



## **OFFICE OF THE JUDGE ADVOCATE GENERAL** **LEGAL ASSISTANCE POLICY DIVISION**



### **ARTICLE 138 COMPLAINTS**

An Article 138 Complaint (Article 138, UCMJ) is a grievance procedure for Servicemembers to request redress for alleged wrongs committed by their commanding officer. If redress is denied, Servicemembers file a formal complaint against the commanding officer. The officer exercising general court-martial jurisdiction over the officer against whom the complaint is made addresses the complaint.

The procedures are intended to ensure that Servicemembers have an adequate official channel for requesting redress from commanding officers. Keep in mind, a 138 Complaint is generally not appropriate for review if other procedures provide notice, a right to a rebuttal or hearing, and review by a superior authority. For example, complaints related to nonjudicial punishment (NJP including Article 15's), evaluation report appeals, or appeals from findings of financial liability (FLIPLs) are not appropriate subject matter for Article 138 Complaints because they have their own redress process.

Prior to making a complaint, Servicemembers must make a written request for redress to the commanding officer who committed the alleged wrong. The commanding officer generally has fifteen days from receipt to respond in writing. If the commanding officer denies redress, the Servicemember must deliver a written complaint to the immediate superior commissioned officer within ninety days of discovering the wrong. The time the request for redress was in the hands of the commanding officer concerned is excluded from this ninety-day period.

The complaint should be in writing and include the Servicemember's current military organization and address, the commanding officer whose act or omission is complained of the date the request for redress was submitted to that commanding officer and the outcome of the request. The complaint should describe the wrongful act, the reason the act is wrong and state the specific redress the complainant seeks. Additionally, attach the request to the commanding officer for redress, the commanding officer's response, if any, and any supporting documents to be considered.

The formal complaint is processed through the chain of command to the officer exercising GCM jurisdiction over the respondent. Complaints that do not substantially meet the requirements of Article 138 are deficient and are generally returned to the complainant without action. The complainant may also decide to withdraw the complaint, for example, because an officer in the chain of command grants redress, at any time before final action is taken at HQDA.

If the complaint is neither withdrawn nor deficient, the officer exercising GCM jurisdiction will examine the complaint and take action. If that officer finds the complaint is appropriate for review using Article 138 procedures, they will determine the merits of the complaint and the redress requested. The officer exercising GCM jurisdiction may deny redress, grant appropriate redress, or recommend that an officer or agency with the necessary authority grant appropriate redress.

If you have any questions concerning an Article 138, please contact your local legal assistance office to speak with an attorney.

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