



DEFENSE FINANCE AND ACCOUNTING SERVICE
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MAY - 9 2006

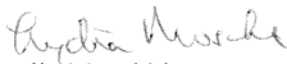
DFAS-NP

MEMORANDUM FOR DIRECTOR, ACCOUNTING AND FINANCE POLICY AND
ANALYSIS, OFFICE OF THE UNDER SECRETARY OF
DEFENSE (COMPTROLLER)
DIRECTOR, FINANCE, DEFENSE FINANCE AND
ACCOUNTING SERVICE

SUBJECT: Interim Change to the Department of Defense Financial Management Regulation
("DoDFMR"), Volume 7A, Reduction in Rank for Army Enlisted Members
(DFAS Item O-36)

Attached is Interim Change 27-06 to Volume 7A, Chapter 48 of the "DoDFMR." This change updates the provisions for sentencing Army enlisted members to coincide with AR 27-10 of November 16, 2005 and is effective immediately.

Assignment of the interim change number is the authority for the Director of Finance to initiate a procedural modification to implement this change. This office requests that the Director for Accounting and Finance Policy and Analysis post a copy of this interim change to the "DoDFMR" web site.


Lydia Moschkin
Director, Policy and
Performance Management

Attachment:
As stated

cc:
DFAS-AMO (Pat McGriff)
DFAS-DE/DGM
DFAS-PM/IN (Cindy Garcia)
DFAS-PMA/CL
DoD-DHRA/OGC
ODUSD(MPP)(Comp)
Service Liaisons
USCG/NOAA/PHS Liaisons

REQUIREMENT FOR REDUCTION IN GRADE – ARMY MEMBERS**1. Revise paragraph 480201 as follows:**

480201. Army. In accordance with AR 27-10 (reference v), an automatic reduction to E-1 will apply only if the sentence approved by the convening authority includes, whether or not suspended, a punitive discharge or confinement in excess of 180 days (or 6 months, as appropriate). Thus, if a member is sentenced to confinement of less than 180 days (or less than 6 months, as appropriate), with no punitive discharge, the automatic reduction to E-1 will not apply. Similarly, if an Army member is sentenced to hard labor without confinement (and no punitive discharge), the automatic reduction to E-1 will not apply.

2. In the Reference Section, add the following:**a. In the reference under (c) title 10 add the following:**

<u>REFERENCE</u>	<u>TITLE</u>	<u>PAGE NO.</u>
858a, Art 58a	Sentences: Reduction in enlisted grade upon approval	48-5

b. Revise reference "v" with the following:

<u>REFERENCE</u>	<u>TITLE</u>	<u>PAGE NO.</u>
(v) AR 27-10	Military Justice	48-5

3. Revise bibliography citation to paragraph as follows:

<u>Paragraph</u>	<u>Citation</u>
480201	10 USC 858a AR 27-10, para. 5-29.e

- b. The servicing staff judge advocate will prepare a pretrial advice, following generally the format of R.C.M. 406(b).
- c. Unless the convening authority causes restrictive language to be added to the "instructions" portion of block 14, DD Form 458, all SPCM referrals that meet the three requirements in subsection *a.*, above, are empowered to adjudge a bad-conduct discharge. There is no requirement to annotate on block 14 of DD Form 458 that the court is empowered to adjudge a bad conduct discharge.

5-29. Sentencing

a. For purposes of R.C.M. 1001(b)(2) and (d), trial counsel may, at the trial counsel's discretion, present to the military judge (for use by the court-martial members or military judge sitting alone) copies of any personnel records that reflect the past conduct and performance of the accused, made or maintained according to departmental regulations. Examples of personnel records that may be presented include—

- (1) DA Form 2, DA Form 2A, and DA Form 2-1.
- (2) Promotion, assignment, and qualification orders, if material.
- (3) Award orders and other citations and commendations.
- (4) Except for summarized records of proceedings under Art. 15 (DA Form 2627-1), records of punishment under Art. 15, from any file in which the record is properly maintained by regulation.
- (5) Written reprimands or admonitions required by regulation to be maintained in the OMPF or Career Management Information File (CMIF) of the accused.
- (6) Reductions for inefficiency or misconduct.
- (7) Bars to reenlistment.
- (8) Evidence of civilian convictions entered in official military files.
- (9) Officer and enlisted evaluation reports.
- (10) DA Form 3180 (Personnel Screening and Evaluation Record).
- (11) Records relating to Discipline and Adjustment Boards and other disciplinary records filed in corrections files in accordance with AR 190-47.

b. These personnel records include local nonjudicial punishment files, personnel records contained in the OMPF or located elsewhere, including but not limited to the CMIF and the correctional file, unless prohibited by law or other regulation. (see AR 600-8-104 (discusses personnel files) and AR 190-47 (discusses corrections files)). Such records may not, however, include DA Form 2627-1.

c. Original records may be presented instead of copies with permission to substitute copies in the record. (See MRE 901, for authentication of original copies.)

d. Documents in the OMPF may be obtained for court-martial purposes under paragraph 2-8 of AR 600-8-104. Urgent requests may be telephonically submitted and followed up by a message to CDR USAEREC//PCRE-RF-I/FT BEN HARRISON IN.

e. Pursuant to Article 58a, UCMJ, the automatic reduction to the lowest enlisted pay grade will be effected in the Army only in accordance with this paragraph.

- (1) The trial court may adjudge a reduction to the grade of Private (E-1) or any intermediate grade or no reduction at all.
- (2) Reduction to the lowest enlisted pay grade will be automatic only in a case in which the approved sentence includes, whether or not suspended, either—
 - (a) A dishonorable or bad-conduct discharge, or
 - (b) Confinement in excess of 180 days (if the sentence is awarded in days) or in excess of 6 months (if the sentence is awarded in months).

f. Confinement facilities will determine the insignia of rank, if any, that Soldiers will wear in confinement; this determination will not affect entitlement to pay and allowances. Restoration of rank or suspension of a reduction will not affect the insignia of rank worn by a Soldier within a confinement facility.

g. Hard labor without confinement. Hard labor without confinement is an authorized courts-martial sentence (see RCMs 1003(b)(6) and 1301(d)(1)). Hard labor without confinement (like the punishment of restriction) is not served until ordered executed in the convening authority's action in accordance with UCMJ, Art. 57c. A convening authority's approval of hard labor without confinement does not automatically reduce the convicted Soldier to the rank of E-1 (see subparagraph *e* above, eliminating hard labor as triggering an automatic reduction under UCMJ, Art. 58a). Hard labor without confinement will—

- (1) Be performed in a manner directed by the Soldier's immediate commander. Such duties will normally be performed in public view and may not include duties that constitute a safety or health hazard to the convicted Soldier;
- (2) Focus on punishment and may include duty to induce fatigue;
- (3) Not excuse the Soldier from his regular duties. The immediate commander will determine the number of hours of hard labor the Soldier will perform in addition to his regular duties;
- (4) Not include duties associated with maintaining good order and discipline, such as charge of quarters and guard duties;