

**§ 776.53 Responsibilities of a subordinate judge advocate.**

(a) *Responsibilities of a subordinate judge advocate.* (1) A judge advocate is bound by this subpart notwithstanding that the judge advocate acted at the direction of another person.

(2) In recognition of a judge advocate's unique dual role as a commissioned officer and lawyer, subordinate judge advocates shall obey lawful directives and regulations of supervisory judge advocates when not inconsistent with this subpart or the duty of a judge advocate to exercise independent professional judgment as to the best interest of an individual client.

(3) A subordinate judge advocate does not violate this subpart if that judge advocate acts in accordance with a supervisory judge advocate's written and reasonable resolution of an arguable question of professional duty.

(b) [Reserved]

**§ 776.54 Responsibilities regarding nonlawyer assistants.**

(a) *Responsibilities regarding nonlawyer assistants*

(1) With respect to a nonlawyer under the authority, supervision, or direction of a judge advocate:

(i) The senior supervisory judge advocate in an office shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the judge advocate;

(ii) A judge advocate having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the judge advocate; and

(iii) A judge advocate shall be responsible for conduct of such a person that would be a violation of this subpart B if engaged in by a judge advocate if:

(A) The judge advocate orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(B) The judge advocate has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(2) [Reserved]

(b) [Reserved]

**§ 776.55 Professional independence of a judge advocate.**

(a) *Professional independence of a judge advocate.* (1) Notwithstanding a judge advocate's status as a commissioned officer subject, generally, to the authority of superiors, a judge advocate detailed or assigned to represent an individual member or employee of the Department of the Navy is expected to exercise unfettered loyalty and professional independence during the representation consistent with this subpart and remains ultimately responsible for acting in the best interest of the individual client.

(2) The exercise of professional judgment in accordance with paragraph (a)(1) of this section shall not, standing alone, be a basis for an adverse evaluation or other prejudicial action.

(b) [Reserved]

**§ 776.56 Unauthorized practice of law.**

(a) *Unauthorized practice of law.* (1) A judge advocate shall not:

(i) Except as authorized by an appropriate military department, practice law in a jurisdiction where doing so is prohibited by the regulations of the legal profession in that jurisdiction; or

(ii) Assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

(2) [Reserved]

(b) [Reserved]

**§§ 776.57–776.65 [Reserved]****§ 776.66 Bar admission and disciplinary matters.**

(a) *Bar admission and disciplinary matters.* (1) A judge advocate in connection with a bar admission application, application for appointment or for active duty as a judge advocate, certification by the Judge Advocate General, or a disciplinary matter, shall not:

(i) Knowingly make a false statement of fact; or

(ii) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority,

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except that this section does not require disclosure of information otherwise protected by § 776.25.

- (2) [Reserved]
- (b) [Reserved]

**§ 776.67 Judicial and legal officials.**

A judge advocate shall not make a statement that the judge advocate knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, investigating officer, hearing officer, adjudicatory officer, or public legal officer, or of a candidate for election or appointment to judicial or legal office.

**§ 776.68 Reporting professional misconduct.**

(a) *Reporting professional misconduct.*

(1) A judge advocate having knowledge that another judge advocate has committed a violation of this subpart that raises a substantial question as to that judge advocate's honesty, trustworthiness, or fitness as a judge advocate in other respects, shall report such a violation pursuant to regulations promulgated by the Judge Advocate General.

(2) A judge advocate having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall report such a violation pursuant to regulations promulgated by the Judge Advocate General.

(3) This section does not require disclosure of information otherwise protected by § 776.25.

- (b) [Reserved]

**§ 776.69 Misconduct.**

(a) *Misconduct.* (1) It is professional misconduct for a judge advocate to:

- (i) Violate or attempt to violate this subpart, knowingly assist or induce another to do so, or do so through the acts of another;
- (ii) Commit a criminal act that reflects adversely on the judge advocate's honesty, trustworthiness, or fitness as a judge advocate in other respects;
- (iii) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(iv) Engage in conduct that is prejudicial to the administration of justice;

(v) State or imply an ability to influence improperly a government agency or official; or

(vi) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

- (2) [Reserved]
- (b) [Reserved]

**§ 776.70 Jurisdiction.**

Judge advocates shall be governed by this part.

**§§ 776.71–776.75 [Reserved]**

**Subpart C—Complaint Processing Procedures**

**§ 776.76 Policy.**

(a) It is JAG's policy to expeditiously and fairly investigate and resolve all allegations of professional impropriety lodged against attorneys under JAG supervision. (As used hereinafter, the term "judge advocates" refers to all attorneys under JAG supervision.)

(b) JAG approval will be obtained through the Rules Counsel before conducting any formal investigation or preliminary inquiry into an alleged violation of subpart B or the Code of Judicial Conduct. The preliminary inquiry and subsequent investigation will be conducted according to the procedures set forth in this part.

**§ 776.77 Related investigations and actions.**

Acts or omissions may constitute professional misconduct, criminal misconduct, or poor performance of duty. Care must be taken to distinguish among the different aspects of a judge advocate's conduct to determine who may take official action.

(a) Legal ethics and questions involving the professional misconduct of judge advocates are within the exclusive province of JAG. Ethical or professional misconduct will not be attributed to any judge advocate in any official record without a final JAG determination, made under this part, that such misconduct has occurred.