**Section 400.1220 Punishment**

a) General. Whether to impose punishment, and the amount and nature of the punishment, are the sole decisions of the imposing commander. However, the commander is encouraged to discuss appropriate punishments with his or her Staff Judge Advocate after the SMF member has had an opportunity to present matters in defense, mitigation or extenuation. Commanders are also encouraged to consult with their NCOs and other subordinates on the appropriate type, duration and limits of punishment to be imposed. Additionally, as NCOs are often in the best position to observe a member undergoing punishment, and to evaluate performance and attitude, their views on clemency should be given careful consideration.

1) When forfeiture of pay will be imposed, the commander should consider imposing a forfeiture below the maximum authorized. Maximum forfeitures should be reserved for serious cases or repeat offenders.

2) Unsuspended reduction in grade should only be imposed in the same punishment with forfeiture of pay when the maximum exercise of nonjudicial punishment authority is warranted.

b) Rules for Imposing Punishment. Unsuspended reduction in grade and forfeitures of pay are effective on the date of imposition, which is the date item 4 of the NGIL Form 60-R is signed by the imposing commander. All other unsuspended punishments take effect immediately upon notification to the member, unless otherwise stated by the commander in item 4. In this regard, the commander cannot choose a date earlier than the date he or she signed that item, but he or she may delay the punishment for legitimate reasons (e.g., the member is hospitalized or on authorized emergency leave). In those cases, the execution of the punishment should begin immediately after the cause of the delay has abated. Also, if a member to be punished is currently undergoing a punishment involving restriction or extra duties under a prior NJP action, the commander can prescribe an additional punishment of restriction or extra duties to begin after the completion of the earlier punishment. Maximum punishments are prescribed in Appendix A.

1) Restriction. Restriction may be imposed with or without suspension from duties, and the limits of the restriction shall be announced at the time punishment is imposed.

2) Extra Duties. Extra duties may be required to be performed at any time and, within the duration of the punishment, for any length of time. However, when extra duties are performed during IDT periods, one day of extra duty shall be counted against each unit training assembly for that day. Extra duties may include the performance of fatigue duty or of any other military duty; however, no extra duty may be imposed that:

A) Constitutes cruel or unusual punishment, or a punishment not sanctioned by the customs of the service (e.g., using the offender as a personal servant);

B) Is a duty normally intended as an honor, such as assignment to a guard of honor;

C) Is required to be performed in a ridiculous or unnecessarily degrading manner (e.g., an order to clean a barracks floor with a toothbrush);

D) Constitutes a safety or health hazard to the offender; or

E) Would demean the member's grade or position.

3) Forfeiture of Pay. Forfeiture of one day's pay shall, in the case of IDT, constitute the pay for one unit training assembly (UTA; a paid IDT of no less than 4 hours). Forfeitures of pay may apply to pay accruing on or after the date punishment is imposed and to any pay accrued, but not yet paid, before that date.

4) Reduction in Grade

A) Reduction Authority

i) Members in the grade of E-9 may be reduced by the Assistant Adjutant General for Army or Air, as appropriate, but that reduction shall be effective only upon the written approval of the Adjutant General.

ii) Members in the grades up to and including E-8 may be reduced by a commander in a Brigade or Wing command position, or higher.

iii) Members in the grades up to and including E-6 may be reduced by a commander in a Battalion or Squadron command position, or higher.

iv) Members in the grades up to and including E-4 may be reduced by a commander in a Company or Flight command position, or higher.

B) Date of Rank. When a member is reduced in grade as a result of an unsuspended reduction, his or her date of rank in the grade to which reduced is the date the punishment of reduction was imposed. If, however, the reduction is suspended either on or after the time the punishment was imposed, or is later set aside or mitigated to forfeiture, the date of rank in the grade held before the punishment was imposed remains unchanged. For example, if an E-5 has a date of rank of May 1, the member receives nonjudicial punishment on June 1 consisting of a reduction in rank, and the commander subsequently suspends, sets aside or mitigates the reduction on July 1, the date of rank for the restored grade is May 1.

C) Entitlement to Pay. When a member is restored to a higher pay grade because of a suspension or because a reduction is mitigated to forfeiture, entitlement to pay at the higher grade is effective on the date of the suspension or mitigation, even though an earlier date of rank is assigned. If, however, a reduction is set aside and all rights, privileges and property are restored, the member concerned will be entitled to pay as though the reduction had never been imposed.

D) Void Reduction. Any portion of a reduction imposed under NJP beyond the imposing commander's authority to reduce is void and must be set aside; however, if a commander reduces a member below a grade to which the commander is authorized to reduce, and if the circumstances of the case indicate that the commander was authorized and intended to reduce the member at least one grade, a one-grade reduction may be approved.

5) Admonition and Reprimand. Admonitions or reprimands imposed on commissioned or warrant officers must be in writing. Admonitions or reprimands imposed on enlisted members may be administered orally or in writing. Written admonitions and reprimands imposed as a punishment may be included on the NGIL Form 60-R or may be written in memorandum format and listed as an attachment to the NGIL Form 60-R. Oral admonitions and reprimands shall be identified as such in item 4 of the NGIL Form 60-R.

c) Limitations on Punishments

1) Restriction. Restriction shall not be imposed on or served by members performing IDT. Restriction may be imposed and served only when the member is at an installation, camp or field-type duty away from home station, or under circumstances in which commuting home on a daily basis is not normally authorized.

2) Combination. All authorized punishments may be imposed in a single case in the maximum amounts, except that, when restriction and extra duties are combined, the combination may not exceed the maximum imposable for extra duties.

d) Announcement of Punishment. The results of NJP actions may be announced after punishment is imposed or, if appealed, after final decision on the appeal. The results of NJP proceedings may include a summary of the offense, rank of the offender, and the punishment imposed, but shall not include the offender's name or Social Security Number (SSN). The results may be announced orally at the next unit formation, may be posted on the unit bulletin board, or may be included in an appropriate newsletter or publication. The purpose of announcing punishments is to preclude the perception of unfairness of punishment and to deter similar misconduct by other members. However, an inconsistent or arbitrary policy regarding the announcement of punishments must be avoided, as that might result in the appearance of vindictiveness or favoritism.