

48-2504. (KCMJ Art. 26) Military judge of a general or special court-martial. (a) The authority convening a general court-martial shall detail a military judge thereto. Subject to regulations of the governor, a military judge may be detailed to any special court-martial. The governor shall prescribe regulations providing for the manner in which military judges are detailed for such courts-martial and for the persons who are authorized to detail military judges for such courts-martial. A military judge shall preside over each open session of the court-martial to which the judge had been detailed.

(b) A military judge shall be a commissioned officer of the national guard or a retired officer of the reserve components of the armed forces of the United States who is a member of the bar of the supreme court of Kansas and who is certified to be qualified for such duty by the judge advocate general. The judge advocate general may recommend to the adjutant general that the adjutant general order to active duty retired personnel of the United States armed forces who are qualified to act as military judges.

(c) No person is eligible to act as military judge in a case if the person is the accuser or a witness for the prosecution or has acted as investigating officer or a counsel in the same case.

(d) Neither the convening authority nor any member of the convening authority's staff shall prepare or review any report concerning the effectiveness, fitness or efficiency of a military judge which relates to the judge's performance of duty as such. A commissioned officer who is certified to be qualified for duty as a military judge of a court-martial may perform such duties only when such officer is assigned and directly responsible to the judge advocate general and may perform duties of a judicial or nonjudicial nature other than those relating to the primary duty as a military judge of a court-martial when such duties are assigned to such officer by or with the approval of the judge advocate general. The military judge of a court-martial may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor may the judge vote with the members of the court.

History: L. 1972, ch. 203, § 48-2504; L. 1988, ch. 191, § 19; July 1.