



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

SECNAVINST 1120.9B
ASN (M&RA)
10 OCT 2018

SECNAV INSTRUCTION 1120.9B

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 Instruction 1310.02 of 26 March 2015
(b) DoD Instruction 1300.4 of 25 July 2017
(c) DoD Directive 1205.5 of 22 April 2004
(d) 10 U.S.C. §§533, 12201-12203, 641 (1)
(e) DoD Instruction 1312.03 of 22 November 2013
(f) SECNAVINST 1000.7 (Series)
(g) MCO 1001.65
(h) SECNAVINST 1520.7 (Series)
(i) MCO P1400.31C
(j) SECNAVINST 5430.27 (Series)

Encl: (1) Entry Grade Credit and Designation as a Judge Advocate
(2) Definitions of Terms

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

a. The qualifications required for a commissioned officer in the Marine Corps, appointed in the Regular or Reserve component under reference (a), or in either component through interservice transfer from another uniformed Service under references (b) and (c), 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 section 533 of reference (d) and 1(b) of reference (e), enclosure (1).

2. Cancellation. SECNAVINST 1120.9A.

3. Definitions. Definitions of terms used in this instruction are provided in enclosure (2).

4. 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, 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 (f).

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

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

5. Policy. It is Department of the Navy (DON) 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 (CMC). 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.

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:

a. Citizenship. Must be a citizen of the United States or, in the case of a Reserve officer, must meet the requirements of section 12201 of reference (d);

b. Age. Must be able to complete 20 years of active service, of which at least 10 years must be as a commissioned officer, before his or her 62nd birthday in order to retire as an officer;

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;

d. Physical standards. Must meet the physical standards for active service established by the Under Secretary of Defense for Personnel and Readiness, and approved by the CMC. The CMC, upon recommendation of the Chief, Bureau of Medicine and Surgery, may grant waivers for physical defects that will not interfere with performance of active duty;

e. Status. Must be an unrestricted commissioned officer serving on the active-duty list or in an active status in the Marine Corps Reserve;

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, and

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

(1) Must have obtained a Juris Doctor from a law school that 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) Must have successfully completed the Basic Lawyer Course at the Naval Justice School, Naval Education and Training Center, Newport, Rhode Island.

(3) Upon the written recommendation of the SJA to CMC, the Judge Advocate General may, when in the best interests of the Marine Corps, waive the professional qualifications set forth in subparagraph 6g(2). A copy of each requested waiver that is approved by the Judge Advocate General shall be maintained by SJA to CMC.

h. Other. Must meet such additional eligibility requirements or criteria as prescribed by the CMC or by the Secretary of the Navy (SECNAV).

i. Waiver. The CMC, acting for the SECNAV, 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.

(4) The SJA to CMC shall keep written justification for each waiver so granted.

7. Eligibility for Designation as a Judge Advocate. Designation as a Judge Advocate in the Marine Corps requires:

a. Meeting the requirements set forth in paragraph 7;

b. Recommendation for designation as a judge advocate by SJA to CMC; and

c. Certification by the Judge Advocate General of the Navy as qualified and competent to perform duties as trial and defense counsel of general courts-martial of the Armed Forces of the United States.

8. Responsibilities

a. The CMC is responsible for:

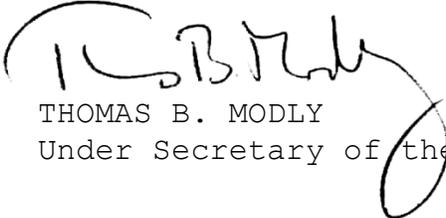
- (1) Establishment of the annual accession plan;
- (2) Procurement of officers with a view to designating them as Judge Advocates; and
- (3) Calculation and approval of entry grade credit and establishment of entry grades and dates of rank of Judge Advocates in compliance with the guidelines of this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

9. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page:
<https://portal.secnav.navy.mil/orgs/DUSM/DONAA/DRM/SitePages/Home.aspx>.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local Records Manager of the DRMD program office.


THOMAS B. MODLY
Under Secretary of the Navy

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Entry Grade Credit and Designation as a Judge Advocate

1. 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 EGC awarded upon appointment as an unrestricted officer and subsequent designation as a Judge Advocate. The EGC that is awarded shall be the sum of the prior commissioned service allowed and the amount of constructive service credit allowed as determined below.

a. General

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

(2) EGC shall be computed and credited to the maximum extent permissible in each case. Constructive service credit, 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.

(3) EGC 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 Chief Warrant Officer, CWO-5. EGC 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, CWO-5; (2) interservice transfer of officers under references (b) and (c); and (3) transfer of a Reserve Marine Corps Judge Advocate into the Regular Marine Corps under reference (g).

(4) In order to ensure experience as a Judge Advocate prior to entering the career grades, the total amount of EGC granted to an officer who is entitled to constructive service credit under paragraph 1 normally shall be limited to eight years. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) may waive this provision upon recommendation of the SJA to CMC when: (1) approved authorizations for Judge Advocates 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 SJA to CMC shall retain each approved waiver.

(5) Per reference (e), 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. Platoon Leaders Class (Law) Program, Officer Candidate (Law) Program, Law Education Program, and Excess Leave Program. An officer commissioned 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 EGC only if entitled to constructive service credit. The amount of constructive service credit to be credited to an officer (other than an officer to whom paragraph 1c(1) applies) who was selected for designation as a Judge Advocate in the Marine Corps shall be the number of months from the period beginning with the commencement of attendance at law school until the individual is commissioned as an officer on active duty or in an active status serving in a grade above Chief Warrant Officer, CWO-5.

(1) 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 as a Reserve officer on active duty or in an active status in any Armed Forces branch of the United States (Prior Commissioned Service Credit), plus (2) 36 months of constructive service credit, which shall be applied under paragraph 2b.

(2) 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 Forces branch of the United States (Prior Commissioned Service Credit), plus (2) constructive service credit computed under paragraph 1c, which shall be applied under paragraph 2b.

(3) 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 1c(1), shall be credited 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 paragraph 1c, which shall be applied under paragraph 2b.

(4) A Reserve officer who participated in the Law Education Program or the Excess Leave Program shall be credited 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 Forces branch of the United States, plus (2) constructive service credit computed under paragraph 1c, which shall be applied under paragraph 2b.

c. An officer appointed as a Regular officer who is commissioned through a program other than 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 paragraph 1c, which shall be applied under paragraph 2b.

d. An officer appointed as a Reserve officer under sections 12201-12203 of reference (d) who is commissioned through a program other than the 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 Forces branch of the United States (Prior Commissioned Service Credit), plus (2) constructive service credit computed under paragraph 1c, which shall be applied under subparagraph 2b.

2. Designation as a Judge Advocate

a. An applicant approved for designation as a Judge Advocate, serving in the grade of major or below and not entitled to EGC under paragraph 1, shall be designated as a judge advocate by the Judge Advocate General of the Navy, acting for the SECNAV. The designation of the officer does not change the grade, date of rank, service in grade for promotion 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 1, shall be designated as a Judge Advocate by the Judge Advocate General of the Navy, acting for the SECNAV. This officer shall have their date of initial commissioning adjusted, pursuant to paragraph 1(b), 1(c), 1(d), or 1(e) and be correspondingly advanced on the lineal list.

c. If the applicant 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 (d)), the applicant shall be placed on the active-duty list per reference (i).

d. If the applicant 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 applicant shall be assigned a running mate per reference (j).

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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 Chief Warrant Officer, CWO-5 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 (i).

DEFINITION OF TERMS

1. 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.
2. Entry Grade Credit (EGC). The sum of constructive service credit and prior commissioned service credit.
3. 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 and being designated as a Judge Advocate.
4. Law Education Program. A program, outlined in reference (h), 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.
5. 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 (ABA), admittance to the practice of law before the bar of an appropriate court, satisfactory completion of pre-commissioning training, and appointment as a Reserve commissioned officer.
6. 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.
7. Platoon Leaders Class (Law) Program. A program in which:
(1) members of the Platoon Leaders Class program who are registered for their final year of college and have made application for acceptance at a law school accredited by the ABA; or (2) students accepted for enrollment or currently enrolled in a law school accredited by the ABA as a first or second year law student may upon attainment of the requisite

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qualifications, be designated as a Judge Advocate following successful completion of pre-commissioning training and acceptance of a Reserve commission.

8. Skill. A Military Occupational Specialty, an occupational field, or a grouping of occupational fields.