

**48-2505. (KCMJ Art. 27) Detail of trial counsel and defense counsel.** (a) (1) Trial counsel and defense counsel shall be detailed for each general and special court-martial. Assistant trial counsel and assistant and associate defense counsel may be detailed for each general and special court-martial. The governor shall prescribe regulations providing for the manner in which counsel are detailed for such courts-martial and for the persons who are authorized to detail counsel for such courts-martial.

(2) No person who has acted as investigating officer, military judge or court member in any case may act later as trial counsel, assistant trial counsel or, unless expressly requested by the accused, as defense counsel or assistant or associate defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(b) Trial counsel or defense counsel detailed for a general court-martial:

(1) Must be a judge advocate who is a graduate of an accredited law school or is a member of the bar of the highest court of a state; and

(2) must be certified as competent to perform such duties by the judge advocate general of the state military forces.

(c) In the case of a special court-martial:

(1) The accused shall be afforded the opportunity to be represented at the trial by counsel having the qualifications prescribed under subsection (b) unless counsel having such qualifications cannot be obtained on account of physical conditions or military exigencies. If counsel having such qualifications cannot be obtained, the court may be convened and the trial held, but the convening authority shall make a detailed written statement, to be appended to the record, stating why counsel with such qualifications could not be obtained;

(2) if the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

(3) if the trial counsel is a judge advocate or a member of the bar of the highest court of the state, the defense counsel detailed by the convening authority must be one of the foregoing.

**History:** L. 1972, ch. 203, § 48-2505; L. 1988, ch. 191, § 20; July 1.