

Army Rules For Imposing Nonjudicial Punishment Within the Reserve Component (Art 15, UCMJ)

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MAXIMUM AUTHORIZED PUNISHMENTS Formal Proceedings—Officers & Warrant Officers

Punishments	GCM Authority or GO in Command
Restriction with or without suspension from duty ¹²	60 days
Arrest in quarters ¹²	30 days
Forfeiture of pay	1/2 of 1 mo pay per mo for 2 mos

Reduction in grade¹⁴ E-4 or below, one grade E-4 or below, one or more grades; E-5, E-6, one grade

Admonition or reprimand Yes Yes

Summarized Proceedings--Enlisted Personnel

Punishments	All Commanders
Restriction ¹²	14 days
Extra duty ¹²	14 days
Oral admonition or reprimand	Yes

¹⁴To reduce, commander must have authority to promote to grade from which reduced. For AGR, E-6 or above may not be reduced by nonjudicial punishment. AR 140-158, para. 7-9.

MAXIMUM AUTHORIZED PUNISHMENTS Formal Proceedings—Enlisted Personnel

Punishments ¹¹	Company Grade Commanders	Field Grade Commanders
Restriction ¹²	14 days	60 days
Extra duty ¹²	14 days	45 days
Correctional custody ¹² (E-3 and below)	7 days	30 days
Forfeiture of pay ¹³	7 days	1/2 of 1 mo pay per mo for 2 mos

¹¹All lawful punishments remaining unserved when RC soldiers are released from AD, AT, ADT, or IDT, including any uncollected forfeitures of pay, are carried over to subsequent periods of AD, AT, ADT, or IDT. AR 27-10, para. 21-5b.

¹²Restriction, extra duty, correctional custody, and arrest in quarters are of limited use as punishment for RC soldiers during IDT, since these soldiers cannot be held beyond normal IDT periods to serve the punishment. AR 27-10, para. 21-5b.

¹³Forfeitures are calculated in whole dollar amounts based on base pay for an AC soldier of the same grade and time in service rather than on how much drill pay the RC soldier may have earned during the period of forfeiture. AR 27-10, para. 21-9.

- If imposing commander does not modify punishment (or if punishment is modified and offender continues appeal), appeal is forwarded to the next higher commander.
- Action on appeal should be completed within 5 days (formal) or 3 days (summarized) of submission of appeal.

Who acts on appeal⁹

- Unless withdrawn, it must be acted upon by authority superior to the officer imposing the punishment or successor in command.¹⁰

Results

- Offender advised of results through channels.

⁹Commander imposing punishment and superior commanders may modify punishment even without appeal. AR 27-10, para. 3-35.

¹⁰Commander considering appeal must obtain advice of a judge advocate where punishment imposed exceeds any of the following: arrest in quarters or correctional custody for 7 days; forfeiture of 7 days pay; reduction from grade of E-3; or extra duty or restriction for 14 days. Advice may be obtained in any case.

not demanded trial by court-martial. The soldier must be in a title 10 status when receiving nonjudicial punishment.⁴

Consultation with judge advocate

- Commanders should consult their supporting AC or RC judge advocate prior to initiating Art 15 proceedings.

Immediate commander determines whether

- A minor offense has been committed.
 - Nonjudicial punishment is appropriate.
 - Summarized or formal proceedings should be used.
 - To refer the matter to the next superior commander.
- If commander decides to refer the matter, no recommendation of the nature or extent of the punishment to be imposed will be made. AR 27-10, para. 3-5.

In formal proceedings, commander⁵ advises the suspect of

- Intent to use formal proceedings.
- Right to remain silent.

- Right to demand trial by court-martial.⁶
 - Right to submit matters in defense, extenuation, and mitigation.
 - Right to have a spokesperson and to request an open hearing and witnesses.
 - Right to consult legal counsel.⁷
 - Maximum punishment imposable under formal proceedings.
 - Reasonable period of time in which to reply to notification.⁸
- In summarized proceedings, commander⁵ advises the suspect of
- Intent to use summarized proceedings.
 - Right to remain silent.
 - Right to demand trial by court-martial.⁶
 - Right to call witnesses, examine evidence, and submit matters in defense, extenuation, and mitigation.

⁴The soldier should be advised that if trial by court-martial is demanded, the soldier may be involuntarily ordered to active duty for court-martial. AR 27-10, para. 21-3.

⁷Consultation with legal counsel may be in person or by telephone. The commander will advise the soldier of the name, location, and telephone number of available defense counsel.

⁸A reasonable time will vary according to the situation. Factors to be considered in deciding a reasonable time include the frequency of drills, the availability of defense counsel, the physical distance between the relevant parties, etc. The normal decision periods to accept or appeal an Art 15 (See AR 27-10, paras. 3-16c(2), 3-16e, 3-18f(1), and 3-29a) should not be strictly applied to RC soldiers.

- Maximum punishment imposable under summarized proceedings.
 - Reasonable period of time in which to reply to notification.⁸
- If suspect demands trial, commander
- Terminates Art 15 proceedings.
 - Decides whether to prefer charges after consulting with a judge advocate.

If suspect makes no demand for trial and

- The decision period expires, the commander can continue the proceedings.
- Submits matters in defense, extenuation, and mitigation, commander considers such matters before deciding whether to impose punishment.

In determining the result of Art 15 proceedings

- If commander decides suspect is not guilty or there is a valid reason for not imposing punishment, commander terminates the proceedings.
- If commander decides suspect is guilty and punishment is appropriate, commander imposes punishment.
- In selecting an appropriate punishment, commander should consider the totality of the circumstances and weigh the desirability of suspending all or a part of the punishment.

How imposed

- The commander records the proceedings on DA Form 2627 (Formal Proceedings) or DA Form 2627-1 (Summarized Proceedings). AR 27-10, App. B, contains a suggested guide for conducting the proceedings.

When imposing punishment, commander advises suspect of

- Exact punishment imposed.
- Right to appeal and the commander who will consider the appeal.
- Period of time in which to appeal.

After imposition

- Commander decides whether to announce punishment. AR 27-10, para. 3-22.
- Commander enforces or modifies punishment.

Appeals

How an appeal is made

- Offender appeals in writing on DA Form 2627 or DA Form 2627-1.
- Offender may submit documents supporting appeal and/or request a personal appearance before the appellate authority.

When made

- Appeal must be made within a reasonable time after imposition of punishment.⁹

Actions on appeal

- Commander need not be in a title 10 status to act on an appeal. AR 27-10, para. 21-2c.
- Imposing commander may decide to mitigate, remit, suspend, or set aside punishment.
- If imposing commander modifies punishment, offender may withdraw or continue appeal.

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Purposes of nonjudicial punishment¹

- Correct, educate, and reform offenders.
- Preserve an offender's record of service from the unnecessary stigma of a court-martial.
- Further military efficiency by disposing of minor infractions in a manner requiring less time and personnel than a court-martial.

Who may impose

- Any commander, including a warrant officer in command, while serving in a title 10 duty status (AD, AT, ADT, AGR, or IDT).²

Upon whom

- A member of the commander's unit who has committed a minor offense³ while in a title 10 duty status and who has

¹Before resorting to nonjudicial punishment, a commander should use nonpunitive measures to the fullest extent to further the efficiency of the command. AR 27-10, para. 21-6a.

²Punishment for RC officers is reserved to the AC or RC general court-martial convening authority or to commanding generals in the RC officer's chain of command. AR 27-10, para. 21-6d.

³Many factors must be considered in determining whether an offense is minor. The rule of thumb is that an offense is minor if the maximum authorized punishment for the offense does not include either a dishonorable discharge or confinement for more than one year. This is only a guideline. AR 27-10, para. 3-9.