

INFORMATION PAPER
ARTICLE 15 PROCEDURES

You have been informed that your commander has started non-judicial punishment (“Article 15”) procedures against you. This sheet is designed to help you understand the DA Form 2627 (the “Article 15” form) and to prepare you for the briefing which you will receive from your local trial defense office. If after reading this paper and hearing the briefing, you have any questions whatsoever, please ensure that you ask one of the trial defense attorneys at your local TDS office. If for some reason they cannot answer your questions, feel free to contact our office.

Along with a DA Form 2627, you should have received your commander’s supporting documents. These are the reports or statements upon which he had based his decision to offer you an Article 15. If you don’t have these with you, inform the paralegal assisting you that you need this evidence. He or she should ensure that your command gives you these documents prior to your making your decision.

1. On the first line of the form, ensure that all information about you is correct. Be sure your base pay is correct because any forfeitures of pay you may receive will be based on this amount.

2. Block 1 of this form contains a description of the offense or offenses you have allegedly committed. Read the charges carefully and think through your response to them.

3. In Block 3 of DA Form 2627, the first decision you must make is whether to have your case resolved by Article 15 procedures or whether to request a trial by court-martial. Electing to have your case resolved by Article 15 procedures does **not** mean that you are admitting guilt; it means that you want your commander to be the person who decides whether you are guilty, rather than a judge or a jury. There are other aspects of Article 15s you should understand before you make your decision:

a) The level of proof is the same at both an Article 15 hearing and a court-martial; all must be convinced of your guilt by the evidence presented “beyond a reasonable doubt” before you can be found guilty.

b) Whatever the outcome of the hearing, an Article 15 is not considered a conviction and will not appear in your civilian record. On the other hand, if you demand a trial by Courts-Martial and you are **convicted**, this would be a federal conviction that would stay with you even after you leave the Army.

c) You will not receive a military lawyer to represent you at the Article 15 hearing. However, there is also no military prosecutor at an Article 15 hearing. At a court-martial, you most likely would be entitled to be represented by a military lawyer at no cost to you, but there would also be a prosecutor present. Under either an Article 15 or a court-martial, you have the right to hire civilian counsel to represent you.

d) At a court-martial, the maximum punishment you may be facing would depend upon the charge(s) and the level of court-martial. If your command referred the case to a

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Bad Conduct Discharge level court-martial, the maximum punishment would probably be 12 months of confinement, reduction to the grade of E1 (regardless of your current pay grade), forfeiture of two-thirds of your pay each month for 12 months, and a Bad Conduct Discharge. The **maximum** punishments for Article 15's are listed below:

(The grade of the commander imposing the Article 15 is important because it will determine the maximum punishment you could receive. If the officer is a CPT or below, it is a Company Grade Article 15; if he/she is a MAJ or above, you have been offered a Field Grade Article 15.)

	<u>COMPANY GRADE</u>	<u>FIELD GRADE</u>
Restriction:	14 days	60 days
Extra Duty:	14 days	45 days
Pay Forfeiture	7 days	1/2 of a month pay for 2 months in a row
Rank Reduction (E4 & below)	1 grade	1 or more grades
Rank Reduction (E5 & E6)	None	1 grade (from BN CDR only)
Rank Reduction (E7 and up)	None	None

(Restriction and extra duty, if you receive both, they must be served at the same time. If, in a Field Grade Article 15, you get 45 days extra duty, you may only receive 45 days restriction.)

If you are thinking of asking for a court-martial, you MUST talk with a military attorney before you make the decision.

4. Should you decide to have your case resolved by Article 15 procedures, you have additional decisions to make in Block 3.

a) You may also choose whether the hearing is open or closed. An open hearing means that anyone can observe the proceedings. A closed hearing means that only you, your commander, the witnesses for you and the witnesses against you are eligible to be present for the hearing.

b) You may choose to have someone speak on your behalf if you wish, that is, do the talking for you and explain your side of the story to the commander. You are not authorized a military attorney to represent you in an Article 15 hearing. However, you may hire a civilian counsel to represent you. In many cases, however, your military lawyer will sufficiently prepare you to represent yourself. If you feel unprepared after speaking to your military lawyer, a civilian lawyer could also assist you in preparing for the Article 15 hearing.

c) You must also decide whether to present matters in your defense, mitigation, or extenuation.

* Evidence, in your defense would be something related directly to the offense you have been charged with that shows you are not guilty of it.

* Mitigation, refers to testimony or statements from people that know you as to your character, performance of duty, or other positive aspect about you.

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* Extenuation, regards circumstances related to the offense which tend to make the offense less severe (like an excuse).

5. You should sign and date the form in the signature Block next to your typed name and grade.

6. When you have decided which witnesses you wish to bring before the commander and exactly what evidence you wish to present, it is a good idea to make a list of the witnesses and determine an order which you'd like them to testify. A memo for that purpose is attached. You have the right to have witnesses testify, assuming that they are reasonably available. The better organized your case is, the better chance you will have of defending yourself and avoiding punishment or receiving a lesser punishment. Any documents you may have that would support your version of the facts may be presented during the hearing to your commander. He should listen to all your witnesses and consider all your evidence before coming to a decision.

7. After your hearing, if your commander finds you guilty of an offense, he should give you an opportunity to present matters that will help him decide what punishment is appropriate for you. You may use the attached Personal Financial Statement to argue that reduction in rank and forfeiture of pay will make your situation worse. You may request that all or part of the punishment be suspended. Remember, that if you commit further misconduct during the period of suspension, you will have the suspended punishment imposed AND could be given a second Article 15 for the additional misconduct. Your commander will enter the punishment imposed in Block 4.

8. In Block 5, if you are an E-5 or above, your commander will choose to have the Article 15 placed in the restricted or the performance fiche of your records. The restricted fiche is generally not viewed by promotion or school boards. If you are an E-5 or above, and have already had one Article 15 as an E-5 or above, this one will automatically be placed in your performance fiche. If you are an E-5 or above, and you are found guilty at Article 15 proceedings, one of the most important requests you can make it to have the Article 15 placed in your restricted fiche. Otherwise, it will almost surely have a detrimental impact on your military career.

9. If you feel you've been punished excessively or evidence on your behalf was not properly considered, you may appeal to the next level of command within 5 days. If you appeal, you should check Block 7c and provide written statements to support your position because you are not entitled to any personal appearance in front of the appeal authority (although you may request one). If you don't submit these statements from yourself and the others who spoke for you at the original hearing, the appeal authority may never get your side of what happened. The appeal authority can take any action to lessen the punishment, but may NOT INCREASE the punishment given by your commander. If you've been given restriction or extra duty as a punishment and you appeal, you should request that your restriction and extra duty be suspended if the appeal takes more than five days to come down. If you so request and the appeal is not decided

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within 5 days, the extra duty and restriction imposed **MUST** be suspended until the appeal is decided. A memo is attached for you to make this request.

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MEMORANDUM FOR Commander, _____

SUBJECT: Article 15 Witnesses

1. My military career is important to me. I want you to know all you can about me and my situation before you decide whether I am guilty or innocent of the offense(s) which I am charged.

2. To help you in these decisions, I request the following people be present, as witnesses, at my Article 15 hearing:

a. _____

b. _____

c. _____

d. _____

3. Because these witnesses are important to a fair determination of my case, I request a delay in the hearing until these witnesses can be present for my hearing. If one or more of these witnesses cannot be present, I request that I be notified of that fact far enough in advance to obtain a written statement from that witness.

4. POC is the undersigned.

(Signature)

(Printed Name)

_____, U.S. Army
(Rank)

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PERSONAL FINANCIAL STATEMENT

NAME: _____ DATE: _____

MONTHLY INCOME:

Take Home Pay \$ _____
(Plus Allowances)
Spouse's Take Home Pay \$ _____
(Plus Allowances)
Other Regular Income + \$ _____

LINE 1: Total Monthly Income = \$ _____

MONTHLY EXPENDITURES:

Payment on Current Debts \$ _____
(Loans/DPP/Chg Accts)

Rent \$ _____
Food \$ _____
Utilities (telephone, etc.) \$ _____
Insurance \$ _____
Transportation & Auto Expenses \$ _____
Car Payment \$ _____
Child Care \$ _____
Other: _____ + \$ _____

LINE 2: Total Monthly Expenditures = \$ _____

ANNUAL EXPENDITURES:

Major Purchases & Repairs \$ _____
Clothing \$ _____
School Costs \$ _____
Other: _____ + \$ _____

TOTAL = \$ _____

LINE 3: . Total above, divided by 12 = \$ _____

SUMMARY

Total Monthly Income (Amount on Line 1) \$ _____
Total Monthly Expenses (Amount on lines 2 & 3) - \$ _____

Current Available Income \$ _____

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MEMORANDUM THRU Commander, _____

FOR Commander, _____

SUBJECT: Article 15 Appeal

1. On _____, I received punishment imposed under Article 15, UCMJ, imposed by _____. I was accused of _____. The punishment I received included: Reduction to ____ from ____; forfeiture of \$ _____ (per month for _____ months / days); _____ days extra duty; _____ days restriction; and _____ (other).

2. I am hereby appealing. I respectfully request, based on the following information, that you take the following action on my appeal:

- a.
- b.
- c.

3. I ask you to grant my request for the following reasons:

- a.
- b.
- c.

Encl(s)

(Signature)

(Printed Name)

_____, U.S. Army
(Rank)

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MEMORANDUM FOR Commander, _____

SUBJECT: Article 15 Appeal; Suspension of Deprivation of Liberty

1. I was punished under Article 15, UCMJ, on _____. As part of the punishment under that Article 15, I was given extra duty and restriction (line out inapplicable).

2. On _____, I submitted an appeal to that Article 15. Under Army Regulation (AR) 27-10, paragraph 3-21b, my appeal should have been decided upon within five calendar days following the date on which I submitted my appeal. This time period has elapsed and no decision has been made on my appeal.

3. Under AR 27-10, paragraph 3-21b, I request that all the punishments that I received under the Article 15 which involve deprivation of liberty (specifically my extra duty and restriction) be interrupted pending a decision on my appeal. AR 27-10, paragraph 3-21b states, in relevant part:

If the appeal is not decided within this [five day] period, and if the soldier so requests, the performance of those punishments involving deprivation of liberty *will* be interrupted pending decision on the appeal (emphasis added).

4. POC is the undersigned.

(Signature)

(Printed Name)

_____, U.S. Army
(Rank)