

§ 776.42 Fairness to opposing party and counsel.

(a) *Fairness to opposing party and counsel.* (1) A judge advocate shall not:

(i) Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value; a judge advocate shall not counsel or assist another person to do any such act;

(ii) Falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(iii) In pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(iv) In trial, allude to any matter that the judge advocate does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused; or

(v) Request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(A) The person is a relative, an employee, or other agent of a client; and

(B) The judge advocate reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

(2) [Reserved]

(b) [Reserved]

§ 776.43 Impartiality and decorum of the tribunal.

(a) *Impartiality and decorum the tribunal.* (1) A judge advocate shall not:

(i) Seek to influence a judge, court member, member of a tribunal, prospective court member or member of a tribunal, or other official by means prohibited by law or regulation;

(ii) Communicate ex parte with such a person except as permitted by law or regulation; or

(iii) Engage in conduct intended to disrupt a tribunal.

(2) [Reserved]

(b) [Reserved]

§ 776.44 Extra-tribunal statements.

(a) *Extra-tribunal statements.* (1) A judge advocate shall not make an extrajudicial statement about any person or case pending investigation or adverse administrative or disciplinary proceedings that a reasonable person would expect to be disseminated by means of public communication if the judge advocate knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding or an official review process thereof.

(2) A statement referred to in paragraph (a) of this section ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter or any other proceeding that could result in incarceration, discharge from the naval service, or other adverse personnel action, and the statement relates to:

(i) The character, credibility, reputation, or criminal record of a party, suspect in a criminal investigation, or witness, or the identity of a witness, or the expected testimony of a party or witness;

(ii) The possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by an accused or suspect or that person's refusal or failure to make a statement;

(iii) The performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(iv) Any opinion as to the guilt or innocence of an accused or suspect in a criminal case or other proceeding that could result in incarceration, discharge from the naval service, or other adverse personnel action;

(v) Information the judge advocate knows or reasonably should know is likely to be inadmissible as evidence before a tribunal and would, if disclosed, create a substantial risk of materially prejudicing an impartial proceeding;

(vi) The fact that an accused has been charged with a crime, unless there