

Article 138

Complaint of Wrongs Against the Commanding Officer

What is a 138 complaint?

An Article 138 complaint is a formal complaint against a Commanding Officer. Any member of the Armed Forces who believes he/she has been wronged by his Commanding Officer and the Commanding Officer has refused redress, may complain to any supervisor commissioned officer, who forwards the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made.

Before a military may submit an Article 138 complaint, he/she must request, in writing, that the CO address the wrong. The CO must act upon this request for redress in a timely manner (ordinarily within 30 days) and notify the complainant in writing of the action taken. The Article 138 complaint may include a broad range of subjects but does not include issues covered by specific appellate authority (Mast, Old Evals/FITREPS).

What regulations/statutes apply to Article 138?

- UCMJ Article 138
- JAGMAN, Chapter 3, Complaint of Wrongs
- 10 U.S.C. § 938

Who can file an Article 138?

Any member of the armed forces who believes himself /herself wronged by his/her Commanding Officer may file an Article 138. A complaint may be filed against a single superior.

With whom can I file an Article 138 complaint?

An Article 138 may be made to any superior commissioned officer.

How much time do I have to file an Article 138 complaint?

The complainant has 90 days after the discovery of the alleged wrongdoing to file a complaint. If you do not file the complaint within this time period, your complaint may be denied solely because it was untimely filed.

Is there a time limit within which the Commanding Officer must respond to a complaint?

The CO must forward the complaint to the General Court Martial Authority (GCMA) within 10 days of receipt.

Can I withdraw a complaint once it's filed?

Yes, you may withdraw the complaint at any time. The withdrawal must be in writing and signed by the complainant. The letter is maintained in a file for 2 years from the date of withdrawal.