

## ARTICLE 15 FACT SHEET

When you are offered an Article 15, you may either accept it or refuse it. This fact sheet is meant to give you some basic information about that choice. It is not a substitute for legal advice, but it should answer some of your questions. Again, at this time you have only two options: accept the Article 15 or request trial by court-martial.

### IF YOU ACCEPT THE ARTICLE 15

1. Whether you accept or refuse the Article 15, you must sign the form and indicate your choice. If you refuse to sign it, your commander has the right to treat the Article 15 as if you had accepted it.
2. If you accept the Article 15 you forever lose your right to ask for a court-martial.
3. ARTICLE 15 HEARING: Accepting the Article 15 is not an admission of guilt. By accepting the Article 15 you agree to have your case decided by the commander rather than at a court-martial by a military judge or jury. The commander giving you the Article 15 must listen to your side of the case. You may remain silent, you may present witnesses or other evidence to show why you should not be punished at all, or you may give reasons why punishment should be very light. You may present your own case, or you may hire a civilian lawyer at your own expense. You may also ask any non-lawyer to speak on your behalf. A military lawyer will not represent you at your Article 15 hearing. You can have your own witnesses appear and explain to the commander what happened, or you can present other evidence (statements, police reports, etc.) on your behalf. Often it is best to write out your side of the story for presentation to the commander. This statement will be permanently attached to the Article 15 when it is included in your records.
  - a. You have a right to have witnesses testify on your behalf. There are two kinds of witnesses: defense witnesses and character witnesses. A defense witness is a person who can testify that you are not guilty. A character witness can testify that you are a good soldier and you can be rehabilitated.
  - b. It is always best to have live witnesses. To make sure your witnesses are going to be present, write the names of your witnesses down on a piece of paper. Take the list to the 1SG and ask him or her to get your witnesses. If your witness is on leave, TDY, in the hospital or has left the Army, then the 1SG does not have to make sure that they are present.
4. After the evidence in your case has been presented, the commander will decide whether there is proof beyond a reasonable doubt to show that you committed the offense or not, and if so, what punishment should be imposed. If the commander decides that you are not guilty of the charge(s), the proceedings ends and the Article 15 is destroyed. On the other hand, if the commander decides that you committed the offense and should be

punished, you will be personally notified what the punishment is and it will be annotated on the Article 15 form.

5. MAXIMUM PUNISHMENT: The maximum punishment which may be imposed under Article 15 is listed below. Your commander may give you a combination of the listed punishments for your offense, but is not required to give any minimum or maximum punishment. If your commander suspends your punishment (for up to six (6) months), you must be very careful. Any misconduct can be used as basis for giving the punishment back.

a. Field Grade Article 15 (Major or higher in rank)

(1) Restriction.....60 days, or if combined with extra duty, 45 days

(2) Extra duty.....45 days

(3) Forfeiture of pay.....1/2 of your basic pay for 2 months

(4) Reduction in Grade....E4 or below may be reduced to E1. E5 and E6 may be reduced one paygrade if the officer imposing the punishment has the authority to promote to E5 and E6. No reduction for E7 or above.

b. Company Grade Article 15 (Given by a Captain or Lieutenant)

(1) Restriction .....14 days

(2) Extra duty .....14 days

(3) Forfeiture of pay.....7 days basic pay for 1 month

(4) Reduction in Grade....E4 or below may be reduced one grade. No reduction for E5 or above.

6. EXECUTION OF PUNISHMENTS: Unsuspended punishments may begin immediately upon a finding of guilt, but may be delayed due to field exercises, illness of the soldier, or through the fault of the soldier.

7. APPEAL: If the commander determines that you committed the offense, and you did not do it or you feel the punishment imposed is too severe, you may appeal to the next higher commander. You will have five calendar days to appeal. The punishments of extra duty, and restriction will begin the same day they are imposed. If you decide to appeal, write a letter stating your reasons for or why the punishment is too severe. Common examples are your good duty performance prior to the offense, financial situation, or witness statements, and/or other documents which you feel would help in getting the appellate authority (the commander acting on your appeal) to grant your appeal. In your letter you may also ask to see the commander acting on your appeal in person, however,

this is not an absolute right. If you fail to submit your appeal within the five calendar days then the commander may reject your appeal as untimely.

8. FILING IN YOUR RECORDS: If you are an E4 or below, your article 15 will be destroyed in two years or when you PCS. If you have a rank greater than E-4, then the commander who gives you the punishment will also decide whether your Article 15 will be filed in the Performance Fiche or the Restricted Fiche of your OMPF. If he / she files it in your Performance Fiche then a copy of your Article 15 will be placed in your 201 file. If the commander has it filed in your Restricted Fiche, a copy will not be placed in your 201 file, however, a copy will be kept by your unit, this copy will be destroyed after two years or upon PCS whichever comes first. In addition, promotion boards and advanced school selection boards are allowed to look at your Performance Fiche but not your Restricted Fiche. You should try to get your Senior NCO(s) to recommend to the commander that your Article 15 be filed in the Restricted Fiche.

#### IF YOU REFUSE THE ARTICLE 15

1. If you refuse the Article 15, your chain of command will then decide whether to drop the case or forward it for court-martial action.
2. Depending on the charge(s) and the circumstance(s), the command will decide what level of court-martial your case should be tried at. The charge(s) could be tried at either a Summary Court-Martial, Special Court-Martial empowered to adjudge a Bad Conduct Discharge (BCD-Special), or a General Court-Martial. In most cases involving an Article 15 turn-down, a Summary Court-Martial will be convened. At a Summary Court-Martial you will not be provided a military lawyer to defend you at the trial. You do have the right to refuse trial by Summary Court-Martial, however, if you do this the commander can then refer it to a Special Court-Martial which you do not have a right to refuse. The maximum punishment for a Summary Court-Martial is:
  - a. Confinement at hard labor.....1 month (E4 & below only)
  - b. Hard labor without confinement.....45 days (E4 & below only)
  - c. Restriction.....2 months
  - d Forfeiture of .....Two-thirds of one month's basic pay
  - e. Reduction in grade.....E4 to E1, E5 and above, one gradeCertainly there is no necessity or requirement that you receive the maximum punishment. You can receive any lesser form of punishment than the maximum listed above.
3. If your court-martial is a special court-martial or higher, you will be entitled to a free military lawyer. The maximum punishment for a special court-martial are:

- a. Confinement.....Six months
  - b. Reduction. . . . . E9 to E1
  - c. Forfeiture of Pay.....Two-thirds of base pay for six months
4. The command could give you a special court-martial empowered to adjudge a Bad Conduct Discharge (BCD). The maximum punishment at a BCD court-martial is the same as the Special court-martial except you can receive a BCD.
5. A General Court-Martial is the highest level of court-martial. The maximum time served depends on the nature of the crime. For example: Drug use is a five year sentence, murder is the death penalty. The General Court-Martial can also discharge you with either a Bad Conduct Discharge or Dishonorable Discharge.

-

### DISCHARGES

1. You cannot be discharged from the Army for an Article 15. The Article 15 can be used with other documents as a basis for chapter elimination (under AR 635-200). But there is no way to receive a discharge on an Article 15.
2. There are five types of discharges: (1) Honorable; (2) General, Under Honorable Conditions; (3) Other than Honorable; (4) Bad Conduct Discharge (BCD); and (5) Dishonorable Discharge (DD).
3. The first three discharges are administrative. The last two are punitive. You can only receive a BCD or DD at a court-martial. You must be convicted and sentenced to receive a particular discharge in order to receive a BCD or DD. It is impossible to receive a BCD or DD as a result of a chapter elimination.