

Article 138 Complaints

What is Article 138, Uniform Code of Military Justice?

Article 138, UCMJ, (10 USC 938) is a statutory grievance procedure for members of the armed forces who believe themselves wronged by their commanding officer.

Army Regulation 27-10, *Military Justice*, chapter 20, implements Article 138 in the Army.

What types of complaints are not appropriate for Article 138 procedures?

A 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.

Article 138 procedures are not intended to duplicate or supplant those specific procedures.

For example, complaints related to courts-martial, nonjudicial punishment, separation actions, confinement, evaluation report appeals, withdrawal of flying status, appeals from findings of pecuniary liability and similar actions are not appropriate subject matter for Article 138 complaints

How does the complaint process work?

A soldier must first make a written request for redress to the commanding officer concerned. The commanding officer generally has fifteen days to respond in writing. If the commanding officer denies redress, the soldier must deliver a written complaint to his/her immediate superior commissioned officer within ninety days of discovering the wrong. (See AR 27-10, paragraph 20-7, for a detailed description of the information that must be included in the formal complaint.)

A soldier generally has 90 days to file a complaint from the time the wrong was committed against him or her!

The formal complaint is processed through the chain of command to the officer exercising GCM jurisdiction over the officer against whom redress is requested from. 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If the complaint is neither withdrawn nor deficient, the officer exercising GCM jurisdiction will examine into the complaint and act personally on it. If that officer finds the complaint is appropriate for review using Article 138 procedures, such officer 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.

Complaints that do not substantially meet the requirements of Article 138, as implemented by AR 27-10, chapter 20, are deficient and are generally returned to the complainant without action.