately notify your legal advisor.

3. Scope of Investigation/Specific Instructions.

a. You are hereby directed to conduct an investigation into [*Insert description of the scope of the investigation].*

b. During your investigation you will, at a minimum, ascertain the following:

Figure F–2. Sample administrative investigation appointment memorandum

OFFICE SYMBOL
SUBJECT: Appointment as Investigating Officer

(1) [*Input the first issue the IO must make a finding about*]

(2) [*continue to specifically describe scope, as needed*]

(3) Any other matters you deem relevant.

4. Conduct of the Investigation.

a. Legal Advisor. [*Name*] will serve as your legal advisor. You will consult with them for a legal in-brief before making substantive efforts regarding your investigation. You can reach [*Legal Advisor*] at [*Email Address*] or [*Telephone Number*]. You may request that additional individuals or subject matter experts be appointed, in writing, to accompany you and assist you in your investigation. Coordinate such requests with your legal advisor.

b. Evidence Collection.

(1) You are to conduct this investigation using the procedures outlines in Chapter 5, and the general guidance provided in Chapter 3, AR 15-6.

(2) To the extent possible, witness statements will be written and sworn. You should record witness statements on DA Form 2823 (*Sworn Statement*). If it is impracticable to obtain a written and/or sworn statement from a particular witness, you will attest to the accuracy of any transcription or summary of such witness testimony in whatever form it appears within your report of investigation. In accordance with AR 340-21, provide a Privacy Act statement to a witness if you do not use a DA Form 2823 to record the statement of that witness, and your report will be filed in a system of records from which it can be retrieved by reference to the name or other personal identifier of that witness

(3) No U.S. military or civilian witness can be ordered to provide information that may incriminate him or herself. You may order a military or Federal Government civilian employee witness to provide a statement if you believe that they have relevant information that would not incriminate themselves. If, in the course of your investigation, you come to suspect a person may have engaged in criminal conduct, you will consult with your legal advisor and inform me. Under no circumstances should you attempt to elicit any information from a suspect without first advising that person of his/her rights under Article 31, UCMJ, or the Fifth Amendment of the U.S. Constitution, as appropriate. Document your rights advisement and witness waivers of their Article 31 or Fifth Amendment rights on a DA Form 3881 (*Rights Warning Procedure/Waiver Certificate*).

2

Figure F–2. Sample administrative investigation appointment memorandum--Continued

OFFICE SYMBOL
SUBJECT: Appointment as Investigating Officer

c. Flags. Should you determine in the context of your investigation that any Soldier's status has changed from favorable to unfavorable, you must notify me immediately and consult with your legal advisor to ensure that a flag is initiated against that Soldier IAW AR 600-8-2, *Suspension of Favorable Personnel Actions* (5 April 2021).

d. If in the course of your investigation, if you obtain evidence regarding matters that do not fall within the scope of this investigation, consult with your assigned legal advisor immediately.

5. Report of Investigation.

a. General. Your report of investigation will be written. Use a DA Form 1574-1, *Report of Proceedings by Investigating Officer*, and attach all required enclosures and exhibits in accordance with Chapter 5, AR 15-6.

b. Assembly. Your completed investigation will include, at a minimum:

(1) A completed DA Form 1574;

(2) Your Findings and Recommendations Memorandum;

(3) All Enclosures (labeled and sequentially lettered) including this memorandum of appointment, any extension requests or explanation of delay, a detailed chronology of actions you took, an index of all attached enclosures and exhibits, and any other non-evidentiary documents related to your investigation;

(4) All Exhibits (labeled and sequentially numbered). Should include all evidence considered.

c. Findings. You will reach your findings by a preponderance of the evidence. A finding is a clear and concise statement of facts that can be readily deduced from evidence in the record. In your report, develop specific findings and cite the evidence that supports your findings. If evidence conflicts (e.g., conflicting witness statements), make a finding as to which evidence is more credible and why you believe it to be more credible.

d. Recommendations. You will make recommendations that are consistent with your findings that are feasible (capable of being implemented), acceptable (executable; legal and within acceptable levels of risk), and suitable (solves the identified problem or initiates a process towards this end). If applicable, address what changes, if any, are needed in terms of policy, procedures, resources, doctrine, training, and leadership to avoid incidents of this nature in the future. Each

3

Figure F–2. Sample administrative investigation appointment memorandum--Continued

OFFICE SYMBOL
SUBJECT: Appointment as Investigating Officer

recommendation will cite to the findings that supports it, and should comport with the guidance in AR 15-6.

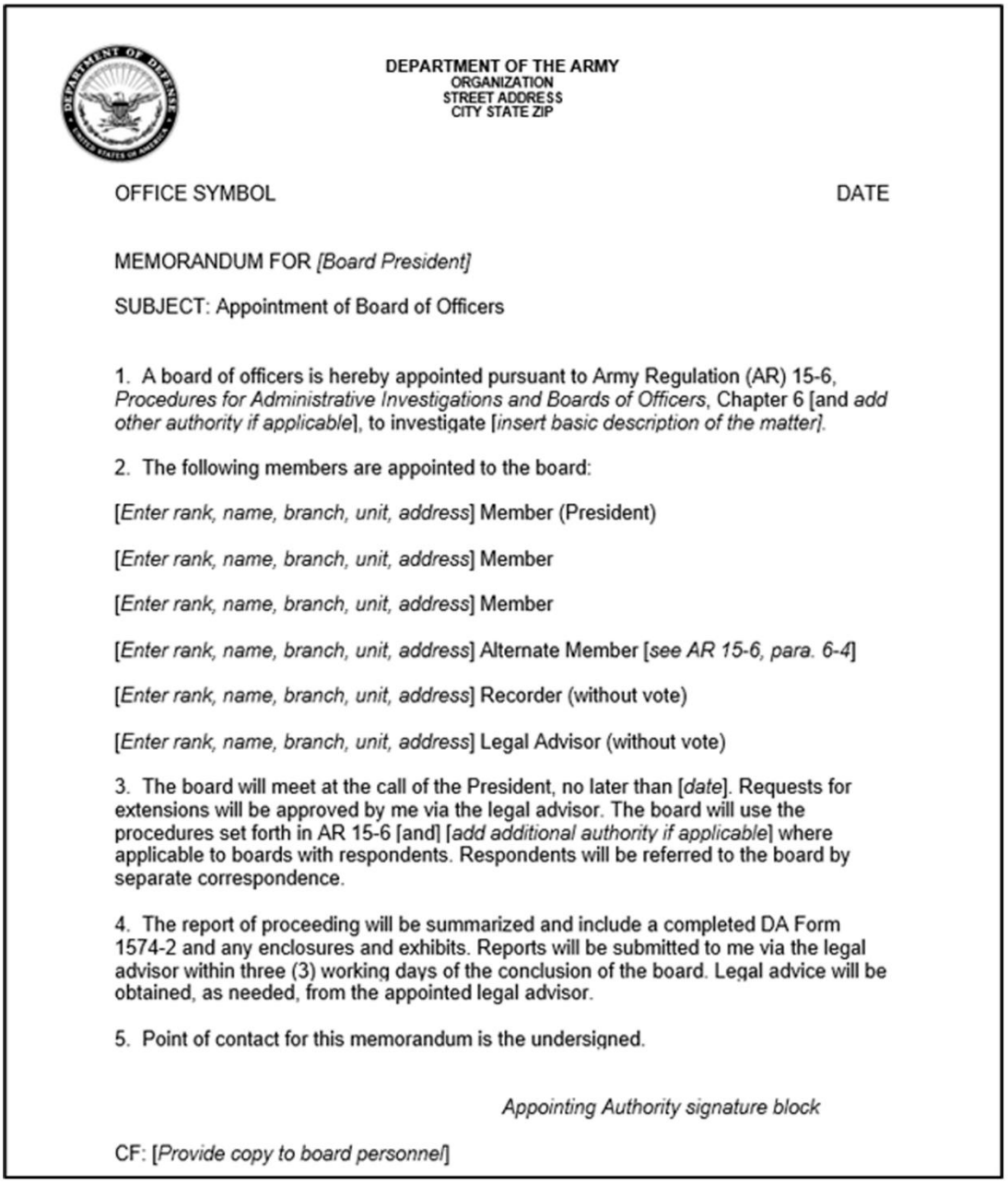
e. Submission. Submit your report of investigation to your legal advisor. You may not release any information related to this investigation to anyone, other than your legal advisor, without my prior approval.

6. The point of contact for this memorandum is your legal advisor, *[legal advisor's name and contact information]*

Appointing Authority signature block

Figure F–2. Sample administrative investigation appointment memorandum--Continued

F–3. Sample board of officers appointment memorandum
See figure F–3.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR *[Board President]*

SUBJECT: Appointment of Board of Officers

1. A board of officers is hereby appointed pursuant to Army Regulation (AR) 15-6, *Procedures for Administrative Investigations and Boards of Officers*, Chapter 6 [and *add other authority if applicable*], to investigate [*insert basic description of the matter*].

2. The following members are appointed to the board:

[*Enter rank, name, branch, unit, address*] Member (President)

[*Enter rank, name, branch, unit, address*] Member

[*Enter rank, name, branch, unit, address*] Member

[*Enter rank, name, branch, unit, address*] Alternate Member [*see AR 15-6, para. 6-4*]

[*Enter rank, name, branch, unit, address*] Recorder (without vote)

[*Enter rank, name, branch, unit, address*] Legal Advisor (without vote)

3. The board will meet at the call of the President, no later than [*date*]. Requests for extensions will be approved by me via the legal advisor. The board will use the procedures set forth in AR 15-6 [and] [*add additional authority if applicable*] where applicable to boards with respondents. Respondents will be referred to the board by separate correspondence.

4. The report of proceeding will be summarized and include a completed DA Form 1574-2 and any enclosures and exhibits. Reports will be submitted to me via the legal advisor within three (3) working days of the conclusion of the board. Legal advice will be obtained, as needed, from the appointed legal advisor.

5. Point of contact for this memorandum is the undersigned.

Appointing Authority signature block

CF: [*Provide copy to board personnel*]

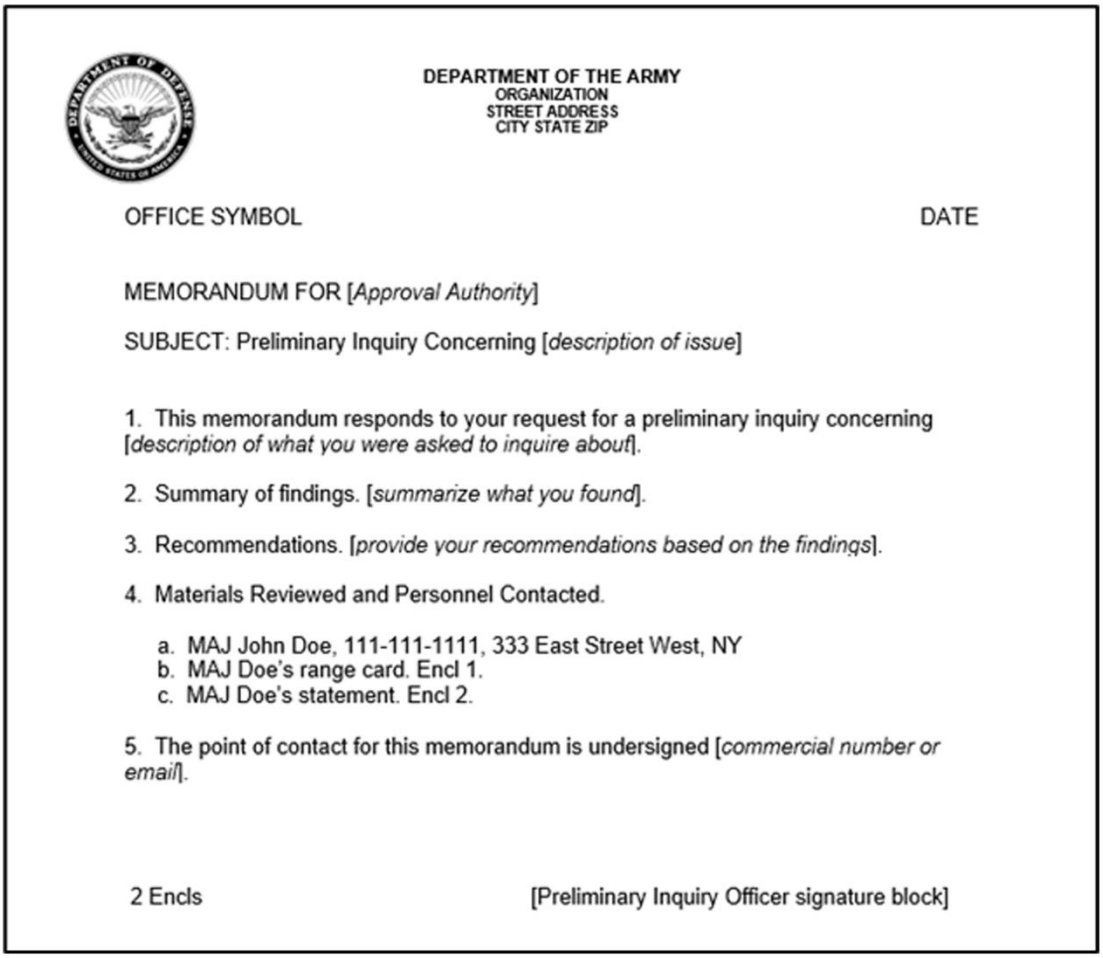
Figure F–3. Sample board of officers appointment memorandum

Appendix G

Sample Findings and Recommendations Memorandums

G–1. Sample preliminary inquiry findings and recommendations memorandum

See figure G–1.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR [*Approval Authority*]

SUBJECT: Preliminary Inquiry Concerning [*description of issue*]

1. This memorandum responds to your request for a preliminary inquiry concerning [*description of what you were asked to inquire about*].

2. Summary of findings. [*summarize what you found*].

3. Recommendations. [*provide your recommendations based on the findings*].

4. Materials Reviewed and Personnel Contacted.

a. MAJ John Doe, 111-111-1111, 333 East Street West, NY
b. MAJ Doe's range card. Encl 1.
c. MAJ Doe's statement. Encl 2.

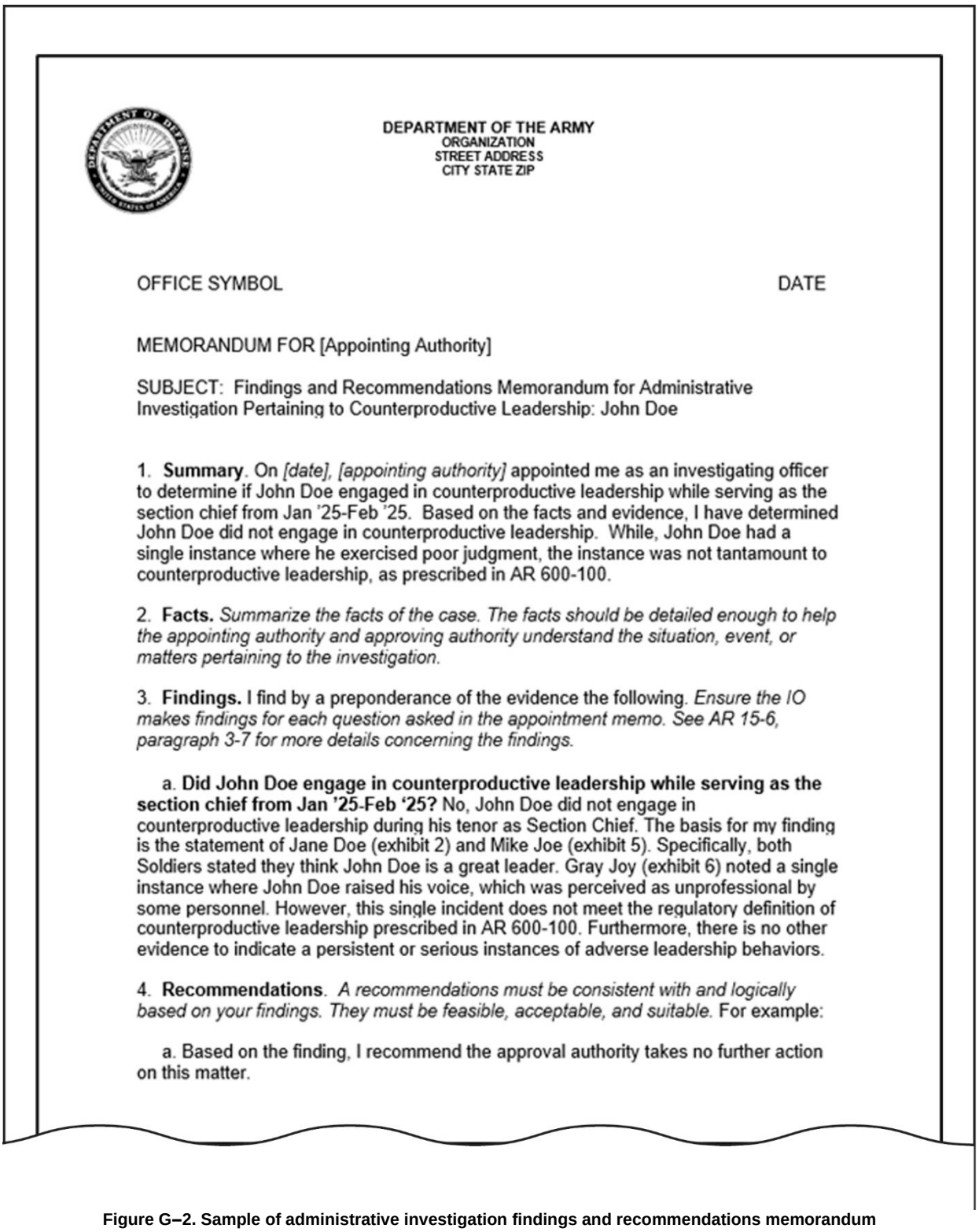
5. The point of contact for this memorandum is undersigned [*commercial number or email*].

2 Encls [Preliminary Inquiry Officer signature block]

Figure G–1. Sample preliminary inquiry findings and recommendations memorandum

G–2. Sample administrative investigation findings and recommendations memorandum

See figure G–2.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR [Appointing Authority]

SUBJECT: Findings and Recommendations Memorandum for Administrative Investigation Pertaining to Counterproductive Leadership: John Doe

1. **Summary**. On *[date], [appointing authority]* appointed me as an investigating officer to determine if John Doe engaged in counterproductive leadership while serving as the section chief from Jan '25-Feb '25. Based on the facts and evidence, I have determined John Doe did not engage in counterproductive leadership. While, John Doe had a single instance where he exercised poor judgment, the instance was not tantamount to counterproductive leadership, as prescribed in AR 600-100.

2. **Facts.** *Summarize the facts of the case. The facts should be detailed enough to help the appointing authority and approving authority understand the situation, event, or matters pertaining to the investigation.*

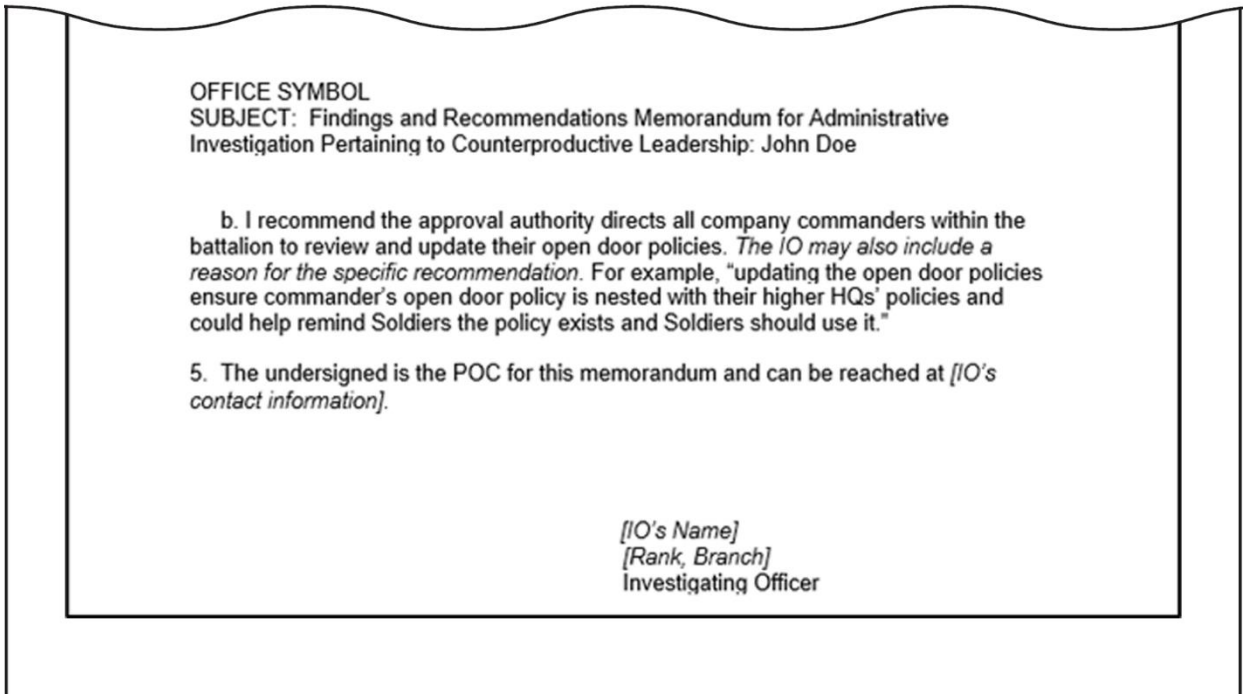
3. **Findings.** I find by a preponderance of the evidence the following. *Ensure the IO makes findings for each question asked in the appointment memo. See AR 15-6, paragraph 3-7 for more details concerning the findings.*

a. **Did John Doe engage in counterproductive leadership while serving as the section chief from Jan '25-Feb '25?** No, John Doe did not engage in counterproductive leadership during his tenor as Section Chief. The basis for my finding is the statement of Jane Doe (exhibit 2) and Mike Joe (exhibit 5). Specifically, both Soldiers stated they think John Doe is a great leader. Gray Joy (exhibit 6) noted a single instance where John Doe raised his voice, which was perceived as unprofessional by some personnel. However, this single incident does not meet the regulatory definition of counterproductive leadership prescribed in AR 600-100. Furthermore, there is no other evidence to indicate a persistent or serious instances of adverse leadership behaviors.

4. **Recommendations**. *A recommendations must be consistent with and logically based on your findings. They must be feasible, acceptable, and suitable.* For example:

a. Based on the finding, I recommend the approval authority takes no further action on this matter.

Figure G–2. Sample of administrative investigation findings and recommendations memorandum



OFFICE SYMBOL
SUBJECT: Findings and Recommendations Memorandum for Administrative Investigation Pertaining to Counterproductive Leadership: John Doe

b. I recommend the approval authority directs all company commanders within the battalion to review and update their open door policies. *The IO may also include a reason for the specific recommendation.* For example, "updating the open door policies ensure commander's open door policy is nested with their higher HQs' policies and could help remind Soldiers the policy exists and Soldiers should use it."

5. The undersigned is the POC for this memorandum and can be reached at *[IO's contact information].*

[IO's Name]
[Rank, Branch]
Investigating Officer

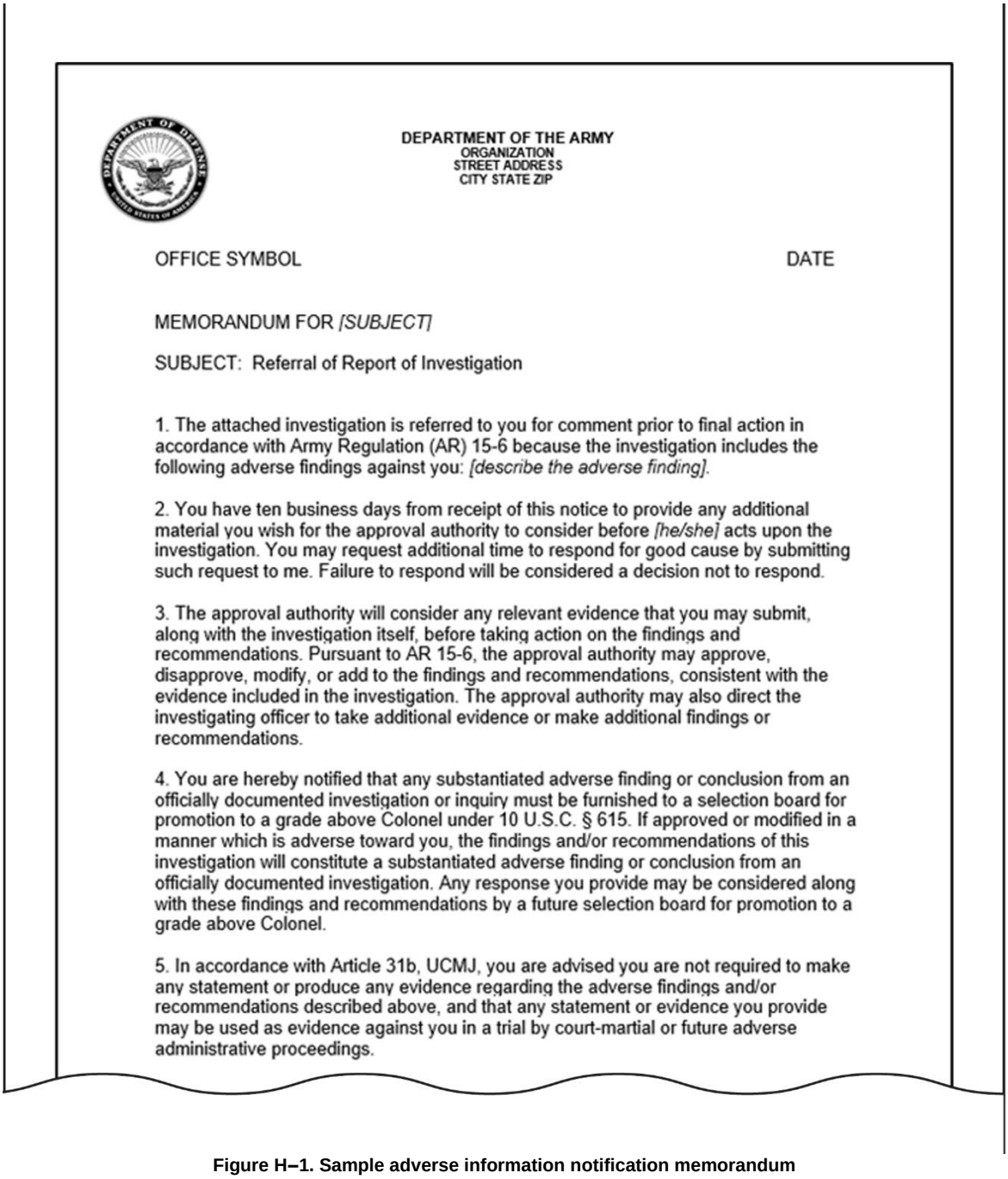
Figure G–2. Sample of administrative investigation findings and recommendations memorandum--Continued

Appendix H

Sample Notification Memorandums

H–1. Sample adverse information notification memorandum

See figure H–1.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR *[SUBJECT]*

SUBJECT: Referral of Report of Investigation

1. The attached investigation is referred to you for comment prior to final action in accordance with Army Regulation (AR) 15-6 because the investigation includes the following adverse findings against you: *[describe the adverse finding]*.

2. You have ten business days from receipt of this notice to provide any additional material you wish for the approval authority to consider before *[he/she]* acts upon the investigation. You may request additional time to respond for good cause by submitting such request to me. Failure to respond will be considered a decision not to respond.

3. The approval authority will consider any relevant evidence that you may submit, along with the investigation itself, before taking action on the findings and recommendations. Pursuant to AR 15-6, the approval authority may approve, disapprove, modify, or add to the findings and recommendations, consistent with the evidence included in the investigation. The approval authority may also direct the investigating officer to take additional evidence or make additional findings or recommendations.

4. You are hereby notified that any substantiated adverse finding or conclusion from an officially documented investigation or inquiry must be furnished to a selection board for promotion to a grade above Colonel under 10 U.S.C. § 615. If approved or modified in a manner which is adverse toward you, the findings and/or recommendations of this investigation will constitute a substantiated adverse finding or conclusion from an officially documented investigation. Any response you provide may be considered along with these findings and recommendations by a future selection board for promotion to a grade above Colonel.

5. In accordance with Article 31b, UCMJ, you are advised you are not required to make any statement or produce any evidence regarding the adverse findings and/or recommendations described above, and that any statement or evidence you provide may be used as evidence against you in a trial by court-martial or future adverse administrative proceedings.

Figure H–1. Sample adverse information notification memorandum

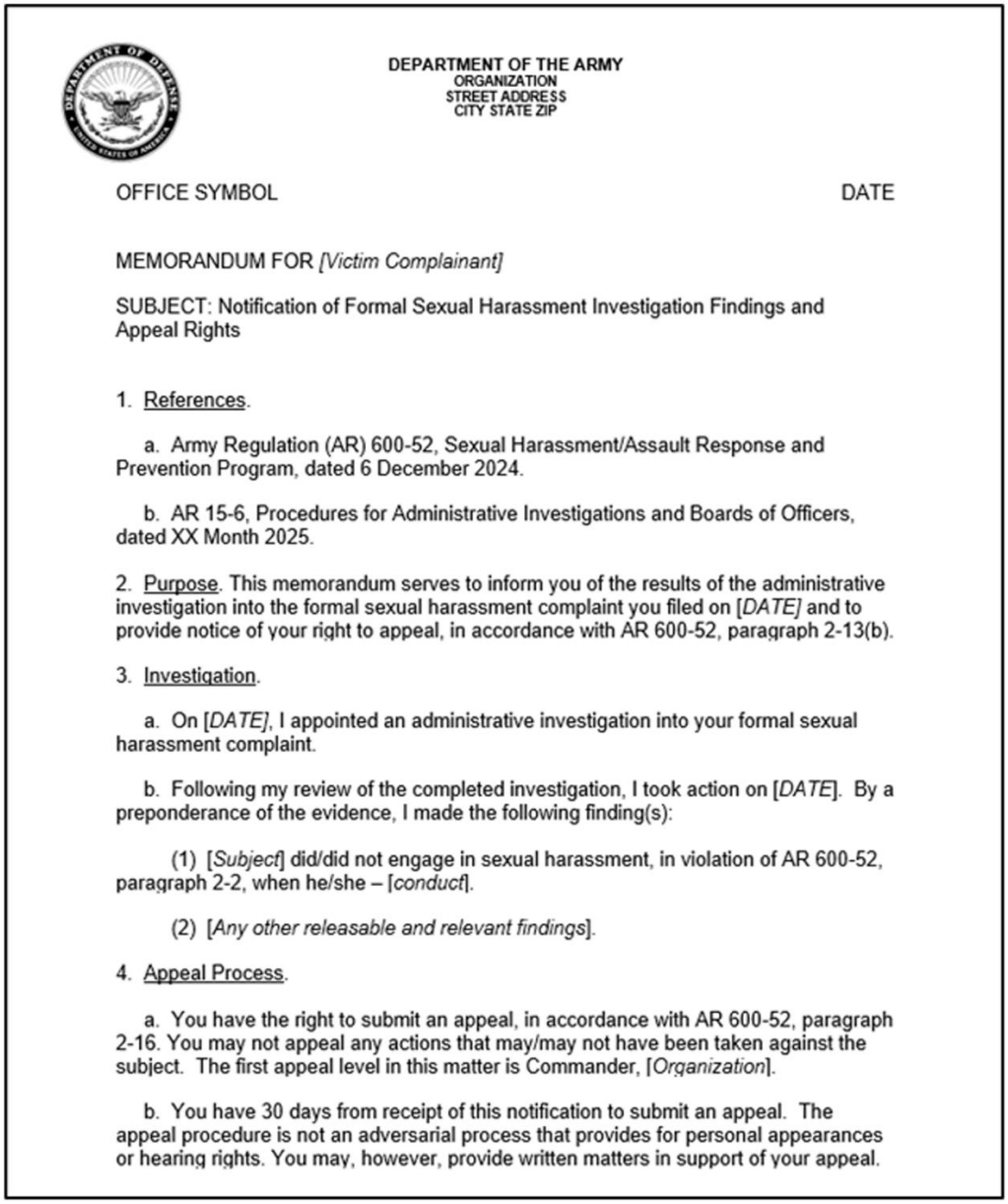
OFFICE SYMBOL
SUBJECT: Referral of Report of Investigation

6. The point of contact for this memorandum is the undersigned at *[contact information]*.

[Investigating Officer Signature Block]

Figure H–1. Sample adverse information notification memorandum--Continued

H–2. Sample notification to complainant sexual harassment investigation results
See figure H–2.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR *[Victim Complainant]*

SUBJECT: Notification of Formal Sexual Harassment Investigation Findings and Appeal Rights

1. References.

a. Army Regulation (AR) 600-52, Sexual Harassment/Assault Response and Prevention Program, dated 6 December 2024.

b. AR 15-6, Procedures for Administrative Investigations and Boards of Officers, dated XX Month 2025.

2. Purpose. This memorandum serves to inform you of the results of the administrative investigation into the formal sexual harassment complaint you filed on [*DATE]* and to provide notice of your right to appeal, in accordance with AR 600-52, paragraph 2-13(b).

3. Investigation.

a. On [*DATE]*, I appointed an administrative investigation into your formal sexual harassment complaint.

b. Following my review of the completed investigation, I took action on [*DATE*]. By a preponderance of the evidence, I made the following finding(s):

(1) [*Subject*] did/did not engage in sexual harassment, in violation of AR 600-52, paragraph 2-2, when he/she – [*conduct*].

(2) [*Any other releasable and relevant findings*].

4. Appeal Process.

a. You have the right to submit an appeal, in accordance with AR 600-52, paragraph 2-16. You may not appeal any actions that may/may not have been taken against the subject. The first appeal level in this matter is Commander, [*Organization*].

b. You have 30 days from receipt of this notification to submit an appeal. The appeal procedure is not an adversarial process that provides for personal appearances or hearing rights. You may, however, provide written matters in support of your appeal.

Figure H–2. Sample notification to complainant sexual harassment investigation results

OFFICE SYMBOL
SUBJECT: Notification of Formal Sexual Harassment Investigation Findings and Appeal Rights

5. Pursuant to the Freedom of Information Act, you may request a copy of the final investigative report, redacted as necessary to comply with Section 552a of Title 5, U.S.C., also known as the "Privacy Act of 1974," as amended, and any other applicable laws and regulations. [*Can input information/guidance for submitting FOIA request*].

6. The point of contact for this memorandum is *[approving authority's discretion]*.

Approving Authority signature block

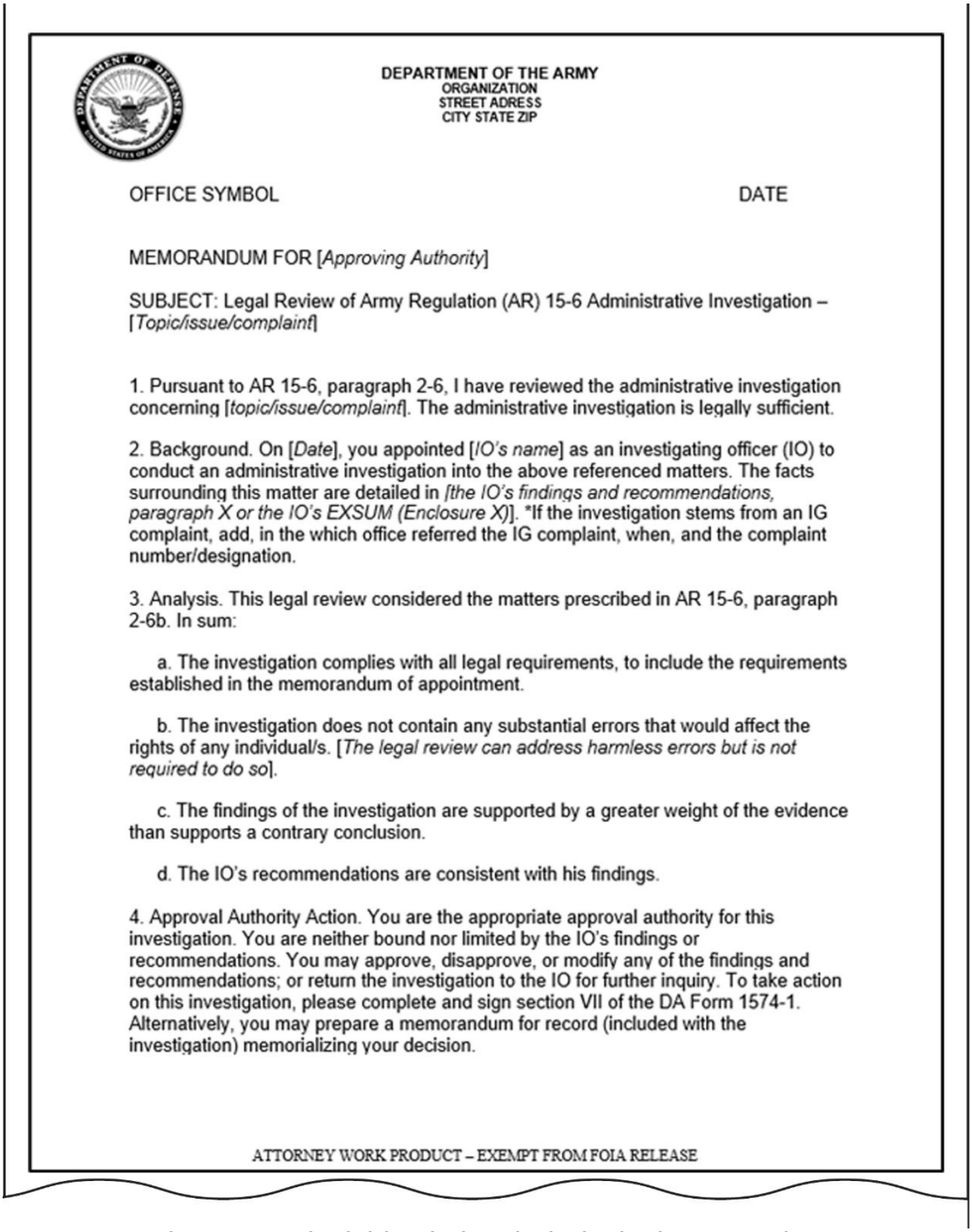
Figure H–2. Sample notification to complainant sexual harassment investigation results--Continued

Appendix I

Additional Sample Memorandum

I–1. Sample administrative investigation legal review memorandum

See figure I–1.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR [*Approving Authority*]

SUBJECT: Legal Review of Army Regulation (AR) 15-6 Administrative Investigation – [*Topic/issue/complaint*]

1. Pursuant to AR 15-6, paragraph 2-6, I have reviewed the administrative investigation concerning [*topic/issue/complaint*]. The administrative investigation is legally sufficient.

2. Background. On [*Date*], you appointed [*IO's name*] as an investigating officer (IO) to conduct an administrative investigation into the above referenced matters. The facts surrounding this matter are detailed in *[the IO's findings and recommendations, paragraph X or the IO's EXSUM (Enclosure X)]*. *If the investigation stems from an IG complaint, add, in the which office referred the IG complaint, when, and the complaint number/designation.

3. Analysis. This legal review considered the matters prescribed in AR 15-6, paragraph 2-6b. In sum:

a. The investigation complies with all legal requirements, to include the requirements established in the memorandum of appointment.

b. The investigation does not contain any substantial errors that would affect the rights of any individual/s. [*The legal review can address harmless errors but is not required to do so*].

c. The findings of the investigation are supported by a greater weight of the evidence than supports a contrary conclusion.

d. The IO's recommendations are consistent with his findings.

4. Approval Authority Action. You are the appropriate approval authority for this investigation. You are neither bound nor limited by the IO's findings or recommendations. You may approve, disapprove, or modify any of the findings and recommendations; or return the investigation to the IO for further inquiry. To take action on this investigation, please complete and sign section VII of the DA Form 1574-1. Alternatively, you may prepare a memorandum for record (included with the investigation) memorializing your decision.

ATTORNEY WORK PRODUCT – EXEMPT FROM FOIA RELEASE

Figure I–1. Sample administrative investigation legal review memorandum

OFFICE SYMBOL
SUBJECT: Legal Review of Army Regulation (AR) 15-6 Administrative Investigation – [*Topic/issue/complaint*]

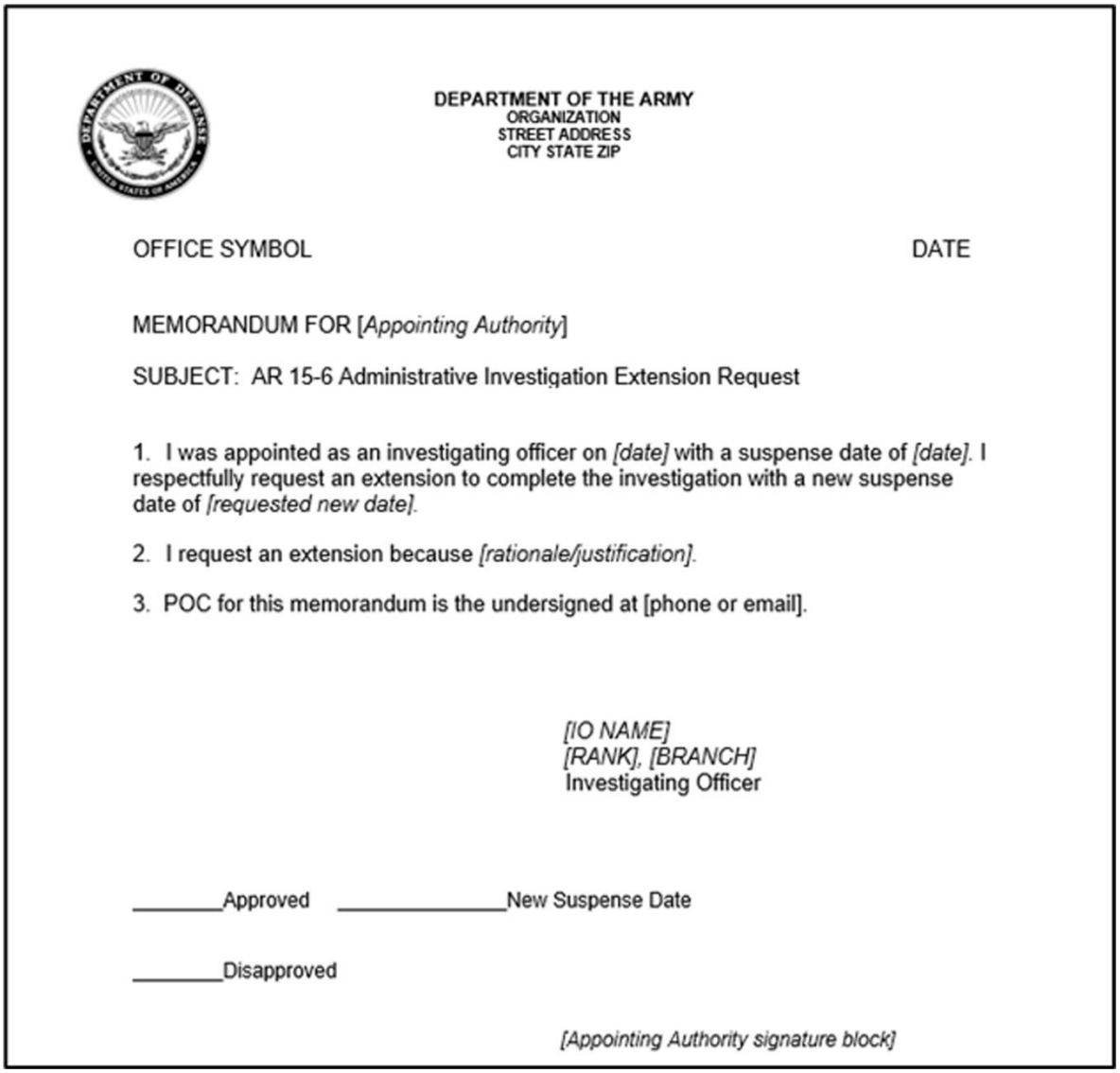
5. Attorney-Client Privilege. The information contained in this document, and any accompany enclosure to this legal review are considered attorney-client privileged information. This review may not be released outside of [*organization*], without prior authorization from the [*Staff Judge Advocate or JA*].

6. Point of Contact. The point of contact for this legal review is the undersigned.

Legal Reviewer Signature Block

Figure I–1. Sample administrative investigation legal review memorandum--Continued

I–2. Sample administrative investigation extension memorandum
See figure I–2.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR [*Appointing Authority*]

SUBJECT: AR 15-6 Administrative Investigation Extension Request

1. I was appointed as an investigating officer on *[date]* with a suspense date of *[date]*. I respectfully request an extension to complete the investigation with a new suspense date of *[requested new date]*.

2. I request an extension because *[rationale/justification]*.

3. POC for this memorandum is the undersigned at [phone or email].

[IO NAME]
[RANK], [BRANCH]
Investigating Officer

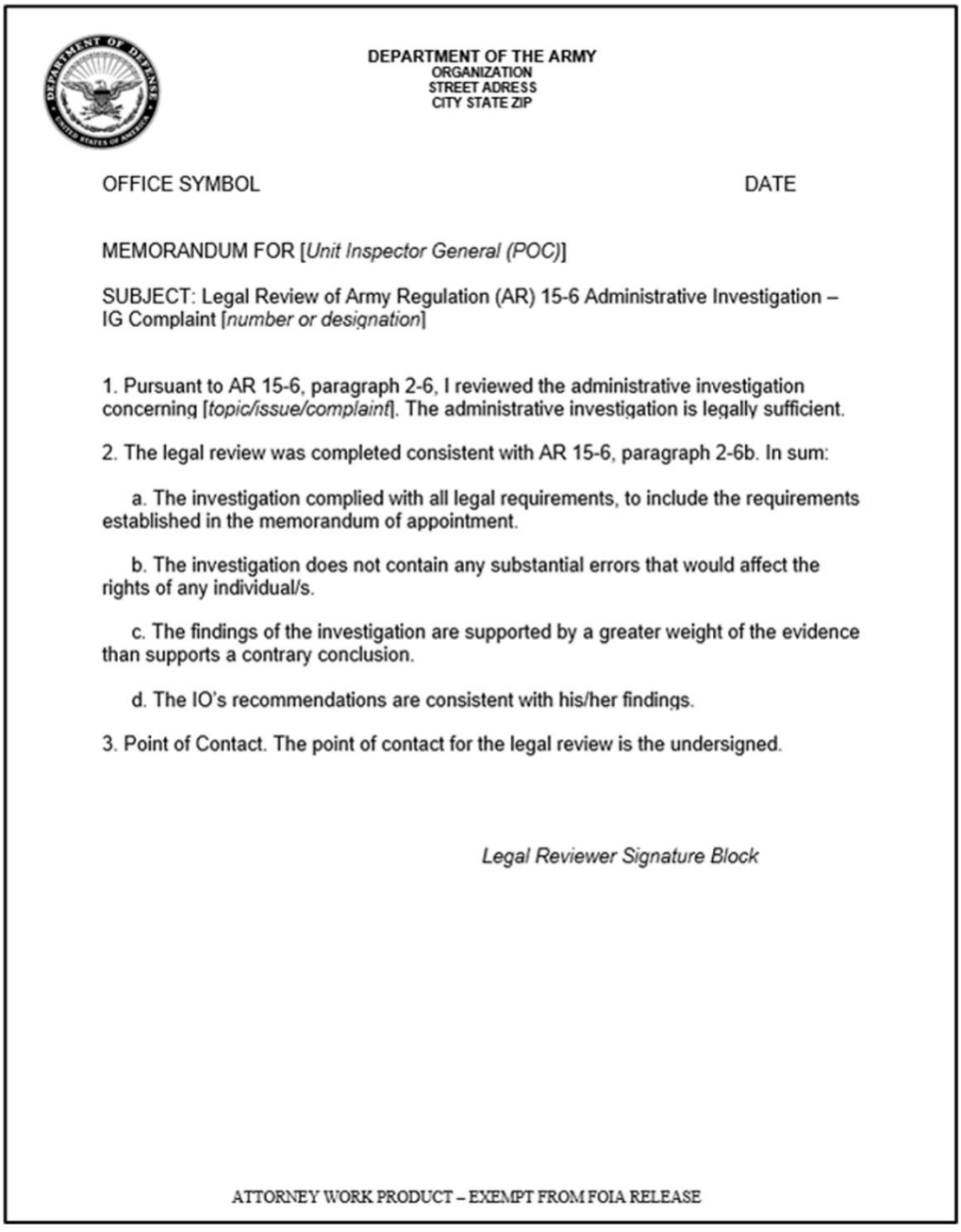
_____Approved _____New Suspense Date

_____Disapproved

[Appointing Authority signature block]

Figure I–2. Sample administrative investigation extension memorandum

I–3. Sample administrative investigation legal review for inspector general
See figure I–3.



DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADRESS
CITY STATE ZIP

OFFICE SYMBOL DATE

MEMORANDUM FOR [*Unit Inspector General (POC)*]

SUBJECT: Legal Review of Army Regulation (AR) 15-6 Administrative Investigation – IG Complaint [*number or designation*]

1. Pursuant to AR 15-6, paragraph 2-6, I reviewed the administrative investigation concerning [*topic/issue/complaint*]. The administrative investigation is legally sufficient.

2. The legal review was completed consistent with AR 15-6, paragraph 2-6b. In sum:

a. The investigation complied with all legal requirements, to include the requirements established in the memorandum of appointment.

b. The investigation does not contain any substantial errors that would affect the rights of any individual/s.

c. The findings of the investigation are supported by a greater weight of the evidence than supports a contrary conclusion.

d. The IO's recommendations are consistent with his/her findings.

3. Point of Contact. The point of contact for the legal review is the undersigned.

Legal Reviewer Signature Block

ATTORNEY WORK PRODUCT – EXEMPT FROM FOIA RELEASE

Figure I–3. Sample administrative investigation legal review for inspector general

Appendix J

Internal Control Evaluation

J–1. Function
The function covered by this evaluation is the Army investigative process.

J–2. Purpose
The purpose of this evaluation is to assist in evaluating key internal controls listed below. It is not intended to address all controls.

J–3. Instructions
Answers must be based on the actual testing of key internal controls (such as document analysis, direct observation, interviewing, sampling, or simulation). Answers that indicate deficiencies must be explained and corrective action indicated in supporting documentation. These key internal controls must be formally evaluated at least once every 2 years. Certification that this evaluation has been conducted must be accomplished on DA Form 11–2 (Internal Control Evaluation Certification).

J–4. Test questions
a. In choosing between an administrative investigation or a board of officers, does the appointing authority give due consideration to the factors listed in this regulation?

b. Was the advice of a serving SJA or legal advisor sought prior to determining the appropriate type of inquiry or investigation?

c. Are matters appropriately referred to the DAIG or USACID under the provisions of AR 20–1 and AR 195–2?

d. Are preliminary inquiries, administrative investigations, or boards of officers found to be legally sufficient and not requiring reinvestigation?

e. When circumstances dictate, are reports marked in accordance with AR 380–5 and properly released in accordance with FOIA and PA requirements?

J–5. Supersession
This evaluation supersedes the previously evaluation, dated 1 April 2026.

J–6. Comments
Help make this a better tool for evaluating Army administrative investigations. Comments regarding this evaluation should be addressed to the Administrative Law Division, Office of The Judge Advocate General (DAJA–AL), 2200 Army Pentagon, Washington, DC 20310–2200.

Glossary of Terms

Adverse administrative action (DA Civilian)
Removals (terminations of employment after completion of probationary or other initial service period), reductions in grade or pay, suspension for more than 14 days, or furloughs for 30 days or less for cause that will promote the efficiency of the service; an involuntary resignation or retirement is considered to be a removal (see 5 USC 7511–5 USC 7514 and 5 Code of Federal Regulations 752 and AR 690–752).

Adverse administrative action (military)
Adverse action taken by appropriate military authority against an individual other than actions taken pursuant to the UCMJ or MCM.

Adverse information
A substantiated adverse finding or conclusion from an officially documented investigation or inquiry or any other credible information of an adverse nature. To be credible, the information must be resolved and supported by a preponderance of the evidence. To be adverse, the information must be derogatory, unfavorable, or of a nature that reflects clearly unacceptable conduct, integrity or judgment on the part of the individual. The following types of information, even though credible, are not considered adverse: motor vehicle violations that did not require a court appearance; minor infractions without negative effect on an individual or the good order and discipline of the organization that were not identified as a result of substantiated findings or conclusions from an officially documented investigation or did not result in more than a non-punitive rehabilitative counseling administered by a superior to a subordinate. Information previously considered by the Senate pursuant to a prior appointment of the officer. Information attributed to an individual 10 or more years before the date of the personnel action under consideration, except for substantiated conduct, any single act of which, if tried by court-martial, could have resulted in the imposition of a punitive discharge and confinement for more than 1 year. The date of the substantiated adverse finding or conclusion from an officially documented investigation or inquiry is used to establish the time, not the date of the incident (see DoDI 1320.04).

Collateral investigation
An investigation performed under investigatory procedures specified in other Army regulations. While collateral investigations may address some of the same issues as AR 15–6 investigations, they are used for other purposes.

Combatant commander
A commander of one of the unified or specified combatant commands established by the President (see JP 3–0).

Complex, serious, and/or high-profile case
An incident being investigated that involves a death or serious bodily injury; may result in adverse administrative or disciplinary action; may result in substantive changes in Army policies or procedures; may be of significant public, media, or Congressional interest; or may be of interest to senior DA or DoD officials. Examples of high-profile cases include, but are not limited to, suicides, friendly-fire incidents, incidents of abuse of a special trust relationship (for example, chaplains, doctors, cadre, and guards), incidents involving extremist motives, and incidents involving high ranking officers, noncommissioned officers and civilians (see AR 385–10, AR 360–1, and AR 600–92).

Credible evidence and/or information
Evidence attributable or corroborated information, in any form, disclosed to or obtained by an appointing authority or investigative authority that–considering the original source, the nature of the information, and the totality of the circumstances–is sufficient to raise a question of fact that would cause a reasonable responsible appointing authority or investigative authority under similar circumstances to inquire further. Information may be credible, even though not initially supported by a preponderance of the evidence. However, to be credible, the information must be based on more than mere speculation and not clearly contradicted by known and material facts. To be attributable, the appointing authority or investigative authority must be able to authenticate the evidence or information. To be actionable, the original source(s) of information should be reasonably valid or verifiable.

Criminal investigation
An investigation into reported or apparent violations of law undertaken for purposes that include collecting evidence to support potential prosecution (see DoDI 5505.07).

Department of the Army Civilian
An individual meeting the definition of "employee" under 5 USC 2105, as well as employees of DA nonappropriated funds instrumentalities paid for from nonappropriated funds. This includes DA Civilian employees filling full-time, part-time, intermittent, or on-call positions. Excludes dual status National Guard and Reserve technicians and contractor employees (see AR 690–11).

Friendly fire
A circumstance in which authorized members of U.S. or friendly military forces, U.S. or friendly official government employees, U.S. DoD or friendly nation contractor personnel, and nongovernmental organizations or private volunteer organizations, who, while accompanying or operating with the U.S. Armed Forces, are mistakenly or accidentally killed or wounded in action by U.S. or friendly forces actively engaged with an enemy or who are directing fire at a hostile force or what is thought to be a hostile force. This also includes incidents that result in only damage or destruction of U.S. or friendly nation's military property mistakenly or accidentally damaged in action by U.S. or friendly forces actively engaged with an enemy, or who are directing fire at a hostile force or what is thought to be a hostile force (see DoDI 6055.07).

Frivolous allegation
An allegation that a reasonable person knows has no merit, particularly allegations brought for an unreasonable purpose such as harassment.

Harmless error
Also termed "technical error," is an error that does not affect a subject's or respondent's substantive rights.

Legal advisor
A judge advocate or DA Civilian attorney who, based on assignment or appointment, provides legal and practical advice to appointing authorities, approval authorities, investigating officers, and boards of officers, regarding the appointment of preliminary inquiries, administrative investigations, and boards of officers, the conduct of such proceedings, and the actions taken pursuant to such proceedings.

Military exigency
An emergency situation requiring prompt or immediate action to obtain and record facts.

Personally identifiable information
Information used to distinguish or trace an individual's identity, such as name, Social Security number, date and place of birth, mother's maiden name, biometric records, home phone numbers, other demographic, personnel, medical, and financial information. PII includes any information that is linked or linkable to a specified individual, alone, or when combined with other personal or identifying information (see DoDI 5400.11).

Preponderance of the evidence
Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Respondent
A designated person involved in an incident or event under investigation by a board in such a way that disciplinary action may follow, the person's rights or privileges may be adversely affected, or the person's reputation or professional standing may be jeopardized.

Specially trained investigating officer
Consistent with 10 USC 1561, a specially trained IO is an individual who has completed DA IG's sexual harassment investigating officer's training. Specially trained IOs are used to investigate formal sexual harassment complaints filed in accordance with 10 USC 1561.

Subject
A “subject” is a person about whom some credible evidence exists to believe that the person is involved in an incident or event under investigation in such a way that disciplinary or administrative action may follow, the person’s rights or privileges may be adversely affected, or the person’s reputation or professional standing may be jeopardized. Although subject and suspect are often used interchangeably, the subject of an investigation may not be suspected of violating a criminal law, but rather failure to comply with a duty, obligation, regulation, or other requirement that could result in adverse administrative action.

Substantial error
An error that affects a subject’s or respondent’s substantive rights or significantly impacts the outcome of the investigation or board.

Suspect
A person about whom some credible information exists to believe that the person committed a particular criminal offense.

System of records
A group of records under the control of an agency from which information is retrieved by the name of the individual, or by some identifying number, symbol, or other identifying particular assigned to the individual (see DoDI 5400.11).