

permission to engage in the part-time outside practice of law, and will contain the request, complaint, reports of investigation, related correspondence, and allied papers.

(b) Requests for access to such records should be referred to DAJAG (Administrative Law Division), Office of the Judge Advocate General, 200 Stovall Street, Alexandria, Virginia 22332-2400.

(c) Local command files regarding complaints will not be maintained. Commanding officers and other supervisory personnel may, however, maintain their own personal files but must not share their contents with others.

**§ 776.13 Preamble.**

(a) *Rules of Professional Conduct.* (1) A judge advocate in the naval service is a representative of clients, an officer of the legal system, a commissioned officer, and a public citizen who has a special responsibility for the quality of justice and legal services provided to the Department of the Navy and to individual clients. The Rules of Professional Conduct set out in subpart B of this part govern the ethical conduct of naval judge advocates practicing under the Uniform Code of Military Justice, the Manual for Courts-Martial, 10 U.S.C. 1044 (Legal Assistance), other laws of the United States, and regulations of the Department of the Navy.

(2) The rules in subpart B of this part are specifically addressed to the conduct of judge advocates but apply to all other lawyers who practice under the supervision of the Judge Advocate General of the Navy. (Use of the term “judge advocate” in subpart B applies to all lawyers unless otherwise indicated.)

(b) [Reserved]

**§ 776.14 Premises.**

(a) The rules in subpart B of this part are based on the premises that follow. The interpretation of subpart B of this part should flow from their common meaning and the comments. To the extent that any ambiguity or conflict exists, subpart B of this part should be interpreted consistent with this hierarchy of premises.

(1) Judge advocates must obey the law and military regulations, and counsel clients to do so.

(2) Ethical rules must be followed.

(3) Ethical rules should be consistent with law. If law and ethics conflict, the law prevails unless an ethical rule is constitutionally based.

(4) A judge advocate must protect the legal rights and interests of clients, organizational and individual.

(5) The military criminal justice system is a truth-finding process consistent with constitutional law.

(6) A judge advocate must be honest and truthful in all dealings.

(7) A judge advocate shall not derive personal gain, other than from the U.S. Government, from the performance of official duties.

(8) A judge advocate shall maintain the integrity of the legal and military professions.

(b) [Reserved]

**Subpart B—Rules**

**§ 776.20 Competence.**

(a) *Competence.* A judge advocate shall provide competent, diligent, and prompt representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and expeditious preparation reasonably necessary for representation. Initial determinations as to competence of a judge advocate for a particular assignment shall be made by a supervising judge advocate before case or issue assignments; however, assigned judge advocates may consult with supervisors concerning competence in a particular case.

(b) [Reserved]

**§ 776.21 Establishment and scope of representation.**

(a) *Establishment and scope of representation.* (1) Formation of attorney-client relationships by judge advocates with, and representation of, clients is permissible only when the judge advocate is authorized to do so by competent authority.

(2) The subject matter scope of a judge advocate’s representation will be

consistent with the terms of the assignment to perform specific representational or advisory duties. A judge advocate shall inform clients at the earliest opportunity of any limitations of representation and professional responsibilities of the judge advocate towards the client.

(3) A judge advocate shall follow the client's well-informed and lawful decisions concerning case objectives, choice of counsel, forum, pleas, whether to testify, and settlements.

(4) A judge advocate's representation of a client does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(5) A judge advocate shall not counsel or assist a client to engage in conduct that the judge advocate knows is criminal or fraudulent, but a judge advocate may discuss the legal and moral consequences of any proposed course of conduct with a client, and may counsel or assist a client in making a good faith effort to determine the validity, scope, meaning, or application of the law.

(b) [Reserved]

**§ 776.22 Diligence.**

(a) *Diligence.* A judge advocate shall act with reasonable diligence and promptness in representing a client, and in every case shall consult with a client as soon as practicable and as often as necessary upon being assigned to the case or issue.

(b) [Reserved]

**§ 776.23 Communication.**

(a) *Communication.* (1) A judge advocate shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(2) A judge advocate shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(b) [Reserved]

**§ 776.24 Fees.**

In this section, the term "judge advocate" refers only to judge advocates and other attorneys employed by the Department of the Navy. The term

"lawyer" refers to all other lawyers subject to this subpart B.

(a) *Fees.* (1) A judge advocate shall not accept any salary, fee, compensation, or other payments or benefits, directly or indirectly, other than government compensation, for services provided in the course of the judge advocate's government duties or employment.

(2) A judge advocate shall not accept any salary or other payments as compensation for legal services rendered, by that judge advocate in a private capacity, to a client who is eligible for assistance under the Department of the Navy Legal Assistance Program, unless so authorized by the Judge Advocate General. This paragraph (a)(2) does not apply to Reserve judge advocates not serving on extended active duty.

(3) A Reserve judge advocate, whether or not serving on extended active duty, who has initially represented or interviewed a client or prospective client concerning a matter as part of the judge advocate's official Navy or Marine Corps duties, shall not accept any salary or other payments as compensation for services rendered to that client in a private capacity concerning the same general matter for which the client was seen in an official capacity, unless authorized by the Judge Advocate General to do so.

(4) A judge advocate shall not accept any payments or benefits, actual or constructive, directly or indirectly, for making a referral of a client.

(5) Lawyers not employed by the Federal Government may charge fees. Fees shall be reasonable. Factors considered in determining the reasonableness of a fee include the following:

(i) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(ii) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(iii) The fee customarily charged in the locality for similar legal services;

(iv) The amount involved and the results obtained;

(v) The time limitations imposed by the client or by the circumstances;