

IF YOU HAVE SPECIAL VICTIM COUNSEL OR HAVE FILED AN UNRESTRICTED REPORT OF SEXUAL ASSAULT WITHIN THE LAST 24 MONTHS; PLEASE NOTIFY A TDS PARALEGAL



**U.S. ARMY TRIAL DEFENSE SERVICE
FORT HUACHUCA FIELD OFFICE
ARTICLE 15 INFORMATION**

You have been informed that your commander has started Nonjudicial 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 today. If after reading this paper and hearing the briefing, you have any questions whatsoever, please ensure you ask one of the attorneys prior to leaving here today.

Along with a DA Form 2627, you should have received your commander’s supporting documents. These are the reports or statements upon which he/she had based his/her decision to offer to you and Article 15. If you don’t have these with you, inform a legal specialist here and we will ensure that your command gives you these documents prior to 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 or not 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 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, and 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 court-martial and are convicted, this would be a federal conviction that would stay with you even after you leave the Army.

c). No Attorneys are involved in the Article 15 hearing; you must be your own lawyer. This means there is also no 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.

d). At a court-martial, the maximum punishment you may be facing 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, it is 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	½ of a month pay for 2 months in a row
Rank Reduction: (E-4 and below)	1 grade	1 or more grades
Rank Reduction: (E-5 and E-6)	None	1 grade (from BN CDR only)
Rank Reduction: (E-7 and above)	None	None

(Restriction and extra duty, if you receive both, 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 SEE ONE OF THE ATTORNEYS BEFORE YOU MAKE THE DECISION OR LEAVE THIS OFFICE !!***

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

a.) You must 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 an attorney present to represent you in an 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 you know as to your character, performance of duty, or other positive aspects about you.

* Extenuation regards circumstances related to the offense that 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 the order in which you would 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 can be presented during the hearing to your commander. He/she would 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/she should give you an opportunity to present matters that will help him/her 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 you could be given a second Article 15 for the additional misconduct. Your commander will enter the punishment 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 performance fiche of your records. Promotion or school boards do not generally view the restricted fiche. 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.

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 decide to 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 do not 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 have been given restriction or extra duty as punishment and you appeal, you can request that your restriction and extra duty be suspended if the appeal takes more than five days to be decided. If you so request and the appeal is not decided within 5 days, the extra duty and restriction imposed MUST be suspended until the appeal is decided.