**Section 400.1230 Records of Punishment**

a) NGIL Form 60-R: Record of Nonjudicial Punishment Proceedings. All NJP actions, including notification, election of rights, imposition of punishment, appeal, Staff Judge Advocate review, and action on appeal, shall be recorded on NGIL Form 60-R. After the SMF member indicates in item 5 that he or she does not appeal, or after completion of item 9 if the member appeals, a copy of the completed NGIL Form 60-R shall be given to the member. The original of the NGIL Form 60-R, with all attachments and supporting documents (see subsection (f)), shall then be mailed to the Office of the Adjutant General, ATTN: NGIL-JA, at the address specified in Section 400.1205(b)(4). The Office shall review the form for legal sufficiency, then shall distribute the form as indicated in subsections (a)(1) through (5).

1) For Army National Guard (ARNG) members, the original of the NGIL Form 60-R shall be filed in the member's Military Personnel Records Jacket (MPRJ). For Air National Guard (ANG) members, the original of NGIL Form 60-R shall be filed in the commander's Personnel Information File (PIF). These originals shall normally be destroyed by the custodian of the file at the end of 2 years from the date of imposition of punishment, unless:

A) the filing authority directs filing for either a shorter or longer period of time in accordance with applicable service regulations; or

B) the member has received an additional NJP in the interim. In the latter case, both NJP records shall be retained in the MPRJ or PIF and shall be destroyed at the end of 2 years from the latest date of imposition of punishment, or at the end of the time period determined by the commander in accordance with applicable service regulations.

2) One copy, with attachments and supporting documents, shall be filed with the NGIL-JA for one year from the date punishment was imposed, after which it shall be destroyed. NGIL-JA shall also forward a copy of the form to NGIL-HRO if the member is in an Active Guard Reserve (AGR) status.

3) One copy, with attachments, shall be permanently filed in the member's vault file (ARNG) or State 201 file (ANG).

4) If the punishment affects the member's pay (i.e., an unsuspended reduction in grade or forfeiture of pay), one copy of the NGIL Form 60-R shall be sent to the appropriate ARNG or ANG office that processes that member's military pay records.

5) If the punishment includes an unsuspended reduction in grade, one copy of the NGIL Form 60-R shall be sent to the appropriate reduction authority to process the reduction orders.

b) NGIL Form 61-R: Record of Supplementary Nonjudicial Punishment Action. All supplementary actions, except vacation of suspension, shall be recorded on NGIL Form 61-R. Supplementary action is any action taken by an appropriate authority to suspend, mitigate, remit or set aside a punishment after action has been taken on an appeal or the NGIL Form 60-R has been distributed according to subsection (a). After completion of item 1 on the NGIL Form 61-R, a copy of the completed form shall be given to the member. The original of the NGIL Form 61-R, with all attachments and supporting documents, shall then be mailed to the Office of the Adjutant General, ATT: NGIL-JA, at the address specified in Section 400.1205(b)(4). The Office shall review the form for legal sufficiency, then shall distribute the form as indicated in subsections (b)(1) through (5).

1) The original of the NGIL Form 61-R shall be filed in the MPRJ for ARNG members or in the commander's PIF for ANG. The NGIL Form 61-R shall be destroyed at the same time as the NGIL Form 60-R that it supplements.

2) One copy, with all attachments and supporting documents, shall be filed at NGIL-JA for one year from the date of the supplementary action, after which it shall be destroyed. NGIL-JA shall also forward a copy of the form to NGIL-HRO if the member is in an AGR status.

3) One copy, with attachments, shall be permanently filed in the member's vault file (ARNG) or State 201 file (ANG).

4) If the supplementary action affects the member's pay (e.g., set aside of a punishment), one copy of the NGIL Form 61-R and a copy of the initial NGIL Form 60-R shall be sent to the appropriate ARNG or ANG office that processes that member's military pay records.

5) If the supplementary action affects the member's grade (e.g., restoration to a higher grade), then one copy of the NGIL Form 61-R and a copy of the initial NGIL Form 60-R shall be forwarded to the appropriate promotion authority to process the order.

c) NGIL Form 62-R (Record of Vacation of Suspended Nonjudicial Punishment). Vacation of suspension proceedings shall be recorded on NGIL Form 62-R. After completion of item 4 on the NGIL Form 62-R, a copy of the completed form shall be given to the member. The original of the NGIL Form 62-R, with all attachments and supporting documents, shall then be mailed to the Office of the Adjutant General, ATTN: NGIL-JA, at the address specified in Section 400.1205(b)(4). The Office shall review the form for legal sufficiency, then shall distribute the form as indicated in subsections (c)(1) through (5).

1) The original of the NGIL Form 62-R shall be filed in the MPRJ for ARNG members or in the commander's PIF for ANG members. The NGIL Form 62-R shall be destroyed at the same time as the NGIL Form 60-R that it supplements.

2) One copy, with all attachments and supporting documents, shall be filed at NGIL-JA for one year from the date of the supplementary action, after which it shall be destroyed. NGIL-JA shall also forward a copy of the form to NGIL-HRO if the member is in an AGR status.

3) One copy, with attachments, shall be permanently filed in the member's vault file (ARNG) or State 201 file (ANG).

4) If the vacation action affects the member's pay (e.g., vacation of a suspended reduction), then one copy of the NGIL Form 62-R and a copy of the initial NGIL Form 60-R shall be sent to the appropriate ARNG or ANG office that processes that member's military pay records.

5) If the vacation action affects the member's grade, then one copy of the NGIL Form 62-R and a copy of the initial NGIL Form 60-R shall be forwarded to the appropriate reduction authority to process the order.

d) Set Aside Actions. All copies of NGIL Forms 60-R and 61-R reflecting NJP actions that are later set aside in their entirety shall be destroyed, except for the permanent copies filed in the member's vault file (ARNG) or State 201 file (ANG).

e) Effect of Errors. A NJP proceeding is not legally sufficient if it contains an error that materially prejudices a substantial right of the member. If such an error exists and cannot be remedied within the same proceeding, the appropriate NJP authority shall set aside the defective action. A new NJP action may be initiated for the same misconduct, but any punishment imposed as a result of the new proceeding may be no more severe than that originally imposed. If a material error exists and can be remedied within the same proceeding without prejudicing the member's rights, the commander shall notify the member of the error by endorsement to the form and thoroughly explain the correction to the record. The member shall sign an acknowledgement and may submit comments. The endorsement and acknowledgement shall become attachments to the form. Administrative or clerical errors, and minor errors that do not affect a substantial right of the member, do not require correction to make the proceedings legally sufficient. These errors may be corrected with pen-and-ink changes initialed by the commander and the member, as appropriate.

f) Contents of Record

1) The record of NJP consists of the NGIL Forms 60-R, 61-R and 62-R, as applicable, and any of their attachments. All attachments shall be annotated in item 11 of the NGIL Form 60-R or 62-R in item 7 and shall be sent to NGIL-JA with the record. Attachments include, at a minimum:

A) evidence (see Army Regulation 15-6 (Procedures for Investigating Officers and Boards of Officers)) and other written materials relied on by the imposing commander;

B) statements of offenses;

C) any memorandum of reprimand imposed as punishment;

D) change of commander notification;

E) endorsements correcting errors that required explanation; and

F) written materials considered as a basis for vacating a suspended punishment or submitted by the member in mitigation, extenuation, defense or on appeal.

2) Except for memoranda of reprimand imposed as punishment that shall be filed in the member's personnel file as part of the record, attachments shall be filed at NGIL-JA and shall not be filed in the member's personnel file.

g) Use of Record

1) Records of NJP proceedings may be used as directed by the Adjutant General or as authorized by applicable regulations. Attachments transmitted with the originals or copies of NGIL Forms 60-R, 61-R and 62-R, or when filed with any of these forms, shall be considered to be maintained separately for the purpose of determining the admissibility of the originals or copies of those forms at administrative proceedings.

2) A record of NJP, not otherwise inadmissible, may be admitted at administrative proceedings from any file in which it is properly maintained pursuant to this Subpart.