



Article 15s

This handout is designed to help you understand the DA Form 2627 (the “Article 15” form). “Article 15” is a term commonly used to describe nonjudicial punishment, which is authorized under Article 15 of the Uniform Code of Military Justice (UCMJ).

THE FIRST READING

Article 15 proceedings consist of two “readings” or hearings. The first reading is usually done by the NCO counterpart to the commander who is imposing the Article 15. This is not required, however, as long as the individual conducting the first reading is in the grade of E-7 or above and senior to the individual receiving the Article 15.

The purpose of the first reading is to notify you that the commander intends to dispose of alleged misconduct under Article 15, UCMJ and to inform you of your rights in the proceeding.

Once the first reading is complete, and you have been given a copy of the Article 15 and allied documents, you will have an opportunity to seek advice from TDS, usually not more than 48 hours. This is not an absolute deadline and may be affected by the complexity of the case and the availability of counsel.

ELECTION OF RIGHTS

Demanding trial. The first, and perhaps the most important decision you have to make, is whether to accept the Article 15 or turn it down and demand trial by court-martial. If you turn down the Article 15, you do not have a say as to what level of court-martial the charges go to. That is solely the decision of the command, who may take the charges to one of three levels of court-martial. In ascending order, they are summary, special, and general court-martial.

A summary court martial may impose the following:

Deprivation of Liberty	Forfeitures	Reduction
30 days confinement (E1-E4); or 45 days hard labor without confinement (E1-E4); 60 days restriction (E1-E9) (max combination of restriction/hard labor without confinement is 45 days).	2/3 pay for 1 month.	1 or more grades (E1-E4); 1 grade (E6-E9).

The command may dispose of the charges at a special or general court-martial. Both of these courts are federal courts, meaning that a finding of guilty in either of the courts,

regardless of how minor the misconduct may be, is a federal conviction that may stay on your record for the rest of your life.

Both courts may also impose a punitive discharge. A special court-martial may impose a bad-conduct discharge. A general court-martial may impose either a bad-conduct discharge or a dishonorable discharge. These discharges will strip you of most or all of your entitlements from the Department of Veteran's Affairs once you leave service. They also carry a very negative stigma that may affect your ability to seek employment once you leave the military service.

Both of the courts may also impose confinement in excess of 30 days. A special court-martial may impose confinement for up to one year. A general court-martial may impose confinement in accordance with Appendix 12 of the Manual for Courts-Martial. If you request, TDS can advise you of the maximum punishment that a general court-martial could impose.

Accepting the Article 15. Accepting an Article 15 is in no way an admission of guilt. Accepting an Article 15 only means that you are agreeing to have the commander whose name is listed on the DA Form 2627 hear your case and make a decision in your case. You can accept the Article 15 and still fight the charges at the Article 15 level. If you plan on turning down the Article 15, please notify TDS personnel immediately. The decision to demand trial is rare and one that should only be made after consulting with an attorney.

If you do not demand trial by court-martial, you have a few more elections you need to make.

Type of hearing. The next decision is whether you want to request an open or closed hearing. An open hearing is one which is open to spectators. This means that the commander's door remains open during the second hearing and anybody who wants to view the proceedings may enter and watch. Alternatively, the commander may decide to move the proceedings somewhere public, order Soldiers into his office, or even call a formation to view the proceedings.

A closed hearing is one in which the commander's door remains closed and the proceedings are closed off to "general" spectators. Witnesses to the alleged offenses as well as your chain of command will still likely be present. You may request a closed hearing and still have witnesses testify on your behalf. There is no inherent advantage to one type of hearing over the other.

Someone to speak on your behalf. The next decision you need to make is if you want someone to speak on your behalf. This is different from having your chain of command say good things about you or having them recommend a lenient sentence. These are called "matters in mitigation" and we will cover those further down in this handout.

Having someone speak on your behalf is having someone else entirely present your matters for you. By default, it is upon you to present any matters you may have to your commander. However, you can request that someone else does this on your behalf. This person cannot be a member of the TDS team as we cannot represent you at the Article 15 proceeding itself.

However, you may request anyone you like to present matters for you as long as they are reasonably available, meaning they are in the area and willing to speak on your behalf. You may choose not request someone to speak on your behalf and still bring witnesses to testify for you. This is only a decision as to who will be presenting your matters. If you initial in "is not requested," then you will be the one presenting your matters. If you initial in "is requested," then someone else will be presenting your matters for you.

Matters. There are three types of matters you may submit in Article 15 proceedings: matters in defense, matters in extenuation, and matters in mitigation.

Defense. Matters in defense are matters which show that you are not guilty of the alleged UCMJ violations. For example, if PFC Joe's chain of command alleges that he was AWOL, but he was actually on approved leave, he could submit his leave form as a matter in defense.

Extenuation. Matters in extenuation are circumstances surrounding the offense showing that the offense was not very serious. For example, PFC Joe yells at his team leader, SGT Snuffy, after being told to rake leaves. Unbeknownst to SGT Snuffy, PFC Joe had just received a call that his parents had died, and he simply lashed out while under incredible stress. PFC Joe would state those circumstances as a matter in extenuation.

Mitigation. Matters in mitigation are any matters that will make the punishment less severe and can take a variety of forms. Generally, anything that shows why you should be punished lightly is a matter in mitigation. Some examples are:

1. Statements about your character from your leadership or fellow Soldiers;
2. A series of good counselings or evaluations;
3. Favorable recommendations on punishment from your chain of command during the Article 15 proceedings
4. Letters from family members explaining what effect a reduction or forfeiture would have on your family.
5. A worksheet showing your finances.

THE SECOND READING

During the second reading, the commander will consider all of the evidence, including any matters you might submit, and determine if you are guilty or not guilty. If you are found guilty of any offense, he/she will then determine an appropriate punishment. The level of proof is the same at both an Article 15 hearing and a court-martial; the

Commander must be convinced of your guilt by the evidence presented “beyond a reasonable doubt” before you can be found guilty.

MAXIMUM PUNISHMENT

Commanders have limitations on what they may impose in in Article 15. The maximum punishments for company grade and field grade Article 15s are as follows:

	<u>COMPANY GRADE</u>	<u>FIELD GRADE</u>
Restriction	14 days	60 days (45 days if there is any extra duty)
Extra Duty	14 days	45 days
Pay Forfeiture	7 days	1/2 month’s pay for two months
Rank Reduction (E-4 & below)	1 grade	1 or more grades
Rank Reduction (E-5 & E-6)	None	1 grade (from BN CDR only)
Rank Reduction (E-7 and up)	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 any extra duty, you may only receive 45 days restriction.

SUSPENSION

The imposing commander may also suspend the punishment in whole or in part. A suspended punishment does not take effect and is remitted (no longer in effect) once the period of suspension ends. Any portion of the punishment may be suspended for up to 180 days. A suspended sentence may be “vacated” (put back into effect) if the imposing commanders finds that you commit further misconduct. A second hearing is not required to vacate a suspended sentence.

FILING

If you are E-4 or below, the Article 15 will not be filed in your Army Military Human Resource Record (AMHRR, formerly known as your OMPF). Your unit legal section will maintain a copy of your Article 15 until either two years have elapsed or you leave the General Court-Martial Convening Authority (usually your division).

If you are an E-5 or above, your commander will choose to have the Article 15 placed in the Restricted or the Performance Section of your AMHRR as part of the second reading. Promotion boards and schools do not generally review the Restricted Section of an AMHRR. If the commander decides to file in the Performance Section, you can appeal the filing decision to the appeal authority (see below). However, if you are an E-5 or above and have already had one Article 15 placed in your Restricted Section, the

current one will automatically be placed in your Performance Section. You cannot appeal an automatic filing.

APPEALS

If you feel you've been punished excessively or if you feel you are not guilty, you may appeal to the next level of command within 5 days. If you decide to appeal, you should check Block 7c before the end of your second reading, and later provide written statements to support your position because you are not entitled to a 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 can request that your restriction and extra duty be interrupted if the appeal takes more than five calendar days to be decided (excluding the day of submission). If you so request, and the appeal is not decided within those five days, the extra duty and restriction imposed must be suspended until the appeal is decided.

TDS CONTACT INFORMATION

Area I 315-730-2433	Area II 315-738-4485	Area III 315-753-3890	Area IV 315-763-4428
*Torii Station: 315-763-4428		**Camp Zama: 315-738-4485	
NOTE: This handout is intended to provide basic information only. <u>Nothing in this handout should be considered legal advice.</u> Current as of 18 Aug 17.			
*TDS does not have a physical in Japan. The USAR-J Military Justice Office will arrange for you to speak with the USAG Yongsan Branch Office in Korea telephonically. Do not discuss anything about your case with any personnel in the Military Justice Office.			
**TDS does not have a physical office in Japan. The 10th RSG Military Justice Office will arrange for you to speak with the Camp Henry Branch Office in Korea telephonically. Do not discuss anything about your case with any personnel in the Military Justice Office.			
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