



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20350-1000

SECNAVINST 1120.9A
CMC (MPP-30)
25 OCT 1988

SECNAV INSTRUCTION 1120.9A

From: Secretary of the Navy

Subj: DESIGNATION OF OFFICERS OF THE REGULAR MARINE CORPS AND
MARINE CORPS RESERVE AS MARINE CORPS JUDGE ADVOCATES

Ref: (a) DoD Directive 1310.2 of 24 Mar 84 (NOTAL)
(b) DoD Directive 1205.14 of 24 May 74 (NOTAL)
(c) DoD Directive 1300.4 of 2 Apr 84 (NOTAL)
(d) DoD Directive 1205.5 of 16 May 80 (NOTAL)
(e) Title 10, U.S. Code
(f) DoD Directive 1312.3 of 22 Oct 85 (NOTAL)
(g) SECNAVINST 1000.7D
(h) SECNAVINST 1210.6A (NOTAL)
(i) SECNAVINST 1520.7D
(j) SECNAVINST 1427.2A
(k) SECNAVINST 1427.1A

Encl: (1) Definition of Terms

1. Purpose. To revise regulations governing the designation of unrestricted commissioned officers in the Regular Marine Corps and Marine Corps Reserve as judge advocates in the Marine Corps to include the following:

a. The qualifications required for a commissioned officer in the Marine Corps, appointed in the Regular component under reference (a), in the Reserve component under reference (b), or in either component through interservice transfer from another uniformed service under references (c) and (d), to be designated as a judge advocate;

b. The application process required to be designated as a judge advocate; and

c. The award of entry grade credit to judge advocates under sections 533 and 5600 of reference (e) and reference (f).

2. Cancellation. SECNAVINST 1120.9.

3. Applicability. Applies to all individuals designated as judge advocates in the Marine Corps following their appointment as Regular or Reserve unrestricted commissioned officers in the Marine Corps. This includes those officers who have been transferred into the Marine Corps from another uniformed service.

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Reserve officers transferred into the Regular component, and unrestricted commissioned officers in the Marine Corps designated from another skill into the judge advocate skill.

a. Additional guidance on the interservice transfer of officers from other uniformed services into the Marine Corps is found in reference (g).

b. Additional guidance on the transfer of Reserve officers into the Regular component is found in reference (h).

c. Additional guidance on the Law Education Program is found in reference (i).

R) 4. Policy. It is Department of the Navy policy to designate eligible Regular and Reserve officers in the Marine Corps as judge advocates to meet, within approved authorizations for officers in the competitive category of unrestricted officer, approved authorizations for qualified lawyers for the administration of military justice or other such requirements. This need will be reflected in the annual accession plan developed by the Commandant of the Marine Corps. To meet the Marine Corps' objective of having senior judge advocates with early career experience as judge advocates, designations will normally be made in the grades of captain and below.

5. Definitions. Definitions of terms used in this instruction are provided in enclosure (1).

6. Eligibility Requirements. To be eligible for designation as a Marine Corps judge advocate by the Judge Advocate General of the Navy, an individual must satisfy the following requirements:

R) a. Citizenship. Must be a citizen of the United States or, in the case of a Reserve officer, must meet the requirements of section 591(b) of reference (e).

b. Age. Must be able to complete 20 years of active commissioned service before his or her 55th birthday.

c. Moral character. Must be of high moral character and of unquestioned loyalty to the United States as determined by interview, investigation, or the individual's service record.

R) d. Physical standards. Must meet the physical standards for active service established by the Director, Naval Medicine, and approved by the Commandant of the Marine Corps. The Commandant of the Marine Corps, upon recommendation of the Commander, Naval Medical Command, may grant waivers for physical defects that will not interfere with performance of active duty.

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e. Status. Must be an unrestricted commissioned officer serving on the active-duty list or in an active status in the Marine Corps Reserve except as provided for in the Direct Commissioning Program as outlined in subparagraph 8b. (A

f. Grade. Must be serving in the grade of captain or below if entitled to constructive service credit. Must be serving in the grade of major or below if not entitled to constructive service credit.

g. Professional qualifications and certification. Must be certified by the Judge Advocate General of the Navy, upon the recommendation of the Commandant of the Marine Corps (JA), as qualified and competent to perform duties as trial and defense counsel of the general courts-martial of the Armed Forces of the United States. Such certification by the Judge Advocate General is dependent upon the following:

(1) Must have obtained a basic degree in law, i.e., Juris Doctor or Bachelor of Laws Degree, from a law school which at the time of graduation was approved by the American Bar Association (ABA) and must have been admitted to the practice of law before a Federal court or the highest court of a State, Territory, Commonwealth, or the District of Columbia; and

(2) For Regular and Reserve officers on the active-duty list, must have successfully completed the lawyer course at the Naval Justice School, Naval Education and Training Center, Newport, Rhode Island; or

(3) For Reserve officers not on the active-duty list, must have successfully completed the Department of the Navy's correspondence course entitled "Military Justice in the Navy" and the two week course for Reserve officers at the Naval Justice School, and must have completed two weeks of active duty in the office of the staff judge advocate at a major Navy or Marine Corps activity engaged in convening general courts-martial, which results in a favorable recommendation from the staff judge advocate.

(4) The Judge Advocate General, upon the written recommendation of the Commandant of the Marine Corps may, when in the best interests of the Marine Corps, waive the professional qualifications set forth in subparagraphs 6g(2)-(3). A copy of each requested waiver that is approved by the Judge Advocate General shall be maintained by the Commandant of the Marine Corps (JA).

h. Other. Must meet such additional eligibility requirements or criteria as may be prescribed by the Commandant of the Marine Corps or by the Secretary of the Navy.

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- A) i. Waiver. The Commandant of the Marine Corps, acting for the Secretary of the Navy, may waive the eligibility requirements set forth in subparagraphs 6b, 6e, 6f, or 6h above under the following circumstances:

(1) When a manning shortfall exists that cannot be filled by in-zone promotions under the annual five-year promotion plan;

(2) When extraordinary circumstances indicate such a waiver to be in the best interests of the service; or

(3) When a gross inequity to the applicant would otherwise result.

The Commandant of the Marine Corps (JA) shall keep written justification for each waiver so granted.

7. Application Process

a. Designation as a judge advocate in the Marine Corps is not automatic upon meeting the criteria set forth in paragraph 6. Such designation requires an application to the Commandant of the Marine Corps (JA) containing the following information:

(1) Name and location of all colleges, universities, and law schools attended, and the dates of graduation from each, the degrees awarded, and a complete transcript of all college and law school credits;

(2) Dates admitted to the bar of a Federal court or the highest court of a State, Territory, Commonwealth, or the District of Columbia;

(3) Date of graduation, or anticipated graduation, from The Basic School, Marine Corps Combat Development Center, Quantico, Virginia;

(4) Date of graduation, or anticipated graduation, from the Naval Justice School, Naval Education and Training Center, Newport, Rhode Island;

(5) Date of completion of the Department of the Navy's correspondence course "Military Justice in the Navy" (For Reserve officers not on active-duty list only); and

(6) Copies of documents providing the information required by paragraph 6, unless copies of these documents are currently contained in the individual's permanent personnel file maintained at Headquarters, U.S. Marine Corps.

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b. An applicant may be designated as a Marine Corps judge advocate only if: (1) recommended for designation as a judge advocate by the Commandant of the Marine Corps (JA); and (2) certified by the Judge Advocate General of the Navy as qualified and competent to perform duties as trial and defense counsel of the general courts-martial of the Armed Forces of the United States. The Judge Advocate General of the Navy, acting for the Secretary of the Navy, is authorized to designate qualified Marine Corps officers as judge advocates.

8. Entry Grade Credit (EGC). The entry grade and date of rank or promotion service credit in grade of a commissioned officer shall be determined by the entry grade credit awarded upon appointment as an unrestricted officer and subsequent designation as a judge advocate. The entry grade credit that is awarded shall be the sum of the prior commissioned service allowed and the amount of constructive service credit allowed as determined below. (R)

a. General

(1) A period of time shall be counted only once when computing constructive service credit and prior commissioned service credit.

(2) Entry grade credit shall be computed and credited to the maximum extent permissible in each case. Constructive service credit awarded, however, shall not exceed 36 months for the period beginning with the commencement of attendance at law school and ending on the date of graduation from law school. (R)

(3) Entry grade credit under this instruction shall only be awarded to individuals selected for designation as Marine Corps judge advocates who completed some portion of law school while not in a commissioned status above the grade of CW0-4. Entry grade credit under this instruction does not apply to: (1) Marine Corps officers selected for designation as judge advocates who completed all of the requirements for graduation from law school while serving as a commissioned officer in a grade above chief warrant officer, W-4; (2) interservice transfer of officers under references (c) and (d); and (3) transfer of a Reserve Marine Corps judge advocate into the Regular Marine Corps under reference (h).

(4) In order to ensure experience as a judge advocate prior to entering the career grades, the total amount of entry grade credit granted to an officer who is entitled to constructive service credit under paragraph 8 normally shall be limited to 8 years. The Assistant Secretary of the Navy (Manpower and Reserve Affairs (ASN(M&RA))) may waive this provision upon recommendation of the Commandant of the Marine Corps when: (1) approved authorizations for judge advocates

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above the grade of captain cannot be met by in-zone promotion under the annual five-year promotion plan and selective continuation in the Regular Marine Corps; or (2) there is a demonstrable need for the applicant's unique qualifications as a judge advocate. The Commandant of the Marine Corps (JA) shall retain each approved waiver.

R)

(5) Per reference (f), graduates of the service academies will not be awarded EGC for any service performed or education, training, or experience obtained before graduation from the academy concerned.

b. Direct Commissioning Program. A person who is to be appointed as a Reserve commissioned officer in a grade above chief warrant officer, w-4, and designated as a judge advocate but who is not serving as, nor has previously served as a commissioned officer in a grade above chief warrant officer, W-4, in any Armed Force of the United States, shall be credited upon appointment as a Reserve commissioned officer and designation as a judge advocate with three years of constructive service credit, which shall be applied under subparagraph 10b.

c. Platoon Leaders Class (Law) Program, Officer Candidate (Law) Program, Law Education Program, and Excess Leave Program. An officer commissioned through other than the Direct Commissioning Program, such as through the Platoon Leaders Class (Law) Program or Officer Candidate (Law) Program or an officer participating in the Law Education Program or Excess Leave Program shall be granted Entry Grade Credit only if entitled to constructive service credit under subparagraph 8c(1) or 8c(2).

R)

(1) The amount of constructive service credit to be credited to an officer (other than an officer to whom subparagraph 8c(2) applies) who was selected for designation as a judge advocate in the Marine Corps shall be determined by the Commandant of the Marine Corps (JA) per the following formula:

(a) The number of hours which are credited toward graduation under the requirements of the law school attended while the individual was not a commissioned officer on active duty or in an active status serving in a grade above CW0-4 will be divided by the number of hours required by the school for graduation, and the quotient will be multiplied by three.

(b) The product obtained in subparagraph 8c(1) (a) will be rounded off to a tenth of a whole number. In rounding off, a decimal fraction which is larger than a tenth and which ends in a number of five or more will numerically advance the fraction to the next higher decimal fraction.

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(c) The whole number of the product obtained in subparagraph 8c(1)(a), is the number of calendar years of service credit.

(d) The decimal fraction of the product, as rounded off in subparagraph 8c(1)(b), will be multiplied by 12, and any decimal fraction resulting therefrom will numerically advance this new product one whole number.

(e) The whole number obtained in subparagraph 8c(1)(d) is the number of calendar months of service credit.

(2) An individual who was initially appointed as a Marine Corps Reserve officer in the Officer Candidate (Law) Program after graduation from law school shall be credited upon designation as a judge advocate with: (1) one day of credit for each day of prior service as a commissioned officer (other than as a commissioned warrant officer) that was performed prior to law school as a Regular officer on active duty or a Reserve officer on active duty or in an active status in any Armed Force of the United States (Prior Commissioned Service Credit), plus (2) 36 months of constructive service credit that shall be applied pursuant to subparagraph 10b.

(3) An individual who was initially appointed as a Marine Corps Reserve officer in the Officer Candidate (Law) Program or Platoon Leaders Class (Law) Program before graduation from law school shall be credited upon designation as a judge advocate with: (1) one day of credit for each day of prior service as a commissioned officer (other than as a commissioned warrant officer) that was performed as a Regular officer on active duty, or as a Reserve officer on active duty or in an active status, in any Armed Force of the United States (Prior Commissioned Service Credit), plus (2) constructive service credit computed under subparagraph 8c(1), which shall be applied under subparagraph 10b.

(4) A Regular officer who participated in the Law Education Program or the Excess Leave Program, and who is entitled to constructive service credit under paragraph 8c(1), shall be credited with: (1) one day of credit for each day of prior active commissioned service (other than service as a commissioned warrant officer) plus (2) constructive service credit computed under subparagraph 8c(1), which shall be applied under subparagraph 10b. (R)

(5) A Reserve officer who participated in the Law Education Program or the Excess Leave Program, and who is entitled to constructive service credit under subparagraph 8c(1), shall be credited with: (1) one day of credit for each day of prior service as a commissioned officer (other than service as a commissioned warrant officer) that was performed as a Regular officer on active duty, or as a Reserve officer on active duty or in an active status, in any Armed Force of the United States (Prior (R)

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Commissioned Service Credit); plus (2) constructive service credit computed under subparagraph 8c(1), which shall be applied under subparagraph 10b.

R) (6) An officer appointed as a Regular officer who is commissioned through a program other than the Direct Commissioning Program, Platoon Leaders Class (Law) Program, or Officer Candidate (Law) Program, and who is not a participant in the Excess Leave Program or the Law Education Program, shall be credited upon designation as a judge advocate with: (1) one day of credit for each day of prior active commissioned service (other than as a commissioned warrant officer) (Prior Commissioned Service Credit) plus (2) constructive service credit computed under subparagraph 8c(1), which shall be applied under subparagraph 10b.

(7) An officer appointed as a Reserve officer under sections 591-593 of reference (e) who is commissioned through a program other than the Direct Commissioning Program, Platoon Leaders Class (Law) Program, or Officer Candidate (Law) Program, and who is not a participant in the Law Education Program or the Excess Leave Program, shall be credited upon designation as a judge advocate with: (1) one day of credit for each day of prior service as a commissioned officer (other than service as a commissioned warrant officer) that was performed as a Regular officer on active duty, or as a Reserve officer on active duty or in an active status, in any Armed Force of the United States (Prior Commissioned Service Credit), plus (2) constructive service credit computed under subparagraph 8c(1), which shall be applied under subparagraph 10b.

9. Transition Provision. An individual who has accepted an appointment in or otherwise commenced participation prior to 15 September 1981 in the Platoon Leaders Class (Law) Program, Officer Candidate (Law) Program, Law Education Program or Excess Leave Program, leading to designation as a judge advocate, but who does not satisfy the professional qualifications for certification as a judge advocate until after 15 September 1981 shall receive Entry Grade Credit equivalent to the years of service to which that individual was entitled under the laws and regulations in effect prior to 15 September 1981. The individual's entry grade and date of rank shall be determined per this instruction. There shall be no retroactive changes made as a result of this instruction to the number of years of credit previously granted to officers designated as judge advocates prior to 15 September 1981.

10. Designation as a Judge Advocate

a. An applicant selected for designation as a judge advocate, serving in the grade of major or below and not entitled to entry grade credit under paragraph 8 shall be designated as a judge advocate by the Judge Advocate General of the Navy, acting for the Secretary of the Navy. The designation of the officer does not change the grade, date of rank, service in grade for promotion

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eligibility, position on the active-duty list or Reserve officer precedence list, or position on a promotion list, as appropriate, of the officer concerned.

b. An applicant who is selected for designation as a judge advocate, and who is entitled to entry grade credit under paragraph 8, shall be designated as a judge advocate by the Judge Advocate General of the Navy, acting for the Secretary of the Navy. This officer shall be placed on the active-duty list in the same grade and with the same date of rank as the junior unrestricted officer on the active-duty list of the Marine Corps who:

(1) Was originally appointed as an unrestricted officer in the Marine Corps in the grade of second lieutenant with no prior commissioned service;

(2) Has been on active duty continuously since appointment in the Marine Corps;

(3) Was promoted under reference (e), in due course to all grades in which served;

(4) Has not lost numbers or precedence on the lineal list or active-duty list; and

(5) Has, on the date of applicant's appointment active commissioned service which is equal to the applicant's entry grade credit computed under paragraph 8;

(6) Provided that, if there is no such officer described in subparagraphs 10b(1)-(5), the applicant shall have the grade and date of rank that most closely approximates those of such an officer if one existed.

c. If the selectee receives a superseding appointment in the same grade with a different date of rank or in a higher grade at the time of designation as a judge advocate and is retained on, or ordered to, active duty (other than active duty as a Reserve officer as described in section 641(1) of reference (e)), the selectee shall be placed on the active-duty list per reference (j).

d. If the selectee receives a superseding appointment as a Marine Corps Reserve officer in the same grade with a different date of rank or in a higher grade at the time of designation as a judge advocate and is not subject to placement on the active-duty list, the selectee shall be assigned a running mate per reference (k).

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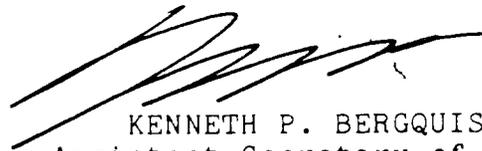
e. The date of rank of a Reserve officer designated as a judge advocate who has not been on continuous active duty since original appointment as a Reserve officer above the grade of CW0-4 may, upon the officer's assignment to active-duty and placement on the active-duty list, be adjusted to a date which appropriately reflects the qualifications and level of experience attained and maintained as a judge advocate. This adjustment shall be made as provided in reference (j).

11. Responsibilities

a. The Commandant of the Marine Corps is responsible for:

- (1) Establishment of the annual accession plan;
- (2) Procurement of officers with a view to designating them as judge advocates; and
- (3) Calculation and approval of entry grade credit and establishment of entry grades and dates of rank of judge advocates in compliance with the guidelines of this instruction.

b. The Judge Advocate General of the Navy is responsible for certifying professional qualifications and designating officers of the Marine Corps as judge advocates.



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DEFINITION OF TERMS

1. Active Commissioned Service. Service on active duty as a commissioned officer or commissioned warrant officer. (R)
2. Active Duty. Full-time duty in the active military service of the United States. It includes duty on the active-duty list; active military service to pursue special work; active military service in connection with organizing, administering, recruiting, instructing, or training the Marine Corps Reserve; full-time training duty; annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the Navy. (R)
3. Active-Duty List. The list, required to be maintained by the Secretary of the Navy under section 620 of reference (e), of all officers on active duty in the Marine Corps, except those officers described in section 641 of reference (e). Those officers excluded from the active-duty list include Reserve officers on active duty for training; Reserve officers on active duty to pursue special work; Reserve officers on active duty in connection with organizing, administering, recruiting, instructing, or training the Marine Corps Reserve; warrant officers on active duty; retired officers on active duty; and other categories of officers described in section 641 of reference (e). (R)
4. Active Status. The status of a Reserve commissioned officer, other than a commissioned warrant officer, who is on active duty, a member of the Ready Reserve, or a member of the Standby Reserve not on the Inactive Status List. (R)
5. Constructive Service Credit. Credit for advanced education, training, or special experience which is counted as commissioned service for the purpose of determining an individual's entry grade, date of rank, and rank in grade. (R)
6. Direct Commissioning Program. A program in which an individual who is not a commissioned officer, but who has completed law school and been admitted to the practice of law before the bar of an appropriate court, applies for appointment as a Marine Corps officer and designation as a judge advocate without precommissioning training.
7. Due course. A description of an officer below the grade of brigadier general who has been on continuous active duty since appointment as a second lieutenant, and who has neither failed of selection for promotion nor been selected for promotion as an officer below the promotion zone.

Enclosure (1)

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- A) 8. Entry Grade Credit (EGC). The sum of constructive service credit and prior commissioned service credit.
9. Excess Leave Program. A program in which a Regular or Reserve officer is granted excess leave under section 502(b) of title 37, United States Code, for the purpose of obtaining a basic law degree or a combination law/masters of business administration degree and being designated as a judge advocate.
- A) 10. Law Education Program. A program, outlined in reference (i), in which a small number of career-oriented unrestricted officers in the Marine Corps may be detailed annually to accredited law schools for the purpose of obtaining law degrees and returning to the Marine Corps as career judge advocates. Also known as the Funded Law Education Program.
11. Officer Candidate (Law) Program. A program in which an individual who is enrolled in the final year of law school or has completed law school may be designated as a judge advocate after graduation from a law school accredited by the American Bar Association, admittance to the practice of law before the bar of an appropriate court, satisfactory completion of precommissioning training, and appointment as a Reserve commissioned officer.
12. Prior Commissioned Service Credit. Credit granted for prior service as a commissioned officer (other than as a commissioned warrant officer) on active duty or in an active status.
13. Platoon Leaders Class (Law) Program. A program in which: (1) members of the Platoon Leaders Class (PLC) program who are registered for their final year of college and have made application for acceptance at a law school accredited by the American Bar Association; or (2) students accepted for enrollment or currently enrolled in a law school accredited by the American Bar Association as a first or second year law student may upon attainment of the requisite qualifications, be designated as a judge advocate following successful completion of precommissioning training and acceptance of a Reserve commission.
- R) 14. Ready Reserve. As stated in section 268 of reference (e), units or members, or both, of the Marine Corps Reserve that are liable for active duty in time of national emergency declared by the President, in time of war or national emergency declared by Congress, or when otherwise authorized by law. The Ready Reserve includes the Selected Marine Corps Reserve (SMCR) and the Individual Ready Reserve (IRR).
- A) 15. Regular Officer. An officer of the Regular Marine Corps on the active-duty list serving under a permanent appointment in a grade above chief warrant officer, W-4.

Enclosure (1)

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16. Reserve Officer. An officer of the Marine Corps Reserve who holds a permanent appointment in a grade above chief warrant officer, W-4.

17. Skill. A military occupational specialty (MOS), an occupational field, or a grouping of occupational fields. (A

18. Standby Reserve. As stated in section 273 of reference (e), units or members, or both, of the Marine Corps Reserve, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided in sections 672 and 674 of reference (e). (A

19. Uniformed Service. The United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service, and any Reserve component thereof.

20. Unrestricted Officer. An officer of the Regular Marine Corps or the Marine Corps Reserve who holds a permanent appointment in a grade above chief warrant officer, W-4, and is not restricted in the performance of his or her duties.

Enclosure (1)