


Chairman Phil Mendelson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend and enact Title 49 of the District of Columbia Official Code.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "D.C. Official Code Title 49 Enactment Act of 2019".

TITLE I. TITLE 49, DISTRICT OF COLUMBIA OFFICIAL CODE ENACTMENT.

Sec. 101. Title 49 of the District of Columbia Official Code is amended and enacted into law to read as follows (quotation marks omitted):

TITLE 49. MILITARY.

SUBTITLE I. DISTRICT OF COLUMBIA MILITIA CODE.

CHAPTER 1. GENERAL PROVISIONS.

CHAPTER 2. COMPOSITION, ORGANIZATION, AND CONTROL.

CHAPTER 3. ARMAMENT, EQUIPMENT, AND SUPPLIES.

CHAPTER 4. MILITARY PERSONNEL.

CHAPTER 5. PRIVILEGES, IMMUNITIES, BENEFITS, AND PENALTIES.

CHAPTER 6. DISTRICT OF COLUMBIA NATIONAL GUARD EDUCATION BENEFITS.

CHAPTER 7. AWARDS, MEDALS, DECORATIONS, AND HONORS.

CHAPTER 8. MORALE, WELFARE, AND RECREATION.

CHAPTER 9. NAVAL MILITIA.

CHAPTER 10. MILITARY AFFAIRS AND CIVIL DEFENSE.

CHAPTER 11. DISTRICT OF COLUMBIA CODE OF MILITARY JUSTICE.

CHAPTER 12. DISTRICT OF COLUMBIA NATIONAL GUARD MUSEUM.

SUBTITLE II. OFFICE OF VETERANS AFFAIRS.

CHAPTER 13. OFFICE OF VETERANS AFFAIRS.

SUBTITLE III. MILITARY COMPACTS.

CHAPTER 14. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.

50 SUBTITLE I. DISTRICT OF COLUMBIA MILITIA CODE.

51

52 CHAPTER 1. GENERAL PROVISIONS.

53

54 Sec.

55 49-101. Title.

56 49-102. Definitions.

57 49-103. Persons subject.

58 49-104. Delegation of power to authorized person.

59 49-105. Holidays observed.

60 49-106. Federal laws, regulations, military custom.

61 49-107. Pending actions and accrued rights unaffected.

62

63 § 49-101. Title.

64 This subtitle shall be known and may be cited as the "District of Columbia Militia
65 Code."

66

67 § 49-102. Definitions.

68 For the purposes of this subtitle, unless otherwise provided herein, the term:

69 (1) "Active duty" means full-time duty in the active military service of the United
70 States. It includes such federal duty as full-time training duty, annual training duty, and
71 attendance, while in the active military service, at a school designated as a service school
72 by law or by the Secretary of the military department concerned. It also includes the period
73 during which a person in active military service is absent from duty as a result of illness,
74 being wounded, being on leave, or other lawful cause. It does not include full-time duty in
75 the National Guard pursuant to Title 32 of the United States Code.

76 (2) "Active service" means either active duty or full-time National Guard duty
77 pursuant to Title 32 of the United States Code.

78 (3) "Adjutant General" means the second-in-command of the District of Columbia
79 National Guard, as appointed by the President of the United States of America.

80 (4) "Air National Guard" means that part of the National Guard of a state or
81 territory of the United States, Puerto Rico, or the District of Columbia, active or inactive
82 that is:

83 (A) An air force;

84 (B) Trained and has its officers appointed under the United States
85 Constitution, Article 1, § 8, clause 16, and federal laws enacted pursuant thereto;

86 (C) Organized, armed, and equipped wholly or partly at federal expense; and

87 (D) Federally recognized.

88 (5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps,
89 National Guard, and Coast Guard.

90 (6) "Armory" means a building or group of buildings used primarily for housing and
91 training troops or for storing military property, supplies, or records.

92 (7) "Army National Guard" means that part of the National Guard of a state or
93 territory of the United States, Puerto Rico, or the District of Columbia, active or inactive
94 that is:

95 (A) A land force;

96 (B) Trained and has its officers appointed under the United States
97 Constitution, Article 1, § 8, clause 16, and federal laws enacted pursuant thereto;

98 (C) Organized, armed, and equipped wholly or partially at federal expense;
99 and
100 (D) Federally recognized.
101 (8) "Chief of Staff" means the person appointed by the Commanding General as chief
102 of staff of the District of Columbia National Guard.
103 (9) "Commanding General" means the senior commander of the District of Columbia
104 National Guard, as appointed by the President of the United States of America.
105 (10) "Commanding officer" means a company, troop, battery, squadron, battalion, air
106 group, regiment, battle group, wing, or division commander.
107 (11) "Commissioned officer" includes warrant officers.
108 (12) "Court-martial" means a military or naval court of justice for the trial of cases
109 within the jurisdiction of the District of Columbia National Guard.
110 (13) "Department", when used with respect to a military department, means the
111 executive part of the department and all field headquarters, forces, reserve components,
112 installations, activities, and functions under the control or supervision of the Secretary of
113 the department. When used with respect to the United States Department of Defense, such
114 term means the executive part of the department, including the executive parts of the
115 military departments, and all field headquarters, forces, reserve components, installations,
116 activities, and functions under the control or supervision of the Secretary of Defense,
117 including those of the military departments.
118 (14) "District Judge Advocate" means the commissioned officer responsible for
119 supervising the administration of the military justice in the District of Columbia National
120 Guard and is comparable to a State Judge Advocate.
121 (15) "District of Columbia militia" includes the District of Columbia National Guard
122 and the enrolled militia of the District of Columbia.
123 (16) "District of Columbia National Guard" or "DCNG" means the organized militia
124 of the District of Columbia.
125 (17) "Encampment" means mandatory camp duty for drill, annual field training,
126 parades, or other exercises and duties performed in a Title 32 status when so declared by
127 the Commanding General of the District of Columbia National Guard.
128 (18) "Enemy" includes any person or group engaged or participating in a riot, riotous
129 activity, resistance to lawful process, insurrection, or rebellious assembly.
130 (19) "Enlisted member" means a person in an enlisted grade and includes enlisted
131 members in the Army National Guard and airmen of the Air National Guard.
132 (20) "Federal recognition" means acknowledgment by the federal government that a
133 person appointed to an authorized grade and position vacancy in the National Guard meets
134 the prescribed federal standards for such grade and position.
135 (21) "Federal service" means duty authorized and performed under the provisions of
136 chapter 1211 of Title 10 of the United States Code as part of the active military forces of the
137 United States, the Army National Guard of the United States, or the Air National Guard of
138 the United States.
139 (22) "Federally recognized National Guard" means that part of the National Guard
140 that has met all the requirements for and has been recognized by the national military
141 establishment as a part of the reserve components of the armed forces.
142 (23) "General officer" means an officer of the Army, Air Force, or Marine Corps
143 serving in or having the grade of general, lieutenant general, major general, or brigadier
144 general.
145 (24) "Grade" means a step or degree, in a graduated scale of office or military
146 rank, that is established and designated as a grade by law or regulation.

- 147 (25) "Headquarters" means the office of the appropriate commander.
148 (26) "Line of duty" means the same as that term is used in Army Regulations and
149 Air Force Instructions.
150 (27) "Military court" means a court-martial, a court of inquiry, or a provost court.
151 (28) "National Guard" includes the Army National Guard and the Air National
152 Guard.
153 (29) "National Guard Bureau" means the joint Bureau of the Department of the
154 Army and the Department of the Air Force within the Department of Defense, as defined in
155 10 U.S.C. § 10501.
156 (30) "National Guard of the United States" means the Army National Guard of the
157 United States and the Air National Guard of the United States.
158 (31) "Oath" includes affirmation or bond.
159 (32) "Offense" means a criminal charge under the Uniform Code of Military Justice
160 (10 U.S.C. §§ 801 *et seq.*) or the District of Columbia Code of Military Justice (D.C. Official
161 Code §§ 49-1101.01 *et seq.*).
162 (33) "Officer" means a commissioned or warrant officer.
163 (34) "On duty" means training, including unit training assemblies, and other
164 training, operational duty, and other service which may be required under District or
165 federal law, regulations, or orders, and the necessary travel of a service member to the
166 place of performance and return home after performance of that duty, but does not include
167 federal service. A member of the National Guard shall be considered to be on duty when
168 called to testify about an incident that the member observed or was involved in while that
169 member was on duty.
170 (35) "Order" means general or special order, oral or written, whether issued
171 pursuant to District or federal authority.
172 (36) "Rank" means the order of precedence among members of the armed forces.
173 (37) "Regular" means, with respect to an enlistment, appointment, grade, or office,
174 means enlistment, appointment, grade, or office in a regular component of an armed force.
175 (38) "Servicemember" means a member of the uniformed services, as that term is
176 defined in 10 U.S.C. § 101(a)(5), or military personnel of the National Guard.
177 (39) "Superior officer" means a commissioned officer superior in rank or command.
178 (40) "Supplies" includes material, equipment, and stores of all kinds.
179 (41) "Uniform Code of Military Justice" means the law for the disciplining of the
180 armed forces (10 U.S.C. §§ 801 *et seq.*).
181 (42) "Warrant officer" means a person who holds a commission or warrant in a
182 warrant officer grade.

183
184 § 49-103. Persons subject.

185 Unless otherwise provided herein, in addition to the servicemembers of the District
186 of Columbia National Guard, all persons lawfully ordered to duty in or with the District of
187 Columbia National Guard who are not in federal service are subject to this subtitle.
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189 § 49-104. Delegation of power to authorized person.

190 Whenever, by the provisions of this subtitle, a power is granted to a public officer or
191 a duty imposed upon such an officer, the power may be exercised or duty performed by a
192 deputy of the officer or by a person authorized pursuant to law by the officer, unless
193 delegation is expressly prohibited by this subtitle.
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195 § 49-105. Holidays observed.

196 With the approval of the Commanding General, the District of Columbia National
197 Guard shall observe holidays as set forth at 5 U.S.C. § 6103 and Subpart B of Part 610 of
198 Title 5 of the Code of Federal Regulations.

199
200 § 49-106. Federal laws, regulations, military custom.

201 All acts of the Congress of the United States, regulations issued, forms, precedents,
202 customs, and usages relating to and governing the armed forces shall, insofar as they are
203 applicable, apply to and govern the District of Columbia National Guard.

204
205 § 49-107. Pending actions and accrued rights unaffected.

206 No action or proceeding commenced before this subtitle takes effect, and no right
207 accrued, is affected by the provisions of this subtitle, but all actions or proceedings
208 commenced after this subtitle takes effect shall conform to the provisions of this title so far
209 as possible.

210 211 CHAPTER 2. COMPOSITION, ORGANIZATION, AND CONTROL.

212 Subchapter 1. Organization of District of Columbia military forces.

213
214 Sec.

215 49-201.01. District military forces; classes.

216 49-201.02. President to be Commander-in-Chief.

217 49-201.03. Composition of District of Columbia National Guard.

218 49-201.04. Enrolled militia; persons to be enrolled; exemptions from service.

219 49-201.05. Duty of enrolled militia; police and fire department personnel.

220 49-201.06. Reserve corps; organization; composition; control.

221 49-201.07. Composition of units; general orders.

222 49-201.08. Disbanding companies below minimum strength.

223 49-201.09. Command exercised by National Guard officer.

224 49-201.10. Organization prohibited.

225 49-201.11. District of Columbia National Guard headquarters and detachment.

226 49-201.12. Inspections.

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231 Subchapter 2. Active District of Columbia National Guard service.

232 49-202.01. Drill, parade, encampment or required duty.

233 49-202.02. Prescribing drills.

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235 49-202.04. Excuse for physical disability; penalty for absence.

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237 49-202.06. Conscientious objectors.

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239 49-202.08. Rules for parades and encampments.

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241 49-202.10. Suppression of riots.

242 49-202.11. System of discipline and field exercise.

243
244 Subchapter 3. Service records.

245 49-203.01. Militia and National Guard service records.
246 49-203.02. Procedures for requesting Militia or National Guard service records.

247

248 Subchapter 1. Organization of District of Columbia military forces.

249

250 § 49-201.01. District military forces; classes.

251 The District military forces shall be divided into 3 classes:

252 (1) One consisting of the federally recognized National Guard, which shall be
253 composed of volunteers and shall be designated the District of Columbia National Guard;

254 (2) One consisting of those able-bodied male citizens not in the District of Columbia
255 National Guard, which shall be known as the enrolled militia; and

256 (3) One consisting of all those subject to military duty, but not included in the
257 District of Columbia National Guard or the enrolled militia, to be known as the District of
258 Columbia military reserve.

259

260 §49-201.02. President to be Commander-in-Chief.

261 The President of the United States shall be the Commander-in-Chief of the District
262 of Columbia National Guard.

263

264 § 49-201.03. Composition of District of Columbia National Guard.

265 (a) The District of Columbia National Guard shall consist of the following sections:

266 (1) The District of Columbia Army National Guard, which shall be composed
267 of such organized land forces, officers, headquarters, and detachments as may be prescribed
268 by proper authority; and

269 (2) The District of Columbia Air National Guard, which shall be composed of
270 such organized air forces, officers, headquarters, and detachments as may be prescribed by
271 proper authority.

272 (b) An assistant adjutant general in the rank of brigadier general shall be the head
273 of each such section, under the general supervision and control of the Commanding General
274 in the rank of major general.

275

276 § 49-201.04. Enrolled militia; persons to be enrolled; exemptions from service.

277 (a) Every able-bodied male citizen resident within the District of Columbia, of the
278 age of 18 years and under the age of 45 years, excepting persons exempted by subsection (c)
279 of this section, and idiots, lunatics, common drunkards, vagabonds, paupers, and persons
280 convicted of any felony, shall be enrolled in the enrolled militia. Persons so convicted after
281 enrollment shall forthwith be disenrolled; and in all cases of doubt respecting the age of a
282 person enrolled, the burden of proof shall be upon that person.

283 (b) The Mayor of the District of Columbia shall provide for the enrollment of the
284 enrolled militia, and for this purpose may require the assessors of taxes, at the same time
285 they are engaged in taking the assessment of valuation of real and personal property, to
286 make a list of persons liable to enrollment, and such record shall be deemed a sufficient
287 notification to all persons whose names are thus recorded that they have been enrolled in
288 the enrolled militia. Immediately after the completion of each enrollment they shall furnish
289 the Commanding General of the District of Columbia National Guard with a copy of the
290 same.

291 (c) In addition to the persons exempted from enrollment in the enrolled militia by
292 the general laws of the United States, the following persons shall also be exempted from
293 enrollment in the enrolled militia of the District of Columbia, namely: Officers of the

294 government of the District of Columbia; judges and officers of the courts of the District of
295 Columbia; officers who have held commissions in the regular or volunteer Army, Navy,
296 Marine Corps, Air Force, or Coast Guard of the United States; and officers who have served
297 for a period of 5 years in the District of Columbia National Guard or the National Guard of
298 any state or territory of the United States.

299
300 § 49-201.05. Duty of enrolled militia; police and fire department personnel.

301 The enrolled militia shall not be subject to any duty except when called into the
302 service of the United States, or to aid the civil authorities in the execution of the laws or
303 suppression of riots. However, if the enrolled militia is called to aid the civil authorities,
304 who will activate the police and fire departments, no member of these departments shall be
305 subject to military duty. Also, if the enrolled militia is called into service of the United
306 States, the chief of the police department and the chief of the fire department shall be
307 entitled to have exempted from call in the enrolled militia minimum personnel considered
308 necessary to ensure continued, reasonable police and fire services to the citizens of the
309 District of Columbia.

310
311 § 49-201.06. Reserve corps; organization; composition; control.

312 A reserve corps of the District of Columbia National Guard is hereby organized, to
313 consist of honorably discharged officers and men of the Army, the Navy, the Air Force, the
314 Marine Corps, the Coast Guard, and the National Guard of the United States, honorably
315 discharged officers and men of the National Guard of any state or territory, and honorably
316 discharged members of the District of Columbia National Guard, whose military training
317 and physical condition shall conform to the standard determined by regulations to be
318 promulgated by the President of the United States or his or her designee; provided, that the
319 term of enlistment in the reserve and the military duties and obligations required of
320 reservists shall be determined by regulations to be promulgated by the President of the
321 United States, or his or her designee; provided further, that when serving reservists will do
322 so in a volunteer status and without pay or remuneration of any kind. Members of the
323 reserve corps of the District of Columbia National Guard are authorized to sit on District of
324 Columbia National Guard advisory councils at the direction and pleasure of the
325 Commanding General.

326
327 § 49-201.07. Composition of units; general orders.

328 The composition of all units of the District of Columbia National Guard including
329 commissioned personnel, other than specifically provided for in this subtitle, will be fixed
330 from time to time by the Commanding General, will be announced in general orders, and
331 will be in accordance with federal laws and regulations pertaining to the District of
332 Columbia National Guard.

333
334 § 49-201.08. Disbanding companies below minimum strength.

335 When any company of the District of Columbia National Guard shall, for a period of
336 not less than 90 days, contain fewer than the required number of enlisted men, or upon a
337 duly ordered inspection, shall be found to have fallen below a proper standard of efficiency,
338 the Commanding General may, with consent of the President of the United States, either
339 disband such company or consolidate it with any other company of the District of Columbia
340 National Guard, and grant an honorable discharge to the supernumerary officers and
341 noncommissioned officers produced by such consolidation. Servicemembers discharged by

342 reason of such disbanding or consolidation and at any time thereafter reentering the service
343 shall have allowed to them, as part of their term of service, the time already served.

344
345 § 49-201.09. Command exercised by National Guard officer.

346 Whenever different parts of the District of Columbia National Guard are ordered out
347 together for any services within the District, or otherwise are on duty together, the senior
348 commissioned officer of the field or line of the District of Columbia National Guard shall be
349 in command of each of those different parts of the District of Columbia National Guard.

350
351 § 49-201.10. Organization prohibited.

352 (a) Except as provided by subsection (b) of this section, a body of persons other than
353 the regularly organized District of Columbia National Guard, the reserve corps of the
354 District of Columbia National Guard, the enrolled militia when ordered into service, or the
355 troops of the United States may not associate as a military company or organization or
356 parade in public with firearms in the District.

357 (b) With the consent of the Commanding General, students attending an educational
358 institution at which military science is a prescribed part of the course of instruction and
359 soldiers honorably discharged from the service of the United States may drill and parade
360 with firearms in public.

361 (c) This section does not prevent a parade by the National Guard of another state as
362 provided by law.

363
364 § 49-201.11. District of Columbia National Guard headquarters and detachment.

365 (a) The Commanding General shall determine and fix the location of the units and
366 headquarters of the District of Columbia National Guard within the District.

367 (b) The number and grade of officers and enlisted personnel assigned to the District
368 of Columbia National Guard headquarters and headquarters detachment shall be as
369 prescribed by federal law and regulations. However, in case of war, invasion, insurrection,
370 emergency, or imminent danger thereof, the Commanding General may temporarily
371 increase the force to meet the circumstance.

372
373 § 49-201.12. Inspections.

374 (a) The Commanding General shall order and direct an annual inspection and
375 muster of each organization of the District of Columbia National Guard, and an inspection
376 of their armories and of public property in their possession.

377 (b) In addition to the annual inspection and muster provided for in subsection (a) of
378 this section, the Commanding General may order such inspections of the different
379 organizations, units, and personnel of the District of Columbia National Guard as he or she
380 may deem proper and necessary.

381 (c) The form and mode of inspections provided for by this section shall be prescribed
382 by the Commanding General.

383
384 § 49-201.13. Special investigator.

385 The Commanding General may appoint an officer of the District of Columbia
386 National Guard to serve as a special investigator for a period as determined by the
387 Commanding General. The special investigator shall report to and serve at the pleasure of
388 the Commanding General. The duty of special investigator shall be assigned as additional
389 duty. The person designated as inspector general pursuant to federal National Guard
390 Bureau regulation shall not serve as a special investigator.

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§ 49-201.14. Attorney General of the District of Columbia as legal advisor.

The Attorney General of the District of Columbia shall be the legal advisor of the District of Columbia National Guard with regard to the law of the District of Columbia.

§ 49-201.15. Rules and regulations.

(a) In order to fulfill the purposes of this subtitle, the Commanding General may make and publish rules and regulations for the organization, government, armament, equipment, discipline and exercise of the District of Columbia National Guard and the enrolled militia when called into active service. The rules and regulations may cover all general orders and forms for the performance of duties of persons in District of Columbia National Guard, including the rules governing courts-martial.

(b) Such rules and regulations shall, so far as practicable, conform to the laws, regulations, instructions, customs, and usage of the United States Department of Defense, the Army, the Air Force, and the National Guard Bureau of the United States.

(c) When rules and regulations have been promulgated and published by the Commanding General pursuant to this section, they shall have the force and effect of law.

Subchapter 2. Active District of Columbia National Guard service.

§ 49-202.01. Drill, parade, encampment, or required duty.

(a) Any drill, parade, encampment, or duty that is ordered under the provisions of this subtitle, is deemed to be military duty.

(b) Each servicemember of the District of Columbia National Guard on military duty is subject to the lawful orders of his superior officers.

(c) The District of Columbia National Guard shall be governed by the District of Columbia Code of Military Justice (D.C. Official Code §§ 49-1101.01 *et seq.*), and the Uniform Code of Military Justice (10 U.S.C. §§ 801 *et seq.*). A servicemember of the District of Columbia National Guard may be put and kept under arrest or under guard for any military offense committed while on military duty for a time not extending beyond the term of service for which he is then ordered.

§ 49-202.02. Prescribing drills.

The Commanding General shall prescribe drills and parades as he or she may deem necessary for the instruction of the District of Columbia National Guard, and may order out any portion of the District of Columbia National Guard for drills, inspections, parades, escort, or other duties, as he or she may deem proper. The commanding officer of any unit may also assemble his or her command in the evening for drill, instruction, or other business, as he or she may deem expedient. However, no parade shall be performed by any unit without the permission of the Commanding General.

§ 49-202.03. Orders and manner of calling for duty.

(a) An order calling a servicemember of the District of Columbia National Guard for duty may be oral or written. Written orders shall be promulgated by the Commanding General.

(b) A servicemember of the District of Columbia National Guard may be called for duty in any of the following ways:

(1) By stating the substance of the order or by reading it to the servicemember in person or over the telephone;

- 440 (2) By radio or television communication;
441 (3) By delivering a copy of the order to the servicemember;
442 (4) By leaving a copy of the order with a person of suitable age and discretion
443 at the servicemember's last known place of residence or business; or,
444 (5) By sending a copy of the order or a notice containing the substance thereof
445 by mail, email, telegraph, or facsimile transmission directed to the servicemember at his or
446 her last known place of residence or business or to the post office nearest thereto.

447 (c) Notice of an order calling a servicemember of the District of Columbia National
448 Guard for duty may be given by an officer or noncommissioned officer.

449 (d) If any servicemember of the District of Columbia National Guard ordered to duty
450 fails to appear for duty, the officer or noncommissioned officer giving notice of the order
451 shall make a return containing the name of the person ordered and the time, place, and
452 manner of the order, if required by the officer issuing the order. The return may be verified
453 by the officer's or noncommissioned officer's oath, which may be administered by any
454 commanding officer. The verified returns are evidence of the facts stated in the return on
455 the trial of any servicemember.

456

457 § 49-202.04. Excuse for physical disability; penalty for absence.

458 A servicemember of the District of Columbia National Guard, when ordered on
459 military duty, shall not be excused from such duty except upon a certificate of physical
460 disability by the surgeon of his command. A certificate of physical disability shall be
461 presented to the Commanding General in case of an officer, or to the company commander
462 in case of a soldier. If the servicemember fails to furnish such excuse, he may be tried by a
463 court-martial.

464

465 § 49-201.05. Ordering enrolled militia into service.

466 Whenever it shall be necessary to call out any portion of the enrolled militia the
467 Commander-in-Chief shall order out, by draft or otherwise, or accept as volunteers as many
468 as required. Every member of the enrolled militia who volunteers, or who is ordered out or
469 drafted under the provisions of this subtitle, who does not appear at the time and place
470 designated, may be arrested by order of the Commanding General and be tried and
471 punished by a court-martial. The portion of the enrolled militia ordered out or accepted
472 shall be mustered into service for such period as may be required, and the Commanding
473 General may assign them to existing organizations of the District of Columbia National
474 Guard, or may organize them as the exigencies of the occasion may require.

475

476 § 49-202.06. Conscientious objectors.

477 Any person who because of religious belief shall claim exemption from militia service
478 shall be exempted from militia service in a combatant capacity; provided, that the
479 conscientious holding of that belief by the person shall be established under the regulations
480 prescribed by the Commanding General; provided further, that no person so exempted shall
481 be exempt from militia service in any capacity that the Commanding General shall declare
482 to be noncombatant.

483

484 § 49-202.07. Membership continued in National Guard after termination of federal
485 service.

486 When inducted into the active military service of the United States and thereafter
487 discharged or separated from the armed forces, all members of the District of Columbia
488 National Guard so inducted and discharged or separated shall resume their membership in

489 the District of Columbia National Guard and shall continue to serve as though their service
490 had not been interrupted.

491

492 § 49-202.08. Rules for parades and encampments.

493 A commanding officer on military duty, may ascertain and fix necessary bounds and
494 limits to his or her parade or encampment. Whoever intrudes within the limits of the
495 parade or encampment after being forbidden, or whoever shall interrupt, molest, or
496 obstruct any servicemember while on military duty, may be put and kept under guard until
497 the parade, encampment, or duty be concluded; and the commanding officer may turn over
498 such person to any police officer, and the police officer is required to detain him in custody
499 for examination or trial before the Superior Court of the District of Columbia, and the judge
500 thereof may punish such offense by a fine not exceeding \$25.

501

502 § 49-202.09. Parades to have right-of-way.

503 The United States armed forces, or any portion of the militia, parading, or
504 performing any duty according to law, shall have the right-of-way in any street or highway
505 through which they may pass; provided, that the carriage of the United States mails, the
506 legitimate functions of the police, and the progress and operations of fire and emergency
507 services department shall not be interfered with.

508

509 § 49-202.10. Suppression of riots.

510 When called to duty by the Commanding General, servicemembers of the District of
511 Columbia National Guard shall, unless otherwise restricted by the executive orders,
512 proclamations, or regulations or the orders of their Commander, have all of the powers and
513 authority of peace officers as are reasonably necessary to preserve the lives, property, and
514 security of persons in the subject civil jurisdiction, all in accordance with the laws and
515 constitutions of the District of Columbia and the United States of America.

516

517 § 49-202.11. System of discipline and field exercise.

518 The system of discipline and field exercise ordered to be observed by the Army of the
519 United States, the Air Force of the United States, or such other system as may be directed
520 for the militia by laws of the United States, shall be observed by the District of Columbia
521 National Guard.

522

523 Subchapter 3. Service records.

524

525 § 49-203.01. Militia and National Guard service records.

526 (a) The Commanding General of the District of Columbia National Guard may
527 maintain records of members who have served in the District of Columbia Militia and the
528 District of Columbia Army and Air National Guards in accordance with The Freedom of
529 Information Act (FOIA), 5 U.S.C. § 552, and The Privacy Act, 5 U.S.C. § 552a.

530 (b) The District of Columbia Militia and National Guard service records may contain
531 the following information:

532

(1) Service members full name;

533

(2) Birth date and place;

534

(3) Residence;

535

(4) Occupation;

536

(5) Race;

537

(6) Marital status;

- 538 (7) Citizenship;
- 539 (8) Physical description;
- 540 (9) Education;
- 541 (10) Medical information;
- 542 (11) Enlistment date and place;
- 543 (12) Discharge date, place, and reason;
- 544 (13) Brief remarks on the characterization of service or discharged;
- 545 (14) Military rank or grade;
- 546 (15) Name, relationship, and address of person to notify in case of emergency;
- 547 and
- 548 (16) Service Number (for records of guardsmen who served before July 1,
- 549 1969) or Social Security Number (for records of guardsmen with more recent service).

550 § 49-203.02. Procedures for requesting Militia and National Guard service records.
 551 The Commanding General, subject to the approval of the Commander-in-Chief, is
 552 authorized to make and publish regulations for the request of District of Columbia Militia
 553 and National Guard service records, conforming the same to the practice and regulations of
 554 the Army and instructions of the Air Force, so far as they may be applicable, and such
 555 requests for records must be processed in accordance with The Freedom of Information Act
 556 (FOIA) (5 U.S.C. § 552), and The Privacy Act (5 U.S.C. § 552a).

558 CHAPTER 3. ARMAMENT, EQUIPMENT, AND SUPPLIES.

560 Subchapter 1. Uniforms arms and equipment.

- 561 Sec.
- 562 49-301.01. Uniforms, arms, and equipment; generally.
- 563 49-301.02. Regulations for reissue of equipment by Commanding General.
- 564 49-301.03. Personal liability for equipment; determination of equipment value.
- 565 49-301.04. Transfer of property on promotion, retirement, or dismissal.
- 566 49-301.05. Failure to return equipment.
- 567 49-301.06. Responsibilities of surveying officer.
- 568 49-301.07. Liability of officer's estate for property lost, injured, or destroyed.
- 569 49-301.08. Right to own personal property; actions for injuries.

571 Subchapter 2. Property and structures.

- 572 Sec.
- 573 49-302.01. Armories to be provided.
- 574 49-302.02. Use of Fort Lesley J. McNair.

576 Subchapter 3. Supplies.

- 577 Sec.
- 578 49-303.01. Purchase of supplies.

580 Subchapter 1. Uniform, arms and equipment.

- 581 § 49-301.01. Uniforms, arms, and equipment; generally.
- 582 (a) The District of Columbia National Guard shall, as far as practicable, be
- 583 uniformed, armed, and equipped with the same type of uniform, arms, and equipment
- 584 provided and furnished to the armed forces.

587 (b) Every organization of the District of Columbia National Guard shall be provided
588 with ordnance and ordnance stores, clothing, camp and garrison equipment, quartermaster's
589 stores, medical supplies, and other military stores, as may be necessary for the proper
590 training and instruction of the force and for the proper performance of the duties required
591 under this subtitle. Such property shall be issued from the stores and supplies
592 appropriated for the use of the Army or Air Force, upon the approval and by the direction of
593 the Secretary of the Army or the Secretary of the Air Force, to the Commanding General.
594 The property issued shall remain the property of the United States, and shall be accounted
595 for by the Commanding General as the Secretary of the Army or the Secretary of the Air
596 Force requires.

597 (c) Any organization of the District of Columbia National Guard may, with the
598 approval of the Commanding General, at its own expense, adopt any other uniform than
599 that issued to it. The uniform shall not be worn when the organization is on duty under the
600 orders of the Commanding General except by his or her permission.

601 (d) All arms, clothing, equipment, and other military property furnished or issued by
602 the federal government or the District of Columbia or for which an allowance has been
603 made pursuant to this section, shall be used for military purposes only.

604 § 49-301.02. Regulations for reissue of equipment by Commanding General.

605 The Commanding General may transfer all public property, received by him for the
606 use of the District of Columbia National Guard to the several departmental officers of the
607 general staff, and may make and prescribe regulations for its issue by them, and for its care
608 and preservation by the officers or soldiers to whom issued.

610 § 49-301.03. Personal liability for equipment; determination of equipment value.

611 (a) Each servicemember of the District of Columbia National Guard to whom
612 property of the federal government or the District has been issued shall be personally
613 responsible for such property, and shall make returns of such property at such times, in
614 such manner, and on such forms as may be prescribed. No one shall be relieved from such
615 responsibility except it be shown to the satisfaction of the Commanding General that the
616 loss or destruction of such property was unavoidable and not the fault of the person
617 responsible.

618 (b) The value of property lost or destroyed shall be charged against the person at
619 fault or to the organization to which it has been issued. The value of lost or destroyed
620 property and the person or organization to be charged therewith shall be determined by a
621 board to consist of an inspector of the staff of the Commanding General and the
622 commanding officer of the organization in which such property is lost. In case of
623 disagreement the value will be fixed by the Commanding General.

624 (c) The person or organization charged pursuant to subsection (a) of this section, if
625 not relieved from such charge by the Commanding General, shall pay the value of such
626 property to the Quartermaster General within one year after such loss or destruction after
627 liability has been determined.

629 § 49-301.04. Transfer of property on promotion, retirement, or dismissal.

630 (a) Each servicemember of the District of Columbia National Guard, upon
631 promotion, tender of resignation, retirement, dismissal or otherwise being separated from
632 the District of Columbia National Guard, or upon demand of the commanding officer of the
633 organization to which the servicemember belongs, shall surrender immediately all military
634

635 property in the servicemember's possession to the officer who is responsible or accountable
636 for public property.

637 (b) The Commanding General shall designate an officer to accept and receipt for
638 such property, and direct the officer responsible or accountable therefore to make prompt
639 transfer of all property remaining on hand; and it shall be the duty of the officer responsible
640 or accountable to proceed at once to complete such transfer and close his or her accounts
641 without delay.

642 (c) In the event of the death or desertion of any officer accountable for public
643 property, the Commanding General shall direct that a surveying officer be appointed, and
644 also designate an officer to receive such property. Said surveying officer shall ascertain and
645 verify all public property which the deceased or deserting officer had on hand at the time of
646 his or her death or desertion and certify the same to the officer designated to receive it, who
647 will immediately take up all property so certified and receipt for the same to the heads of
648 the proper staff departments. The surveying officer will then proceed to determine and fix
649 the responsibility for the loss or destruction of any of the foregoing property that is not
650 found or transferred as directed.

651

652 § 49-301.05. Failure to return equipment.

653 Any servicemember of the District of Columbia National Guard who shall neglect to
654 return to the armory of the unit, or place in charge of the commanding officer of the
655 organization to which the servicemember belongs, any arms, clothing, equipment, or other
656 military property belonging to the federal government or the District, upon being notified
657 by the commanding officer to do so, shall be liable to trial by court-martial for neglect of
658 duty, and also make good to the United States the value of all such property defaced,
659 injured, destroyed or lost, by any neglect or default on his part, to be recovered in an action
660 of tort, or by any other action at law, to be instituted by the District Judge Advocate at the
661 order of the Commanding General.

662

663 § 49-301.06. Responsibilities of surveying officer.

664 (a)(1) Should any officer designated by the Commanding General as responsible or
665 accountable for public property, after receiving instructions to transfer it, fail to make a
666 proper transfer as directed within 30 days or any authorized extension of that period, the
667 heads of the respective staff departments exercising supervision over or control of said
668 property shall report the facts to the Adjutant General for the action of the Commanding
669 General.

670 (2) Upon receiving such a report, the Commanding General may in his
671 discretion direct that a surveying officer be appointed, and it shall be the duty of the
672 surveying officer to ascertain and verify all public property which the delinquent officer had
673 on hand and certify the same to the officer designated to receive it, who will immediately
674 take up all property so certified and receipt for the same to the head of the proper staff
675 department. The surveying officer will then proceed to determine and fix the responsibility
676 for the loss or destruction of any of the foregoing property that is not found or transferred
677 as directed.

678 (b) Should any officer responsible or accountable for public property, after receiving
679 instructions to transfer it and close his accounts, fail to close his accounts to the satisfaction
680 of the Commanding General, the heads of the respective staff departments exercising
681 supervision over or control of said property will report the facts to the Adjutant General for
682 the action of the Commanding General. Upon receiving such a report, the Commanding
683 General may direct that a surveying officer be appointed to determine and fix the

684 responsibility for the loss or destruction of any public property for which the officer is
685 responsible or accountable and which he has failed to transfer to the receiving officer.

686

687 § 49-301.07. Liability of officer's estate for property lost, injured, or destroyed.

688 (a) Compensation for any public property defaced, injured, lost, or destroyed through
689 the neglect or default of a deceased officer may be recovered from his estate in the manner
690 provided in D.C. Official Code § 49-301.09(b)(2).

691 (b) Until an officer or his legal representative shall have received notice that the
692 property accounts of such officer have been examined and found correct the liability of such
693 officer or of his or her estate for public property for which he or she is or may have been
694 responsible or accountable shall be in no way affected by resignation, discharge, change in
695 official position, desertion, or death.

696

697 § 49-301.08. Right to own personal property; actions for injuries.

698 (a) Organizations of the District of Columbia National Guard shall have the right to
699 own and keep personal property, which shall belong to and be under the control of the
700 active servicemembers.

701 (b)(1) The commanding officer of any organization may recover for its use any debts
702 or effects belonging to it, or damages for injury to property.

703 (2) Any action for recovery is to be brought in the name of the commanding
704 officer, before the court in the District of Columbia having jurisdiction of the amount in
705 controversy. No suit or complaint pending in the name of the commanding officer shall be
706 abated by his or her ceasing to be commanding officer of the organization. However, upon
707 the motion of the commanding officer succeeding him, the succeeding commanding officer
708 shall be admitted to prosecute the suit or complaint as if it had been originally commenced
709 by him or her.

710

711 Subchapter 2. Property and structures.

712

713 § 49-302.01. Armories to be provided.

714 The Quartermaster General of the District of Columbia National Guard shall
715 provide:

716 (1) Armories for the District of Columbia National Guard, by rental or otherwise, as
717 may be allowed and directed by the Commanding General;

718 (2) Lockers, closets, gun racks, and cases or desks as may be necessary for the care,
719 preservation, and safekeeping of the arms, equipments, uniforms, records, and other
720 District of Columbia National Guard property in each organization's possession;

721 (3) Suitable rooms for the offices of the Commanding General and staff, for the
722 keeping of books, the transaction of business, and the instruction of officers, and also
723 suitable places for the storage and safekeeping of public property.

724

725 § 49-302.02. Use of Fort Lesley J. McNair.

726 The District of Columbia National Guard shall have the use of the drill grounds and
727 rifle range at Fort Lesley J. McNair, subject to the approval of the Secretary of the Army,
728 and the Commanding General shall provide such additional targets and accessories as may
729 be necessary for the use of the District of Columbia National Guard.

730

731 Subchapter 3. Supplies.

732

733 § 49-303.01. Purchase of supplies.
734 The purchase of supplies and the procurement of services for all branches of the
735 District of Columbia National Guard may be made in open market, in the manner common
736 among businessmen, when the aggregate of the amount required does not exceed \$500.
737

738 CHAPTER 4. MILITARY PERSONNEL.
739

740 Subchapter 1. Staff of District of Columbia National Guard.

741 Sec.

- 742 49-401.01. Staff officers; noncommissioned staff.
- 743 49-401.02. General staff; duties of staff sections, officers, and assistants.
- 744 49-401.03. Additional staff sections and administrative assistants.
- 745 49-401.04. Qualifications of staff officers; tenure; vacancies.
- 746 49-401.05. Army and air technicians.

747

748 Subchapter 2. Commanding General and Adjutant General.

749 Sec.

- 750 49-402.01. Commanding General.
- 751 49-402.02. Commanding General's staff.
- 752 49-402.03. Commanding General's seal as authentication.
- 753 49-402.04. Adjutant General.
- 754 49-402.05. Duties of Adjutant General.
- 755 49-402.06. Adjutant General's assistants.

756

757 Subchapter 3. Commissioned officers.

758 Sec.

- 759 49-403.01. Officers.
- 760 49-403.02. Officers of staff departments.
- 761 49-403.03. Filling vacancies above the grade of 2nd lieutenant.
- 762 49-403.04. Powers and duties.
- 763 49-403.05. Date of commissions.
- 764 49-403.06. Examinations for appointment and promotion.
- 765 49-403.07. Special examinations.
- 766 49-403.08. Probationary and revocable appointment and promotion of officers.
- 767 49-403.09. Relative rank of officers.
- 768 49-403.10. Efficiency boards.
- 769 49-403.11. Unassigned list.
- 770 49-403.12. Discharge of commissioned officer.
- 771 49-403.13. Elimination and disposition of officers.
- 772 49-403.14. Circumstances prohibiting resignation or discharge.

773

774 Subchapter 4. Noncommissioned officers.

775 Sec.

- 776 49-404.01. Appointment; reduction in grade; reduction to ranks; discharge.

777

778 Subchapter 5. Enlisted personnel.

779 Sec.

- 780 49-405.01. Terms of enlistments; qualifications.
- 781 49-405.02. Enlistment of minors.

782 49-405.03. Oath and contract of enlistment.
783 49-405.04. Transfer.
784 49-405.05. Discharge without honor.
785 49-405.06. Dishonorable discharge.
786 49-405.07. Discharge of enlisted persons.

787
788 Subchapter 6. Retired officers and enlisted personnel.

789
790 49-406.01. Roll of retired officers and enlisted personnel.
791 49-406.02. Honorary promotion.

792
793 Subchapter 1. Staff of District of Columbia National Guard.

794
795 § 49-401.01. Staff officers; noncommissioned staff.

796 (a) The staff of the District of Columbia National Guard shall be appointed and
797 commissioned by the President of the United States or his or her designee. The staff shall
798 consist of one of each of the following officers, each with the rank of major or above:

- 799 (1) Adjutant General;
800 (2) Inspector General;
801 (3) Quartermaster General;
802 (4) Commissary General;
803 (5) Chief of Ordnance;
804 (6) Chief Engineer;
805 (7) Surgeon General;
806 (8) District Judge Advocate; and
807 (9) Inspector General of Rifle Practice.

808 (b) In addition to the positions authorized in subsection (a) of this section, the staff
809 shall include 4 aides-de-camp, each with the rank of captain.

810 (c) The Commanding General may appoint a noncommissioned staff of the District
811 of Columbia National Guard, to consist of one sergeant major, one quartermaster sergeant,
812 one commissary sergeant, one ordnance sergeant, 2 staff sergeants, one hospital steward,
813 one color sergeant, and one sergeant bugler.

814
815 § 49-401.02. General staff; duties of staff sections, officers, and assistants.

816 The general staff of the District of Columbia National Guard shall include such staff
817 sections as are currently authorized by the Department of Defense in the table of
818 organization for a District headquarters detachment. The responsibilities of the several
819 staff sections and the duties of the several staff officers and administrative assistants shall
820 be as are prescribed by the regulations, order or direction of the Commanding General or of
821 the Adjutant General, and in accordance with the duties of like officers under the
822 regulations of the armed forces.

823
824 § 49-401.03. Additional staff sections and administrative assistants.

825 The District of Columbia National Guard may include such additional staff sections
826 and administrative assistants as may be necessary for the proper administration of the
827 National Guard in conformity with current District and federal laws and regulations.

828
829 § 49-401.04. Qualifications of staff officers; tenure; vacancies.

830 Staff officers, including officers of the pay, inspection, subsistence, and medical
831 departments, appointed in the District of Columbia National Guard, shall have had
832 previous military experience and shall hold their positions until they shall have reached the
833 age of 64 years, unless retired prior to that time by reason of resignation, disability, or for
834 cause to be determined by a court-martial legally convened for that purpose, and that
835 vacancies among said officers shall be filled by appointment from the officers of the District
836 of Columbia National Guard.

837
838 § 49-401.05. Army and air technicians.

839 Army and Air technicians are by law Federal employees and civilian employees of
840 the United States Army or the United States Air Force, as determined by their service
841 assignments. As Federal employees, technicians are subject to all civil service laws and
842 Civil Service Commission and Department of Defense civilian personnel rules and
843 regulations, and to National Guard Bureau regulations.

844
845 Subchapter 2. Commanding General and Adjutant General.

846
847 § 49-402.01. Commanding General.

848 (a) There shall be appointed and commissioned by the President of the United
849 States a Commanding General of the District of Columbia National Guard with the rank of
850 brigadier general or major general who shall hold office until his successor is appointed and
851 qualified, but may be removed at any time by the President of the United States.

852 (b) Except as provided in subsection (c) of this section, any person serving as the
853 Commanding General shall be considered to be an employee of the United States
854 Department of Defense, and of the United States, within the meaning of 5 U.S.C. § 2105.

855 (c) Any officer of the armed forces who, while serving on active duty, is detailed to
856 serve as Commanding General shall, while so detailed, be entitled to receive only the pay
857 and allowances to which he or she is entitled as an officer of the armed forces.

858 (d) The Commanding General shall maintain custody of the seal of the District of
859 Columbia National Guard, which shall bear the words "Seal of the District of Columbia
860 National Guard."

861
862 § 49-402.02. Commanding General's staff.

863 The military staff of the Commanding General shall consist of:

864 (a) The Adjutant General, who shall be the chief of staff;

865 (b) The deputy adjutant general, who shall be the assistant chief of staff; and

866 (c) Any aides as the Commanding General may appoint or detail from the District of
867 Columbia National Guard. The aides appointed shall be commissioned at a rank not higher
868 than the military rank of colonel, except that if a person holds or has held a higher rank in
869 the District of Columbia National Guard or the armed forces the commission may issue for
870 such higher rank.

871
872 § 49-402.03. Commanding General's seal as authentication.

873 The seal used in the office of the Commanding General shall be the seal of his office
874 and shall be delivered by him to his successor. Where deemed appropriate, orders issued
875 from his office shall be authenticated with such seal and copies, orders, records and papers
876 in his office, duly certified and authenticated under such seal, shall be evidence in all cases
877 in like manner as if the originals were produced.

879 § 49-402.04. Adjutant General.

880 (a) The President of the United States may assign an officer of the Army or Air
881 Force to act as Adjutant General of the District of Columbia National Guard, who, while so
882 assigned, shall be commissioned as such and be subject to the orders of the Commanding
883 General and the provisions of this subtitle; provided, that the officer so assigned shall
884 receive no other pay or emolument than that to which his or her rank in the Army or Air
885 Force entitles him or her when on detached service.

886 (b) The Adjutant General shall be appointed to the rank of brigadier general or to
887 such higher grade or rank as he or she may be federally recognized in.

888 (c) The Adjutant General shall serve at the pleasure of the Commanding General.
889

890 § 49-402.05. Duties of Adjutant General.

891 (a) The Adjutant General shall distribute all orders from the Commanding General.
892 The Adjutant General shall be the organ of all written communication from the District of
893 Columbia National Guard to the Commanding General and shall attend the Commanding
894 General when required at review of the District of Columbia National Guard, or whenever
895 ordered in the performance of military duty.

896 (b) The Adjutant General shall lay before the Commanding General all
897 recommendations with reference to the District of Columbia National Guard and follow and
898 issue such orders as the Commanding General shall give in relation thereto and in all other
899 military matters, and shall be entitled to use the coat of arms of the District of Columbia
900 and the seal of the Commanding General's office, with the words added thereto, "District of
901 Columbia National Guard, the Adjutant General's Office."

902 (c) The Adjutant General shall submit to the Commanding General copies of all
903 charges properly preferred in writing against any servicemember of the District of
904 Columbia National Guard, whenever desired by the person preferring the charge, as well as
905 all proceedings of all general courts-martial. The Adjutant General shall biennially make a
906 return in triplicate of all the District of Columbia National Guard, a copy of which he shall
907 deliver to the Commanding General on or before the first day of December of each even-
908 numbered year.
909

910 § 49-402.06. Adjutant General's assistants.

911 (a) The Adjutant General shall appoint an assistant Adjutant General for Army and
912 an assistant Adjutant General for Air. The qualifications of the assistant Adjutant General
913 for Army and the Assistant Adjutant General for Air shall be the same as those prescribed
914 under current National Guard regulations for federal recognition in the grade of brigadier
915 general and Departments of Army and Air Force and the National Guard Bureau eligibility
916 standards prescribed in the technician personnel manual. At the time of his or her
917 appointment, he or she shall be qualified or capable of meeting qualifications within a
918 reasonable time and a federally recognized commissioned field grade officer of the Army or
919 Air Force.

920 (b) The Adjutant General may appoint other assistant Adjutant Generals that may
921 be authorized by the federal National Guard Bureau or as authorized by the Commanding
922 General. In addition, the Adjutant General may appoint any necessary administrative and
923 clerical assistants.
924

925 Subchapter 3. Commissioned officers.

926 § 49-403.01. Officers.
927

928 (a) All officers of the District of Columbia National Guard shall be commissioned by
929 the President of the United States, on the recommendation of the Commanding General.
930 No person commissioned as an officer shall assume such rank or enter upon the duties of
931 the office to which he or she may be commissioned until he or she has accepted such
932 commission and taken such oath or affirmation as may be prescribed.

933 (b) Officers of the District of Columbia National Guard shall be selected from the
934 classes of persons having the qualifications prescribed by federal law and regulations. They
935 shall be appointed by the Commanding General upon the recommendation of their
936 superiors in the chain of command.

937 (c) Before receiving a commission in the District of Columbia National Guard, an
938 officer must pass the prescribed examination before a board appointed by federal authority
939 in accordance with the laws, regulations, and orders of the United States of America.

940

941 § 49-403.02. Officers of staff departments.

942 (a) The officers of the staff departments, staff corps, and the organizations created
943 by this subtitle when organized, shall be nominated by the Commanding General, subject to
944 the examination required by law.

945 (b) No person shall be appointed a commanding officer or staff officer unless such
946 person shall have had federally recognized commissioned military service, nor shall any
947 officer be appointed who fails to qualify as to fitness for military service under such
948 regulations as the Secretary of Defense shall prescribe. Such officers may hold their
949 positions until they have reached the prescribed age or length of service, unless separated
950 from the service prior to that time by reason of resignation, disability, withdrawal or
951 termination of federal recognition or commission, or upon finding of a legally convened
952 court-martial.

953

954 § 49-403.03. Filling vacancies above the grade of 2nd lieutenant.

955 Vacancies occurring in the District of Columbia National Guard above the grade of
956 2nd lieutenant shall, subject to the examination required by law, be filled by promotion
957 according to seniority from the next lower grade in organization in which the vacancy
958 occurs.

959

960 § 49-403.04. Powers and duties.

961 The departmental and military powers and duties of the officers provided for in this
962 subtitle shall be correlative with those possessed and discharged by similarly designated
963 officers in the Army or Air Force of the United States.

964

965 § 49-403.05. Date of commissions.

966 Any commission issuing under the provisions of this subtitle shall, where the rank
967 remains unchanged, bear the date of the commission held on Feb. 18, 1909; and any officer
968 who has served continuously in the same grade may be re-commissioned with rank from
969 date of his original commission to that grade.

970

971 § 49-403.06. Examinations for appointment and promotion.

972 (a) The Commanding General is authorized to prescribe a system of examination to
973 be conducted before a board appointed by the Commanding General prior to the
974 appointment of a person to the District of Columbia National Guard.

975 (b)(1) The Commanding General is authorized to prescribe a system of examination
976 to be conducted before a board appointed by the Commanding General at such times

977 anterior to the accruing of the right to promotion as may be best for the interest of the
978 service.

979 (2) If any officer fails to appear for examination within 30 days after
980 notification to so appear or fails to pass a satisfactory examination and is reported unfit for
981 promotion, the officer next below him in rank, having passed said examination, shall
982 receive the promotion.

983 (c) The Commanding General is authorized to prescribe a system of examination of
984 enlisted men to determine their fitness for promotion to the grade of 2nd lieutenant.

985

986 § 49-403.07. Special examinations.

987 (a) Whenever, in the opinion of the Commanding General, an officer of the District of
988 Columbia National Guard has become incapacitated for the performance of duty for any
989 reason, the Commanding General shall submit the name of such officer to the Secretary of
990 the Army or the Secretary of the Air Force, with a view to his being ordered before a board
991 of examination, to be appointed by the Secretary of the Army or the Secretary of the Air
992 Force, which board shall examine said officer as to his physical, mental, and military
993 qualifications.

994 (b) If any officer fails to appear before a board of examination appointed pursuant to
995 subsection (a) of this section within 30 days after being notified, or fails to pass a
996 satisfactory examination, the fact shall be certified by the board to the Commanding
997 General, who shall forward the record of examination with his recommendation to the
998 Secretary of the Army or the Secretary of the Air Force for submission to the President of
999 the United States.

1000

1001 § 49-403.08. Probationary and revocable appointment and promotion of officers.

1002 Every appointment and promotion of any person as a commissioned or warrant
1003 officer in the District of Columbia National Guard shall be probationary and revocable by
1004 the Commanding General at will; provided, that if the appointee shall have been extended
1005 federal recognition for his grade during such probationary period, his or her commission or
1006 warrant no longer shall be probationary or revocable in that grade.

1007

1008 § 49-403.09. Relative rank of officers.

1009 Relative rank among officers of the same grade shall be determined according to
1010 United States Department of Defense and National Guard regulations.

1011

1012 § 49-403.10. Efficiency boards.

1013 The moral character, capacity, and general fitness for service of any District of
1014 Columbia National Guard officer may be determined at any time by an efficiency board as
1015 provided by federal law and regulations.

1016

1017 § 49-403.11. Unassigned list.

1018 (a) There shall be maintained in the office of the Commanding General a list to be
1019 known as the unassigned list, to which officers may be transferred, pending their
1020 resignation or removal from service.

1021 (b) Any officer may be transferred by the Commanding General to the unassigned
1022 list upon the recommendation of the officer's commanding officer, either immediate or
1023 remote. Before such transfer is made the Commanding General shall notify the officer,
1024 either in person or by certified mail mailed to the officer's last known address, of the
1025 intended transfer. The officer shall have 10 days from the date of mailing of the notice in

1026 which to apply to the Commanding General for an efficiency board. Should the officer fail to
1027 apply for an efficiency board, the transfer shall be made upon the expiration of the 10-day
1028 period. If the officer requests an efficiency board, the Commanding General will be
1029 governed by the finding of such board.

1030 (c) All officers transferred to such unassigned list shall remain subject to military
1031 discipline and to courts-martial for military offenses to the same extent and in like manner
1032 as if upon the active list.

1033

1034 § 49-403.12. Discharge of commissioned officer.

1035 (a) The Commanding General may discharge any commissioned or warrant officer of
1036 the District of Columbia National Guard for any of the following reasons:

1037 (1) Upon muster out of the organization to which the officer is assigned;

1038 (2) Acceptance of resignation of the officer;

1039 (3) Removal of his or her actual residence to a distance from the station of his
1040 or her command that renders it impracticable for him or her to perform the duties of his or
1041 her office; or

1042 (4) Failure to qualify or to maintain qualification for federal recognition.

1043 (b) A commissioned officer may be honorably discharged:

1044 (1) Upon tender of resignation;

1045 (2) Upon disbandment of the organization to which he or she belongs; or

1046 (3) Upon report of a board of examination, or for failure to appear before such
1047 board when ordered.

1048 (c) A commissioned officer may be dismissed upon the sentence of a court-martial, or
1049 conviction in a court of justice of a felony.

1050

1051 § 49-403.13. Elimination and disposition of officers.

1052 (a) If the findings of an efficiency board are unfavorable to an officer and are
1053 approved by the Commanding General, the officer shall be discharged.

1054 (b) Commissions of officers of the District of Columbia National Guard may be
1055 vacated upon the following:

1056 (1) Resignation;

1057 (2) If approved by the Commanding General;

1058 (3) Absence without leave (AWOL) for 3 months;

1059 (4) Recommendation of an efficiency board;

1060 (5) Pursuant to a sentence of a court-martial;

1061 (6) Physical disqualification;

1062 (7) When convicted of a felony in a civil court;

1063 (8) When appointed or inducted into the armed forces;

1064 (9) When federal recognition is withdrawn from the officer or from the unit to
1065 which he or she is assigned;

1066 (10) Reaching the maximum age limitation; or

1067 (11) When it has been determined that an officer is subversive or disloyal.

1068 (c) Officers of the District of Columbia National Guard rendered surplus by the
1069 disbandment of their organization shall be placed in another unit; provided, that an
1070 appropriate vacancy exists, otherwise such officers shall be separated from the District of
1071 Columbia National Guard and automatically revert to the reserve.

1072

1073 § 49-403.14. Circumstances prohibiting resignation or discharge.

1074 No officer shall be discharged or his or her resignation accepted while under arrest
1075 or against whom military charges have been preferred or until he or she shall have turned
1076 over to his or her successor or satisfactorily accounted for all District and federal moneys
1077 and military property for which he or she shall be accountable or responsible.
1078

1079 Subchapter 4. Noncommissioned officers.
1080

1081 § 49-404.01. Appointment; reduction in grade; reduction to ranks; discharge.

1082 (a) The commanding officers of regiments and battalions, not part of regiments or
1083 battalions, shall appoint and warrant the noncommissioned staff officers of their respective
1084 regiments or battalions, and they shall, in their discretion, warrant the noncommissioned
1085 officers of the companies of their regiments and battalions, upon the written nomination of
1086 the commanding officers of their companies.

1087 (b) In troop, battery, and companies not part of a regiment or battalion and in the
1088 hospital corps the noncommissioned officers shall be warranted by the commanding officer
1089 of the brigade, in his or her discretion, upon the written nomination of the commanding
1090 officer of the troop, battery, company, or hospital corps.

1091 (c) Noncommissioned officers may be reduced one or more grades by his or her
1092 commanding officer for good cause shown; provided, that National Guard regulations be
1093 followed when reducing a noncommissioned officer.

1094 (d) The officer warranting a noncommissioned officer shall have power to reduce to
1095 the ranks, for good and sufficient reasons, the noncommissioned officers named in this
1096 section, but those enlisted as noncommissioned officers shall be discharged.
1097 Noncommissioned officers who shall be dropped vacate their positions.

1098 (e) An order discharging a noncommissioned officer of the District of Columbia
1099 National Guard may be vacated by the Commanding General for good cause; provided, a
1100 certificate or other evidence of discharge has not been delivered to the discharged officer.
1101

1102 Subchapter 5. Enlisted personnel.
1103

1104 § 49-405.01. Terms of enlistments; qualifications.

1105 Enlistments in the District of Columbia National Guard shall be for the terms
1106 prescribed by the laws of the United States of America. Qualifications for enlistment shall
1107 be the same as prescribed for the National Guard by the laws and regulations of the armed
1108 forces. No enlisted servicemember whose service has not been honest and faithful during
1109 his or her preceding term of enlistment shall be enlisted in the District of Columbia
1110 National Guard.
1111

1112 § 49-405.02. Enlistment of minors.

1113 A person under 18 years of age may be enlisted in the District of Columbia National
1114 Guard only with the written consent of the applicant's parents or legal representative.
1115

1116 § 49-405.03. Oath and contract of enlistment.

1117 Every person who enlists or reenlists in the District of Columbia National Guard
1118 shall take and subscribe to the oath required by law and shall execute the contract of
1119 enlistment. The oath shall be taken and subscribed before an officer of the District of
1120 Columbia National Guard or before an officer authorized by law to administer oaths. The
1121 oath shall be substantially in the form prescribed for enlisted personnel of the National

1122 Guard, substituting the words "District of Columbia National Guard" where necessary, and
1123 omitting the reference to the Governor.

1124

1125 § 49-405.04. Transfer.

1126 An enlisted servicemember may be transferred to or from organizations or units;
1127 provided, that National Guard regulations be followed when transferring an enlisted
1128 servicemember.

1129

1130 § 49-405.05. Discharge without honor.

1131 An enlisted servicemember may be discharged without honor at any time by order of
1132 the Commanding General for fraudulent enlistment or for being continuously absent
1133 without leave (AWOL) from his or her command for a period of not less than 3 months.

1134

1135 § 49-405.06. Dishonorable discharge.

1136 An enlisted servicemember shall be dishonorably discharged by order of the
1137 Commanding General upon:

1138

(1) Conviction of felony in a civil court;

1139

(2) Discovery of reenlistment after previous dishonorable discharge; or

1140

(3) Carrying out a sentence of a court-martial.

1141

1142 § 49-405.07. Discharge of enlisted persons.

1143 (a) An enlisted servicemember discharged from service in the District of Columbia
1144 National Guard shall receive a discharge in writing. The form and classification of such
1145 discharge shall be as prescribed by National Guard regulations.

1146 (b) An order discharging an enlisted servicemember of the District of Columbia National
1147 Guard may be vacated by the Commanding General for good cause; provided, a certificate
1148 or other evidence of discharge has not been delivered to the discharged servicemember.

1149

1150 Subchapter 6. Retired officers and enlisted personnel.

1151

1152 § 49-406.01. Roll of retired officers and enlisted personnel.

1153 An officer or enlisted servicemember of the District of Columbia National Guard who
1154 has completed 10 years of military service under 10 U.S.C. § 1331(d), as evidenced by a
1155 letter of notification of retired pay, shall upon retirement and written request to the
1156 Adjutant General be placed by order of the Commanding General on a roll in the office of
1157 the Adjutant General to be known as the "roll of retired military personnel." A
1158 servicemember registered on the roll is entitled to wear the uniform of the rank last held on
1159 occasions of ceremony, when the wearing of such uniform is not in conflict with federal laws
1160 or regulations.

1161

1162 § 49-406.02. Honorary promotion.

1163 Upon application made within one year of retirement, an officer or enlisted
1164 servicemember of the District of Columbia National Guard who has completed 10 years of
1165 military service under 10 U.S.C. § 1331(d), as evidenced by a letter of notification of retired
1166 pay, may, in the discretion of the Commanding General, be granted an honorary
1167 advancement to the next rank above that held on the date of application for retirement.
1168 The Commanding General shall adopt regulations governing the application procedure,
1169 qualifications required, and rights and privileges in connection with honorary post-
1170 retirement promotions. If recalled to either District or federal active service, a person

1171 honorarily promoted under this section shall return to duty in that rank specified by federal
1172 law or regulations applicable to the person. The insignia and accoutrements of the
1173 honorary promotion may only be worn at District of Columbia National Guard sponsored
1174 ceremonies and without the "U.S." insignia of a federal recognized Army National Guard or
1175 Air National Guard officer.

1176
1177 CHAPTER 5. PRIVILEGES, IMMUNITIES, BENEFITS, AND PENALTIES.
1178

1179 Sec.

1180 49-501. Continuation of health coverage.

1181 49-502. Legal assistance to guard members and immediate family members; scope, duties
1182 and limitations.

1183 49-503. Temporary delegation of guardianship and power of attorney.

1184 49-504. Special police.

1185 49-505. Exemptions.

1186 49-506. Commanding officer not liable for exercise of judgment.

1187 49-507. Malice must be proved.

1188 49-508. Tortious acts of District of Columbia National Guardsmen on duty or training.

1189 49-509. Interference with District of Columbia National Guard Forces.

1190 49-510. Voting.

1191 49-511. Group life insurance for members of District of Columbia National Guard.

1192 49-512. Access to criminal justice information.
1193

1194 § 49-501. Continuation of health coverage.

1195 A person who is insured as a dependent under a group policy for accident or health
1196 insurance as a full-time student less than 25 years of age, whose coverage under the group
1197 policy otherwise would terminate while the person is on a leave of absence during a period
1198 of temporary duty or service, or as a member of the organized reserves called to active
1199 service from a reserve component status, shall be considered to have been continuously
1200 insured under the group policy for the purpose of returning to the insured dependent status
1201 as a full-time student who is less than 25 years of age. This section does not apply to
1202 coverage of an injury suffered or a disease contracted in the line of duty.
1203

1204 § 49-502. Legal assistance to guard members and immediate family members; scope,
1205 duties and limitations.

1206 (a) For purposes of enhancing the readiness of District of Columbia National Guard
1207 personnel for mobilization or call up for active service, legal-assistance attorneys and judge
1208 advocates of the District of Columbia National Guard who provide pre-mobilization legal
1209 assistance and counseling to District of Columbia National Guard personnel and who are
1210 not members of the District of Columbia Bar may provide legal assistance and counseling to
1211 servicemembers of the District of Columbia National Guard and their immediate family
1212 members and dependents as set forth in subsection (b) of this section.

1213 (b) Subject to the availability of resources, the scope of the practice of law and the
1214 legal-assistance attorney's duties and responsibilities authorized by this section are limited
1215 to advice and assistance regarding the following matters:

1216 (1) Basic wills, trusts, and estate planning; provided, that complex estate
1217 planning and drafting are not authorized by this section; provided further, that when a
1218 legal assistance client is unable to communicate adequately, a will for one spouse may not
1219 be prepared based upon discussions with the other spouse without personal communication

1220 sufficient to establish the attorney-client relationship with the spouse for whom the will is
1221 prepared;

1222 (2) Advice concerning the legal and practical implications of divorce, legal
1223 separation, annulment, custody, and paternity;

1224 (3) Advice and document preparation, but not the drafting of pleadings except
1225 as permitted by applicable service regulations;

1226 (4) Advice and assistance, including communication, correspondence, and
1227 negotiations with another party or lawyer, on behalf of the client;

1228 (5) Basic advice and assistance on federal, District, and local taxes; provided,
1229 that legal assistance attorneys shall not prepare or sign returns;

1230 (6) Advice and assistance relating to landlord and tenant matters, including
1231 review of personal leases and communication and correspondence on behalf of the client;

1232 (7) Advice and assistance in connection with civil suits, including providing
1233 explanations and appropriate referrals with respect to the procedures and requirements of
1234 small claims courts and other courts; provided, that, except as permitted by applicable
1235 service regulations, court appearances and representation as attorney of record are not
1236 authorized by this section.

1237 (8) Advice and assistance concerning the Servicemembers' Civil Relief Act, 50
1238 U.S.C. app. § 501 *et seq.*, pertaining to the protections afforded by the Act and its effect on
1239 the client;

1240 (9) Limited general advice regarding minor criminal matters and traffic
1241 offenses within the jurisdiction of the civilian courts; provided, that serious criminal
1242 matters are not within the scope of the legal assistance that may be provided and will be
1243 referred to military defense counsel or private civilian attorneys, as appropriate;

1244 (10) Advice and assistance regarding powers of attorney, real estate,
1245 bankruptcy, contracts, consumer affairs, insurance, immigration, naturalization, and other
1246 areas if not inconsistent with legal assistance regulations; provided, that advice and
1247 assistance regarding military matters may be provided subject to the limitations stated in
1248 applicable service regulations.

1249 (c) Legal advice and assistance authorized by this section is for personal legal affairs
1250 only. Legal advice and assistance shall not be provided regarding business ventures or
1251 regarding matters that are not of a personal nature.

1252 (d) Legal assistance duties are separate and apart from responsibilities of trial
1253 counsel, defense counsel, or others involved in processing courts-martial, nonjudicial
1254 punishments, administrative boards or proceedings, and investigations. Unless otherwise
1255 directed by the Commanding General or his designee, legal assistance attorneys may not
1256 assume defense counsel functions for their legal assistance clients. Servicemembers
1257 accused or suspected of offenses or conduct that may result in disciplinary or judicial
1258 proceedings under the Uniform Code of Military Justice (10 U.S.C. § 801, *et seq.*), the
1259 District of Columbia Code of Military Justice (D.C. Official Code § 49-1101.01 *et seq.*), or
1260 administrative discharges, must be referred to defense counsel.

1261 (e) If two or more eligible persons with conflicting interests seek legal assistance
1262 from the same legal-assistance officer on the same matter, the party first establishing an
1263 attorney-client relationship shall be provided representation. Other parties shall be
1264 advised that they are also eligible for assistance, but that it must be obtained from another
1265 source. Every effort shall be made to refer the party with a conflicting interest to another
1266 legal assistance attorney or to a private civilian attorney.

1267 (f) Legal assistance attorneys may not advise on, assist in, or become involved with,
1268 individual interests opposed to or in conflict with the interests of the District of Columbia or
1269 the United States without the specific, written approval of the Commanding General.

1270 (g) Except when the client is unable to communicate adequately, advice or assistance
1271 shall not be provided through third parties. In the absence of unusual or compelling
1272 circumstances, legal advice shall not be provided over the telephone. Nothing in this
1273 subsection shall prohibit appropriate follow-up telephone discussions between the legal
1274 assistance attorney and the client.

1275 (h) A legal assistance attorney may determine that the best interests of the client
1276 will be served by referring the case to a private civilian attorney. Referral may occur for a
1277 variety of reasons, including expertise of the attorney or regulations that prohibit
1278 involvement of the legal-assistance attorney. Should referral to a private civilian attorney
1279 be necessary, payment of legal fees is the client's responsibility. Except as otherwise
1280 provided by law, the District shall not reimburse the individual or pay any expenses
1281 associated with the referral. A legal assistance attorney shall not refer a legal assistance
1282 client to himself or herself in his or her private practice nor to his or her law firm.

1283 (i) Services provided pursuant to this section shall be at no cost to eligible
1284 servicemembers. Legal assistance attorneys, National Guard personnel, and civilian
1285 employees involved in providing service or advice in the legal assistance program are
1286 prohibited from accepting or receiving, in any manner, any fee or compensation other than
1287 their regular compensation for legal services provided to persons eligible for assistance
1288 under this section, and from receiving fees or compensation for the same matters about
1289 which they consulted with or advised the legal assistance client in an official capacity.

1290
1291 § 49-503. Temporary delegation of guardianship and power of attorney.

1292 (a) A servicemember of the District of Columbia National Guard called into active
1293 service of the armed forces, and who is the physical custodian or guardian of a minor or
1294 incapacitated person may delegate by a properly executed power of attorney to another
1295 person for a period of one year or less any of the powers regarding care and custody of the
1296 guardian or minor, except the power to consent to marriage or adoption of a minor ward.

1297 (b) A servicemember of the District of Columbia National Guard called into active
1298 service of the armed forces may give a power of attorney to another person for a period of
1299 one year or less. The donee of such a power may act for and represent the donor to the
1300 extent authorized in the given power of attorney; provided, that nothing in this section
1301 shall authorize a donee of a power of attorney given by a minor to sell, mortgage or dispose
1302 of the property, real or personal, of such minor.

1303 (c) If the donor of a power of attorney conferred pursuant to this section is serving on
1304 active duty with the armed forces, and a power of attorney properly executed by such
1305 person lapses prior to the release of such donor from active duty, the power of attorney
1306 shall extend automatically for an additional year unless the donor is released sooner from
1307 active duty.

1308 (d) The execution of a power of attorney pursuant to this section does not constitute
1309 a material change in circumstances for purposes of an action seeking a permanent change
1310 in custody of an affected child or children brought by a parent without physical custody. An
1311 automatic stay of all proceedings seeking a permanent change in custody of a minor child
1312 during the time the parent with physical custody is called into active service is imposed.
1313 Such stay shall continue for the period of active service, unless waived in writing by the
1314 servicemember. Nothing in this section precludes a petition by the non-custodial parent to

1315 temporarily change physical custody; provided, that the best interests of the child shall be
1316 determinative.

1317

1318 § 49-504. Special police.

1319 The Commanding General by order may commission one or more of the
1320 servicemembers of the District of Columbia National Guard as special police. Such special
1321 police shall have and exercise the powers and privileges and discharge all the duties of the
1322 standing police force of the District of Columbia while on the premises of any District
1323 military reservation or other District military property.

1324

1325 § 49-505. Exemptions.

1326 A servicemember of the District of Columbia National Guard shall not be arrested,
1327 or served with a summons, order, warrant or other civil process after having been ordered
1328 to any duty, or while going to, attending, or returning from, any place to which the
1329 servicemember is required to go for military duty. This section does not prevent the
1330 servicemember's arrest by order of a military officer or for a felony or breach of the peace
1331 committed while not in the actual performance of the servicemember's duty. The articles of
1332 equipment personally owned by such a servicemember are exempt from seizure or sale for
1333 debt.

1334

1335 § 49-506. Commanding officer not liable for exercise of judgment.

1336 A commanding officer engaged under proper authority may determine the means to
1337 be used in controlling or dispersing any mob or other unlawful assembly. A commanding
1338 officer who exercises this discretion is not liable in either a civil or criminal action for an act
1339 done in the line of duty.

1340

1341 § 49-507. Malice must be proved.

1342 No action or proceeding shall be maintained against any officer appointing a
1343 military court or against any member of a military court or commission, officer or agent
1344 acting under its authority, or reviewing its proceedings, on account of the imposition of a
1345 fine or penalty or for the execution of a sentence of any person, unless it be shown that such
1346 officer, member or agent has acted from motives of malice.

1347

1348 § 49-508. Tortious acts of District of Columbia National Guardsmen on duty or
1349 training.

1350 For purposes of tort liability, servicemembers of the District of Columbia National
1351 Guard, while engaged in training or duty under 32 U.S.C. §§ 316, 502, 503, 504, or 505, are
1352 considered to be employees of the government of the United States of America. Tort claims
1353 that arise will be subject to the Federal Tort Claims Act, 28 U.S.C. § 2671 *et seq.*

1354

1355 § 49-509. Interference with District of Columbia National Guard Forces.

1356 (a) A person who intentionally hinders, delays, or obstructs or who intentionally
1357 attempts to hinder, delay, or obstruct a portion of the District of Columbia National Guard
1358 on active duty in the performance of a military duty in service of the District shall be guilty
1359 of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not
1360 less than one month nor more than one year, or by a fine of not less than \$100 nor more
1361 than \$1,000, or both.

1362 (b) The commanding officer of a portion of the District of Columbia National Guard
1363 parading or performing a military duty in a street or highway may require a person in the

1364 street or highway to yield right-of-way to the forces, except that the commanding officer
1365 may not interfere with the carrying of the United States mail, a legitimate function of the
1366 police, or the progress or operation of a hospital ambulance or fire department vehicle, or
1367 vehicles that have been contracted by the District government to provide emergency
1368 services.

1369 (c) During an occasion of duty, a commanding officer may arrest a person who:

1370 (1) Trespasses on the campground, parade ground, armory, or other place
1371 devoted to the duty;

1372 (2) Interrupts or molests the orderly discharge of duty by those under arms;

1373 or

1374 (3) Disturbs or prevents the passage of troops going to or coming from duty.

1375 (d) The commanding officer may prohibit and abate as a common nuisance a
1376 huckster or auction sale or gambling on the post, campground, or place of encampment,
1377 parade, or drill under the officer's command.

1378

1379 § 49-510. Voting.

1380 (a) A unit, force, division, or command of the District of Columbia National Guard
1381 that is engaged in regular training on a day on which a primary, general, or special election
1382 for a District or federal office is held shall provide time off or arrange duty hours to permit
1383 all personnel to vote in the election.

1384 (b) This section shall not apply during war, invasion, insurrection, riot, tumult, or
1385 imminent danger of one of these situations, or during annual active duty for training.

1386

1387 § 49-511. Group life insurance for members of District of Columbia National Guard.

1388 The lives of a group comprised solely of servicemembers of the District of Columbia
1389 National Guard may be insured under a policy of group life insurance issued to an
1390 association of such members formed for purposes other than obtaining insurance. This
1391 association shall be deemed the policyholder, to insure members of the District of Columbia
1392 National Guard for the benefit of persons other than the association or any of its officials,
1393 subject to the following requirements:

1394 (a) The premium for the policy shall be paid by the association, either from the
1395 association's own funds, or from funds collected from the insured members specifically for
1396 the purpose of purchasing the insurance.

1397 (b) No policy may be placed in force unless at least 60% of the members of the
1398 association, excluding any as to whom evidence of individual insurability is not satisfactory
1399 to the insurer, have elected to be covered.

1400 (c) The amounts of insurance under the policy shall be based upon a plan precluding
1401 individual selection either by the members or by the association. Such amounts shall not
1402 exceed \$100,000 in the case of any member.

1403 (d) Such insurance policy shall conform to the provisions of District of Columbia law.

1404 (e) The Commanding General of the District of Columbia National Guard may select
1405 the Insurance Company that provides coverage to the members of the association.

1406

1407 § 49-512. Access to criminal justice information.

1408 The Commanding General or his or her designee may request from a prosecutor or a
1409 law enforcement agency criminal justice information, including criminal investigative
1410 information, fingerprints and photographs, and criminal justice information or records
1411 made confidential by law, relating to a member of the District of Columbia National Guard
1412 for use in an administrative action. If the prosecutor or law enforcement agency

1413 determines that dissemination of the requested criminal justice information would not
1414 jeopardize a pending investigation or other criminal proceeding, the prosecutor or the
1415 investigating law enforcement agency may disseminate the information to the Commanding
1416 General or his or her designee.

1417

1418 CHAPTER 6. DISTRICT OF COLUMBIA NATIONAL GUARD EDUCATION BENEFITS.

1419

1420 Sec.

1421 49-601. Definitions.

1422 49-602. Establishment and administration of Educational Assistance Plan.

1423 49-603. Eligibility for NGEAP.

1424

1425 § 49-601. Definitions.

1426 For purposes of this chapter, the term:

1427 (1) "Applicant" means a member that is applying to receive financial educational
1428 assistance from the District of Columbia National Guard;

1429 (2) "Authorized courses" means:

1430 (A) Credit courses which meet undergraduate or graduate-degree
1431 requirements; or

1432 (B) Credit courses which meet requirements for completion of vocational or
1433 technical training for a declared educational objective meeting requirements of rules
1434 promulgated pursuant to this chapter.

1435 (3) "Federal tuition assistance" means any payment made to or on behalf of a
1436 member by the federal government for educational assistance, excluding benefits paid
1437 pursuant to the Montgomery GI Bill;

1438 (4) "Institute of higher education" means a college, university, vocational school,
1439 technical school, or other institute of higher learning.

1440 (5) "Member" means an active, in good standing, servicemember of the District of
1441 Columbia National Guard;

1442 (6) "Montgomery GI Bill" means the Veterans Educational Assistance Act of 1984,
1443 approved October 19, 1984 (Public Law 98-525; 98 Stat. 2492), and subsequent
1444 amendments thereto.

1445

1446 § 49-602. Establishment and administration of Educational Assistance Plan.

1447 (a) There is established a District of Columbia National Guard Educational
1448 Assistance Plan ("NGEAP") to provide financial assistance to qualified members who enroll
1449 in institutes of higher education. The NGEAP established under this chapter does not
1450 affect or preclude other educational benefits available under other provisions of District
1451 law.

1452 (b) The NGEAP shall be administered by the Commanding General in accordance
1453 with the provisions of this chapter. The Commanding General shall promulgate rules for
1454 the administration, implementation and proper use of the NGEAP. The Commanding
1455 General may prioritize categories of education benefits to encourage recruitment and
1456 retention of members.

1457 (c)(1) The Commanding General may authorize the payment of up to 100% of the
1458 cost of tuition and required fees charged by an institute of higher education for each
1459 member to the extent funds are available.

1460 (2) Payments under the plan together with any federal tuition assistance
1461 received by a member shall not exceed 100% of the tuition and mandatory fees charged by
1462 an institute of higher education.

1463 (3) Payment shall be made directly to an institute of higher education after it
1464 officially certifies that a member has registered.

1465
1466 § 49-603. Eligibility for NGEAP.

1467 To be eligible for educational assistance benefits under the NGEAP, an applicant
1468 must:

1469 (1) Have completed basic military training or officer training or received a waiver
1470 from the Commanding General for good cause shown;

1471 (2) Meet the standards for satisfactory participation in the District of Columbia
1472 National Guard at the beginning of and throughout the entire academic term for which
1473 assistance is received; and

1474 (3) Meet the academic standards specified in this paragraph and otherwise be in
1475 good standing as determined by the institute of higher education pursuant to a published
1476 policy. Any member receiving educational assistance under the NGEAP who fails to earn a
1477 cumulative grade point average at least equivalent to 2.0 on a 4.0 scale shall be ineligible
1478 for educational assistance under the NGEAP until the member attains that cumulative
1479 grade point average, unless the member receives a waiver from the Commanding General
1480 for good cause shown.

1481
1482 CHAPTER 7. AWARDS, MEDALS, DECORATIONS, AND HONORS.

1483
1484 Sec.

1485 49-701. District awards, medals, decorations, and honors.

1486 49-702. Medals and appurtenances.

1487 49-703. Achievement Medal.

1488 49-704. Commendation Medal.

1489 49-705. Meritorious Service Medal.

1490 49-706. Distinguished Service Medal.

1491 49-707. Faithful Service Medal.

1492 49-708. Long and Faithful Service Medal.

1493 49-709. Active Duty Ribbon [obsolete].

1494 49-710. Attendance Ribbon [obsolete].

1495 49-711. Ceremonial/Drill Team/Color Guard Ribbon.

1496 49-712. Community Service Ribbon.

1497 49-713. Emergency Service Ribbon.

1498 49-714. Enlisted Excellence Ribbon.

1499 49-715. Noncommissioned Officer Commendation Ribbon.

1500 49-716. Recognition Ribbon.

1501 49-717. Recruiting and Retention Ribbon.

1502 49-718. Special Award Ribbon.

1503 49-719. Commanding General's Distinguished Unit Award.

1504 49-720. Sergeants Major/Chief Award.

1505 49-721. Staff Identification Badge.

1506 49-722. Presentation of District flag.

1507
1508 § 49-701. District awards, medals, decorations, and honors.

1509 (a) All awards, medals, decorations, and honors bestowed to servicemembers of the
1510 District of Columbia National Guard pursuant to this chapter are to provide tangible
1511 recognition for acts of valor, exceptional service or achievement, special skills or
1512 qualifications, and acts of heroism not involving actual combat.

1513 (b) The Commanding General, from the funds appropriated for the support and
1514 maintenance of the District of Columbia National Guard, shall procure and issue to the
1515 servicemembers of the District of Columbia National Guard merit or service badges or other
1516 appropriate awards for service under regulations and according to the design and pattern
1517 determined by the Commanding General. Awards, medals, and decorations shall be
1518 obtained from the United States when available.

1519 (c) Servicemembers of the District of Columbia National Guard who, by order of the
1520 President of the United States, serve in federal forces during national emergency, may
1521 count the period of that federal service toward the procurement of a service badge.

1522 (d) Whenever it shall appear to the satisfaction of the Commanding General that
1523 any medal duly issued by the District of Columbia to a servicemember of the District of
1524 Columbia National Guard has been lost or stolen, the Commanding General may issue a
1525 duplicate thereof.

1526

1527 § 49-702. Medals and appurtenances.

1528 Medals and appurtenances listed below are issued by the District of Columbia
1529 National Guard:

- 1530 (1) Decorations;
1531 (2) Service medals;
1532 (3) Service ribbons;
1533 (4) Arrowheads;
1534 (5) Service stars;
1535 (6) Good Conduct Medals;
1536 (7) Oak Leaf Clusters;
1537 (8) Numerals;
1538 (9) Letter "V" devices;
1539 (10) Certificates for decorations;
1540 (11) Lapel buttons for decorations;
1541 (12) Ten-year devices; and
1542 (13) Mobilization Devices with AFRM.

1543

1544 § 49-703. Achievement Medal.

1545 The District of Columbia National Guard Achievement Medal may be awarded to
1546 any servicemember of the District of Columbia National Guard who, while serving in any
1547 capacity after July 1, 1994, distinguishes himself by meritorious service or achievement of a
1548 lesser degree than required for award of the District of Columbia National Guard
1549 Commendation Medal. The District of Columbia National Guard Achievement Medal shall
1550 not be awarded above the grade of Lieutenant Colonel.

1551

1552 § 49-704. Commendation Medal.

1553 The District of Columbia National Guard Commendation Medal may be awarded to
1554 any servicemember of the District of Columbia National Guard who, while serving in any
1555 capacity after July 1, 1994, distinguishes himself by heroism, meritorious achievement or
1556 meritorious service of a lesser degree than required for award of the United States Army or

1557 United States Air Force Commendation Medals or District of Columbia National Guard
1558 Meritorious Service Medal. This medal will not be awarded to General Officers.
1559

1560 § 49-705. Meritorious Service Medal.

1561 (a) The District of Columbia National Guard Meritorious Service Medal may be
1562 awarded to a servicemember, attached servicemember, or civilian employee who, while
1563 serving in or with the District of Columbia National Guard, has distinguished himself or
1564 herself by:

1565 (1) The performance of an act of heroism evidenced by voluntary action in the
1566 face of danger. The required gallantry, while of lesser degree than that required for the
1567 award of the District of Columbia National Guard Distinguished Service Medal, shall
1568 nevertheless have been performed with distinction; or

1569 (2) Meritorious achievement or meritorious service, displays of marked
1570 initiative, tenacity of purpose and skill, or pursuit of work with such energy and judgment
1571 as to result in marked benefit to the District of Columbia National Guard, or to bring public
1572 acclaim and gratitude to achievement of service. Outstanding performance of normal duty
1573 for a period in excess of 2 years may be considered; provided, that lesser periods of
1574 outstanding and meritorious service or achievement may also be considered.

1575 (b) This award, in unique circumstances and at the specific direction of the
1576 Commanding General, may be awarded to a servicemember or civilian who is not serving
1577 nor attached to the District of Columbia National Guard, but who has rendered
1578 distinguished service to the District of Columbia National Guard that warrants this level of
1579 award.

1580
1581 § 49-706. Distinguished Service Medal.

1582 (a) The District of Columbia National Guard Distinguished Service Medal may be
1583 awarded to any servicemember who, while serving or attached to the District of Columbia
1584 National Guard, has distinguished himself or herself by:

1585 (1) The performance of an act of extraordinary heroism evidenced by
1586 voluntary action in the face of great danger above and beyond the call of duty. The deed
1587 performed shall be one of personal bravery so conspicuous as to clearly distinguish the
1588 individual; or

1589 (2) Rendering exceptionally meritorious service in duty of responsibility,
1590 displaying exceptional initiative, tenacity of purpose and skill. The performance shall
1591 result in conspicuous and lasting benefits to the District of Columbia National Guard.
1592 Superior performance of normal duty shall not alone justify an award of this decoration.

1593 (b) This award, in unique circumstances and at the specific direction of the
1594 Commanding General, may be awarded to a servicemember or civilian who is not serving
1595 nor attached to the District of Columbia National Guard, but who has rendered
1596 distinguished service to the District of Columbia or the District of Columbia National
1597 Guard that warrants this level of award.

1598
1599 § 49-707. Faithful Service Medal.

1600 The District of Columbia National Guard Faithful Service Medal may be awarded
1601 for honorable and faithful active service in the District of Columbia National Guard for a
1602 period of 3 years, not necessarily consecutive. Upon completion of 10, 15, or 20 years of
1603 service, a clasp may be awarded that is inscribed with the years of service.
1604

1605 § 49-708. Long and Faithful Service Medal.

1606 The District of Columbia National Guard Long and Faithful Service Medal may be
1607 awarded for honorable and faithful active service in the District of Columbia National
1608 Guard for a period of 25 years, not necessarily consecutive. Upon completion of 30, 35, 40,
1609 and 45 years of service, a clasp may be awarded that is inscribed with the years of service.
1610

1611 § 49-709. Active Duty Ribbon [obsolete].

1612 The District of Columbia National Guard Active Duty Ribbon may have been
1613 awarded to a servicemember of the District of Columbia National Guard who, subsequent to
1614 July 27, 1954, served on active duty in any component of the armed forces, but was not
1615 awarded a ribbon or service medal for service during that period; provided, that such
1616 service was honorable, and the servicemember successfully completed an active duty basic
1617 training program in a satisfactory manner. Award of this ribbon is not authorized after
1618 September 30, 1994. Any servicemember is authorized to wear the award if it was awarded
1619 prior to September 30, 1994.
1620

1621 § 49-710. Attendance Ribbon [obsolete].

1622 The District of Columbia National Guard Attendance Ribbon may have been
1623 awarded to a servicemember of the District of Columbia National Guard who, for a period of
1624 at least one year, attended all paid drills or training assemblies and all days of duty under
1625 appropriate orders of the unit to which he or she was assigned for each year up to 16 years.
1626 Award of this ribbon is not authorized after September 30, 1994. Any servicemember is
1627 authorized to wear the award if it was awarded prior to September 30, 1994.
1628

1629 § 49-711. Ceremonial/Drill Team/Color Guard Ribbon.

1630 The District of Columbia National Guard Ceremonial/Drill Team/Color Guard
1631 Ribbon may be awarded to a servicemember of the District of Columbia National Guard
1632 who has served with the ceremonial, drill team, or color guard units for at least a one-year
1633 tour. This ribbon is awarded retroactively to January 1972 to any servicemember who
1634 served with ceremonial, drill team, or color guard units.
1635

1636 § 49-712. Community Service Ribbon.

1637 The District of Columbia National Guard Community Service Ribbon may be
1638 awarded to a servicemember of the District of Columbia National Guard who is called to
1639 duty to provide direct support to community activities, humanitarian efforts, or emergency
1640 support for civil authorities. Award of this ribbon for administrative or indirect support
1641 may be approved at the discretion of the Commanding General.
1642

1643 § 49-713. Emergency Service Ribbon.

1644 The District of Columbia National Guard Emergency Service Ribbon with clasp may
1645 be awarded to a servicemember of the District of Columbia National Guard who is called or
1646 ordered to federal active duty for a specified or indefinite period of peace time, during any
1647 crisis designated as such by Congress, the President of the United States, or the
1648 Commanding General, and serves in an honorable and faithful manner.
1649

1650 § 49-714. Enlisted Excellence Ribbon.

1651 The District of Columbia National Guard Enlisted Excellence Ribbon may be
1652 awarded at the end of each fiscal year to a servicemember of the District of Columbia
1653 National Guard of the grade E5 or below who clearly demonstrates excellence in the
1654 performance of assigned duties by accomplishing each of the following:

- 1655 (1) Attending 100% of the unit's training assemblies and Annual Training for the
1656 fiscal year;
- 1657 (2) Completing appropriate skill level or upgrade training requirements, or both, for
1658 grade held;
- 1659 (3) Completing Noncommissioned Officer Education System or Professional Military
1660 Education requirements for the grade held;
- 1661 (4) Qualifying as a sharpshooter, expert, or as required on assigned weapon;
- 1662 (5) Attaining a minimum score of 70% on each part of the Army Physical Fitness
1663 Test or the Air National Guard Physical Fitness Program; and
- 1664 (6) Maintaining appearance, height, weight, and body-fat standards in accordance
1665 with prescribed regulations.

1666

1667 § 49-715. Noncommissioned Officer Commendation Ribbon.

1668 The District of Columbia National Guard Noncommissioned Officer Commendation
1669 Ribbon may be awarded to a noncommissioned officer in the grades of E6 to E9 who meets
1670 the criteria for award of the Enlisted Excellence Ribbon and whose leadership, devotion to
1671 duty, personal development, and commendable service or achievement have rendered a
1672 distinct service to the unit and clearly have set the performance of the individual above that
1673 of his or her peers. Normal performance of duty, expected of an individual at the grade and
1674 assignment, is not an adequate basis for approval of this award.

1675

1676 § 49-716. Recognition Ribbon.

1677 The District of Columbia National Guard Recognition Ribbon may be awarded to an
1678 outstanding servicemember of the District of Columbia National Guard who has received
1679 any of the following recognition:

- 1680 (1) NCO of the Year;
- 1681 (2) Soldier of the Year;
- 1682 (3) Outstanding SNCO of the Year;
- 1683 (4) Outstanding NCO of the Year; or
- 1684 (5) Outstanding Airman of the Year.

1685

1686 § 49-717. Recruiting and Retention Ribbon.

1687 The District of Columbia National Guard Recruiting and Retention Ribbon may be
1688 awarded to a servicemember of the District of Columbia National Guard who refers 3
1689 prospective enlistees, each of whom enlists for a period of at least one year. A commander,
1690 first sergeant, or unit retention NCO whose assigned unit achieves an 85% retention rate
1691 during at least a one-year period is also eligible.

1692

1693 § 49-718. Special Award Ribbon.

1694 District of Columbia National Guard Special Award Ribbons may be awarded
1695 annually to an individual who is awarded one of the following special awards:

- 1696 (1) Major General Charles L. Southward Leadership Award;
- 1697 (2) Master Sergeant Adolph R. Scagliarini Outstanding Bandmember Award;
- 1698 (3) Howard Kacy Flying Safety Award;
- 1699 (4) J. Leo Lynch Outstanding Airman Award;
- 1700 (5) Colonel Benjamin C. Abell, Jr. Award;
- 1701 (6) Brigadier General William R. McCall Flying Safety Award;
- 1702 (7) Tuskegee Airmen Award;
- 1703 (8) Joseph Goldstein Aerial Gunnery Award;

- 1704 (9) Command Sergeant Major William G. Matthews, Jr. NCO Leadership Award;
1705 (10) Colonel Louis R. Williams Outstanding Personnel Award;
1706 (11) District of Columbia Army Guard Family of the Year; or
1707 (12) District of Columbia Air Guard Family of the Year.
1708

1709 § 49-719. Commanding General's Distinguished Unit Award.

1710 The District of Columbia National Guard Commanding General's Distinguished
1711 Unit Award may be awarded to a servicemember of the District of Columbia National
1712 Guard who actively participates in selected federal or District missions that support and
1713 promote good civic or community relations.
1714

1715 § 49-720. Sergeants Major/Chief Award.

1716 The District of Columbia National Guard Sergeants Major/Chief Award may be
1717 awarded to a servicemember in the grade of E9 upon retirement or separation from the
1718 District of Columbia National Guard. The individual receiving the award shall have served
1719 honorably and made significant contributions to enhance the morale and welfare of the
1720 enlisted force of the District of Columbia National Guard.
1721

1722 § 49-721. Staff Identification Badge.

1723 The District of Columbia National Guard Commanding General's Staff Identification
1724 Badge may be awarded to a commissioned officer or senior noncommissioned officer of the
1725 District of Columbia National Guard who has served on the staff of the Commanding
1726 General.
1727

1728 § 49-722. Presentation of District flag.

1729 (a) The Mayor of the District of Columbia shall present to the family or other
1730 survivor of a deceased servicemember of the District of Columbia National Guard a flag of
1731 the District of Columbia, appropriate for use as a burial flag, upon application of a member
1732 of the family of the deceased servicemember.

1733 (b) The provisions of this section shall apply to any individual who has served at
1734 least one year in the District of Columbia National Guard, and who at the time of death
1735 was either an active, honorably discharged, or retired servicemember.

1736 (c) The Commanding General shall promulgate necessary rules and regulations to
1737 implement the provisions of this section. Flags shall be obtained from the United States
1738 when available, and shall be purchased by the Office of the Mayor.
1739

1740 CHAPTER 8. MORALE, WELFARE, AND RECREATION.

1741 Sec.

1742 49-801. District of Columbia National Guard Morale, Welfare, and Recreation Association.

1743 49-802. Military corporations; establishment, membership, purpose, and powers.

1744 49-803. Effect of disbandment of military organization.

1745 49-804. Unit and company funds.

1746 49-805. Youth Challenge Participant Support Fund.

1747 49-806. District of Columbia National Guard discretionary fund.

1748 49-807. Canteen authorized.
1749

1750

1751 § 49-801. District of Columbia National Guard Morale, Welfare, and Recreation
1752 Association.

1753 (a) All commissioned officers and enlisted personnel of the District of Columbia
1754 National Guard, including retired personnel, may organize themselves into an association,
1755 the name of which shall be the District of Columbia National Guard Morale, Welfare, and
1756 Recreation Association ("MWRA"). The purpose of the MWRA shall be to enhance the
1757 morale and welfare of District of Columbia National Guard servicemembers and their
1758 families. The MWRA may adopt, alter, and amend bylaws not otherwise inconsistent with
1759 District law. Participation in the MWRA shall be voluntary.

1760 (b) To facilitate its purpose, the MWRA may accept donations of money, property, or
1761 services from any lawful source to improve the capabilities of the District of Columbia
1762 National Guard or otherwise support servicemembers and their families.

1763 (c) The District may appropriate funds, donate any other valuable thing, or grant or
1764 lease any land belonging to the District to aid, or further the purpose of, the MWRA.

1765 (d) The money appropriated, other valuable thing donated, or the land granted or
1766 leased to the MWRA shall be, so far as practicable, expended or disposed of in such manner
1767 and under such lawful conditions as the donor may direct.

1768
1769 § 49-802. Military corporations; establishment, membership, purpose, and powers.

1770 (a) The officers, the enlisted personnel, or the officers and enlisted personnel of an
1771 organization or unit of the District of Columbia National Guard may organize themselves
1772 into a military corporation for social purposes and for the purpose of holding, acquiring, and
1773 disposing of those funds, goods, or property as such military organizations may possess or
1774 acquire. The military corporation shall not engage in business and shall not be required to
1775 pay any filing or license fee to the District. A military corporation may include:

- 1776 (1) Enlisted, officer, or all-ranks clubs;
1777 (2) Family support groups;
1778 (3) Auxiliary organizations;
1779 (4) Service branch organizations;
1780 (5) Battalion, brigade, company, or unit fund organizations; and
1781 (6) Other such organizations that provide support to personnel and their

1782 families.

1783 (b) A military corporation may raise funds and provide services, if retained funds are
1784 used for unit or company support or for other charitable purposes.

1785 (c) A military corporation may use armory or District of Columbia National Guard
1786 facilities if there is no expense to the District government. When any area of the armory or
1787 District of Columbia National Guard facilities is used, the District and the District of
1788 Columbia National Guard shall have access to that area as needed or practical, and the use
1789 of that area by the military corporation is not exclusive.

1790 (d) Any sale of alcoholic beverages shall conform to the limitations of sales under
1791 other provisions of District law, except that sales within the unit, and not-for-profit, do not
1792 require licensing by the District.

1793 (e) The Adjutant General and the Mayor shall coordinate and make provisions to
1794 standardize applications for incorporation. No incorporation may be made under this article
1795 without the approval of the Adjutant General and the District Judge Advocate. All accounts
1796 and documents of a military corporation organized under this subchapter shall be available
1797 for inspection and review by the Adjutant General.

1798 (f) The Commanding General of the District of Columbia National Guard shall have
1799 authority to issue rules and regulations regarding the operations, authority to receive
1800 donations, and authority to make expenditures of military corporations established under
1801 this section.

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§ 49-803. Effect of disbandment of military organization.

The dissolution or disbandment of any unit as a military organization shall not operate to terminate the existence of any such corporation but its existence shall continue for the period limited in its articles of incorporation for the benefit of such corporation. Upon the dissolution or disbandment of any such unit which shall not have incorporated and which shall at the time of such dissolution or disbandment possess any funds or property, the title to such funds or property shall immediately vest in the District of Columbia National Guard and the Commanding General shall take possession thereof and dispose of the same to the best interest of the District of Columbia National Guard.

§ 49-804. Unit and company funds.

(a)(1) There is authorized to be created and maintained for each separate unit of the District of Columbia National Guard a unit fund. Expenditures from such unit fund shall be made in accordance with rules and regulations established by the Commanding General of the District of Columbia National Guard and all applicable federal and District laws, rules, and regulations.

(2) There is authorized to be deposited in each unit fund such monies as may be received from gifts, bequests, and contributions, including federal and District contributions, and such amounts as may be appropriated to such unit funds by the District of Columbia.

(3) The unit commander of each unit is the custodian of the unit fund. The unit commander shall:

(A) Receive, safely keep, and properly disburse, as the Commanding General may require, the money trusted to the unit commander's care; and

(B) Submit to the Adjutant General, on June 30 and December 31 of each year, an itemized statement of money received and disbursed during the preceding 6 months.

(b)(1) There is authorized to be created and maintained for each separate company of the DCNG a company fund. Expenditures from such company fund shall be made in accordance with rules and regulations established by the Commanding General and all applicable federal and District laws, rules, and regulations.

(2) There is authorized to be deposited in each company fund such monies as may be received from gifts, bequests, and contributions, including federal and District contributions, and such amounts as may be appropriated to such company fund by the District of Columbia.

(3) The commanding officer of each company is the custodian of the company fund. The commanding officer shall:

(A) Receive, safely keep, and properly disburse, as the Commanding General may require, the money trusted to the commanding officer's care; and

(B) Submit to the Adjutant General, on June 30 and December 31 of each year, an itemized statement of money received and disbursed during the preceding 6 months.

§ 49-805. Youth ChalleNGe Participant Support Fund.

(a) The Commanding General may establish a Youth ChalleNGe Participant Support Fund ("ChalleNGe Fund") for the purpose of assisting in the purchase and provision of materials, supplies, and equipment for participants of the District of Columbia

1850 National Guard Youth ChalleNGe program. To facilitate the accomplishment of its purpose,
1851 the ChalleNGe Fund may accept donations of money or property from any lawful source.

1852 (b) The Commanding General may authorize that up to \$3,000 of any unused
1853 District balance from the funds appropriated in a fiscal year for the District of Columbia
1854 National Guard Youth ChalleNGe program be retained in the ChalleNGe Fund for use in
1855 the current or a subsequent fiscal year; provided, that there shall be no retention of
1856 appropriated funds if the fiscal year-end balance of the ChalleNGe Fund exceeds \$10,000.

1857
1858 § 49-806. District of Columbia National Guard discretionary fund.

1859 There is authorized to be created and maintained for the District of Columbia
1860 National Guard a discretionary fund for the purpose of community outreach and hosting of
1861 civil and military leadership summits. Expenditures from such discretionary fund shall be
1862 made in accordance with rules and regulations established by the Commanding General
1863 and all applicable federal and District laws, rules, and regulations. The source of the
1864 monies for the discretionary fund is the MWRA.

1865
1866 § 49-807. Canteen authorized.

1867 Nothing in this Act shall be construed as a limitation upon the operation of a
1868 canteen in the District of Columbia Armory for the use and benefit of the District of
1869 Columbia National Guard.

1870
1871 CHAPTER 9. NAVAL MILITIA.

1872
1873 Sec.
1874 49-901. Naval battalion not affected.

1875
1876 § 49-901. Naval battalion not affected.

1877 Nothing contained in this subtitle shall be held to alter the status or organization of
1878 the naval battalion as now provided for by law.

1879
1880 CHAPTER 10. MILITARY AFFAIRS AND CIVIL DEFENSE.

1881
1882 Subchapter 1. General provisions.

1883 Sec.
1884 49-1001.01. Authority under Emergency Management Assistance Compact.

1885
1886 Subchapter 2. National Guard Mutual Assistance Counterdrug Activities Compact.

1887 Sec.
1888 49-1002.01. Adoption of National Guard Mutual Assistance Counterdrug Activities
1889 Compact.

1890
1891 Subchapter 3. Authorized counterdrug activities.

1892 Sec.
1893 49-1003.01. Authorization to engage in counterdrug and demand reduction activities.

1894 49-1003.02. Interstate counterdrug activities with non-party states.

1895 49-1003.03. National counterdrug activities.

1896 49-1003.04. Authorization to request volunteers for counterdrug activities.

1897 49-1003.05. Provision of training and facilities to support illegal drug reduction.

1898 49-1003.06. Authority to receive property and revenues.

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Subchapter 1. General provisions.

§ 49-1001.01. Authority under Emergency Management Assistance Compact.

(a) Nothing in this title shall affect the authority or the responsibilities of the District of Columbia National Guard under the Emergency Management Assistance Compact (Compact) as entered into with all jurisdictions legally joining the Compact in a form substantially as contained in section 603 of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2332).

(b) Upon the occurrence of any emergency arising from a natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack within the District of Columbia, the Commanding General will assume the lead role in coordinating National Guard will assume the lead role in coordinating National Guard units supporting the District of Columbia and will exercise operational control.

Subchapter 2. National Guard Mutual Assistance Counterdrug Activities Compact.

§ 49-1002.01. Adoption of National Guard Mutual Assistance Counterdrug Activities Compact.

The National Guard Mutual Assistance Counterdrug Activities Compact is hereby enacted into law and entered into by the District of Columbia, with all other states legally joining herein, in the form substantially as follows:

Article I -- Purpose.

The purposes of this compact are to:

(1) Provide for mutual assistance and support among the party states in the utilization of the National Guard in drug interdiction, counterdrug and demand reduction activities;

(2) Permit the District of Columbia National Guard to enter into mutual assistance and support agreements, on the basis of need, with one or more law enforcement agencies operating within the District of Columbia, for activities within the District of Columbia, or with a National Guard of one or more other states, whether said activities are within or without the District of Columbia, in order to facilitate and coordinate efficient, cooperative enforcement efforts directed toward drug interdiction, counterdrug activities, and demand reduction;

(3) Permit the District of Columbia National Guard to act as a receiving and a responding state as defined within this compact and to ensure the prompt and effective delivery of National Guard personnel, assets, and services to agencies or areas that are in need of increased support and presence;

(4) Permit and encourage a high degree of flexibility in the deployment of National Guard forces in the interest of efficiency;

(5) Maximize the effectiveness of the National Guard in those situations which call for its utilization under this compact;

(6) Provide protection for the rights of National Guard personnel when performing duty in other states in counterdrug activities; and

(7) Ensure uniformity of state laws in the area of National Guard involvement in interstate counterdrug activities by incorporating said uniform laws within the compact.

1948 Article II – Entry into Force and Withdrawal.

1949 (a) This compact shall enter into force when enacted by any two states. Thereafter,
1950 this compact shall become effective as to any other state upon its enactment thereof.

1951 (b) Any party state may withdraw from this compact by enacting a statute repealing
1952 the same, but no such withdrawal shall take effect until one year after the governor of the
1953 withdrawing state has given notice in writing of such withdrawal to the governors of all
1954 other party states.

1955 Article III – Mutual Assistance and Support.

1956 (a) As used in this compact:

1957 (1) “Demand reduction” means providing available National Guard personnel,
1958 equipment, support, and coordination to federal, state, local and civil organizations,
1959 institutions, and agencies for the purposes of the prevention of drug abuse and the
1960 reduction in the demand for illegal drugs.

1961 (2) “Drug interdiction and counterdrug activities” means the use of National
1962 Guard personnel, while not in federal service, in any law enforcement support activities
1963 that are intended to reduce the supply or use of illegal drugs in the United States. These
1964 activities include, but are not limited to:

1965 (A) Providing information obtained during either the normal course of
1966 military training or operations or during counterdrug activities to federal, state, or local
1967 law enforcement officials that may be relevant to a violation of any federal or state law
1968 within the jurisdiction of such officials;

1969 (B) Making available any equipment, including associated supplies or
1970 spare parts, base facilities, or research facilities of the National Guard to any federal, state,
1971 or local civilian law-enforcement official for law-enforcement purposes, in accordance with
1972 other applicable law or regulation;

1973 (C) Providing available National Guard personnel to train federal,
1974 state, or local civilian law enforcement in the operation and maintenance of equipment,
1975 including equipment made available above, in accordance with other applicable law;

1976 (D) Providing available National Guard personnel to operate and
1977 maintain equipment provided to federal, state, or local law enforcement officials pursuant
1978 to compact activities defined and referred to in this compact;

1979 (E) Operation and maintenance of equipment and facilities of the
1980 National Guard or law enforcement agencies used for the purposes of drug interdiction and
1981 counterdrug activities;

1982 (F) Providing available National Guard personnel to operate
1983 equipment for the detection, monitoring, and communication of the movement of air, land,
1984 and sea traffic, to facilitate communications in connection with law enforcement programs,
1985 to provide transportation for civilian law enforcement personnel, and to operate bases of
1986 operations for civilian law enforcement personnel;

1987 (G) Providing available National Guard personnel, equipment, and
1988 support for administrative, interpretive, analytic, or other purposes; and

1989 (H) Providing available National Guard personnel and equipment to
1990 aid federal, state, and local officials and agencies otherwise involved in the prosecution or
1991 incarceration of individuals processed within the criminal justice system who have been
1992 arrested for criminal acts involving the use, distribution, or transportation of controlled
1993 substances, as defined in 21 U.S.C. §§ 801 *et seq.*, or otherwise by law, in accordance with
1994 other applicable law.
1995

1996 (3) "Law enforcement agency" means a lawfully established federal, state, or
1997 local public agency that is responsible for the prevention and detection of crime and the
1998 enforcement of penal, traffic, regulatory, game, immigration, postal, customs, or controlled
1999 substances laws.

2000 (4) "Mutual assistance and support agreement" or "agreement" means an
2001 agreement between the District of Columbia National Guard and one or more law
2002 enforcement agencies or between the District of Columbia National Guard and the National
2003 Guard of one or more other states, consistent with the purposes of this compact.

2004 (5) "Official" means the appointed, elected, designated, or otherwise duly
2005 selected representative of an agency, institution, or organization authorized to conduct
2006 those activities for which support is requested.

2007 (6) "Party state" refers to a state that has lawfully enacted this compact.

2008 (7) "Requesting state" means the party state whose governor requested
2009 assistance in the area of counterdrug activities.

2010 (8) "Responding state" means the party state furnishing assistance, or
2011 requested to furnish assistance, in the area of counterdrug activities.

2012 (9) "State" means each of the several States of the United States, the District
2013 of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United
2014 States. With respect to the District of Columbia, the term "governor" shall mean
2015 the Commanding General of the District of Columbia National Guard.

2016 (b) Upon the request of a governor of a party state for assistance in the area of drug
2017 interdiction, counterdrug, and demand reduction activities, the governor of a responding
2018 state shall have authority under this compact to send without the borders of his or her state
2019 and place under the temporary operational control of the appropriate National Guard or
2020 other military authorities of the requesting state, for the purposes of providing such
2021 requested assistance, all or any part of the National Guard forces of his or her state as he or
2022 she may deem necessary, and the exercise of his or her discretion in this regard shall be
2023 conclusive.

2024 (c) The governor of a party state may, within his or her discretion, withhold the
2025 National Guard forces of his or her state from such use and recall any forces or part or
2026 member thereof previously deployed in a requesting state.

2027 (d) The District of Columbia National Guard may engage in counterdrug activities
2028 and demand reduction.

2029 (e) The Commanding General of the District of Columbia National Guard, in order to
2030 further the purposes of this compact, may enter into a mutual assistance and support
2031 agreement with one or more law enforcement agencies of the District of Columbia,
2032 including federal law enforcement agencies operating within the District of Columbia, or
2033 with the National Guard of one or more other party states to provide personnel, assets, and
2034 services in the area of counterdrug activities and demand reduction, provided that all
2035 parties to the agreement are not specifically prohibited by law to perform said activities.

2036 (f) The agreement shall set forth the powers, rights, and obligations of the parties to
2037 the agreement, where applicable, as follows:

2038 (1) Its duration;

2039 (2) The organization, composition, and nature of any separate legal entity
2040 created thereby;

2041 (3) The purpose of the agreement;

2042 (4) The manner of financing the agreement and establishing and maintaining
2043 its budget;

- 2044 (5) The method to be employed in accomplishing the partial or complete
2045 termination of the agreement and for disposing of property upon such partial or complete
2046 termination;
- 2047 (6) A provision for administering the agreement, which may include creation
2048 of a joint board responsible for such administration;
- 2049 (7) The manner of acquiring, holding, and disposing of real and personal
2050 property used in this agreement, if necessary;
- 2051 (8) The minimum standards for National Guard personnel implementing the
2052 provisions of this agreement;
- 2053 (9) The minimum insurance required of each party to the agreement, if
2054 necessary;
- 2055 (10) The chain of command or delegation of authority to be followed by
2056 National Guard personnel acting under the provisions of the agreement;
- 2057 (11) The duties and authority that the National Guard personnel of each
2058 party state may exercise; and
- 2059 (12) Any other necessary and proper matters.

2060 Agreements prepared under the provisions of this compact are exempt from any general
2061 law pertaining to intergovernmental agreements.

2062 (g) As a condition precedent to an agreement becoming effective under this article, is
2063 the agreement must be submitted to and receive the approval of the United States Attorney
2064 for District of Columbia. The United States Attorney for the District of Columbia may
2065 delegate his or her approval authority to the appropriate attorney for the District of
2066 Columbia National Guard subject to those conditions which he or she decides are
2067 appropriate. Such delegation must be in writing.

2068 (1) The United States Attorney for the District of Columbia, or his or her
2069 agent in the District of Columbia National Guard as stated above, shall approve an
2070 agreement submitted to him or her under this article unless he or she finds that it is not in
2071 proper form, does not meet the requirements set forth in this article, or otherwise does not
2072 conform to the laws of the District of Columbia. If the United States Attorney for the
2073 District of Columbia disapproves an agreement, he or she shall provide a written
2074 explanation to the Commanding General of the District of Columbia National Guard.

2075 (2) If the United States Attorney for the District of Columbia, or his or her
2076 authorized agent, does not disapprove an agreement within 30 days after its submission to
2077 him or her, it shall be considered approved by him or her.

2078 (h) Whenever National Guard forces of any party state are engaged in the
2079 performance of their duties, in the area of drug interdiction, counterdrug, and demand
2080 reduction activities, pursuant to orders, they shall not be held personally liable for any acts
2081 or omissions which occur during the performance of their duty.

2082

2083 Article IV – Responsibilities.

2084 (a) Nothing in this compact shall be construed as a waiver of any benefits, privileges,
2085 immunities, or rights otherwise provided for National Guard personnel performing duty
2086 pursuant to Title 32 of the United States Code nor shall anything in this compact be
2087 construed as a waiver of coverage provided for under the Federal Tort Claims Act. In the
2088 event that National Guard personnel performing counterdrug activities do not receive
2089 rights, benefits, privileges, and immunities otherwise provided for National Guard
2090 personnel as stated above, the following provisions shall apply:

2091 (1) Whenever National Guard forces of any responding state are engaged in
2092 another state in carrying out the purposes of this compact, the members thereof so engaged

2093 shall have the same powers, duties, rights, privileges, and immunities as members of
2094 National Guard forces of the requesting state. The requesting state shall save and hold
2095 members of the National Guard forces of responding states harmless from civil liability,
2096 except as otherwise provided herein, for acts or omissions which occur in the performance of
2097 their duties while engaged in carrying out the purposes of this compact, whether the
2098 responding forces are serving the requesting state within the borders of the responding
2099 state or are attached to the requesting state for purposes of operational control.

2100 (2) Subject to the provisions of paragraphs (3), (4), and (5) of this subsection,
2101 all liability that may arise under the laws of the requesting state or the responding state, in
2102 connection with a request for assistance or support, shall be assumed and borne by the
2103 requesting state.

2104 (3) Any responding state rendering aid or assistance pursuant to this compact
2105 shall be reimbursed by the requesting state for any loss of or damage to, or expense
2106 incurred in the operation of, any equipment answering a request for aid and for the cost of
2107 the materials, transportation, and maintenance of National Guard personnel and
2108 equipment incurred in connection with such request, provided that nothing herein
2109 contained shall prevent any responding state from assuming such loss, damage, expense, or
2110 other cost.

2111 (4) Unless there is a written agreement to the contrary, each party shall
2112 provide, in the same amounts and manner as if they were on duty within their state, for
2113 pay and allowances of the personnel of its National Guard units while engaged without the
2114 state pursuant to this compact and while going to and returning from such duty pursuant
2115 to this compact.

2116 (5) Each party state providing for the payment of compensation and death
2117 benefits to injured members and the representatives of deceased members of its National
2118 Guard forces in case such members sustain injuries or are killed within their own state
2119 shall provide for the payment of compensation and death benefits in the same manner and
2120 on the same terms in the event such members sustain injury or are killed while rendering
2121 assistance or support pursuant to this compact. Such benefits and compensation shall be
2122 deemed items of expense reimbursable pursuant to paragraph (3) of this subsection.

2123 (b) Officers and enlisted personnel of the National Guard performing duties subject
2124 to proper orders pursuant to this compact shall be subject to and governed by the provisions
2125 of their home state code of military justice, whether they are performing duties within or
2126 without their home state. In the event that any National Guard member commits, or is
2127 suspected of committing, a criminal offense while performing duties pursuant to this
2128 compact without his or her home state, he or she may be returned immediately to his or her
2129 home state and said home state shall be responsible for any disciplinary action to be taken.
2130 However, nothing in this section shall abrogate the general criminal jurisdiction of the state
2131 in which the offense occurred.

2132
2133 Article V – Delegation.

2134 Nothing in this compact shall be construed to prevent the governor of a party state
2135 from delegating any of his or her responsibilities or authority respecting the National
2136 Guard, provided that such delegation is otherwise in accordance with law. For purposes of
2137 this compact, however, the governor shall not delegate the power to request assistance from
2138 another state.

2139
2140 Article VI – Limitations.

2141 Nothing in this compact shall:

2142 (a) Authorize or permit National Guard units or personnel to be placed under the
2143 operational control of any person not having the National Guard rank or status required by
2144 law for the command in question.

2145 (b) Deprive a properly convened court of jurisdiction over an offense or a defendant
2146 merely because of the fact that the National Guard, while performing duties pursuant to
2147 this compact, was utilized in achieving an arrest or indictment.

2148 (c) Authorize the National Guard to directly engage in law enforcement activities.
2149 However, the National Guard may indirectly support law enforcement activities conducted
2150 by an appropriate law enforcement agency.

2151

2152 Article VII – Construction and severability.

2153 This compact shall be liberally construed so as to effectuate the purposes thereof.
2154 The provisions of this compact shall be severable and if any phrase, clause, sentence, or
2155 provision of this compact is declared to be contrary to the Constitution of the United States
2156 or of any state or the applicability thereof to any government, agency, person, or
2157 circumstance is held invalid, the validity of the remainder of this compact and the
2158 applicability thereof to any government, agency, person, or circumstance shall not be
2159 affected thereby. If this compact shall be held contrary to the constitution of any state
2160 participating herein, the compact shall remain in full force and effect as to the remaining
2161 party states and in full force and effect as to the state affected as to all severable matters.

2162

2163 Subchapter 3. Authorized counterdrug activities.

2164

2165 § 49-1003.01. Authorization to engage in counterdrug and demand reduction
2166 activities.

2167 The District of Columbia National Guard may engage in counterdrug and demand
2168 reduction activities in accordance with the provisions of this chapter.

2169

2170 § 49-1003.02. Interstate counterdrug activities with non-party states.

2171 Nothing in the National Guard Mutual Assistance Counterdrug Activities Compact
2172 shall prevent the District of Columbia National Guard from engaging in interstate
2173 counterdrug activities with a non-party state upon the request of the non-party state.

2174

2175 § 49-1003.03. National counterdrug activities.

2176 (a) When the President of the United States, or his or her designee, determines that
2177 the National Guard and its assets would be of valuable assistance to the District, local or
2178 Federal Agencies having a drug law-enforcement function to combat the flow of or use of
2179 illegal drugs in the District, he or she may provide for the District of Columbia National
2180 Guard or any part thereof to support drug interdiction, counterdrug and demand reduction
2181 activities within the District, or outside the District under the National Guard Mutual
2182 Assistance Counterdrug Activities Compact. In calling forth the District of Columbia
2183 National Guard under this section, the President of the United States, or his or her
2184 designee, shall specify the type of support that the National Guard shall undertake with
2185 District, local or Federal law-enforcement agencies. Once called forth by the President of
2186 the United States, or his or her designee, the District of Columbia National Guard is also
2187 specifically authorized to enter into mutual assistance and support agreements with any
2188 District or federal law-enforcement agencies operating within or outside the District so long
2189 as those activities are consistent with the President of the United States or his or her
2190 designee's call. All activities undertaken by the District of Columbia National Guard in the

2191 areas of drug interdiction, counterdrug and drug demand reduction shall be reported by the
2192 Commanding General's office to the President of the United States, or his or her designee.
2193 The President of the United States, or his or her designee, shall review these reports no less
2194 frequently than every three months.

2195 (b) When the President of the United States, or his or her designee, in consultation
2196 with the Commanding General, determines that the militia or any part thereof is in need of
2197 specific training to be prepared for being called forth in support of counterdrug activities,
2198 such training may be conducted with District or Federal agency or Agencies having the
2199 capability or responsibility to coordinate or assist with counterdrug mission.

2200
2201 § 49-1003.04. Authorization to request volunteers for counterdrug activities.

2202 (a) The Commanding General is authorized to request members of the District of
2203 Columbia National Guard to serve as volunteers to assist District or Federal law
2204 enforcement authorities within or outside the District of Columbia and order such
2205 volunteers to duty for the purpose of providing assistance in drug interdiction and
2206 counterdrug activities and operation and maintenance of equipment and facilities for such
2207 purposes pursuant to plans adopted and funding assistance received under the provisions of
2208 32 U.S.C. § 112.

2209 (b) The Commanding General may delegate the authority conferred by this section
2210 to the Chief of Staff, but the Commanding General shall retain sole authority to approve
2211 any and all plans submitted to the Secretary of Defense under 32 U.S.C. § 112. The Chief
2212 of Staff shall ensure that all directives and policies of the United States Department of
2213 Defense and National Guard Bureau are followed. Personnel assisting in such activities
2214 shall obey and execute the instructions of the civil authorities charged by law with
2215 responsibility for law enforcement.

2216
2217 § 49-1003.05. Provision of training and facilities to support illegal drug reduction.

2218 Subject to an annual appropriation, the District of Columbia National Guard shall
2219 provide training, training support, and facilities to facilitate the District of Columbia
2220 National Guard's attainment of its goals to reduce the supply of and demand for illegal
2221 drugs.

2222
2223 § 49-1003.06. Authority to receive property and revenues.

2224 Except as otherwise authorized by law, the District of Columbia National Guard is
2225 designated as a law enforcement agency for the sole purpose of receiving property and
2226 revenues when operating in support of the counterdrug activities under this chapter, and
2227 may receive property and revenues under 18 U.S.C. § 981(e)(2), 19 U.S.C. §
2228 1616a(c)(1)(B)(ii), and 21 U.S.C. §§ 881(e)(1)(A) and (e)(3) from those federal units that are
2229 supported by National Guard members in the Counterdrug Program.

2230
2231 CHAPTER 11. CODE OF MILITARY JUSTICE.

2232
2233 Subchapter 1. General provisions.

2234 Sec.

2235 49-1101.01. Definitions.

2236 49-1101.02. Persons subject to this chapter; jurisdiction.

2237 49-1101.03. Jurisdiction to try certain personnel.

2238 49-1101.04. Dismissed officer's right to trial by court-martial.

2239 49-1101.05. Territorial applicability of this chapter.

2240 49-1101.06. Judge Advocates.
2241 49-1101.07. [Reserved].
2242
2243 Subchapter 2. Apprehension and restraint.
2244 Sec.
2245 49-1102.01. Apprehension.
2246 49-1102.02. [Reserved].
2247 49-1102.03. Imposition of restraint.
2248 49-1102.04. Restraint of persons charged with offenses.
2249 49-1102.05. Place of Confinement; Reports and receiving of prisoners.
2250 49-1102.06. Confinement with enemy prisoners prohibited.
2251 49-1102.07. Punishment prohibited before trial.
2252 49-1102.08. Delivery of offenders to civil authorities.
2253
2254 Subchapter 3. Non-judicial punishment.
2255 Sec.
2256 49-1103.01. Commanding Officer's non-judicial punishment.
2257
2258 Subchapter 4. Court-martial jurisdiction.
2259 Sec.
2260 49-1104.01. Courts-martial classified.
2261 49-1104.02. Jurisdiction of courts-martial in general.
2262 49-1104.03. Jurisdiction of general courts-martial.
2263 49-1104.04. Jurisdiction of special courts-martial.
2264 49-1104.05. Jurisdiction of summary courts-martial.
2265 49-1104.06. [Reserved].
2266
2267 Subchapter 5. Appointment and composition of courts-martial.
2268 Sec.
2269 49-1105.01. Who may convene general courts-martial.
2270 49-1105.02. Who may convene special courts-martial.
2271 49-1105.03. Who may convene summary courts-martial.
2272 49-1105.04. Who may serve on courts-martial.
2273 49-1105.05. [Reserved].
2274 49-1105.06. Military judge of a general or special court-martial.
2275 49-1105.07. Detail of trial counsel and defense counsel.
2276 49-1105.08. Detail or employment of reporters and interpreters.
2277 49-1105.09. Absent and additional members.
2278
2279 Subchapter 6. Pre-trial procedure.
2280 Sec.
2281 49-1106.01. Charges and specifications.
2282 49-1106.02. Compulsory self-incrimination prohibited.
2283 49-1106.03. Investigation.
2284 49-1106.04. Forwarding of charges.
2285 49-1106.05. Advice of judge advocate and reference for trial.
2286 49-1106.06. Service of charges.
2287 49-1106.07. Warrants for the arrest of accused.
2288

2289	Subchapter 7. Trial procedure.
2290	Sec.
2291	49-1107.01. President or the Commanding General may prescribe rules.
2292	49-1107.02. Unlawfully influencing action of court.
2293	49-1107.03. Duties of trial counsel and defense counsel.
2294	49-1107.04. Sessions.
2295	49-1107.05. Continuances.
2296	49-1107.06. Challenges.
2297	49-1107.07. Oaths or affirmations.
2298	49-1107.08. Statute of limitations.
2299	49-1107.09. Former jeopardy.
2300	49-1107.10. Pleas of the accused.
2301	49-1107.11. Opportunity to obtain witnesses and other evidence.
2302	49-1107.12. Refusal to appear or testify.
2303	49-1107.13. Contempts.
2304	49-1107.14. Depositions.
2305	49-1107.15. Admissibility of records of courts of inquiry.
2306	49-1107.16. Defense of lack of mental responsibility.
2307	49-1107.17. Voting and rulings.
2308	49-1107.18. Number of votes required.
2309	49-1107.19. Court to announce action.
2310	49-1107.20. Record of trial.
2311	
2312	Subchapter 8. Sentences.
2313	Sec.
2314	49-1108.01. Cruel and unusual punishments prohibited.
2315	49-1108.02. Maximum limits.
2316	49-1108.03. [Reserved].
2317	49-1108.04. Effective date of sentences.
2318	49-1108.05. [Reserved].
2319	49-1108.06. [Reserved].
2320	49-1108.07. Sentences: reduction in enlisted grade upon approval.
2321	49-1108.08. [Reserved].
2322	49-1108.09. Execution of sentences.
2323	
2324	Subchapter 9. Post-trial procedure and review of courts-martial.
2325	Sec.
2326	49-1109.01. Error of law; lesser included offense.
2327	49-1109.02. Action by the convening authority.
2328	49-1109.03. Withdrawal of appeal.
2329	49-1109.04. Appeal by the United States.
2330	49-1109.05. Rehearings.
2331	49-1109.06. Review by the District Judge Advocate.
2332	49-1109.07. Disposition of records after review by the convening authority.
2333	49-1109.08. [Reserved].
2334	49-1109.09. [Reserved].
2335	49-1109.10. Review by the District of Columbia Court of Appeals.
2336	49-1109.11. [Reserved].
2337	49-1109.12. [Reserved].

2338 49-1109.13. Appellate counsel.
 2339 49-1109.14. Execution of sentence; suspension of sentence.
 2340 49-1109.15. Vacation of suspension.
 2341 49-1109.16. Petition for a new trial.
 2342 49-1109.17. Remission and suspension.
 2343 49-1109.18. Restoration.
 2344 49-1109.19. Finality of proceedings, findings, and sentences.
 2345 49-1109.20. Leave required to be taken pending review of certain court-martial convictions.
 2346 49-1109.21. Lack of mental capacity or mental responsibility: commitment of accused for
 2347 examination and treatment.
 2348
 2349 Subchapter 10. Punitive articles.
 2350 Sec.
 2351 49-1110.01. Principals.
 2352 49-1110.02. Accessory after the fact.
 2353 49-1110.03. Conviction of lesser included offense.
 2354 49-1110.04. Attempts.
 2355 49-1110.05. Conspiracy.
 2356 49-1110.06. Solicitation.
 2357 49-1110.07. Fraudulent enlistment, appointment, or separation.
 2358 49-1110.08. Unlawful enlistment, appointment, or separation.
 2359 49-1110.09. Desertion.
 2360 49-1110.10. Absence without leave.
 2361 49-1110.11. Missing movement.
 2362 49-1110.12. Contempt toward officials.
 2363 49-1110.13. Disrespect toward superior commissioned officer.
 2364 49-1110.14. Assaulting or willfully disobeying superior commissioned officer.
 2365 49-1110.15. Insubordinate conduct toward warrant officer, noncommissioned officer, or
 2366 petty officer.
 2367 49-1110.16. Failure to obey order or regulation.
 2368 49-1110.17. Cruelty and maltreatment.
 2369 49-1110.18. Mutiny or sedition.
 2370 49-1110.19. Resistance, flight, breach of arrest, and escape.
 2371 49-1110.20. Releasing prisoner without proper authority.
 2372 49-1110.21. Unlawful detention.
 2373 49-1110.22. Noncompliance with procedural rules.
 2374 49-1110.23. Misbehavior before the enemy.
 2375 49-1110.24. Subordinate compelling surrender.
 2376 49-1110.25. Improper use of countersign.
 2377 49-1110.26. Forcing a safeguard.
 2378 49-1110.27. Captured or abandoned property.
 2379 49-1110.28. Aiding the enemy.
 2380 49-1110.29. Misconduct as prisoner.
 2381 49-1110.30. [Reserved].
 2382 49-1110.31. [Reserved].
 2383 49-1110.32. False official statements.
 2384 49-1110.33. Military property: Loss, damage, destruction, or wrongful disposition.
 2385 49-1110.34. Property other than military property: Waste, spoilage, or destruction.
 2386 49-1110.35. Improper hazarding of vessel.

- 2387 49-1110.36. [Reserved].
- 2388 49-1110.37. Drunk on duty.
- 2389 49-1110.38. Wrongful use, possession, etc., of controlled substances.
- 2390 49-1110.39. Misbehavior of sentinel.
- 2391 49-1110.40. Dueling.
- 2392 49-1110.41. Malingering.
- 2393 49-1110.42. Riot or breach of peace.
- 2394 49-1110.43. Provoking speeches or gestures.
- 2395 49-1110.44. [Reserved].
- 2396 49-1110.45. [Reserved].
- 2397 49-1110.46. [Reserved].
- 2398 49-1110.47. [Reserved].
- 2399 49-1110.48. [Reserved].
- 2400 49-1110.49. [Reserved].
- 2401 49-1110.50. [Reserved].
- 2402 49-1110.51. [Reserved].
- 2403 49-1110.52. [Reserved].
- 2404 49-1110.53. [Reserved].
- 2405 49-1110.54. [Reserved].
- 2406 49-1110.55. [Reserved].
- 2407 49-1110.56. [Reserved].
- 2408 49-1110.57. [Reserved].
- 2409 49-1110.58. Frauds against the government.
- 2410 49-1110.59. Conduct unbecoming an officer and a gentleman.
- 2411 49-1110.60. General article.
- 2412
- 2413 Subchapter 11. Miscellaneous provisions.
- 2414 Sec.
- 2415 49-1111.01. Courts of inquiry.
- 2416 49-1111.02. Authority to administer oaths and to act as notary.
- 2417 49-1111.03. [Reserved].
- 2418 49-1111.04. Complaints of wrongs.
- 2419 49-1111.05. Redress of injuries to property.
- 2420 49-1111.06. Delegation by the President.
- 2421 49-1111.07. District of Columbia Military Justice Fund; Payment of fees, costs, and
- 2422 expenses.
- 2423 49-1111.08. Payment of fines and disposition thereof.
- 2424 49-1111.09. Uniformity of interpretation.
- 2425 49-1111.10. Immunity for action of military courts.
- 2426
- 2427 Subchapter 1. General provisions.
- 2428
- 2429 § 49-1101.01. Definitions.
- 2430 In this chapter, unless the context otherwise requires, the term:
- 2431 (1) "Accuser" means a person who signs and swears to charges, any person who
- 2432 directs that charges nominally be signed and sworn to by another, and any other person
- 2433 who has an interest other than an official interest in the prosecution of the accused.

2434 (2) "Cadet" means a person who is enrolled in or attending a state military academy,
2435 a regional training institute, or any other formal education program for the purpose of
2436 becoming a commissioned officer in the District of Columbia National Guard.

2437 (3) "Classified information" means:

2438 (A) Any information or material that has been determined by an official of the
2439 United States or any state pursuant to law, an executive order, or regulation to require
2440 protection against unauthorized disclosure for reasons of national or state security; and

2441 (B) Any restricted data, as defined in section 11(y) of the Atomic Energy Act
2442 of 1954, approved August 30, 1954 (68 Stat. 922; 42 U.S.C. § 2014(y)).

2443 (4) "Commanding officer" includes only commissioned officers of the District of
2444 Columbia National Guard and shall include officers in charge only when administering
2445 non-judicial punishment under D.C. Official Code § 49-1103.01.

2446 (5) "Convening authority" includes, in addition to the person who convened the
2447 court, a commissioned officer commanding for the time being or a successor in command to
2448 the convening authority.

2449 (6) "Day" means calendar day and is not synonymous with the term "unit training
2450 assembly." Any punishment authorized by this chapter which is measured in terms of days
2451 shall, when served in a status other than annual field training, be construed to mean
2452 succeeding duty days.

2453 (7) "Enlisted servicemember" means a person in an enlisted grade.

2454 (8) "Judge advocate" means a commissioned officer of a state National Guard who is
2455 a member in good standing of the bar of the highest court of a state, and is:

2456 (A) Certified as a judge advocate in the Judge Advocate General's Corps of
2457 the Army, Air Force, Navy, or the Marine Corps; or

2458 (B) Certified by the District Judge Advocate as competent to perform such
2459 military justice duties as required by this chapter.

2460 (9) "Military court" means a court-martial or a court of inquiry.

2461 (10) "Military judge" means an official of a general or special court-martial detailed
2462 in accordance with D.C. Official Code § 49-1105.06.

2463 (11) "Military offenses" means those offenses prescribed under subchapter 10 of this
2464 chapter.

2465 (12) "National security" means the national defense and foreign relations of the
2466 United States.

2467 (13) "Officer in charge" means a member of the naval battalion or naval militia, the
2468 Navy, the Marine Corps, or the Coast Guard designated as such by appropriate authority.

2469 (14) "Record," when used in connection with the proceedings of a court-martial,
2470 means:

2471 (A) An official written transcript, written summary, or other writing relating
2472 to the proceedings; or

2473 (B) An official audiotape, videotape, digital image or file, or similar material
2474 from which sound, or sound and visual images, depicting the proceedings may be
2475 reproduced.

2476 (15) "State" means one of the several states, the District of Columbia, the
2477 Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands.

2478 (16) "Superior commissioned officer" means a commissioned officer superior in rank
2479 or command.

2480

2481 § 49-1101.02. Persons subject to this chapter; jurisdiction.

2482 (a) This chapter applies to all servicemembers of the District of Columbia National
2483 Guard.

2484 (b) Courts-martial have primary jurisdiction of military offenses as defined in D.C.
2485 Official Code § 49-1101.01(11). A proper civilian court has primary jurisdiction of a non-
2486 military offense when an act or omission violates both this chapter and local criminal law,
2487 foreign or domestic. In such a case, a court-martial may be initiated only after the civilian
2488 authority has declined to prosecute or dismissed the charges, provided jeopardy has not
2489 attached. Jurisdiction over attempted crimes, conspiracy crimes, solicitation, and accessory
2490 crimes must be determined by the underlying offense.

2491 (c) The jurisdiction of the courts and boards established by this subtitle shall be
2492 presumed, and the burden of proof shall rest on any person to oust such courts or boards of
2493 jurisdiction in any action or proceedings.

2494

2495 § 49-1301.03. Jurisdiction to try certain personnel.

2496 (a) Each person discharged from the District of Columbia National Guard who is
2497 later charged with having fraudulently obtained a discharge is, subject to D.C. Official Code
2498 § 49-1107.08, subject to trial by court-martial on that charge and is, after apprehension,
2499 subject to this chapter while in custody under the direction of the District of Columbia
2500 National Guard for that trial. Upon conviction of that charge that person is subject to trial
2501 by court-martial for all offenses under this chapter committed before the fraudulent
2502 discharge.

2503 (b) No person who has deserted from the District of Columbia National Guard may
2504 be relieved from amenability to the jurisdiction of this chapter by virtue of a separation
2505 from any later period of service.

2506

2507 § 49-1301.04. Dismissed officer's right to trial by court-martial.

2508 (a) If any commissioned officer, dismissed by order of the Commanding General,
2509 makes a written application for trial by court-martial within 6 months after dismissal,
2510 setting forth, under oath, that he or she has been wrongfully dismissed, the Commanding
2511 General, as soon as practicable, shall convene a general court-martial to try the dismissed
2512 officer on the charges on which he or she was dismissed. A court-martial so convened has
2513 jurisdiction to try the dismissed officer on those charges, and he or she shall be considered
2514 to have waived the right to plead any statute of limitations applicable to any offense with
2515 which he or she is charged. The court-martial may, as part of its sentence, adjudge the
2516 affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence
2517 adjudged, as finally approved or affirmed, does not include dismissal, the Commanding
2518 General may substitute for the dismissal a form of discharge authorized for administrative
2519 issue.

2520 (b) If the Commanding General fails to convene a general court-martial within 6
2521 months from the presentation of an application for trial under this section, the
2522 Commanding General shall substitute for the dismissal a form of discharge authorized for
2523 administrative issue.

2524 (c) If a discharge is substituted for a dismissal under this section, the Commanding
2525 General alone may reappoint the officer to such commissioned grade and with such rank as,
2526 in the opinion of the Commanding General, that former officer would have attained had he
2527 or she not been dismissed. The reappointment of such a former officer may be made only if
2528 a vacancy is available under applicable tables of organization. All time between the
2529 dismissal and the reappointment shall be considered as actual service for all purposes,
2530 including the right to pay and allowances.

2531 (d) If a commissioned officer is discharged by administrative action or by board
2532 proceedings under law, or is dropped from the rolls by order of the Commanding General,
2533 he or she has no right to trial under this section.
2534

2535 § 49-1101.05. Territorial applicability of this chapter.

2536 (a) This chapter has applicability at all times and in all places, provided that either
2537 the person subject to the chapter is in a duty status or, if not in a duty status, that there is
2538 a nexus between the act or omission constituting the offense and the efficient functioning of
2539 the District of Columbia National Guard; however, this grant of military jurisdiction shall
2540 neither preclude nor limit civilian jurisdiction over an offense, which is limited only by the
2541 prohibition of double jeopardy.

2542 (b) Courts-martial and courts of inquiry may be convened and held in units of the
2543 District of Columbia National Guard while those units are serving outside the District of
2544 Columbia with the same jurisdiction and powers as to persons subject to this chapter as if
2545 the proceedings were held inside the District of Columbia, and offenses committed outside
2546 the District of Columbia may be tried and punished either inside or outside the District of
2547 Columbia.
2548

2549 § 49-1101.06. Judge Advocates.

2550 (a) The Commanding General shall appoint a judge advocate of the District of
2551 Columbia National Guard as District Judge Advocate. To be eligible for appointment, a
2552 judge advocate must be a member in good standing of the District of Columbia Bar and
2553 have been a member for at least 5 years.

2554 (b) The District Judge Advocate or his or her assistants shall make frequent
2555 inspections in the field in supervision of the administration of military justice.

2556 (c) Convening authorities shall at all times communicate directly with their judge
2557 advocates in matters relating to the administration of military justice. The judge advocate
2558 of any command is entitled to communicate directly with the judge advocate of a superior or
2559 subordinate command, or with the District Judge Advocate.

2560 (d) No person who has acted as member, military judge, trial counsel, defense
2561 counsel, or investigating officer, or who has been a witness, in any case may later act as a
2562 judge advocate to any reviewing authority upon the same case.
2563

2564 § 49-1101.07. [Reserved].
2565

2566 Subchapter 2. Apprehension and restraint.
2567

2568 § 49-1102.01. Apprehension.

2569 (a) Apprehension is the taking of a person into custody.

2570 (b) Any person authorized by this chapter or by the Uniform Code of Military Justice
2571 (10 U.S.C. §§ 801 *et seq.*), or by regulations issued under either, to apprehend persons
2572 subject to this chapter, any marshal of a court-martial appointed pursuant to the provisions
2573 of this chapter, and any peace officer or civil officer having authority to apprehend offenders
2574 under the laws of the United States or of a State, may do so upon probable cause that an
2575 offense has been committed and that the person apprehended committed it.

2576 (c) Commissioned officers, warrant officers, petty officers, and noncommissioned
2577 officers have authority to quell quarrels, frays, and disorders among persons subject to this
2578 chapter and to apprehend persons subject to this chapter who take part therein.

2579 (d) If an offender is apprehended outside the District of Columbia, the offender's
2580 return to the area must be in accordance with normal extradition procedures or by
2581 reciprocal agreement.

2582 (e) No person authorized by this section to apprehend persons subject to this chapter
2583 or the place where such offender is confined, restrained, held, or otherwise housed may
2584 require payment of any fee or charge for so receiving, apprehending, confining, restraining,
2585 holding, or otherwise housing a person except as otherwise provided by law.

2586
2587 § 49-1102.02. [Reserved].

2588
2589 § 49-1102.03. Imposition of restraint.

2590 (a) Arrest is the restraint of a person by an order, not imposed as a punishment for
2591 an offense, directing him or her to remain within certain specified limits. Confinement is
2592 the physical restraint of a person.

2593 (b) An enlisted servicemember may be ordered into arrest or confinement by any
2594 commissioned officer by an order, oral or written, delivered in person or through other
2595 persons subject to this chapter. A commanding officer may authorize warrant officers,
2596 petty officers, or noncommissioned officers to order enlisted servicemembers of the officer's
2597 command or subject to the officer's authority into arrest or confinement.

2598 (c) A commissioned officer, a warrant officer, or a civilian subject to this chapter or
2599 to trial thereunder may be ordered into arrest or confinement only by a commanding officer
2600 to whose authority the person is subject, by an order, oral or written, delivered in person or
2601 by another commissioned officer. The authority to order such persons into arrest or
2602 confinement may not be delegated.

2603 (d) No person may be ordered into arrest or confinement except for probable cause.

2604 (e) This section does not limit the authority of persons authorized to apprehend
2605 offenders to secure the custody of an alleged offender until proper authority may be
2606 notified.

2607
2608 § 49-1102.04. Restraint of persons charged with offenses.

2609 Any person subject to this chapter charged with an offense under this chapter may
2610 be ordered into arrest or confinement, as circumstances may require. When any person
2611 subject to this chapter is placed in arrest or confinement prior to trial, immediate steps
2612 shall be taken to inform the person of the specific wrong of which the person is accused and
2613 diligent steps shall be taken to try the person or to dismiss the charges and release the
2614 person.

2615
2616 § 49-1102.05. Place of confinement; Reports and receiving of prisoners.

2617 (a) If a person subject to this chapter is confined before, during, or after trial,
2618 confinement shall be in a civilian or military confinement facility.

2619 (b) No person authorized to receive prisoners pursuant to subsection (a) of this
2620 section may refuse to receive or keep any prisoner committed to the person's charge by a
2621 commissioned officer of the District of Columbia National Guard, when the committing
2622 officer furnishes a statement, signed by such officer, of the offense charged against the
2623 prisoner, unless authorized by law.

2624 (c) Every person authorized to receive prisoners pursuant to subsection (a) of this
2625 section to whose charge a prisoner is committed shall, within 24 hours after that
2626 commitment or as soon as the person is relieved from guard, report to the commanding

2627 officer of the prisoner the name of the prisoner, the offense charged against the prisoner,
2628 and the name of the person who ordered or authorized the commitment.

2629

2630 § 49-1102.06. Confinement with enemy prisoners prohibited.

2631 No servicemember of the District of Columbia National Guard may be placed in
2632 confinement in immediate association with enemy prisoners or other foreign nationals not
2633 members of the armed forces or the District military forces.

2634

2635 § 49-1102.07. Punishment prohibited before trial.

2636 No person, while being held for trial or awaiting a verdict, may be subjected to
2637 punishment or penalty other than arrest or confinement upon the charges pending against
2638 the person, nor shall the arrest or confinement imposed upon such person be any more
2639 rigorous than the circumstances required to insure the person's presence; provided, that the
2640 person may be subjected to minor punishment during that period for infractions of
2641 discipline.

2642

2643 § 49-1102.08. Delivery of offenders to civil authorities.

2644 (a) A person subject to this chapter accused of an offense against civil authority may
2645 be delivered, upon request, to the civil authority for trial or confinement.

2646 (b) When delivery under this section is made to any civil authority of a person
2647 undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil
2648 tribunal, interrupts the execution of the sentence of the court-martial, and the offender
2649 after having answered to the civil authorities for the offense shall, upon the request of
2650 competent military authority, be returned to the place of original custody for the completion
2651 of the person's sentence.

2652

2653 Subchapter 3. Non-judicial punishment.

2654

2655 § 49-1103.01. Commanding Officer's non-judicial punishment.

2656 (a) Under such regulations as the President of the United States or Commanding
2657 General may prescribe, any commanding officer (and for purposes of this section, officer-in-
2658 charge) may impose disciplinary punishments for minor offenses without the intervention
2659 of a court-martial pursuant to this section. The President of the United States, the
2660 Commanding General, or an officer of a general or flag rank in command may delegate the
2661 powers under this section to a principal assistant who is a servicemember of the District of
2662 Columbia National Guard.

2663 (b) Any commanding officer may impose upon enlisted servicemembers of the
2664 officer's command:

2665

(1) An admonition;

2666

(2) A reprimand;

2667

(3) The withholding of privileges for not more than 6 consecutive months;

2668

(4) The forfeiture of pay of not more than 7 days' pay;

2669

(5) A fine of not more than 7 days' pay;

2670

(6) A reduction to the next inferior pay grade, if the grade from which
2671 demoted is within the promotion authority of the officer imposing the reduction or any
2672 officer subordinate to the one who imposes the reduction;

2673

(7) Extra duties, including fatigue or other duties, for not more than 14 days,
2674 which need not be consecutive; and

2675 (8) Restriction to certain specified limits, with or without suspension from
2676 duty, for not more than 14 days, which need not be consecutive.

2677 (c) Any commanding officer of the grade of major or lieutenant commander, or above
2678 may impose upon enlisted servicemembers of the officer's command:

2679 (1) Any punishment authorized in paragraphs (1), (2), and (3) of subsection
2680 (b) of this section;

2681 (2) The forfeiture of not more than one-half of one month's pay per month for
2682 2 months;

2683 (3) A fine of not more than one month's pay;

2684 (4) A reduction to the lowest or any intermediate pay grade, if the grade from
2685 which demoted is within the promotion authority of the officer imposing the reduction or
2686 any officer subordinate to the one who imposes the reduction, but an enlisted
2687 servicemember in a pay grade above E-4 may not be reduced more than 2 pay grades;

2688 (5) Extra duties, including fatigue or other duties, for not more than 45
2689 consecutive days; and

2690 (6) Restriction to certain specified limits, with or without suspension from
2691 duty, for not more than 60 consecutive days.

2692 (d) The President of the United States, the Commanding General, an officer
2693 exercising general court-martial convening authority, or an officer of a general or flag rank
2694 in command may impose:

2695 (1) Upon officers of the officer's command:

2696 (A) Any punishment authorized in paragraphs (1), (2), (3), and (6) of
2697 subsection (c) of this section; and

2698 (B) Arrest in quarters for not more than 30 consecutive days.

2699 (2) Upon enlisted servicemembers of the officer's command any punishment
2700 authorized in subsection (c) of this section.

2701 (e) No 2 or more of the punishments of arrest in quarters, extra duties, and
2702 restriction may be combined to run consecutively in the maximum amount imposable for
2703 each. Whenever any of those punishments are combined to run consecutively, there shall
2704 be an apportionment.

2705 (f) Prior to the offer of non-judicial punishment, the commanding officer shall
2706 determine whether arrest in quarters or restriction shall be considered as punishments.
2707 Should the commanding officer determine that the punishment options may include arrest
2708 in quarters or restriction, the accused shall be notified of the right to demand trial by court-
2709 martial. Should the commanding officer determine that the punishment options will not
2710 include arrest in quarters or restriction, the accused shall be notified that there is no right
2711 to trial by courts-martial.

2712 (g) The officer who imposes the punishment, or the successor in command, may, at
2713 any time, suspend, set aside, mitigate, or remit any part or amount of the punishment and
2714 restore all rights, privileges, and property affected. The officer also may:

2715 (1) Mitigate reduction in grade to forfeiture of pay;

2716 (2) Mitigate arrest in quarters to restriction; or

2717 (3) Mitigate extra duties to restriction.

2718 (h) The mitigated punishment shall not be for a greater period than the punishment
2719 mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the
2720 forfeiture shall not be greater than the amount that could have been imposed initially
2721 under this section by the officer who imposed the punishment mitigated.

2722 (i) A person punished under this section who considers the punishment unjust or
2723 disproportionate to the offense may, through the proper channel, appeal to the next

2724 superior authority within 15 days after the punishment is announced. The appeal shall be
2725 promptly forwarded and decided, but the person punished may in the meantime be required
2726 to undergo the punishment adjudged. The superior authority may exercise the same
2727 powers with respect to the punishment imposed as may be exercised under subsection (g)
2728 by the officer who imposed the punishment. Before acting on an appeal from a punishment,
2729 the authority who is to act on the appeal may refer the case to a judge advocate for
2730 consideration and advice.

2731 (j) The imposition and enforcement of disciplinary punishment under this section for
2732 any act or omission is not a bar to trial by court-martial or a civilian court of competent
2733 jurisdiction for a serious crime or offense growing out of the same act or omission and not
2734 properly punishable under this section; but the fact that a disciplinary punishment has
2735 been enforced may be shown by the accused upon trial and, when so shown, it shall be
2736 considered in determining the measure of punishment to be adjudged in the event of a
2737 finding of guilty.

2738 (k) Whenever a punishment of forfeiture of pay is imposed under this section, the
2739 forfeiture may apply to pay accruing before, on, or after the date that punishment is
2740 imposed.

2741 (l) Regulations may prescribe the form of records to be kept of proceedings under
2742 this section and may prescribe that certain categories of those proceedings shall be in
2743 writing.

2744

2745 Subchapter 4. Court-martial jurisdiction.

2746

2747 § 49-1104.01. Courts-martial classified.

2748 The three kinds of courts-martial in the District of Columbia National Guard are:

2749 (a) General courts-martial, consisting of:

2750 (1) A military judge and not less than 5 members; or

2751 (2) Only a military judge, if, before the court is assembled, the accused,
2752 knowing the identity of the military judge and after consultation with defense counsel,
2753 requests orally on the record or in writing a court composed only of a military judge and the
2754 military judge approves;

2755 (b) Special courts-martial, consisting of:

2756 (1) A military judge and not less than 3 members; or

2757 (2) Only a military judge, if one has been detailed to the court, and the
2758 accused under the same conditions as those prescribed in subsection (a)(2) of this section so
2759 requests; and

2760 (c) Summary courts-martial, consisting of one commissioned officer.

2761

2762 § 49-1104.02. Jurisdiction of courts-martial in general.

2763 Each component of the District of Columbia National Guard has court-martial
2764 jurisdiction over all servicemembers of the particular component who are subject to this
2765 chapter. Additionally, the Army and Air National Guard of the District of Columbia have
2766 court-martial jurisdiction over all servicemembers subject to this chapter.

2767

2768 § 49-1104.03. Jurisdiction of general courts-martial.

2769 Subject to D.C. Official Code § 49-1104.02, general courts-martial have jurisdiction
2770 to try persons subject to this chapter for any offense made punishable by this chapter, and
2771 may, under such limitations as the Commanding General may prescribe, adjudge any
2772 punishment not forbidden by this chapter.

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§ 49-1104.04. Jurisdiction of special courts-martial.

Subject to D.C. Official Code § 49-1104.02, special courts-martial have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter, and may, under such limitations as the Commanding General may prescribe, adjudge any punishment not forbidden by this chapter except dishonorable discharge, dismissal, confinement for more than one year, forfeiture of pay exceeding two-thirds pay per month, or forfeiture of pay for more than one year.

§ 49-1104.05. Jurisdiction of summary courts-martial.

(a) Subject to D.C. Official Code § 49-1104.02, summary courts-martial have jurisdiction to try persons subject to this chapter, except officers and cadets, for any offense made punishable by this chapter under such limitations as the Commanding General may prescribe.

(b) No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if that person objects thereto. If objection to trial by summary court-martial is made by an accused, trial by special or general court-martial may be ordered, as may be appropriate. Summary courts-martial may, under such limitations as the Commanding General may prescribe, adjudge any punishment not forbidden by this chapter except dismissal, dishonorable or bad-conduct discharge, confinement for more than one month, restriction to specified limits for more than 2 months, or forfeiture of more than two-thirds of one month's pay.

§ 49-1104.06. [Reserved].

Subchapter 5. Appointment and composition of courts-martial.

§ 49-1105.01. Who may convene general courts-martial.

(a) General courts-martial may be convened by:

(1) The President of the United States, or:

(2)(A) The Commanding General;

(B) The commanding officer of a division or a separate brigade; or

(C) The commanding officer of an air command, an air force, an air division, or a separate wing.

(b) If any such commanding officer is an accuser, the court shall be convened by superior competent authority and may in any case be convened by such superior authority if considered desirable by such authority.

§ 49-1105.02. Who may convene special courts-martial.

(a) Special courts-martial may be convened by:

(1) Any person who may convene a general court-martial;

(2) The commanding officer of a garrison, fort, post, camp, station, Air National Guard base, or naval base or station;

(3) The commanding officer of a brigade, regiment, detached battalion, or corresponding unit of the Army;

(4) The commanding officer of a wing, group, separate squadron, or corresponding unit of the Air Force; or

(5) The commanding officer or officer in charge of any other command when empowered by the Commanding General.

2822 (b) If any such officer is an accuser, the court shall be convened by a superior
2823 competent authority, and may in any case be convened by such superior authority if
2824 considered desirable by such authority.

2825
2826 § 49-1105.03. Who may convene summary courts-martial.

2827 (a) Summary courts-martial may be convened by:

2828 (1) Any person who may convene a general or special court-martial;

2829 (2) The commanding officer of a detached company or other detachment, or
2830 corresponding unit of the Army;

2831 (3) The commanding officer of a detached squadron or other detachment, or
2832 corresponding unit of the Air Force; or

2833 (4) The commanding officer or officer in charge of any other command when
2834 empowered by the Commanding General.

2835 (b) When only one commissioned officer is present with a command or detachment
2836 that officer shall be the summary court-martial of that command or detachment and shall
2837 hear and determine all summary court-martial cases. Summary courts-martial may,
2838 however, be convened in any case by superior competent authority if considered desirable
2839 by such authority.

2840
2841 § 49-1105.04. Who may serve on courts-martial.

2842 (a) Any commissioned officer of the District of Columbia National Guard is eligible to
2843 serve on all courts-martial for the trial of any person subject to this chapter.

2844 (b) Any warrant officer of the District of Columbia National Guard is eligible to
2845 serve on general and special courts-martial for the trial of any person subject to this
2846 chapter, other than a commissioned officer.

2847 (c)(1) Any enlisted servicemember of the District of Columbia National Guard who is
2848 not a member of the same unit as the accused is eligible to serve on general and special
2849 courts-martial for the trial of any enlisted servicemember subject to this chapter, but that
2850 servicemember shall serve as a member of a court only if, before the conclusion of a session
2851 called by the military judge under D.C. Official Code § 49-1107.04 prior to trial or, in the
2852 absence of such a session, before the court is assembled for the trial of the accused, the
2853 accused personally has requested orally on the record or in writing that enlisted
2854 servicemembers serve on it. After such a request, the accused may not be tried by a general
2855 or special court-martial the membership of which does not include enlisted servicemembers
2856 in a number comprising at least one-third of the total membership of the court, unless
2857 eligible enlisted servicemembers cannot be obtained on account of physical conditions or
2858 military exigencies. If such servicemembers cannot be obtained, the court may be
2859 assembled and the trial held without them, but the convening authority shall make a
2860 detailed written statement, to be appended to the record, stating why they could not be
2861 obtained.

2862 (2) In this section, "unit" means any regularly organized body of the District
2863 of Columbia National Guard not larger than a company, a squadron, or a body
2864 corresponding to one of them.

2865 (d)(1) When it can be avoided, no person subject to this chapter may be tried by a
2866 court-martial any member of which is junior to the accused in rank or grade.

2867 (2) When convening a court-martial, the convening authority shall detail as
2868 members thereof such servicemembers of the District of Columbia National Guard as, in
2869 the convening authority's opinion, are best qualified for the duty by reason of age,
2870 education, training, experience, length of service, and judicial temperament. No

2871 servicemember of the District of Columbia National Guard is eligible to serve as a member
2872 of a general or special court-martial when that servicemember is the accuser, a witness, or
2873 has acted as investigating officer or as counsel in the same case.

2874 (e) Before a court-martial is assembled for the trial of a case, the convening
2875 authority may excuse a member of the court from participating in the case. The convening
2876 authority may delegate the authority under this subsection to a judge advocate or to any
2877 other principal assistant.

2878
2879 § 49-1105.05. [Reserved].

2880
2881 § 49-1105.06. Military judge of a general or special court-martial.

2882 (a) A military judge shall be detailed to each general and special court-martial. The
2883 military judge shall preside over each open session of the court-martial to which the
2884 military judge has been detailed.

2885 (b) A military judge shall be:

2886 (1) An active or retired commissioned officer of an organized state military
2887 force;

2888 (2) A member in good standing of the bar of the highest court of a State or a
2889 member of the bar of a Federal court for at least 5 years; and

2890 (3) Certified as qualified for duty as a military judge by the District Judge
2891 Advocate.

2892 (c) In the instance when a military judge is not a member of the District of Columbia
2893 Bar, the military judge shall be deemed admitted pro hac vice, subject to filing a certificate
2894 with the District Judge Advocate setting forth such qualifications provided in subsection (b)
2895 of this section.

2896 (d) The military judge of a general or special court-martial shall be designated by the
2897 District Judge Advocate, or a designee, for detail by the convening authority. Neither the
2898 convening authority nor any staff member of the convening authority shall prepare or
2899 review any report concerning the effectiveness, fitness, or efficiency of the military judge so
2900 detailed, which relates to performance of duty as a military judge.

2901 (e) No person is eligible to act as military judge in a case if that person is the accuser
2902 or a witness, or has acted as investigating officer or a counsel, in the same case.

2903 (f) The military judge of a court-martial may not consult with the members of the
2904 court except in the presence of the accused, trial counsel, and defense counsel, nor vote with
2905 the members of the court.

2906
2907 § 49-1105.07. Detail of trial counsel and defense counsel.

2908 (a)(1) For each general and special court-martial, the authority convening the court
2909 shall detail trial counsel, defense counsel, and such assistants as are appropriate.

2910 (2) No person who has acted as investigating officer, military judge, witness,
2911 or court member in any case may act later as trial counsel, assistant trial counsel, or,
2912 unless expressly requested by the accused, as defense counsel or assistant or associate
2913 defense counsel in the same case. No person who has acted for the prosecution may act
2914 later in the same case for the defense, nor may any person who has acted for the defense act
2915 later in the same case for the prosecution.

2916 (b) Except as provided in subsection (c) of this section, trial counsel or defense
2917 counsel detailed for a general or special court-martial shall be:

2918 (1) A judge advocate as defined in D.C. Official Code § 49-1101.01(8); and

2919 (2) In the case of trial counsel, a member in good standing of the District of
2920 Columbia Bar.

2921 (c) In the instance when a defense counsel is not a member of the District of
2922 Columbia Bar, the defense counsel shall be deemed admitted pro hac vice, subject to filing a
2923 certificate with the military judge setting forth the qualifications that counsel is:

2924 (1) A commissioned officer of the armed forces or the military forces of a state,
2925 or a component thereof;

2926 (2) A member in good standing of the bar of the highest court of a state;

2927 (3) Certified as a judge advocate in the Judge Advocate General's Corps of the
2928 Army, Air Force, Navy, or the Marine Corps; and

2929 (4) Certified by the District Judge Advocate as competent to perform such
2930 military justice duties as required by this chapter.

2931

2932 § 49-1105.08. Detail or employment of reporters and interpreters.

2933 Under such regulations as may be prescribed, the convening authority of a general
2934 or special court-martial or court of inquiry shall detail or employ qualified court reporters,
2935 who shall record the proceedings of and testimony taken before that court and may detail or
2936 employ interpreters who shall interpret for the court.

2937

2938 § 49-1105.09. Absent and additional members.

2939 (a) No member of a general or special court-martial may be absent or excused after
2940 the court has been assembled for the trial of the accused unless excused as a result of a
2941 challenge, excused by the military judge for physical disability or other good cause, or
2942 excused by order of the convening authority for good cause.

2943 (b) Whenever a general court-martial, other than a general court-martial composed
2944 of a military judge only, is reduced below 5 members, the trial may not proceed unless the
2945 convening authority details new members sufficient in number to provide not less than 5
2946 members. The trial may proceed with the new members present after the recorded
2947 evidence previously introduced before the members of the court has been read to the court
2948 in the presence of the military judge, the accused, and counsel for both sides.

2949 (c) Whenever a special court-martial, other than a special court-martial composed of
2950 a military judge only, is reduced below 3 members, the trial may not proceed unless the
2951 convening authority details new members sufficient in number to provide not less than 3
2952 members. The trial shall proceed with the new members present as if no evidence had been
2953 introduced previously at the trial, unless a verbatim record of the evidence previously
2954 introduced before the members of the court or a stipulation thereof is read to the court in
2955 the presence of the military judge, the accused, and counsel for both sides.

2956 (d) If the military judge of a court-martial composed of a military judge only is
2957 unable to proceed with the trial because of physical disability, as a result of a challenge, or
2958 for other good cause, the trial shall proceed, subject to any applicable conditions of D.C.
2959 Official Code § 49-1104.01(a)(2) or (b)(2), after the detail of a new military judge as if no
2960 evidence had previously been introduced, unless a verbatim record of the evidence
2961 previously introduced or a stipulation thereof is read in court in the presence of the new
2962 military judge, the accused, and counsel for both sides.

2963

2964 Subchapter 6. Pre-trial procedure.

2965

2966 § 49-1106.01. Charges and specifications.

2967 (a) Charges and specifications shall be signed by a person subject to this chapter
2968 under oath before a commissioned officer authorized by D.C. Official Code § 49-1111.02 to
2969 administer oaths and shall state:

2970 (1) That the signer has personal knowledge of, or has investigated, the
2971 matters set forth therein; and

2972 (2) That they are true in fact to the best of the signer's knowledge and belief.

2973 (b) Upon the preferring of charges, the proper authority shall take immediate steps
2974 to determine what disposition should be made thereof in the interest of justice and
2975 discipline, and the person accused shall be informed of the charges as soon as practicable.

2976
2977 § 49-1106.02. Compulsory self-incrimination prohibited.

2978 (a) No person subject to this chapter may compel any person to incriminate himself
2979 or herself or to answer any question the answer to which may tend to incriminate him or
2980 her.

2981 (b) No person subject to this chapter may interrogate or request any statement from
2982 an accused or a person suspected of an offense without first informing that person of the
2983 nature of the accusation and advising that person that the person does not have to make
2984 any statement regarding the offense of which the person is accused or suspected and that
2985 any statement made by the person may be used as evidence against the person in a trial by
2986 court-martial.

2987 (c) No person subject to this chapter may compel any person to make a statement or
2988 produce evidence before any military court if the statement or evidence is not material to
2989 the issue and may tend to degrade the person.

2990 (d) No statement obtained from any person in violation of this section or through the
2991 use of coercion, unlawful influence, or unlawful inducement may be received in evidence
2992 against the person in a trial by court-martial.

2993
2994 § 49-1106.03. Investigation.

2995 (a) No charge or specification may be referred to a general court-martial for trial
2996 until a thorough and impartial investigation of all the matters set forth therein has been
2997 made. This investigation shall include inquiry as to the truth of the matter set forth in the
2998 charges, consideration of the form of charges, and a recommendation as to the disposition
2999 which should be made of the case in the interest of justice and discipline.

3000 (b) The accused shall be advised of the charges against the accused and of the right
3001 to be represented at that investigation by counsel. The accused has the right to be
3002 represented at that investigation as provided in D.C. Official Code § 49-1107.03 and in
3003 regulations prescribed under that section. At that investigation, full opportunity shall be
3004 given to the accused to cross-examine witnesses against the accused, if they are available,
3005 and to present anything the accused may desire on the accused's own behalf, either in
3006 defense or mitigation, and the investigating officer shall examine available witnesses
3007 requested by the accused. If the charges are forwarded after the investigation, they shall
3008 be accompanied by a statement of the substance of the testimony taken on both sides and a
3009 copy thereof shall be given to the accused.

3010 (c) If an investigation of the subject matter of an offense has been conducted before
3011 the accused is charged with the offense, and if the accused was present at the investigation
3012 and afforded the opportunities for representation, cross-examination, and presentation
3013 prescribed in subsection (b) of this section, no further investigation of that charge is
3014 necessary under this section unless it is demanded by the accused after the accused is
3015 informed of the charge. A demand for further investigation entitles the accused to recall

3016 witnesses for further cross-examination and to offer any new evidence in the accused's own
3017 behalf.

3018 (d) If evidence adduced in an investigation under this section indicates that the
3019 accused committed an uncharged offense, the investigating officer may investigate the
3020 subject matter of that offense without the accused having first been charged with the
3021 offense if the accused:

3022 (1) Is present at the investigation;

3023 (2) Is informed of the nature of each uncharged offense investigated; and

3024 (3) Is afforded the opportunities for representation, cross-examination, and
3025 presentation prescribed in subsection (b) of this section.

3026 (e) The requirements of this section are binding on all persons administering this
3027 chapter but failure to follow them does not constitute jurisdictional error.

3028

3029 § 49-1106.04. Forwarding of charges.

3030 When a person is held for trial by general court-martial, the commanding officer
3031 shall within 8 days after the accused is ordered into arrest or confinement, if practicable,
3032 forward the charges, together with the investigation and allied papers, to the person
3033 exercising general court-martial jurisdiction. If that is not practicable, the commanding
3034 officer shall report in writing to that person the reasons for delay.

3035

3036 § 49-1106.05. Advice of judge advocate and reference for trial.

3037 (a) Before directing the trial of any charge by general court-martial, the convening
3038 authority shall refer it to a judge advocate for consideration and advice. The convening
3039 authority may not refer a specification under a charge to a general court-martial for trial
3040 unless the convening authority has been advised in writing by a judge advocate that:

3041 (1) The specification alleges an offense under this chapter;

3042 (2) The specification is warranted by the evidence indicated in the report of
3043 investigation under D.C. Official Code § 49-1106.03, if there is such a report; and

3044 (3) A court-martial would have jurisdiction over the accused and the offense.

3045 (b) The advice of the judge advocate under subsection (a) of this section with respect
3046 to a specification under a charge shall include a written and signed statement by the judge
3047 advocate:

3048 (1) Expressing conclusions with respect to each matter set forth in subsection
3049 (a) of this section; and

3050 (2) Recommending action that the convening authority take regarding the
3051 specification.

3052 (c) If the specification is referred for trial, the recommendation of the judge advocate
3053 shall accompany the specification.

3054 (d) If the charges or specifications are not correct formally or do not conform to the
3055 substance of the evidence contained in the report of the investigating officer, formal
3056 corrections, and such changes in the charges and specifications as are needed to make them
3057 conform to the evidence, may be made.

3058

3059 § 49-1106.06. Service of charges.

3060 (a) The trial counsel shall serve upon the accused, or cause to be served upon the
3061 accused by any District of Columbia Metropolitan Police officer, United States Marshal, or
3062 servicemember of the District of Columbia National Guard appointed by the court-martial,
3063 a copy of the charges and a summons to appear before the court-martial.

3064 (b)(1) An individual may not charge a fee in advance for service of process.

3065 (2) Costs of service of process shall be paid from funds appropriated to the
3066 District of Columbia National Guard.

3067 (c) The individual who serves the charges and summons to appear before a court-
3068 martial shall do so by:

3069 (1) Delivering a copy of the charges and summons to the accused;

3070 (2) Reading a copy of the charges and summons to the accused;

3071 (3) Leaving a copy of the charges and summons at the accused's last known
3072 residence or place of business; or

3073 (4) Mailing by registered mail a copy of the charges and summons to the
3074 accused's last known residence or business address.

3075 (d)(1) The individual who serves the charges and summons shall make a return of
3076 the charges and summons that contains the time, manner, and place of service.

3077 (2) The return may be verified under oath before a commissioned officer.

3078 (3) A return verified under oath under paragraph (2) of this subsection shall
3079 be admitted into evidence at the trial of the person charged and summoned without the
3080 presence or testimony of the individual serving the charges and summons.

3081 (e) No person may, against the person's objection, be brought to trial before a general
3082 court-martial case within a period of 5 days after the service of charges upon the accused, or
3083 in a special court-martial, within a period of 3 days after the service of charges upon the
3084 accused.

3085

3086 § 49-1106.07. Warrants for the arrest of accused.

3087 Whenever it shall appear to a regularly constituted court-martial convened under
3088 the provisions of this chapter that the accused, having been duly ordered or summoned to
3089 appear before such court-martial for trial, has refused or neglected to so appear, such court-
3090 martial shall issue a warrant or attachment for the arrest of the accused, directed to the
3091 United States Marshal for the District of Columbia, who shall forthwith execute said
3092 warrant or attachment, make proper return thereof to such court-martial, and produce to
3093 such court-martial the body of the accused, if within the District of Columbia, and to retain
3094 the custody thereof and continue so to produce said body during the sessions of such court-
3095 martial until the conclusion of the trial, unless sooner discharged by said court-martial.

3096

3097 Subchapter 7. Trial procedure.

3098

3099 § 49-1107.01. President of the United States or the Commanding General may
3100 prescribe rules.

3101 Pretrial, trial, and post-trial procedures, including modes of proof, for courts-martial
3102 cases arising under this chapter, and for courts of inquiry, may be prescribed by the
3103 President of the United States or the Commanding General by regulations, or as otherwise
3104 provided by law, which shall apply the principles of law and the rules of evidence generally
3105 recognized in military criminal cases in the courts of the armed forces but which may not be
3106 contrary to or inconsistent with this chapter.

3107

3108 § 49-1107.02. Unlawfully influencing action of court.

3109 (a) No authority convening a general, special, or summary court-martial, nor any
3110 other commanding officer, or officer serving on the staff thereof, may censure, reprimand,
3111 or admonish the court or any member, the military judge, or counsel thereof, with respect to
3112 the findings or sentence adjudged by the court or with respect to any other exercise of its or
3113 their functions in the conduct of the proceedings. No person subject to this chapter may

3114 attempt to coerce or, by any unauthorized means, influence the action of a court-martial or
3115 court of inquiry or any member thereof, in reaching the findings or sentence in any case, or
3116 the action of any convening, approving, or reviewing authority with respect to his or her
3117 judicial acts. The foregoing provisions of this subsection shall not apply with respect to:

3118 (1) General instructional or informational courses in military justice if such
3119 courses are designed solely for the purpose of instructing members of a command in the
3120 substantive and procedural aspects of courts-martial; or

3121 (2) To statements and instructions given in open court by the military judge,
3122 summary court-martial officer, or counsel.

3123 (b) In the preparation of an effectiveness, fitness, or efficiency report, or any other
3124 report or document used in whole or in part for the purpose of determining whether a
3125 servicemember of the District of Columbia National Guard is qualified to be advanced in
3126 grade, or in determining the assignment or transfer of a servicemember of the District of
3127 Columbia National Guard, or in determining whether a servicemember of the District of
3128 Columbia National Guard should be retained, no person subject to this chapter may, in
3129 preparing any such report:

3130 (1) Consider or evaluate the performance of duty of any such
3131 servicemember as a member of a court-martial or witness therein; or

3132 (2) Give a less favorable rating or evaluation of any counsel of the
3133 accused because of zealous representation before a court-martial.

3134

3135 § 49-1107.03. Duties of trial counsel and defense counsel.

3136 (a) The trial counsel of a general or special court-martial shall be a member in good
3137 standing of the District of Columbia Bar and shall prosecute in the name of the United
3138 States, and shall, under the direction of the court, prepare the record of the proceedings.

3139 (b)(1) The accused has the right to be represented in defense before a general or
3140 special court-martial or at an investigation under D.C. Official Code § 49-1106.03 as
3141 provided in this subsection.

3142 (2) The accused may be represented by civilian counsel at the provision and
3143 expense of the accused.

3144 (3) The accused may be represented:

3145 (A) By military counsel detailed pursuant to D.C. Official Code § 49-
3146 1105.07; or

3147 (B) By military counsel of the accused's own selection if that counsel is
3148 reasonably available as determined under paragraph (7) of this subsection.

3149 (4) If the accused is represented by civilian counsel, military counsel detailed
3150 or selected under paragraph (3) of this subsection shall act as associate counsel unless
3151 excused at the request of the accused.

3152 (5) Except as provided under paragraph (6) of this subsection, if the accused
3153 is represented by military counsel of his own selection under paragraph (3)(B) of this
3154 subsection, any military counsel detailed under paragraph (3)(A) of this subsection shall be
3155 excused.

3156 (6) The accused is not entitled to be represented by more than one military
3157 counsel. However, the person authorized under regulations prescribed under D.C. Official
3158 Code § 49-1105.07 to detail counsel, in that person's sole discretion:

3159 (A) May detail additional military counsel as assistant defense
3160 counsel; and

3161 (B) If the accused is represented by military counsel of the accused's
3162 own selection under paragraph (3)(B) of this subsection, may approve a request from the

3163 accused that military counsel detailed under paragraph (3)(A) of this subsection act as
3164 associate defense counsel.

3165 (7) The District Judge Advocate shall determine whether the military counsel
3166 selected by an accused is reasonably available.

3167 (c) In any court-martial proceeding resulting in a conviction, the defense counsel:

3168 (1) May forward for attachment to the record of proceedings a brief of such
3169 matters as counsel determines should be considered in behalf of the accused on review,
3170 including any objection to the contents of the record that counsel considers appropriate;

3171 (2) May assist the accused in the submission of any matter under D.C.

3172 Official Code § 49-1109.02; and

3173 (3) May take other action authorized by this chapter.

3174

3175 § 49-1107.04. Sessions.

3176 (a) At any time after the service of charges which have been referred for trial to a
3177 court-martial composed of a military judge and members, the military judge may, subject
3178 D.C. Official Code § 49-1106.06, call the court into session without the presence of the
3179 members for the purpose of:

3180 (1) Hearing and determining motions raising defenses or objections which are
3181 capable of determination without trial of the issues raised by a plea of not guilty;

3182 (2) Hearing and ruling upon any matter which may be ruled upon by the
3183 military judge under this chapter, whether or not the matter is appropriate for later
3184 consideration or decision by the members of the court;

3185 (3) Holding the arraignment and receiving the pleas of the accused; and

3186 (4) Performing any other procedural function which does not require the
3187 presence of the members of the court under this chapter.

3188 (b) These proceedings shall be conducted in the presence of the accused, the defense
3189 counsel, and the trial counsel and shall be made a part of the record. These proceedings
3190 may be conducted notwithstanding the number of court members and without regard to
3191 D.C. Official Code § 49-1105.09.

3192 (c) When the members of a court-martial deliberate or vote, only the members may
3193 be present. All other proceedings, including any other consultation of the members of the
3194 court with counsel or the military judge, shall be made a part of the record and shall be in
3195 the presence of the accused, the defense counsel, the trial counsel, and the military judge.

3196

3197 § 49-1107.05. Continuances.

3198 The military judge of a court-martial or a summary court-martial may, for
3199 reasonable cause, grant a continuance to any party for such time, and as often, as may
3200 appear to be just.

3201

3202 § 49-1107.06. Challenges.

3203 (a)(1) The military judge and members of a general or special court-martial may be
3204 challenged by the accused or the trial counsel for cause stated to the court. The military
3205 judge or the court shall determine the relevancy and validity of challenges for cause and
3206 may not receive a challenge to more than one person at a time. Challenges by the trial
3207 counsel shall ordinarily be presented and decided before those by the accused are offered.

3208 (2) If exercise of a challenge for cause reduces the court below the minimum
3209 number of members required by D.C. Official Code § 49-1104.01, all parties shall,
3210 notwithstanding D.C. Official Code § 49-1105.09, either exercise or waive any challenge for
3211 cause then apparent against the remaining members of the court before additional

3212 members are detailed to the court. However, peremptory challenges shall not be exercised
3213 at that time.

3214 (b)(1) Each accused and the trial counsel are entitled initially to one peremptory
3215 challenge of members of the court. The military judge may not be challenged except for
3216 cause.

3217 (2) If exercise of a peremptory challenge reduces the court below the
3218 minimum number of members required by D.C. Official Code § 49-1104.01, all parties shall,
3219 notwithstanding D.C. Official Code § 49-1105.09, either exercise or waive any remaining
3220 peremptory challenge, not previously waived, against the remaining members of the court
3221 before additional members are detailed to the court.

3222 (3) Whenever additional members are detailed to the court, and after any
3223 challenges for cause against such additional members are presented and decided, each
3224 accused and the trial counsel are entitled to one peremptory challenge against members not
3225 previously subject to peremptory challenge.

3226

3227 § 49-1107.07. Oaths or affirmations.

3228 (a) Before performing their respective duties, military judges, general and special
3229 courts-martial members, trial counsel, defense counsel, reporters, and interpreters shall
3230 take an oath or affirmation in the presence of the accused to perform their duties faithfully.
3231 The form of the oath or affirmation, the time and place of the taking thereof, the manner of
3232 recording the same, and whether the oath or affirmation shall be taken for all cases in
3233 which these duties are to be performed or for a particular case, shall be as prescribed in
3234 regulation or as provided by law. These regulations may provide that an oath or
3235 affirmation to perform faithfully the duties as a military judge, trial counsel, or defense
3236 counsel may be taken at any time by any judge advocate or other person certified or
3237 designated to be qualified or competent for the duty, and if such an oath or affirmation is
3238 taken, it need not again be taken at the time the judge advocate or other person is detailed
3239 to that duty.

3240 (b) Each witness before a court-martial shall be examined under oath or affirmation.

3241

3242 § 49-1107.08. Statute of limitations.

3243 (a) Except as otherwise provided in this section, a person charged with any offense is
3244 not liable to be tried by court-martial or punished under D.C. Official Code § 49-1103.01 if
3245 the offense was committed more than 3 years before the receipt of sworn charges and
3246 specifications by an officer exercising court-martial jurisdiction over the command or before
3247 the imposition of punishment under D.C. Official Code § 49-1103.01.

3248 (b) Periods in which the accused is absent without authority or fleeing from justice
3249 shall be excluded in computing the period of limitation prescribed in this section.

3250 (c) Periods in which the accused was absent from territory in which the District of
3251 Columbia has the authority to apprehend him, or in the custody of civil authorities, or in
3252 the hands of the enemy, shall be excluded in computing the period of limitation prescribed
3253 in this article.

3254 (d) When the United States is at war, the running of any statute of limitations is
3255 suspended until 2 years after the termination of hostilities as proclaimed by the President
3256 or by a joint resolution of Congress for any offense under this chapter:

3257 (1) Involving fraud or attempted fraud against the United States, any state,
3258 or any agency thereof in any manner, whether by conspiracy or not;

3259 (2) Committed in connection with the acquisition, care, handling, custody,
3260 control, or disposition of any real or personal property of the United States or any state; or

3261 (3) Committed in connection with the negotiation, procurement, award,
3262 performance, payment, interim financing, cancellation, or other termination or settlement,
3263 of any contract, subcontract, or purchase order which is connected with or related to the
3264 prosecution of the war, or with any disposition of termination inventory by any war
3265 contractor or Government agency.

3266 (e)(1) If charges or specifications are dismissed as defective or insufficient for any
3267 cause and the period prescribed by the applicable statute of limitations:

3268 (A) Has expired;

3269 (B) Will expire within 180 days after the date of dismissal of the
3270 charges and specifications, trial and punishment under new charges and specifications are
3271 not barred by the statute of limitations if the conditions specified in paragraph (2) of this
3272 subsection are met.

3273 (2) The conditions referred to in paragraph (1)(B) of this subsection are that
3274 the new charges and specifications must:

3275 (A) Be received by an officer exercising summary court-martial
3276 jurisdiction over the command within 180 days after the dismissal of the charges or
3277 specifications; and

3278 (B) Allege the same acts or omissions that were alleged in the
3279 dismissed charges or specifications (or allege acts or omissions that were included in the
3280 dismissed charges or specifications).

3281

3282 § 49-1107.09. Former jeopardy.

3283 (a) No person may, without his or her consent, be tried a second time for the same
3284 offense.

3285 (b) No proceeding in which an accused has been found guilty by a court-martial upon
3286 any charge or specification is a trial in the sense of this section until the finding of guilty
3287 has become final after review of the case has been fully completed.

3288 (c) A proceeding which, after the introduction of evidence but before a finding, is
3289 dismissed or terminated by the convening authority or on motion of the prosecution for
3290 failure of available evidence or witnesses without any fault of the accused is a trial in the
3291 sense of this section.

3292

3293 § 49-1107.10. Pleas of the accused.

3294 (a) If an accused after arraignment makes an irregular pleading, or after a plea of
3295 guilty sets up matter inconsistent with the plea, or if it appears that the accused has
3296 entered the plea of guilty improvidently or through lack of understanding of its meaning
3297 and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in
3298 the record, and the court shall proceed as though the accused had pleaded not guilty.

3299 (b) With respect to any charge or specification to which a plea of guilty has been
3300 made by the accused and accepted by the military judge or by a court-martial without a
3301 military judge, a finding of guilty of the charge or specification may be entered immediately
3302 without vote. This finding shall constitute the finding of the court unless the plea of guilty
3303 is withdrawn prior to announcement of the sentence, in which event, the proceedings shall
3304 continue as though the accused had pleaded not guilty.

3305

3306 § 49-1107.11. Opportunity to obtain witnesses and other evidence.

3307 The trial counsel, the defense counsel, and the court-martial shall have equal
3308 opportunity to obtain witnesses and other evidence as prescribed by regulations and
3309 provided by law. Process issued in court-martial cases to compel witnesses to appear and

3310 testify and to compel the production of other evidence shall apply the principles of law and
3311 the rules of courts-martial generally recognized in military criminal cases in the courts of
3312 the armed forces, but which may not be contrary to or inconsistent with this chapter.
3313 Process shall run to any part of the United States, or the Territories, Commonwealths, and
3314 possessions, and may be executed by civil officers as prescribed by the laws of the place
3315 where the witness or evidence is located or of the United States.

3316
3317 § 49-1107.12. Refusal to appear or testify.

3318 Every person not belonging to the District of Columbia National Guard who, being
3319 duly subpoenaed to appear as a witness before the military courts herein provided for,
3320 willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or
3321 produce documentary evidence which such person may have been legally subpoenaed to
3322 produce, shall be guilty of a misdemeanor, for which such person shall be punished on
3323 information in the criminal courts of the District of Columbia, and it shall be the duty of the
3324 United States Attorney for the District of Columbia, on certification of the facts to him or
3325 her by any military court herein provided for, to file an information against and prosecute
3326 the person so offending and the punishment of such person on conviction shall be a fine of
3327 not more than \$100 dollars, or imprisonment not exceeding 30 days, or both, at the
3328 discretion of the court; provided, that this section shall not apply to persons residing beyond
3329 the limits of the District of Columbia, and that the fee of such witness and his mileage at
3330 the rate provided for witnesses in the United States District Court in said District shall be
3331 duly paid or tendered said witness; and provided, that no witness shall be compelled to
3332 incriminate himself or to answer any question which may tend to incriminate or degrade
3333 him.

3334
3335 § 49-1107.13. Contempts.

3336 (a) A military judge or summary court-martial officer may punish for contempt any
3337 person who uses any menacing word, sign, or gesture in its presence, or who disturbs its
3338 proceedings by any riot or disorder.

3339 (b) A person subject to this chapter may be punished for contempt by confinement
3340 not to exceed 30 days or a fine of \$100, or both.

3341 (c) A person not subject to this chapter may be punished for contempt by a military
3342 court in the same manner as a criminal court of the District of Columbia.

3343
3344 § 49-1107.14. Depositions.

3345 (a) At any time after charges have been signed as provided in D.C. Official Code §
3346 49-1106.01, any party may take oral or written depositions unless the military judge or
3347 summary court-martial officer hearing the case or, if the case is not being heard, an
3348 authority competent to convene a court-martial for the trial of those charges forbids it for
3349 good cause.

3350 (b) The party at whose instance a deposition is to be taken shall give to every other
3351 party reasonable written notice of the time and place for taking the deposition.

3352 (c) Depositions may be taken before and authenticated by any military or civil officer
3353 authorized by the laws of the District of Columbia or by the laws of the place where the
3354 deposition is taken to administer oaths.

3355 (d) A duly authenticated deposition taken upon reasonable notice to the other
3356 parties, so far as otherwise admissible under the rules of evidence, may be read in evidence
3357 or, in the case of audiotape, videotape, digital image or file, or similar material, may be
3358 played in evidence before any military court, if it appears:

3359 (1) That the witness resides or is beyond the state in which the court is
3360 ordered to sit, or beyond 100 miles from the place of trial or hearing;

3361 (2) That the witness by reason of death, age, sickness, bodily infirmity,
3362 imprisonment, military necessity, non-amenability to process, or other reasonable cause, is
3363 unable or refuses to appear and testify in person at the place of trial or hearing; or

3364 (3) That the present whereabouts of the witness is unknown.
3365

3366 § 49-1107.15. Admissibility of records of courts of inquiry.

3367 (a) In any case not extending to the dismissal of a commissioned officer, the sworn
3368 testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of
3369 a person whose oral testimony cannot be obtained, may, if otherwise admissible under the
3370 rules of evidence, be read in evidence by any party before a court-martial if the accused was
3371 a party before the court of inquiry and if the same issue was involved or if the accused
3372 consents to the introduction of such evidence.

3373 (b) Such testimony may be read in evidence only by the defense in cases extending to
3374 the dismissal of a commissioned officer.

3375 (c) Such testimony may also be read in evidence before a court of inquiry.
3376

3377 § 49-1107.16. Defense of lack of mental responsibility.

3378 (a) It is an affirmative defense in a trial by court-martial that, at the time of the
3379 commission of the acts constituting the offense, the accused, as a result of a severe mental
3380 disease or defect, was unable to appreciate the nature and quality or the wrongfulness of
3381 the acts. Mental disease or defect does not otherwise constitute a defense.

3382 (b) The accused has the burden of proving the defense of lack of mental
3383 responsibility by clear and convincing evidence.

3384 (c) Whenever lack of mental responsibility of the accused with respect to an offense
3385 is properly at issue, the military judge shall instruct the members of the court as to the
3386 defense of lack of mental responsibility under this article and charge them to find the
3387 accused:

3388 (1) Guilty;

3389 (2) Not guilty; or

3390 (3) Not guilty only by reason of lack of mental responsibility.

3391 (d) Subsection (c) of this section does not apply to a court-martial composed of a
3392 military judge only. In the case of a court-martial composed of a military judge only or a
3393 summary court-martial officer, whenever lack of mental responsibility of the accused with
3394 respect to an offense is properly at issue, the military judge or summary court-martial
3395 officer shall find the accused:

3396 (1) Guilty;

3397 (2) Not guilty; or

3398 (3) Not guilty only by reason of lack of mental responsibility.

3399 (e) Notwithstanding the provisions of D.C. Official Code § 49-1107.19, the accused
3400 shall be found not guilty only by reason of lack of mental responsibility if:

3401 (1) A majority of the members of the court-martial present at the time the
3402 vote is taken determines that the defense of lack of mental responsibility has been
3403 established; or

3404 (2) In the case of a court-martial composed of a military judge only or a
3405 summary court-martial officer, the military judge or summary court-martial officer
3406 determines that the defense of lack of mental responsibility has been established.
3407

3408 § 49-1107.17. Votings and rulings.

3409 (a) Voting by members of a general or special court-martial on the findings and on
3410 the sentence shall be by secret written ballot. The junior member of the court shall count
3411 the votes. The count shall be checked by the president, who shall forthwith announce the
3412 result of the ballot to the members of the court.

3413 (b) The military judge shall rule upon all questions of law and all interlocutory
3414 questions arising during the proceedings. Any such ruling made by the military judge upon
3415 any question of law or any interlocutory question other than the factual issue of mental
3416 responsibility of the accused is final and constitutes the ruling of the court. However, the
3417 military judge may change the ruling at any time during the trial. Unless the ruling is
3418 final, if any member objects thereto, the court shall be cleared and closed and the question
3419 decided by a voice vote as provided in D.C. Official Code § 49-1107.19, beginning with the
3420 junior in rank.

3421 (c) Before a vote is taken on the findings, the military judge shall, in the presence of
3422 the accused and counsel, instruct the members of the court as to the elements of the offense
3423 and charge them:

3424 (1) That the accused must be presumed to be innocent until his guilt is
3425 established by legal and competent evidence beyond reasonable doubt;

3426 (2) That in the case being considered, if there is a reasonable doubt as to the
3427 guilt of the accused, the doubt must be resolved in favor of the accused and the accused
3428 must be acquitted;

3429 (3) That, if there is a reasonable doubt as to the degree of guilt, the finding
3430 must be in a lower degree as to which there is no reasonable doubt; and

3431 (4) That the burden of proof to establish the guilt of the accused beyond
3432 reasonable doubt is upon the United States.

3433 (d) Subsections (a), (b), and (c) of this section do not apply to a court-martial
3434 composed of a military judge only. The military judge of such a court-martial shall
3435 determine all questions of law and fact arising during the proceedings and, if the accused is
3436 convicted, adjudge an appropriate sentence. The military judge of such a court-martial
3437 shall make a general finding and shall in addition, on request, find the facts specially. If an
3438 opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear
3439 therein.

3440

3441 § 49-1107.18. Number of votes required.

3442 (a) No person may be convicted of an offense except as provided in D.C. Official Code
3443 § 49-1107.10(b) or by the concurrence of two-thirds of the members present at the time the
3444 vote is taken.

3445 (b) All other questions to be decided by the members of a general or special court-
3446 martial shall be determined by a majority vote, but a determination to reconsider a finding
3447 of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by any
3448 lesser vote which indicates that the reconsideration is not opposed by the number of votes
3449 required for that finding or sentence. A tie vote on a challenge disqualifies the member
3450 challenged. A tie vote on a motion relating to the question of the accused's sanity is a
3451 determination against the accused. A tie vote on any other question is a determination in
3452 favor of the accused.

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3454 § 49-1107.19. Court to announce action.

3455 A court-martial shall announce its findings and sentence to the parties as soon as
3456 determined.

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§ 49-1107.20. Record of trial.

(a) Each general and special court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by that of a member, if the trial counsel is unable to authenticate it by reason of his or her death, disability, or absence. In a court-martial consisting of only a military judge, the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection.

(b)(1) A complete verbatim record of the proceedings and testimony shall be prepared in each general and special court-martial case resulting in a conviction; and

(2) In all other court-martial cases, the record shall contain such matters as may be prescribed by regulations.

(c) Each summary court-martial shall keep a separate record of the proceedings in each case, and the record shall be authenticated in the manner as may be prescribed by regulations.

(d) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated.

Subchapter 8. Sentences.

§ 49-1108.01. Cruel and unusual punishments prohibited.

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment may not be adjudged by a court-martial or inflicted upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

§ 49-1108.02. Maximum limits.

(a) The punishment which a court-martial may direct for an offense may not exceed such limits as prescribed by this chapter, but in no instance may confinement for a term of punishment be imposed, nor shall a sentence of death be adjudged. Except for convictions by a summary court-martial, all military offenses under this chapter are misdemeanors. Any conviction by a summary court-martial is not a criminal conviction.

(b) The limits of punishment for violations of the punitive articles prescribed herein shall be the lesser of the sentences prescribed by the Manual for Courts-Martial of the United States in effect on January 1, 2018, and the District of Columbia National Guard Manual for Courts-Martial, but in no instance shall any punishment exceed that authorized by this chapter.

§ 49-1108.03. [Reserved].

§ 49-1108.04. Effective date of sentences.

(a) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. No forfeiture may extend to any pay or allowances accrued before that date.

(b) All other sentences of courts-martial are effective on the date ordered executed.

3506 § 49-1108.05. [Reserved].

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3508 § 49-1108.06. [Reserved].

3509

3510 § 49-1108.07. Sentences: reduction in enlisted grade upon approval.

3511 (a) A court-martial sentence of an enlisted servicemember in a pay grade above E-1,
3512 as approved by the convening authority that includes a dishonorable or bad-conduct
3513 discharge reduces that servicemember to pay grade E-1, effective on the date of that
3514 approval.

3515 (b) If the sentence of a servicemember who is reduced in pay grade under subsection
3516 (a) of this section is set aside or disapproved, or, as finally approved, does not include any
3517 punishment named in subsection (a) of this section, the rights and privileges of which the
3518 person was deprived because of that reduction shall be restored, including pay and
3519 allowances.

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3521 § 49-1108.08. [Reserved].

3522

3523 § 49-1108.09. Execution of sentences.

3524 The sentences of courts-martial shall be executed by the United States Marshal for
3525 the District of Columbia in the same manner as are sentences of the criminal court of said
3526 District.

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3528 Subchapter 9. Post-trial procedure and review of courts-martial.

3529

3530 § 49-1109.01. Error of law; lesser included offense.

3531 (a) A finding or sentence of a court-martial may not be held incorrect on the ground
3532 of an error of law unless the error materially prejudices the substantial rights of the
3533 accused.

3534 (b) Any reviewing authority with the power to approve or affirm a finding of guilty
3535 may approve or affirm, instead, so much of the finding as includes a lesser included offense.

3536

3537 § 49-1109.02. Action by the convening authority.

3538 (a) The findings and sentence of a court-martial shall be reported promptly to the
3539 convening authority after the announcement of the sentence.

3540 (b)(1) The accused may submit to the convening authority matters for consideration
3541 by the convening authority with respect to the findings and the sentence. Any such
3542 submission shall be in writing. Except in a summary court-martial case, such a submission
3543 shall be made within 10 days after the accused has been given an authenticated record of
3544 trial and, if applicable, the recommendation of a judge advocate under subsection (d) of this
3545 section. In a summary court-martial case, such a submission shall be made within 7 days
3546 after the sentence is announced.

3547 (2) If the accused shows that additional time is required for the accused to
3548 submit such matters, the convening authority or other person taking action under this
3549 section, for good cause, may extend the applicable period under paragraph (1) of this
3550 subsection for not more than an additional 20 days.

3551 (3) In a summary court-martial case, the accused shall be promptly provided
3552 a copy of the record of trial for use in preparing a submission authorized by paragraph (1) of
3553 this subsection.

3554 (4) The accused may waive the right to make a submission to the convening
3555 authority under paragraph (1) of this subsection. Such a waiver must be made in writing
3556 and may not be revoked. For the purposes of subsection (c)(2) of this section, the time
3557 within which the accused may make a submission under this subsection shall be deemed to
3558 have expired upon the submission of such a waiver to the convening authority.

3559 (c)(1) The authority under this section to modify the findings and sentence of a court-
3560 martial is a matter of command prerogative involving the sole discretion of the convening
3561 authority. If it is impractical for the convening authority to act, the convening authority
3562 shall forward the case to a person exercising general court-martial jurisdiction who may
3563 take action under this section.

3564 (2) Action on the sentence of a court-martial shall be taken by the convening
3565 authority or by another person authorized to act under this section. Such action may be
3566 taken only after consideration of any matters submitted by the accused under subsection (b)
3567 of this section or after the time for submitting such matters expires, whichever is earlier.
3568 The convening authority or other person taking such action, in that person's sole discretion,
3569 may approve, disapprove, commute, or suspend the sentence in whole or in part.

3570 (3) Action on the findings of a court-martial by the convening authority or
3571 other person acting on the sentence is not required. However, such person, in the person's
3572 sole discretion may:

3573 (A) Dismiss any charge or specification by setting aside a finding of guilty
3574 thereto; or

3575 (B) Change a finding of guilty to a charge or specification to a finding of guilty
3576 to an offense that is a lesser included offense of the offense stated in the charge or
3577 specification.

3578 (d) Before acting under this section on any general or special court-martial case in
3579 which there is a finding of guilt, the convening authority or other person taking action
3580 under this section shall obtain and consider the written recommendation of a judge
3581 advocate. The convening authority or other person taking action under this section shall
3582 refer the record of trial to the judge advocate, and the judge advocate shall use such record
3583 in the preparation of the recommendation. The recommendation of the judge advocate shall
3584 include such matters as may be prescribed by regulation and shall be served on the
3585 accused, who may submit any matter in response under subsection (b) of this section.
3586 Failure to object in the response to the recommendation or to any matter attached to the
3587 recommendation waives the right to object thereto.

3588 (e)(1) The convening authority or other person taking action under this section, in
3589 the person's sole discretion, may order a proceeding in revision or a rehearing.

3590 (2) A proceeding in revision may be ordered if there is an apparent error or
3591 omission in the record or if the record shows improper or inconsistent action by a court-
3592 martial with respect to the findings or sentence that can be rectified without material
3593 prejudice to the substantial rights of the accused. In no case, however, may a proceeding in
3594 revision:

3595 (A) Reconsider a finding of not guilty of any specification or a ruling
3596 which amounts to a finding of not guilty;

3597 (B) Reconsider a finding of not guilty of any charge, unless there has
3598 been a finding of guilty under a specification laid under that charge, which sufficiently
3599 alleges a violation of some section of this chapter; or

3600 (C) Increase the severity of the sentence unless the sentence
3601 prescribed for the offense is mandatory.

3602 (3) A rehearing may be ordered by the convening authority or other person
3603 taking action under this section if that person disapproves the findings and sentence and
3604 states the reasons for disapproval of the findings. If such person disapproves the findings
3605 and sentence and does not order a rehearing, that person shall dismiss the charges. A
3606 rehearing as to the findings may not be ordered where there is a lack of sufficient evidence
3607 in the record to support the findings. A rehearing as to the sentence may be ordered if the
3608 convening authority or other person taking action under this subsection disapproves the
3609 sentence.

3610
3611 § 49-1109.03. Withdrawal of appeal.

3612 (a) In each case subject to appellate review under this chapter, the accused may file
3613 with the convening authority a statement expressly withdrawing the right of the accused to
3614 such appeal. Such a withdrawal shall be signed by both the accused and his or her defense
3615 counsel and must be filed in accordance with appellate procedures as provided by law.

3616 (b) The accused may withdraw an appeal at any time in accordance with appellate
3617 procedures as provided by law.

3618
3619 § 49-1109.04. Appeal by the United States.

3620 (a)(1) In a trial by court-martial in which a punitive discharge may be adjudged, the
3621 United States may appeal the following, other than a finding of not guilty with respect to
3622 the charge or specification by the members of the court-martial, or by a judge in a bench
3623 trial so long as it is not made in reconsideration:

3624 (A) An order or ruling of the military judge which terminates the
3625 proceedings with respect to a charge or specification.

3626 (B) An order or ruling which excludes evidence that is substantial
3627 proof of a fact material in the proceeding.

3628 (C) An order or ruling which directs the disclosure of classified
3629 information.

3630 (D) An order or ruling which imposes sanctions for nondisclosure of
3631 classified information.

3632 (E) A refusal of the military judge to issue a protective order sought by
3633 to prevent the disclosure of classified information.

3634 (F) A refusal by the military judge to enforce an order described in
3635 subparagraph (E) of this paragraph that has previously been issued by appropriate
3636 authority.

3637 (2) An appeal of an order or ruling may not be taken unless the trial counsel
3638 provides the military judge with written notice of appeal from the order or ruling within 72
3639 hours of the order or ruling. Such notice shall include a certification by the trial counsel
3640 that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is
3641 one which excludes evidence, that the evidence excluded is substantial proof of a fact
3642 material in the proceeding.

3643 (3) An appeal under this section shall be diligently prosecuted as provided by
3644 law.

3645 (b) An appeal under this section shall be forwarded to the District of Columbia Court
3646 of Appeals. In ruling on an appeal under this section, the court may act only with respect
3647 to matters of law.

3648 (c) Any period of delay resulting from an appeal under this section shall be excluded
3649 in deciding any issue regarding denial of a speedy trial unless an appropriate authority

3650 determines that the appeal was filed solely for the purpose of delay with the knowledge that
3651 it was totally frivolous and without merit.

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3653 § 49-1109.05. Rehearings.

3654 Each rehearing under this chapter shall take place before a court-martial composed
3655 of members not members of the court-martial which first heard the case. Upon a rehearing
3656 the accused may not be tried for any offense of which he or she was found not guilty by the
3657 first court-martial, and no sentence in excess of or more severe than the original sentence
3658 may be approved, unless the sentence is based upon a finding of guilty of an offense not
3659 considered upon the merits in the original proceedings, or unless the sentence prescribed
3660 for the offense is mandatory. If the sentence approved after the first court-martial was in
3661 accordance with a pretrial agreement and the accused at the rehearing changes a plea with
3662 respect to the charges or specifications upon which the pretrial agreement was based, or
3663 otherwise does not comply with the pretrial agreement, the approved sentence as to those
3664 charges or specifications may include any punishment not in excess of that lawfully
3665 adjudged at the first court-martial.

3666

3667 § 49-1109.06. Review by the District Judge Advocate.

3668 (a) Each general and special court-martial case in which there has been a finding of
3669 guilty shall be reviewed by the District Judge Advocate, or a designee. The District Judge
3670 Advocate, or designee, may not review a case under this subsection if that person has acted
3671 in the same case as an accuser, investigating officer, member of the court, military judge, or
3672 counsel or has otherwise acted on behalf of the prosecution or defense. The District Judge
3673 Advocate's review shall be in writing and shall contain the following:

3674

(1) Conclusions as to whether:

3675

(A) The court had jurisdiction over the accused and the offense;

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(B) The charge and specification stated an offense; and

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(C) The sentence was within the limits prescribed as a matter of law.

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(2) A response to each allegation of error made in writing by the accused.

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(3) If the case is sent for action under subsection (b) of this section, a

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recommendation as to the appropriate action to be taken and an opinion as to whether
3681 corrective action is required as a matter of law.

3682

(b) The record of trial and related documents in each case reviewed under subsection
3683 (a) of this section shall be sent for action to the Commanding General, if:

3684

(1) The judge advocate who reviewed the case recommends corrective action;

3685

(2) The sentence approved under D.C. Official Code § 49-1109.02(c) extends to
3686 dismissal, a bad-conduct or dishonorable discharge, or confinement for more than 6 months;
3687 or

3688

(3) Such action is otherwise required by regulations of the Commanding
3689 General.

3690

(c)(1) The Commanding General may:

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(A) Disapprove or approve the findings or sentence, in whole or in

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part;

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(B) Remit, commute, or suspend the sentence in whole or in part;

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(C) Except where the evidence was insufficient at the trial to support

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the findings, order a rehearing on the findings, on the sentence, or on both; or

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(D) Dismiss the charges.

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(2) If a rehearing is ordered but the convening authority finds a rehearing
3698 impracticable, the convening authority shall dismiss the charges.

3699 (3) If the opinion of the District Judge Advocate, or designee, in the District
3700 Judge Advocate's review under subsection (a) of this section is that corrective action is
3701 required as a matter of law and if the Commanding General does not take action that is at
3702 least as favorable to the accused as that recommended by the District Judge Advocate, the
3703 record of trial and action thereon shall be sent to the President for review and action as
3704 deemed appropriate.

3705 (d) The District Judge Advocate, or a designee, may review any case in which there
3706 has been a finding of not guilty of all charges and specifications. The District Judge
3707 Advocate, or designee, may not review a case under this subsection if that person has acted
3708 in the same case as an accuser, investigating officer, member of the court, military judge, or
3709 counsel or has otherwise acted on behalf of the prosecution or defense. The District Judge
3710 Advocate's review shall be limited to questions of subject matter jurisdiction.

3711 (e) The record of trial and related documents in each case reviewed under subsection
3712 (d) of this section shall be sent for action to the Commanding General. The Commanding
3713 General may:

3714 (1) When subject matter jurisdiction is found to be lacking, void the court-
3715 martial *ab initio*, with or without prejudice to the Government, as the Commanding
3716 General deems appropriate; or

3717 (2) Return the record of trial and related documents to the District Judge
3718 Advocate for appeal by the Government as provided by law.

3719

3720 § 49-1109.07. Disposition of records after review by the convening authority.

3721 Except as otherwise required by this chapter, all other records of trial and related
3722 documents shall be transmitted and disposed of as prescribed by regulation and provided by
3723 law.

3724

3725 § 49-1109.08. [Reserved].

3726

3727 § 49-1109.09. [Reserved].

3728

3729 § 49-1109.10. Review by the District of Columbia Court of Appeals.

3730 Decisions of a court-martial may be appealed to the District of Columbia Court of
3731 Appeals. The appellate procedures to be followed shall be those provided by law for the
3732 appeal of criminal cases thereto.

3733

3734 § 49-1109.11. [Reserved].

3735

3736 § 49-1109.12. [Reserved].

3737

3738 § 49-1109.13. Appellate counsel.

3739 (a) The District Judge Advocate shall detail a judge advocate as appellate
3740 Government counsel to represent the United States in the review or appeal of cases
3741 specified in D.C. Official Code § 49-1109.10 and before any federal court when requested to
3742 do so by the United States Attorney for the District of Columbia. Appellate Government
3743 counsel must be a member in good standing of the District of Columbia Bar.

3744 (b) Upon an appeal by the District of Columbia, an accused has the right to be
3745 represented by detailed military counsel before any reviewing authority and before any
3746 appellate court.

3747 (c) Upon the appeal by an accused, the accused has the right to be represented by
3748 military counsel before any reviewing authority.

3749 (d) Upon the request of an accused entitled to be so represented, the District Judge
3750 Advocate shall appoint a judge advocate, if reasonably available, to represent the accused in
3751 the review or appeal of cases specified in subsections (b) and (c) of this section.

3752 (e) An accused may be represented by civilian appellate counsel at no expense to the
3753 District of Columbia.

3754

3755 § 49-1109.14. Execution of sentence; suspension of sentence.

3756 (a) If the sentence of the court-martial extends to dismissal or a dishonorable or bad-
3757 conduct discharge and if the right of the accused to appellate review is not waived, and an
3758 appeal is not withdrawn under D.C. Official Code § 49-1109.03, that part of the sentence
3759 extending to dismissal or a dishonorable or bad-conduct discharge may not be executed
3760 until there is a final judgment as to the legality of the proceedings. A judgment as to the
3761 legality of the proceedings is final in such cases when review is completed by an appellate
3762 court prescribed in D.C. Official Code § 49-1109.10, and is deemed final by the law of the
3763 District of Columbia.

3764 (b) If the sentence of the court-martial extends to dismissal or a dishonorable or bad-
3765 conduct discharge and if the right of the accused to appellate review is waived, or an appeal
3766 is withdrawn under D.C. Official Code § 49-1109.03, that part of the sentence extending to
3767 dismissal or a dishonorable or bad-conduct discharge may not be executed until review of
3768 the case by the District Judge Advocate and any action on that review under D.C. Official
3769 Code § 49-1109.06 is completed. Any other part of a court-martial sentence may be ordered
3770 executed by the convening authority or other person acting on the case under D.C. Official
3771 Code § 49-1109.02 when so approved under that section.

3772

3773 § 49-1109.15. Vacation of suspension.

3774 (a) Before the vacation of the suspension of a special court-martial sentence, which
3775 as approved includes a bad-conduct discharge, or of any general court-martial sentence, the
3776 officer having special court-martial jurisdiction over the probationer shall hold a hearing on
3777 an alleged violation of probation. The probationer shall be represented at the hearing by
3778 military counsel if the probationer so desires.

3779 (b) The record of the hearing and the recommendation of the officer having special
3780 court-martial jurisdiction shall be sent for action to the officer exercising general court-
3781 martial jurisdiction over the probationer. If the officer vacates the suspension, any
3782 unexecuted part of the sentence, except a dismissal, shall be executed, subject to applicable
3783 restrictions in this chapter.

3784 (c) The suspension of any other sentence may be vacated by any authority competent
3785 to convene, for the command in which the accused is serving or assigned, a court of the kind
3786 that imposed the sentence.

3787

3788 § 49-1109.16. Petition for a new trial.

3789 At any time within 2 years after approval by the convening authority of a court-
3790 martial sentence the accused may petition the President or the Commanding General for a
3791 new trial on the grounds of newly discovered evidence or fraud on the court-martial.

3792

3793 § 49-1109.17. Remission and suspension.

3794 (a) Any authority competent to convene, for the command in which the accused is
3795 serving or assigned, a court of the kind that imposed the sentence may remit or suspend

3796 any part or amount of the unexecuted part of any sentence, including all uncollected
3797 forfeitures other than a sentence approved by the Commanding General.

3798 (b) The Commanding General may, for good cause, substitute an administrative
3799 form of discharge for a discharge or dismissal executed in accordance with the sentence of a
3800 court-martial.

3801
3802 § 49-1109.18. Restoration.

3803 (a) Under such regulations as may be prescribed, all rights, privileges, and property
3804 affected by an executed part of a court-martial sentence which has been set aside or
3805 disapproved, except an executed dismissal or discharge, shall be restored unless a new trial
3806 or rehearing is ordered and such executed part is included in a sentence imposed upon the
3807 new trial or rehearing.

3808 (b) If a previously executed sentence of dishonorable or bad-conduct discharge is not
3809 imposed on a new trial, the Commanding General may substitute therefore a form of
3810 discharge authorized for administrative issuance unless the accused is to serve out the
3811 remainder of the accused's enlistment.

3812 (c) If a previously executed sentence of dismissal is not imposed on a new trial, the
3813 Commanding General may substitute therefore a form of discharge authorized for
3814 administrative issue, and the commissioned officer dismissed by that sentence may be
3815 reappointed by the Commanding General alone to such commissioned grade and with such
3816 rank as in the opinion of the Commanding General that former officer would have attained
3817 had he not been dismissed. The reappointment of such a former officer shall be without
3818 regard to the existence of a vacancy and shall affect the promotion status of other officers
3819 only insofar as the Commanding General may direct. All time between the dismissal and
3820 the reappointment shall be considered as actual service for all purposes, including the right
3821 to pay and allowances.

3822
3823 § 49-1109.19. Finality of proceedings, findings, and sentences.

3824 The appellate review of records of trial provided by this chapter, the proceedings,
3825 findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by
3826 this chapter, and all dismissals and discharges carried into execution under sentences by
3827 courts-martial following approval, review, or affirmation as required by this chapter, are
3828 final and conclusive. Orders publishing the proceedings of courts-martial and all action
3829 taken pursuant to those proceedings are binding upon all departments, courts, agencies,
3830 and officers of the United States and the several states, subject only to action upon a
3831 petition for a new trial as provided in D.C. Official Code § 49-1109.16 and to action under
3832 D.C. Official Code § 49-1109.17.

3833
3834 § 49-1109.20. Leave required to be taken pending review of certain court-martial
3835 convictions.

3836 Under regulations prescribed, an accused who has been sentenced by a court-martial
3837 may be required to take leave pending completion of action under this section if the
3838 sentence, as approved under D.C. Official Code § 49-1109.02, includes an unsuspended
3839 dismissal or an unsuspended dishonorable or bad-conduct discharge. The accused may be
3840 required to begin such leave on the date on which the sentence is approved under D.C.
3841 Official Code § 49-1109.02 or at any time after such date, and such leave may be continued
3842 until the date on which action under this section is completed or may be terminated at any
3843 earlier time.

3844

3845 § 49-1109.21. Lack of mental capacity or mental responsibility: commitment of
3846 accused for examination and treatment.

3847 (a) Persons incompetent to stand trial:

3848 (1) In the case of a person determined under this chapter to be presently
3849 suffering from a mental disease or defect rendering the person mentally incompetent to the
3850 extent that the person is unable to understand the nature of the proceedings against that
3851 person or to conduct or cooperate intelligently in the defense of the case, the general court-
3852 martial convening authority for that person shall commit the person to the custody of the
3853 United States Attorney for the District of Columbia.

3854 (2) The United States Attorney for the District of Columbia shall take action
3855 in accordance with 18 U.S.C. § 4241(d). If at the end of the period for hospitalization
3856 provided for in 18 U.S.C. § 4241(d), it is determined that the committed person's mental
3857 condition has not so improved as to permit the trial to proceed, action shall be taken in
3858 accordance with 18 U.S.C. § 4246.

3859 (3)(A) When the director of a facility in which a person is hospitalized
3860 pursuant to paragraph (2) determines that the person has recovered to such an extent that
3861 the person is able to understand the nature of the proceedings against the person and to
3862 conduct or cooperate intelligently in the defense of the case, the director shall promptly
3863 transmit a notification of that determination to the United States Attorney for the District
3864 of Columbia and to the general court-martial convening authority for the person. The
3865 director shall send a copy of the notification to the person's counsel.

3866 (B) Upon receipt of a notification, the general court-martial convening
3867 authority shall promptly take custody of the person unless the person covered by the
3868 notification is no longer subject to this chapter. If the person is no longer subject to this
3869 chapter, the United States Attorney for the District of Columbia shall take any action
3870 within the authority of the United States Attorney for the District of Columbia that the
3871 United States Attorney for the District of Columbia considers appropriate regarding the
3872 person.

3873 (C) The director of the facility may retain custody of the person for not
3874 more than 30 days after transmitting the notifications required by subparagraph (A) of this
3875 paragraph.

3876 (4) In the application of 18 U.S.C. § 4246 to a case under this subsection,
3877 references to the court that ordered the commitment of a person, and to the clerk of such
3878 court, shall be deemed to refer to the general court-martial convening authority for that
3879 person. However, if the person is no longer subject to this chapter at a time relevant to the
3880 application of this subsection to the person, the United States District Court for the District
3881 where the person is hospitalized or otherwise may be found shall be considered as the court
3882 that ordered the commitment of the person.

3883 (b) Persons found not guilty by reason of lack of mental responsibility:

3884 (1) If a person is found by a court-martial not guilty only by reason of lack of
3885 mental responsibility, the person shall be committed to a suitable facility until the person is
3886 eligible for release in accordance with this section.

3887 (2) The court-martial shall conduct a hearing on the mental condition in accordance
3888 with 18 U.S.C. § 4243(c). Subsections (b) and (d) of 18 U.S.C. § 4243 shall apply with
3889 respect to the hearing.

3890 (3) A report of the results of the hearing shall be made to the general court-
3891 martial convening authority for the person.

3892 (4) If the court-martial fails to find by the standard specified in 18 U.S.C. §
3893 4243(d) that the person's release would not create a substantial risk of bodily injury to

3894 another person or serious damage of property of another due to a present mental disease or
3895 defect:

3896 (A) The general court-martial convening authority may commit the
3897 person to the custody of the United States Attorney for the District of Columbia; and

3898 (B) The United States Attorney for the District of Columbia shall take
3899 action in accordance with 18 U.S.C. § 4243(e).

3900 (5) Subsections (f), (g), and (h) of 18 U.S.C. § 4243 shall apply in the case of a person
3901 hospitalized pursuant to subparagraph (B) of this paragraph, except that the United States
3902 District Court for the District where the person is hospitalized shall be considered as the
3903 court that ordered the person's commitment.

3904 (c) General provisions:

3905 (1) Except as otherwise provided in this subsection and subsection (d)(1) of this
3906 section, the provisions of 18 U.S.C. § 4247(d) apply in the administration of this section.

3907 (2) In the application of 18 U.S.C. § 4247(d) to hearings conducted by a court-
3908 martial under this section or by (or by order of) a general court-martial convening authority
3909 under this section, the reference in that section to 18 U.S.C. § 3006A does not apply.

3910 (d) Applicability:

3911 (1) The provisions of Chapter 313 of Title 18, United States Code (10 U.S.C. §§ 4241
3912 *et seq.*) referred to in this section apply according to the provisions of this section
3913 notwithstanding 18 U.S.C. § 4247(j).

3914 (2) If the status of a person as subject to this chapter pursuant to D.C.
3915 Official Code § 49-1101.02 terminates while the person is, pursuant to this section, in the
3916 custody of the United States Attorney for the District of Columbia, hospitalized, or on
3917 conditional release under a prescribed regimen of medical, psychiatric, or psychological care
3918 or treatment, the provisions of this section establishing requirements and procedures
3919 regarding a person no longer subject to this chapter shall continue to apply to that person
3920 notwithstanding the change of status.

3921
3922 Subchapter 10. Punitive articles.

3923
3924 § 49-1110.01. Principals.

3925 A principal is any person subject to this chapter who:

3926 (a) Commits an offense punishable by this chapter, or aids, abets, counsels,
3927 commands, or procures its commission; or

3928 (b) Causes an act to be done which if directly performed by him would be punishable
3929 by this chapter.

3930
3931 § 49-1110.02. Accessory after the fact.

3932 Any person subject to this chapter who, knowing that an offense punishable by this
3933 chapter has been committed, receives, comforts, or assists the offender in order to hinder or
3934 prevent his apprehension, trial, or punishment shall be punished as a court-martial may
3935 direct.

3936
3937 § 49-1110.03. Conviction of lesser included offense.

3938 An accused may be found guilty of an offense necessarily included in the offense
3939 charged or of an attempt to commit either the offense charged or an offense necessarily
3940 included therein.

3941
3942 § 49-1110.04. Attempts.

3943 (a) An act, done with specific intent to commit an offense under this chapter,
3944 amounting to more than mere preparation and tending, even though failing, to effect its
3945 commission, is an attempt to commit that offense.

3946 (b) Any person subject to this chapter who attempts to commit any offense
3947 punishable by this chapter shall be punished as a court-martial may direct, unless
3948 otherwise specifically prescribed.

3949 (c) Any person subject to this chapter may be convicted of an attempt to commit an
3950 offense although it appears on the trial that the offense was consummated.

3951

3952 § 49-1110.05. Conspiracy.

3953 Any person subject to this chapter who conspires with any other person to commit
3954 an offense under this chapter shall, if one or more of the conspirators does an act to effect
3955 the object of the conspiracy, be punished as a court-martial may direct.

3956

3957 § 49-1110.06. Solicitation.

3958 (a) Any person subject to this chapter who solicits or advises another or others to
3959 desert in violation of D.C. Official Code § 49-1110.09 or mutiny in violation of D.C. Official
3960 Code § 49-1110.18 shall, if the offense solicited or advised is attempted or committed, be
3961 punished with the punishment provided for the commission of the offense, but, if the
3962 offense solicited or advised is not committed or attempted, the person shall be punished as
3963 a court-martial may direct.

3964 (b) Any person subject to this chapter who solicits or advises another or others to
3965 commit an act of misbehavior before the enemy in violation of D.C. Official Code § 49-
3966 1110.23 or sedition in violation of D.C. Official Code § 49-1110.18 shall, if the offense
3967 solicited or advised is committed, be punished with the punishment provided for the
3968 commission of the offense, but, if the offense solicited or advised is not committed, the
3969 person shall be punished as a court-martial may direct.

3970

3971 § 49-1110.07. Fraudulent enlistment, appointment, or separation.

3972 Punishment as a court-martial may direct shall apply to any person who:

3973 (a) Procures his own enlistment or appointment in the District of Columbia National
3974 Guard by knowingly false representation or deliberate concealment as to his or her
3975 qualifications for that enlistment or appointment and receives pay or allowances
3976 thereunder; or

3977 (b) Procures his or her own separation from the District of Columbia National Guard
3978 by knowingly false representation or deliberate concealment as to his or her eligibility for
3979 that separation.

3980

3981 § 49-1110.08. Unlawful enlistment, appointment, or separation.

3982 Any person subject to this chapter who effects an enlistment or appointment in or a
3983 separation from the District of Columbia National Guard of any person who is known to
3984 him or her to be ineligible for that enlistment, appointment, or separation because it is
3985 prohibited by law, regulation, or order shall be punished as a court-martial may direct.

3986

3987 § 49-1110.09. Desertion.

3988 (a) Any servicemember of the District of Columbia National Guard is guilty of
3989 desertion who:

3990 (1) Without authority goes or remains absent from his or her unit,
3991 organization, or place of duty with intent to remain away therefrom permanently;

3992 (2) Quits his or her unit, organization, or place of duty with intent to avoid
3993 hazardous duty or to shirk important service; or

3994 (3) Without being regularly separated from one of the state National Guards
3995 enlists or accepts an appointment in the same or another one of the state National Guards,
3996 or in one of the armed forces, without fully disclosing the fact that he or she has not been
3997 regularly separated, or enters any foreign armed service except when authorized by the
3998 United States.

3999 (b) Any commissioned officer of the District of Columbia National Guard who, after
4000 tender of his or her resignation and before notice of its acceptance, quits his or her post or
4001 proper duties without leave and with intent to remain away therefrom permanently is
4002 guilty of desertion.

4003 (c) Any person found guilty of desertion or attempt to desert shall be punished as a
4004 court-martial may direct.

4005
4006 § 49-1110.10. Absence without leave.

4007 Any person subject to this chapter shall be punished as a court-martial may direct
4008 who, without authority:

4009 (a) Fails to go to his or her appointed place of duty at the time prescribed;

4010 (b) Goes from that place; or

4011 (c) Absents himself or herself or remains absent from his or her unit, organization,
4012 or place of duty at which he or she is required to be at the time prescribed.

4013
4014 § 49-1110.11. Missing movement.

4015 Any person subject to this chapter who through neglect or design misses the
4016 movement of a ship, aircraft, or unit with which he or she is required in the course of duty
4017 to move shall be punished as a court-martial may direct.

4018
4019 § 49-1110.12. Contempt toward officials.

4020 Any commissioned officer who uses contemptuous words against the President, the
4021 Vice President, Congress, the Secretary of Defense, the Secretary of a military department,
4022 the Secretary of Homeland Security, or the Mayor or Council of the District of Columbia
4023 shall be punished as a court-martial may direct.

4024
4025 § 49-1110.13. Disrespect toward superior commissioned officer.

4026 Any person subject to this chapter who behaves with disrespect toward his superior
4027 commissioned officer shall be punished as a court-martial may direct.

4028
4029 § 49-1110.14. Assaulting or willfully disobeying superior commissioned officer.

4030 Any person subject to this chapter shall be punished as a court-martial may direct
4031 who:

4032 (a) Strikes his or her superior commissioned officer or draws or lifts up any weapon
4033 or offers any violence against him or her while he or she is in the execution of his or her
4034 office; or

4035 (b) Willfully disobeys a lawful command of his or her superior commissioned officer.

4036
4037 § 49-1110.15. Insubordinate conduct toward warrant officer, noncommissioned
4038 officer, or petty officer.

4039 Any warrant officer or enlisted servicemember shall be punished as a court-martial
4040 may direct who:

- 4041 (a) Strikes or assaults a warrant officer, noncommissioned officer, or petty officer,
4042 while that officer is in the execution of his or her office;
4043 (b) Willfully disobeys the lawful order of a warrant officer, noncommissioned officer,
4044 or petty officer; or
4045 (c) Treats with contempt or is disrespectful in language or deportment toward a
4046 warrant officer, noncommissioned officer, or petty officer, while that officer is in the
4047 execution of his or her office.

4048
4049 § 49-1110.16. Failure to obey order or regulation.
4050 Any person subject to this chapter shall be punished as a court-martial may direct
4051 who:

- 4052 (a) Violates or fails to obey any lawful general order or regulation;
4053 (b) Having knowledge of any other lawful order issued by a member of the District of
4054 Columbia National Guard, which it is his or her duty to obey, fails to obey the order; or
4055 (c) Is derelict in the performance of his or her duties.

4056
4057 § 49-1110.17. Cruelty and maltreatment.
4058 Any person subject to this chapter who is guilty of cruelty toward, or oppression or
4059 maltreatment of, any person subject to his or her orders shall be punished as a court-
4060 martial may direct.

4061
4062 § 49-1110.18. Mutiny or sedition.

4063 (a) Any person subject to this chapter who:

4064 (1) With intent to usurp or override lawful military authority, refuses, in
4065 concert with any other person, to obey orders or otherwise do his or her duty or creates any
4066 violence or disturbance is guilty of mutiny;

4067 (2) With intent to cause the overthrow or destruction of lawful civil authority,
4068 creates, in concert with any other person, revolt, violence, or other disturbance against that
4069 authority is guilty of sedition; or

4070 (3) Fails to do his or her utmost to prevent and suppress a mutiny or sedition
4071 being committed in his or her presence, or fails to take all reasonable means to inform his
4072 or her superior commissioned officer or commanding officer of a mutiny or sedition which he
4073 or she knows or has reason to believe is taking place is guilty of a failure to suppress or
4074 report a mutiny or sedition.

4075 (b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to
4076 suppress or report a mutiny or sedition shall be punished as a court-martial may direct.

4077
4078 § 49-1110.19. Resistance, flight, breach of arrest, and escape.

4079 Any person subject to this chapter shall be punished as a court-martial may direct
4080 who:

- 4081 (a) Resists apprehension;
4082 (b) Flees from apprehension;
4083 (c) Breaks arrest; or
4084 (d) Escapes from custody or confinement.

4085
4086 § 49-1110.20. Releasing prisoner without proper authority.

4087 Any person subject to this chapter who, without proper authority, releases any
4088 prisoner committed to his or her charge, or who through neglect or design suffers any such

4089 prisoner to escape, shall be punished as a court-martial may direct, whether or not the
4090 prisoner was committed in strict compliance with law.

4091

4092 § 49-1110.21. Unlawful detention.

4093 Any person subject to this chapter who, except as provided by law or regulation,
4094 apprehends, arrests, or confines any person shall be punished as a court-martial may
4095 direct.

4096

4097 § 49-1110.22. Noncompliance with procedural rules.

4098 Any person subject to this chapter shall be punished as a court-martial may direct
4099 who:

4100 (a) Is responsible for unnecessary delay in the disposition of any case of a person
4101 accused of an offense under this chapter; or

4102 (b) Knowingly and intentionally fails to enforce or comply with any provision of this
4103 chapter regulating the proceedings before, during, or after trial of an accused.

4104

4105 § 49-1110.23. Misbehavior before the enemy.

4106 Any person subject to this chapter shall be punished as a court-martial may direct
4107 who before or in the presence of the enemy:

4108 (a) Runs away;

4109 (b) Shamefully abandons, surrenders, or delivers up any command, unit, place, or
4110 military property which it is his or her duty to defend;

4111 (c) Through disobedience, neglect, or intentional misconduct endangers the safety of
4112 any such command, unit, place, or military property;

4113 (d) Casts away his or her arms or ammunition;

4114 (e) Is guilty of cowardly conduct;

4115 (f) Quits his or her place of duty to plunder or pillage;

4116 (g) Causes false alarms in any command, unit, or place under control of the armed
4117 forces or the District of Columbia National Guard;

4118 (h) Willfully fails to do his or her utmost to encounter, engage, capture, or destroy
4119 any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his or her
4120 duty so to encounter, engage, capture, or destroy; or

4121 (i) Does not afford all practicable relief and assistance to any troops, combatants,
4122 vessels, or aircraft of the military forces belonging to the United States or their allies, to the
4123 District of Columbia, or to any other state, when engaged in battle.

4124

4125 § 49-1110.24. Subordinate compelling surrender.

4126 Any person subject to this chapter who compels or attempts to compel the
4127 commander of any of the District of Columbia National Guard, or of any other state, place,
4128 vessel, aircraft, or other military property, or of any body of members of the armed forces, to
4129 give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy
4130 without proper authority, shall be punished as a court-martial may direct.

4131

4132 § 49-1110.25. Improper use of countersign.

4133 Any person subject to this chapter who in time of war discloses the parole or
4134 countersign to any person not entitled to receive it or who gives to another, who is entitled
4135 to receive and use the parole or countersign, a different parole or countersign from that
4136 which, to his or her knowledge, he or she was authorized and required to give, shall be
4137 punished as a court-martial may direct.

4138
4139 § 49-1110.26. Forcing a safeguard.
4140 Any person subject to this chapter who forces a safeguard shall be punished as a
4141 court-martial may direct.
4142
4143 § 49-1110.27. Captured or abandoned property.
4144 (a) All persons subject to this chapter shall secure all public property taken for the
4145 service of the United States or the District of Columbia, and shall give notice and turn over
4146 to the proper authority without delay all captured or abandoned property in their
4147 possession, custody, or control.
4148 (b) Any person subject to this chapter shall be punished as a court-martial may
4149 direct who:
4150 (1) Fails to carry out the duties prescribed in subsection (a) of this section;
4151 (2) Buys, sells, trades, or in any way deals in or disposes of taken, captured,
4152 or abandoned property, whereby he or she receives or expects any profit, benefit, or
4153 advantage to himself or herself or another directly or indirectly connected with himself or
4154 herself; or
4155 (3) Engages in looting or pillaging.
4156
4157 § 49-1110.28. Aiding the enemy.
4158 Any person subject to this chapter shall be punished as a court-martial may direct
4159 who:
4160 (a) Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or
4161 other things; or
4162 (b) Without proper authority, knowingly harbors or protects or gives intelligence to,
4163 or communicates or corresponds with or holds any intercourse with the enemy, either
4164 directly or indirectly.
4165
4166 § 49-1110.29. Misconduct as prisoner.
4167 Any person subject to this chapter shall be punished as a court-martial may direct
4168 who, while in the hands of the enemy in time of war:
4169 (a) For the purpose of securing favorable treatment by his or her captors acts
4170 without proper authority in a manner contrary to law, custom, or regulation, to the
4171 detriment of others of whatever nationality held by the enemy as civilian or military
4172 prisoners; or
4173 (b) While in a position of authority over such persons maltreats them without
4174 justifiable cause.
4175
4176 § 49-1110.30. [Reserved].
4177
4178 § 49-1110.31. [Reserved].
4179
4180 § 49-1110.32. False official statements.
4181 Any person subject to this chapter who, with intent to deceive, signs any false
4182 record, return, regulation, order, or other official document made in the line of duty,
4183 knowing it to be false, or makes any other false official statement made in the line of duty,
4184 knowing it to be false, shall be punished as a court-martial may direct.
4185
4186 § 49-1110.33. Military property: Loss, damage, destruction, or wrongful disposition.

4187 Any person subject to this chapter shall be punished as a court-martial may direct
4188 who, without proper authority:

4189 (a) Sells or otherwise disposes of;

4190 (b) Willfully or through neglect damages, destroys, or loses; or

4191 (c) Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or
4192 wrongfully disposed of; any military property of the United States or of any state.

4193

4194 § 49-1110.34. Property other than military property: Waste, spoilage, or destruction.

4195 Any person subject to this chapter who willfully or recklessly wastes, spoils, or
4196 otherwise willfully and wrongfully destroys or damages any property other than military
4197 property of the United States or of any state shall be punished as a court-martial may
4198 direct.

4199

4200 § 49-1110.35. Improper hazarding of vessel.

4201 (a) Any person subject to this chapter who willfully and wrongfully hazards or
4202 suffers to be hazarded any vessel of the armed forces or any state military forces shall
4203 suffer such punishment as a court-martial may direct.

4204 (b) Any person subject to this chapter who negligently hazards or suffers to be
4205 hazarded any vessel of the armed forces or any state military forces shall be punished as a
4206 court-martial may direct.

4207

4208 § 49-1110.36. [Reserved].

4209

4210 § 49-1110.37. Drunk on duty.

4211 Any person subject to this chapter other than a sentinel or lookout, who is found
4212 drunk on duty, shall be punished as a court-martial may direct.

4213

4214 § 49-1311.38. Wrongful use, possession, etc., of controlled substances.

4215 (a) Any person subject to this chapter who wrongfully uses, possesses, manufactures,
4216 distributes, imports into the customs territory of the United States, exports from the United
4217 States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the
4218 control of the armed forces or of any state military forces a substance described in
4219 subsection (b) of this section shall be punished as a court-martial may direct.

4220 (b) The substances referred to in subsection (a) of this section are the following:

4221 (1) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide,
4222 methamphetamine, phencyclidine, barbituric acid, and marijuana and any compound or
4223 derivative of any such substance.

4224 (2) Any substance not specified in paragraph (1) of this subsection that is
4225 listed on a schedule of controlled substances prescribed by the President for the purposes of
4226 the Uniform Code of Military Justice (10 U.S.C. §§ 801 *et seq.*).

4227 (3) Any other substance not specified in paragraph (1) of this subsection or
4228 contained on a list prescribed by the President under clause (2) that is listed in Schedules I
4229 through V of article 202 of the Controlled Substances Act, 21 U.S.C. § 812.

4230

4231 § 49-1110.39. Misbehavior of sentinel.

4232 Any sentinel or look-out who is found drunk or sleeping upon his or her post or
4233 leaves it before being regularly relieved, shall be punished as a court-martial may direct.

4234

4235 § 49-1110.40. Dueling.

4236 Any person subject to this chapter who fights or promotes, or is concerned in or
4237 connives at fighting a duel, or who, having knowledge of a challenge sent or about to be
4238 sent, fails to report the fact promptly to the proper authority, shall be punished as a court-
4239 martial may direct.

4240

§ 49-1110.41. Malingering.

4242 Any person subject to this chapter shall be punished as a court-martial may direct
4243 who for the purpose of avoiding work, duty, or service:

4244 (a) Feigns illness, physical disablement, mental lapse, or derangement; or

4245 (b) Intentionally inflicts self-injury.

4246

4247 § 49-1110.42. Riot or breach of peace.

4248 Any person subject to this chapter who causes or participates in any riot or breach of
4249 the peace shall be punished as a court-martial may direct.

4250

4251 § 49-1110.43. Provoking speeches or gestures.

4252 Any person subject to this chapter who uses provoking or reproachful words or
4253 gestures towards any other person subject to this chapter shall be punished as a court-
4254 martial may direct.

4255

4256 § 49-1110.44. [Reserved].

4257

4258 § 49-1110.45. [Reserved].

4259

4260 § 49-1110.46. [Reserved].

4261

4262 § 49-1110.47. [Reserved].

4263

4264 § 49-1110.48. [Reserved].

4265

4266 § 49-1110.49. [Reserved].

4267

4268 § 49-1110.50. [Reserved].

4269

4270 § 49-1110.51. [Reserved].

4271

4272 § 49-1110.52. [Reserved].

4273

4274 § 49-1110.53. [Reserved].

4275

4276 § 49-1110.54. [Reserved].

4277

4278 § 49-1110.55. [Reserved].

4279

4280 § 49-1110.56. [Reserved].

4281

4282 § 49-1110.57. [Reserved].

4283

4284 § 49-1110.58. Frauds against the government.

4285 Any person subject to this chapter shall, upon conviction, be punished as a court-
4286 martial may direct:

4287 (a) Who, knowing it to be false or fraudulent

4288 (1) Makes any claim against the United States, the District of Columbia, or
4289 any officer thereof; or

4290 (2) Presents to any person in the civil or military service thereof, for approval
4291 or payment, any claim against the United States, the District of Columbia, or any officer
4292 thereof;

4293 (b) Who, for the purpose of obtaining the approval, allowance, or payment of any
4294 claim against the United States, the District of Columbia, or any officer thereof

4295 (1) Makes or uses any writing or other paper knowing it to contain any false
4296 or fraudulent statements;

4297 (2) Makes any oath to any fact or to any writing or other paper knowing the
4298 oath to be false; or

4299 (3) Forges or counterfeits any signature upon any writing or other paper, or
4300 uses any such signature knowing it to be forged or counterfeited;

4301 (c) Who, having charge, possession, custody, or control of any money, or other
4302 property of the United States or the District of Columbia, furnished or intended for the
4303 armed forces or the District of Columbia National Guard, knowingly delivers to any person
4304 having authority to receive it, any amount thereof less than that for which he or she
4305 receives a certificate or receipt; or

4306 (d) Who, being authorized to make or deliver any paper certifying the receipt of any
4307 property of the United States or the District of Columbia, furnished or intended for the
4308 armed forces or the District of Columbia National Guard, makes or delivers to any person
4309 such writing without having full knowledge of the truth of the statements therein contained
4310 and with intent to defraud the United States or the District of Columbia.

4311

4312 § 49-1110.59. Conduct unbecoming an officer and a gentleman.

4313 Any commissioned officer, cadet, who is convicted of conduct unbecoming an officer
4314 and a gentleman shall be punished as a court-martial may direct.

4315

4316 § 49-1110.60. General article.

4317 Though not specifically mentioned in this chapter, all disorders and neglects to the
4318 prejudice of good order and discipline in the District of Columbia National Guard and all
4319 conduct of a nature to bring discredit upon the District of Columbia National Guard shall
4320 be punished at the discretion of a military court. However, where a crime constitutes an
4321 offense that violates both this chapter and the criminal laws of the state where the offense
4322 occurs or criminal laws of the United States, jurisdiction of the military court must be
4323 determined in accordance with D.C. Official Code § 49-1101.02(b).

4324

4325 Subchapter 11. Miscellaneous provisions.

4326

4327 § 49-1111.01. Courts of inquiry.

4328 (a) Courts of inquiry to investigate any matter of concern to the District of Columbia
4329 National Guard may be convened by any person authorized to convene a general court-
4330 martial, whether or not the persons involved have requested such an inquiry.

4331 (b) A court of inquiry consists of 3 or more commissioned officers. For each court of
4332 inquiry, the convening authority shall also appoint counsel for the court.

4333 (c) Any person subject to this chapter whose conduct is subject to inquiry shall be
4334 designated as a party. Any person subject to this chapter who has a direct interest in the
4335 subject of inquiry has the right to be designated as a party upon request to the court. Any
4336 person designated as a party shall be given due notice and has the right to be present, to be
4337 represented by counsel, to cross-examine witnesses, and to introduce evidence.

4338 (d) Members of a court of inquiry may be challenged by a party, but only for cause
4339 stated to the court.

4340 (e) The members, counsel, the reporter, and interpreters of courts of inquiry shall
4341 take an oath to faithfully perform their duties.

4342 (f) Witnesses may be summoned to appear and testify and be examined before courts
4343 of inquiry, as provided for courts-martial.

4344 (g) Courts of inquiry shall make findings of fact but may not express opinions or
4345 make recommendations unless required to do so by the convening authority.

4346 (h) Each court of inquiry shall keep a record of its proceedings, which shall be
4347 authenticated by the signatures of the president and counsel for the court and forwarded to
4348 the convening authority. If the record cannot be authenticated by the president, it shall be
4349 signed by a member in lieu of the president. If the record cannot be authenticated by the
4350 counsel for the court, it shall be signed by a member in lieu of the counsel.

4351

4352 § 49-1111.02. Authority to administer oaths and to act as notary.

4353 (a) The following persons may administer oaths for the purposes of military
4354 administration, including military justice:

4355 (1) All judge advocates.

4356 (2) All summary courts-martial.

4357 (3) All adjutants, assistant adjutants, acting adjutants, and personnel
4358 adjutants.

4359 (4) All commanding officers of the naval militia.

4360 (5) All other persons designated by regulations of the armed forces or by
4361 statute.

4362 (b) The following persons may administer oaths necessary in the performance of
4363 their duties:

4364 (1) The president, military judge, and trial counsel for all general and special
4365 courts-martial.

4366 (2) The president and the counsel for the court of any court of inquiry.

4367 (3) All officers designated to take a deposition.

4368 (4) All persons detailed to conduct an investigation.

4369 (5) All recruiting officers.

4370 (6) All other persons designated by regulations of the armed forces or by
4371 statute.

4372 (c) The signature without seal of any such person, together with the title of his or
4373 her office, is prima facie evidence of the person's authority.

4374

4375 § 49-1111.03. [Reserved].

4376

4377 § 49-1111.04. Complaints of wrongs.

4378 Any member of the District of Columbia National Guard who believes himself or
4379 herself wronged by a commanding officer, and who, upon due application to that
4380 commanding officer, is refused redress, may complain to any superior commissioned officer,
4381 who shall forward the complaint to the officer exercising general court-martial jurisdiction

4382 over the officer against whom it is made. The officer exercising general court-martial
4383 jurisdiction shall examine into the complaint and take proper measures for redressing the
4384 wrong complained of; and shall, as soon as possible, send to the Commanding General a
4385 true statement of that complaint, with the proceedings had thereon.
4386

4387 § 49-1111.05. Redress of injuries to property.

4388 (a) Whenever complaint is made to any commanding officer that willful damage has
4389 been done to the property of any person or that the person's property has been wrongfully
4390 taken by members of the District of Columbia National Guard, that person may, under such
4391 regulations prescribed, convene a board to investigate the complaint. The board shall
4392 consist of from one to 3 commissioned officers and, for the purpose of that investigation, it
4393 has power to summon witnesses and examine them upon oath, to receive depositions or
4394 other documentary evidence, and to assess the damages sustained against the responsible
4395 parties. The assessment of damages made by the board is subject to the approval of the
4396 commanding officer, and in the amount approved by that officer shall be charged against
4397 the pay of the offenders. The order of the commanding officer directing charges herein
4398 authorized is conclusive on any disbursing officer for payment to the injured parties of the
4399 damages so assessed and approved.

4400 (b) If the offenders cannot be ascertained, but the organization or detachment to
4401 which they belong is known, charges totaling the amount of damages assessed and
4402 approved may be made in such proportion as may be considered just upon the individual
4403 members thereof who are shown to have been present at the scene at the time the damages
4404 complained of were inflicted, as determined by the approved findings of the board.
4405

4406 § 49-1111.06. Delegation by the President.

4407 The President may delegate any authority vested in the President under this
4408 chapter, and provide for the sub delegation of any such authority, except the power given
4409 the President by D.C. Official Code § 49-1105.01.
4410

4411 § 49-1111.07. District of Columbia Military Justice Fund; Payment of fees, costs, and
4412 expenses.

4413 (a) There is created a District of Columbia Military Justice Fund that shall be
4414 administered by the Commanding General, from which expenses of military justice shall be
4415 paid in the amounts and manner as prescribed by law. The Congress may appropriate and
4416 have deposited in the District of Columbia Military Justice Fund such funds as it deems
4417 necessary to carry out the purposes of this chapter.

4418 (b) The fees and authorized travel expenses of all witnesses, experts, victims, court
4419 reporters, and interpreters, fees for the service of process, the costs of collection,
4420 apprehension, detention and confinement, and all other necessary expenses of prosecution
4421 and the administration of military justice, not otherwise payable by any other source, shall
4422 be paid out of the District of Columbia Military Justice Fund created by subsection (a) of
4423 this section.
4424

4425 § 49-1111.08. Payment of fines and disposition thereof.

4426 (a) Fines imposed by a military court or through imposition of non-judicial
4427 punishment may be paid to the United States and delivered to the court or imposing officer,
4428 or to a person executing their process. Fines may be collected in the following manner:
4429

- (1) By cash or money order;

4430 (2) By retention of any pay or allowances due or to become due the person
4431 fined from any state or the United States;

4432 (3) By garnishment or levy, together with costs, on the wages, goods, and
4433 chattels of a person delinquent in paying a fine, as provided by law.

4434 (b) Any sum so received or retained shall be deposited in the District of Columbia
4435 Military Justice Fund or to whomever the court so directs.
4436

4437 § 49-1111.09. Uniformity of interpretation.

4438 This Chapter shall be so construed as to effectuate its general purpose to make it
4439 uniform, so far as practical, with the Uniform Code of Military Justice (10 U.S.C. §§ 801 *et*
4440 *seq.*).
4441

4442 § 49-1111.10. Immunity for action of military courts.

4443 All persons acting under the provisions of this chapter, whether as a member of the
4444 military or as a civilian, shall be immune from any personal liability for any of the acts or
4445 omissions which they did or failed to do as part of their duties under this chapter.
4446

4447 CHAPTER 12. DISTRICT OF COLUMBIA NATIONAL GUARD MUSEUM.

4448
4449 Sec.

4450 49-1201. District of Columbia National Guard Museum and Weapons Collection.
4451

4452 § 49-1201. District of Columbia National Guard Museum and Weapons Collection.

4453 (a) In accordance with applicable regulations of the United States Army and United
4454 States Air Force governing Army and Air Force museum activities, the Commanding
4455 General may authorize the use of space at the D.C. Armory or other District of Columbia
4456 National Guard facilities to house the District of Columbia National Guard Museum and
4457 Weapons Collection ("Museum"), which shall include military artifacts, memorabilia,
4458 equipment, documents, and other items relating to the military history of the District of
4459 Columbia and to the history of the District of Columbia National Guard. Each facility in
4460 which all or a portion of the Museum is housed shall be considered an armory within the
4461 meaning of § 49-102.

4462 (b) The Commanding General may enter into an agreement with a nonprofit
4463 corporation, that is incorporated in the District of Columbia and is tax exempt under
4464 Section 501(c)(3) of the Internal Revenue Code ("Foundation"), that requires the
4465 Foundation to maintain and operate the Museum, develop, administer, interpret, and
4466 manage Museum historical programs and related public services, and acquire and manage
4467 funding for Museum programs and services; provided, that:

4468 (1) The Board of Directors of the Foundation ("Board") shall include the
4469 Commanding General, or any general officer designated by the Adjutant General, as an *ex*
4470 *officio* voting member;

4471 (2) The Board shall, no later than October 15 of each year, submit an audited
4472 report of the Foundation's finances and activities to the Commanding General and to the
4473 head of D.C. Government Operations for the District of Columbia National Guard;

4474 (3) The Board shall, not later than March 15 of each year, adopt and submit a
4475 business plan for the following fiscal year to the Commanding General and to the head of
4476 D.C. Government Operations for the District of Columbia National Guard, for review and
4477 comment.

4478 (4) The Board shall submit, not later than 30 days prior to its adoption, any
4479 proposed amendment to the business plan provided for in paragraph (3) of this subsection
4480 to the Commanding General and to the head of D.C. Government Operations for the
4481 District of Columbia National Guard, for review and comment;

4482 (5) The Foundation may solicit, receive, and administer donations of funds or
4483 property, which shall be used in a manner consistent with the purposes set forth in this
4484 subsection, including for the support and improvement of the Museum.

4485 (6) Property determined by the Foundation to be in excess of the needs of the
4486 Museum may be sold, donated, exchanged, or otherwise disposed of, at its discretion, in a
4487 manner appropriate to the historical and intrinsic value of the property, and the benefits
4488 from the disposition shall inure to the Museum.

4489 (7) The Foundation may enter into agreements with other military museums
4490 to loan property, not including real property, under its control.

4491 (c) The Commanding General may solicit, receive, and administer donations of funds
4492 or property, including firearms and other weaponry of historical or military interest that
4493 have been confiscated by, or are otherwise in the possession of, law enforcement officers, for
4494 the support and improvement of the Museum.

4495 (d) Property of historical significance, not including real property, that is owned by
4496 the District of Columbia National Guard and is determined by the Commanding General to
4497 be in excess of the needs of the District of Columbia National Guard, shall be transferred to
4498 the Foundation for inclusion in the museum.

4499 (e) The Commanding General may, in cooperation with the Foundation, conduct a
4500 study of the future needs of the District of Columbia National Guard to preserve, display,
4501 and interpret artifacts, documents, photographs, films, literature, and other items relating
4502 to the history of the military in the District of Columbia.

4503 (f) Members of the District of Columbia National Guard may perform volunteer work
4504 for the Foundation, for the purposes set forth in subsection (b) of this section.

4505

4506 SUBTITLE II. OFFICE OF VETERANS AFFAIRS.

4507

4508 CHAPTER 13. OFFICE OF VETERANS AFFAIRS.

4509

4510 Sec.

4511 49-1301. Definitions.

4512 49-1302. Establishment of the Office of Veterans Affairs; appointment of Director;
4513 compensation of Director; organization.

4514 49-1303. Purposes of the Office of Veterans Affairs

4515 49-1304. Establishment of the Office of Veterans Affairs Fund.

4516 49-1305. Transfers; abolishment.

4517 49-1306. Rulemaking.

4518

4519 § 49-1301. Definitions.

4520 For the purposes of this chapter, the term:

4521 (1) "Benefit" means any payment, service, commodity, function, or status,
4522 entitlement to which is determined under laws administered by the U.S. Department of
4523 Veterans Affairs or by any agency of the District government that affects veterans, their
4524 dependents, or their survivors.

4525 (2) "Claim" means an application made pursuant to:

4526 (A) Title 38 of the United States Code, and implementing regulations, for
4527 entitlement to U.S. Department of Veterans Affairs benefits, reinstatement, continuation,
4528 or increase of benefits, or the defense of a proposed agency adverse action concerning
4529 benefits; and

4530 (B) District of Columbia law or regulations for entitlement to benefits,
4531 reinstatement, continuation, or increase in benefits, or the defense of proposed agency
4532 adverse action concerning benefits.

4533 (3) "Resident of the District" means:

4534 (A) An individual who currently lives in the District of Columbia and has no
4535 present intention of moving elsewhere; or

4536 (B) An individual who previously lived in the District, is temporarily absent
4537 from the District, and intends to return to live permanently in the District after the
4538 temporary absence.

4539 (4) "Veteran" means any individual who:

4540 (A) Has previously served on active duty in the United States Army, Air
4541 Force, Navy, Marine Corps, or Coast Guard, or served as a Merchant Marine between
4542 December 7, 1941 and August 15, 1945, has been honorably discharged or relieved from
4543 active duty, and has served for a minimum of 2 years, unless:

4544 (i) Earlier release was granted because the individual was wounded or
4545 injured in the line of duty and rendered unfit for further service; or

4546 (ii) The individual was released prior to 2 years of active duty for the
4547 convenience of the government; and

4548 (B) Is a resident of the District.

4549

4550 § 49-1302. Establishment of the Office of Veterans Affairs; appointment of Director;
4551 compensation of Director; organization.

4552 (a) There is established an Office of Veterans Affairs ("Office").

4553 (b) The Mayor shall appoint a Director of the Office with the advice and consent of
4554 the Council, pursuant to section 2 of the Confirmation Act of 1978, effective March 3, 1979
4555 (D.C. Law 2-142; D.C. Official Code § 1-523.01). The Director shall be responsible for the
4556 management and operation of the Office and shall serve at the pleasure of the Mayor.

4557 (c) The Mayor shall fix the compensation of the Director pursuant to subchapter IX
4558 of Chapter 6 of Title 1.

4559 (d) The Director is authorized to hire staff in the Career Service, consistent with
4560 budgetary authorization, as he or she deems necessary to perform the functions of the
4561 Office. The Director may engage qualified volunteers in accordance with District law.

4562 (e) The Director shall have authority to delegate to other employees of the Office any
4563 of the Director's duties and powers.

4564

4565 § 49-1303. Purposes of the Office of Veterans Affairs.

4566 The primary purpose of the Office is to provide advocacy support, as appropriate,
4567 and information services to veterans, their dependents, and their survivors concerning
4568 federal and District laws and regulations affecting benefits and claims as defined in this
4569 chapter. The Office shall:

4570 (1) Provide assistance to veterans, their dependents and survivors that augments,
4571 and is not be duplicative of, assistance already provided to District residents by other
4572 District agencies;

4573 (2) Assist veterans, their dependents, and survivors receive all the benefits to which
4574 they are entitled from the District and federal governments;

4575 (3) In addition to its annual appropriation, endeavor to secure support for its
4576 operations from outside the District government, including the solicitation and receipt of
4577 donations, grants, and volunteer services in accordance with District law;

4578 (4) Satisfy the unmet needs of veterans, their dependents and survivors through
4579 federal benefits insofar as practicable instead of through District government benefits;

4580 (5) Assist unemployed and under-employed veterans in finding suitable employment;

4581 (6) Partner with federal and state governments, veterans service organizations,
4582 community groups, corporations, and other organizations to identify the needs of veterans,
4583 their dependents and survivors, and design and implement programs and services to meet
4584 these needs;

4585 (7) Educate the public, including District residents and employers, about the rights
4586 and needs of veterans, their dependents and survivors;

4587 (8) Obtain recognition of the Office by the U.S. Department of Veterans Affairs as
4588 the "State organization" for the District of Columbia;

4589 (9) Employ and train, as needed, individuals who are accredited by the U.S.
4590 Department of Veterans Affairs;

4591 (10) Establish a database on veterans, including an archive of DD-214's and other
4592 documents required in the adjudication of veterans' claims, and linkages with federal
4593 databases;

4594 (11) Research the demographics of veterans and analyze their needs and priorities;

4595 (12) Inform and counsel veterans, their dependents and survivors concerning
4596 benefits, procedures for filing claims, and status of claims when the Office is assisting in
4597 the claims process;

4598 (13) Provide, or assist in securing representation for appeals by veterans, their
4599 dependents and survivors to the federal Board of Veterans Appeals;

4600 (14) Liaison with the U.S. Department of Veterans Affairs, other federal agencies,
4601 state and local government agencies, community groups, veteran service organizations,
4602 other organizations, and individuals to promote veterans issues;

4603 (15) Pursue opportunities through public-private partnerships with veterans service
4604 organizations, businesses, labor organizations, religious organizations, private charities,
4605 and others to serve veterans more effectively;

4606 (16) In collaboration with the Mayor, initiate, review, and support legislation
4607 beneficial to veterans, their dependents, and their survivors;

4608 (17) Propose programs and services that are specific to meet the changing needs of
4609 veterans, from all service periods, and their dependents and survivors;

4610 (18) Engage volunteers to assist the Office, including from veterans service
4611 organizations and the work-study and work therapy programs of the U.S. Department of
4612 Veterans Affairs;

4613 (19) Prepare the Office's annual budget for use by the Mayor and the District's Chief
4614 Financial Officer;

4615 (20) Prepare an annual report for the Mayor and the Council on the Office's
4616 activities and recommendations;

4617 (21) Monitor and evaluate the quality of services that the District and federal
4618 governments furnish to veterans, their dependents and survivors;

4619 (22) In accordance with District law, solicit, receive, and use donations of money and
4620 services from individuals and organizations, including funds and services to assist in
4621 maintaining and repairing the D.C. Veterans War Memorial and surrounding flora;

4622 (23) Coordinate with and, on request, advise the Mayor and other agencies of the
4623 District government concerning veteran-related issues;

4624 (24) At the Mayor's request, represent the District government at veteran-related
4625 events and programs; and

4626 (25) Engage in other activities as needed to carry out the purposes of this chapter.
4627

4628 § 49-1304. Establishment of the Office of Veterans Affairs Fund.

4629 (a) There is established an Office of Veterans Affairs Fund ("Fund") into which
4630 monies received from federal payments, grants, donations, and other funds for the Office,
4631 including fees received by the Department of Motor Vehicles pursuant to § 50-
4632 1501.02b(b)(1), shall be deposited. The Fund shall be continuing. Revenues deposited into
4633 the Fund shall not revert to the General Fund at the end of any fiscal year or at any other
4634 time, but shall be continually available to the Office for the purposes and functions
4635 described in this chapter, subject to authorization by Congress in an appropriations act.

4636 (b) The Mayor shall report annually to the Council on the revenues and activities of
4637 the Fund.

4638

4639 § 49-1305. Transfers; abolishment.

4640 (a) All positions, property, records, and allocations available or to be made available
4641 to the Department of Human Services for the veterans affairs functions set out in
4642 Reorganization Plan No. 2 of 1979, effective February 21, 1980, Reorganization Plan No. 3
4643 of 1986, effective January 3, 1987 (part B of subchapter VII of Chapter 15 of Title 1, D.C.
4644 Code), and Department of Human Services Organization Order No. 169, effective March 2,
4645 1988, are hereby transferred to the Office of Veterans Affairs established by this chapter.

4646 (b) The Office of Veterans Affairs, established as an organizational component of the
4647 Department of Human Services by section IV(a)(2) of Reorganization Plan No. 2 of 1979
4648 (part A of subchapter III of Chapter 15 of Title 1, D.C. Code), and Reorganization Plan No.
4649 3 of 1986, is abolished.

4650

4651 § 49-1306. Rulemaking.

4652 In accordance with subchapter I of Chapter 5 of Title 2, the Mayor is authorized to
4653 promulgate rules and regulations as necessary to implement this chapter.

4654

4655 SUBTITLE III. MILITARY COMPACTS.

4656

4657 CHAPTER 14. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR
4658 MILITARY CHILDREN.

4659

4660 Sec.

4661 49-1401. Adoption of Compact.

4662 49-1402. Purpose and policy.

4663 49-1403. Definitions.

4664 49-1404. Applicability.

4665 49-1405. Educational records and enrollment.

4666 49-1406. Placement and attendance.

4667 49-1407. Eligibility for enrollment.

4668 49-1408. Graduation.

4669 49-1409. Interstate Commission on Educational Opportunity for Military Children.

4670 49-1410. Powers and duties of the Interstate Commission.

4671 49-1411. Organization and operation of the Interstate Commission.

4672 49-1412. Rulemaking functions of the Interstate Commission.

4673 49-1413. Oversight, enforcement, and dispute resolution.
4674 49-1414. Financing of the Interstate Commission.
4675 49-1415. Local agency participation.
4676 49-1416. Member states, effective date, and amendment.
4677 49-1417. Withdrawal and dissolution.
4678 49-1418. Severability and construction.
4679 49-1419. Binding effect of compact and other laws.
4680 49-1420. District of Columbia State Interstate Compact Council.

4681
4682 § 49-1401. Adoption of Compact.
4683 The District of Columbia adopts the Interstate Compact on Educational Opportunity
4684 for Military Children.

4685
4686 § 49-1402. Purpose and policy.

4687 It is the purpose of the Interstate Compact on Educational Opportunity for Military
4688 Children to remove barriers to educational success imposed on children of military families
4689 because of frequent moves and deployment of their parents by:

4690 (1) Facilitating the timely enrollment of children of military families and
4691 ensuring that they are not placed at a disadvantage due to difficulty in the transfer of
4692 educational records from the previous school district or variations in entrance or age
4693 requirements;

4694 (2) Facilitating the student-placement process through which children of
4695 military families are not disadvantaged by variations in attendance requirements,
4696 scheduling, sequencing, grading, course content, or assessment;

4697 (3) Facilitating the qualification and eligibility for enrollment, educational
4698 programs, and participation in extracurricular academic, athletic, and social activities;

4699 (4) Facilitating the on-time graduation of children of military families;

4700 (5) Providing for the promulgation and enforcement of administrative rules
4701 implementing the provisions of the Interstate Compact on Educational Opportunity for
4702 Military Children;

4703 (6) Providing for the uniform collection and sharing of information between
4704 and among member states, schools, and military families;

4705 (7) Promoting coordination between the Interstate Compact on Educational
4706 Opportunity for Military Children and other compacts affecting military children; and

4707 (8) Promoting flexibility and cooperation between the educational system,
4708 parents, and students to achieve educational success for the students.

4709
4710 § 49-1403. Definitions.

4711 For the purposes of this chapter, unless the context clearly requires a different
4712 construction, the term:

4713 (1) "Active duty" means full-time duty status in the active uniformed service
4714 of the United States, including members of the National Guard and Reserve on active duty
4715 orders pursuant to 10 U.S.C. §§ 1209 and 1211.

4716 (2) "Children of military families" means school-aged children, enrolled in
4717 Kindergarten through 12th grade in the household of an active duty member.

4718 (3) "Compact" means the Interstate Compact on Educational Opportunity for
4719 Military Children.

4720 (4) "Compact commissioner" means the voting representative of each
4721 compacting state appointed pursuant to § 49-1409.

4722 (5) "Deployment" means the period one month before a service member's
4723 departure from the home station on military orders through 6 months after return to the
4724 home station.

4725 (6) "Educational records" means those official records, files, and data directly
4726 related to a student and maintained by the school or local education agency, including
4727 records encompassing all the material kept in the student's cumulative folder such as
4728 general identifying data, records of attendance, records of academic work completed,
4729 records of achievement, and results of evaluative tests, health data, disciplinary status, test
4730 protocols, and individualized education programs.

4731 (7) "Extracurricular activities" means a voluntary activity sponsored by the
4732 school or local education agency or an organization sanctioned by the local education
4733 agency. Extracurricular activities include preparation for and involvement in public
4734 performances, contests, athletic competitions, demonstrations, displays, and club activities.

4735 (8) "Interstate Commission on Educational Opportunity for Military
4736 Children" means the commission that is created in § 49-1409, generally referred to as the
4737 Interstate Commission.

4738 (9) "Local education agency" means a public authority legally constituted by
4739 the state as an administrative agency to provide control of and direction for kindergarten
4740 through 12th grade public educational institutions.

4741 (10) "Member state" means a state that has enacted this compact.

4742 (11) "Military installation" means a base, camp, post, station, yard, center,
4743 homeport facility for any ship, or other activity under the jurisdiction of the Department of
4744 Defense, including any leased facility that is located within any of the several states, the
4745 District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
4746 American Samoa, the Northern Marianas Islands, and any other U.S. Territory. The term
4747 does not include any facility used primarily for civil works, river and harbor projects, or
4748 flood-control projects.

4749 (12) "Non-member state" means a state that has not enacted this compact.

4750 (13) "Receiving state" means the state to which a child of a military family is
4751 sent, brought, or caused to be sent or brought.

4752 (14) "Rule" means a written statement by the Interstate Commission
4753 promulgated pursuant to § 49-1412 that is of general applicability and implements,
4754 interprets, or prescribes a policy or provision of the compact, or an organizational,
4755 procedural, or practice requirement of the Interstate Commission, and has the force and
4756 effect of statutory law in a member state, and includes the amendment, repeal, or
4757 suspension of an existing rule.

4758 (15) "Sending state" means the state from which a child of a military family is
4759 sent, brought, or caused to be sent or brought.

4760 (16) "State" means a state of the United States, the District of Columbia, the
4761 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the
4762 Northern Marianas Islands, and any other U.S. Territory.

4763 (17) "State Council" means the District of Columbia Educational Opportunity
4764 for Military Children State Council established in § 49-1420.

4765 (18) "Student" means the child of a military family for whom the local
4766 education agency receives public funding and who is formally enrolled in a grade from
4767 kindergarten through 12th grade.

4768 (19) "Transition" means:

4769 (A) The formal and physical process of transferring from school to
4770 school; or

4771 (B) The period of time in which a student moves from one school in the
4772 sending state to another school in the receiving state.

4773 (20) "Uniformed services" means the Army, Navy, Air Force, Marine Corps,
4774 and Coast Guard, as well as the Commissioned Corps of the National Oceanic and
4775 Atmospheric Administration, and Public Health Services.

4776 (21) "Veteran" means a person who served in the uniformed services and who
4777 was discharged or released under conditions other than dishonorable.

4778

4779 § 49-1404. Applicability.

4780 (a) Except as otherwise provided in subsection (b) of this section, this compact shall
4781 apply to the children of:

4782 (1) Active duty members of the uniformed services;

4783 (2) Members or veterans of the uniformed services who are severely
4784 injured and medically discharged or retired for a period of one year after medical discharge
4785 or retirement; and

4786 (3) Members of the uniformed services who have died on active duty or
4787 as a result of injuries sustained on active duty for a period of one year after death.

4788 (b) The provisions of this compact shall only apply to local education agencies as
4789 defined in this compact.

4790 (c) The provisions of this compact shall not apply to the children of:

4791 (1) Inactive members of the National Guard and military reserves;

4792 (2) Members of the uniformed services now retired, except as provided in
4793 subsection (a) of this section;

4794 (3) Veterans of the uniformed services, except as provided in subsection (a) of
4795 this section; or

4796 (4) Other U.S. Department of Defense personnel and other federal agency
4797 civilian and contract employees not defined as active duty members of the uniformed
4798 services.

4799

4800 § 49-1405. Educational records and enrollment.

4801 (a) If official educational records cannot be released to the parents of a student for
4802 the purpose of transfer, the custodian of the records in the sending state shall prepare and
4803 furnish to the parent a complete set of unofficial educational records containing uniform
4804 information as determined by the Interstate Commission. Upon receipt of the unofficial
4805 educational records by a school in the receiving state, the school shall enroll and
4806 appropriately place the student based on the information provided in the unofficial records,
4807 pending validation by the official records, as quickly as possible.

4808 (b) Simultaneous with the enrollment and conditional placement of the student, the
4809 school in the receiving state shall request the student's official educational record from the
4810 school in the sending state. Upon receipt of this request, the school in the sending state
4811 will process and furnish the official educational record to the school in the receiving state
4812 within 10 days or within such time as is reasonably established under the rules
4813 promulgated by the Interstate Commission.

4814 (c) Compacting states shall give students 30 days from the date of enrollment, or
4815 such time as is reasonably established under the rules promulgated by the Interstate
4816 Commission, to obtain any immunizations required by the receiving state. For a series of
4817 immunizations, initial vaccinations must be obtained within 30 days, or within such time as
4818 is reasonably established under the rules promulgated by the Interstate Commission.

4819 (d) Students shall be allowed to continue their enrollment at the grade level in the
4820 receiving state commensurate with their grade level (including kindergarten) from a local
4821 education agency in the sending state at the time of transition, regardless of age. A student
4822 that has satisfactorily completed the prerequisite grade level in the local education agency
4823 in the sending state shall be eligible for enrollment in the next highest grade level in the
4824 receiving state, regardless of age. A student transferring after the start of the school year
4825 in the receiving state shall enter the school in the receiving state on his or her validated
4826 level from an accredited school in the sending state.

4827

4828 § 49-1406. Placement and attendance.

4829 (a)(1) When a student transfers before or during the school year, the receiving state
4830 school shall initially honor placement of the student in educational courses based on the
4831 student's enrollment in the sending state school and educational assessments conducted at
4832 the school in the sending state if the courses are offered. Course placement includes
4833 Honors, International Baccalaureate, Advanced Placement, vocational, and technical and
4834 career-pathways courses.

4835 (2) Continuing the student's academic program from the previous school and
4836 promoting placement in academically and career challenging courses should be paramount
4837 when considering placement. This does not preclude the school in the receiving state from
4838 performing subsequent evaluations to ensure appropriate placement and continued
4839 enrollment of the student in a course.

4840 (b) The receiving state school shall initially honor placement of the student in
4841 educational programs based on current educational assessments conducted at the school in
4842 the sending state or participation or placement in like programs in the sending state. Such
4843 programs include gifted and talented programs and English-as-a-second-language
4844 programs. This does not preclude the school in the receiving state from performing
4845 subsequent evaluations to ensure appropriate placement of the student.

4846 (c)(1) In compliance with the federal requirements of the Individuals with
4847 Disabilities Education Improvement Act, approved December 3, 2004 (118 Stat. 2647; 20
4848 U.S.C. §1400 *et seq.*), the receiving state shall initially provide comparable services to a
4849 student with disabilities based on his or her current Individualized Education Program;
4850 and

4851 (2) In compliance with the requirements of section 504 of the Rehabilitation
4852 Act of 1973, approved September 26, 1973 (87 Stat. 394; 29 U.S.C. § 794), and with Title II
4853 of the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 327; 42
4854 U.S.C. §§ 12131-12165), the receiving state shall make reasonable accommodations and
4855 modifications to address the needs of incoming students with disabilities, subject to an
4856 existing 504 or Title II plan, to provide the student with equal access to education. This
4857 requirement does not preclude the school in the receiving state from performing subsequent
4858 evaluations to ensure appropriate placement of the student.

4859 (d) Local education agency administrative officials shall have flexibility in waiving
4860 course and program prerequisites and other preconditions for placement in courses and
4861 programs offered under the jurisdiction of the local education agency.

4862 (e) A student whose parent, or legal guardian, is an active duty member of the
4863 uniformed services, as defined by the compact, and has been called to duty for, is on leave
4864 from, or immediately returned from deployment to a combat zone or combat-support
4865 posting shall be granted additional excused absences at the discretion of the local education
4866 agency to visit with his or her parent or legal guardian based on the leave or deployment of
4867 the parent or guardian.

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§ 49-1407. Eligibility for enrollment.

(a) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

(b) A local education agency shall be prohibited from charging local tuition to a transitioning student placed in the care of a non-custodial parent or other person standing in *loco parentis* who lives in a jurisdiction other than that of the custodial parent.

(c) A transitioning student placed in the care of a noncustodial parent or other person standing in *loco parentis* who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

(d) State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified to be included.

§ 49-1408. Graduation.

(a) To facilitate the on-time graduation of children of military families, states and local education agencies shall adopt the following procedures:

(1) Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for the denial of a waiver. If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means for the student to acquire the required coursework so that his or her graduation may occur on time.

(2) States shall accept:

(A) Exit or end-of-course exams required for graduation from the sending state;

(B) National norm referenced achievement tests; or

(C) Alternative testing, in lieu of testing requirements for graduation in the receiving state. If the above-referenced alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of subsection (b) of this section shall apply.

(b) Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. If one of the states in question is not a member of this compact, the member state shall use its best efforts to facilitate the on-time graduation of the student in accordance with subsection (a) of this section.

§ 49-1409. Interstate Commission on Educational Opportunity for Military Children.

(a) The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.

(b) The Interstate Commission shall:

(1) Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in this chapter, and such additional

4917 powers as may be conferred upon it by a subsequent concurrent action of the respective
4918 legislatures of the member states in accordance with the terms of this compact;

4919 (2) Consist of one Interstate Commission voting representative from each
4920 member state who shall be that state's compact commissioner;

4921 (3) Consist of ex-officio, non-voting representatives who are members of
4922 interested organizations, which, as defined in the bylaws, may include members of:

4923 (A) The representative organizations of military family advocates;
4924 (B) Local education agency officials;
4925 (C) Parent and teacher groups;
4926 (D) The U.S. Department of Defense;
4927 (E) The Education Commission of the States;
4928 (F) The Interstate Agreement on Qualification of Educational
4929 Personnel; and

4930 (G) Other interstate compacts affecting the education of children of
4931 military members;

4932 (4) Meet at least once each calendar year; provided, that the chairperson may
4933 call additional meetings and, upon the request of a simple majority of the member states,
4934 shall call additional meetings;

4935 (5) Establish an executive committee, which shall have the power to act on
4936 behalf of the Interstate Commission, with the exception of rulemaking, during periods when
4937 the Interstate Commission is not in session and whose members shall:

4938 (A) Include the officers of the Interstate Commission, and such other
4939 members of the Interstate Commission as determined by the bylaws, and a delegate of the
4940 U.S. Department of Defense, who shall serve as an ex-officio, nonvoting member;

4941 (B) Serve a one-year term and be entitled to one vote each; and
4942 (C) Oversee the day-to-day activities of the administration of the
4943 compact, including enforcement and compliance with the provisions of the compact, its
4944 bylaws and rules, and other such duties as considered necessary;

4945 (6) Establish bylaws and rules that provide for conditions and procedures
4946 under which the Interstate Commission shall make its information and official records
4947 available to the public for inspection or copying; provided, that it may exempt from
4948 disclosure, information or official records to the extent they would adversely affect personal
4949 privacy rights or proprietary interests.

4950 (7) Give public notice of all meetings and conduct all meetings open to the
4951 public, except as set forth in the rules or as otherwise provided in the compact; provided,
4952 that the Interstate Commission and its committees may close a meeting, or a portion
4953 thereof, when it determines by two-thirds vote that an open meeting would be likely to:

4954 (A) Relate solely to the Interstate Commission's internal personnel
4955 practices and procedures;

4956 (B) Disclose matters specifically exempted from disclosure by federal
4957 and state statute;

4958 (C) Disclose trade secrets or commercial or financial information that
4959 is privileged or confidential;

4960 (D) Involve accusing a person of a crime or formally censuring a
4961 person;

4962 (E) Disclose information of a personal nature where disclosure would
4963 constitute a clearly unwarranted invasion of personal privacy;

4964 (F) Disclose investigative records compiled for law enforcement
4965 purposes; or

4966 (G) Specifically relate to the Interstate Commission's participation in
4967 a civil action or other legal proceeding;

4968 (8) Cause its legal counsel, or designee, to certify that a meeting may be
4969 closed and shall reference each relevant exemptible provision for any meeting, or portion of
4970 a meeting, that is closed pursuant to this provision;

4971 (9) Keep minutes that shall fully and clearly describe all matters discussed
4972 in the meeting and shall provide a full and accurate summary of actions taken, and the
4973 reasons for those actions, including a description of the views expressed, the record of a roll-
4974 call vote, and the identification of all documents considered in connection with an action;
4975 provided, that all minutes and documents of a closed meeting shall remain under seal,
4976 subject to release by a majority vote of the Interstate Commission;

4977 (10) Collect standardized data concerning the educational transition of the
4978 children of military families under this compact as directed through its rules, which shall
4979 specify the data to be collected, the means of collection, and data exchange and reporting
4980 requirements; provided, that the methods of data collection, exchange, and reporting shall,
4981 in so far as is reasonably possible, conform to current technology and be in coordination its
4982 information functions with the appropriate custodian of records as identified in the bylaws
4983 and rules; and

4984 (11) Create a process that permits military officials, education officials, and
4985 parents to inform the Interstate Commission if and when there are alleged violations of the
4986 compact or its rules or when issues subject to the jurisdiction of the compact or its rules are
4987 not addressed by the state or local education agency.

4988 (c)(1) Each member state represented at a meeting of the Interstate Commission is
4989 entitled to one vote.

4990 (2) A majority of the total member states shall constitute a quorum for the
4991 transaction of business, unless a larger quorum is required by the bylaws of the Interstate
4992 Commission.

4993 (3) A representative shall not delegate a vote to another member state. If the
4994 compact commissioner is unable to attend a meeting of the Interstate Commission, the
4995 Mayor or the Council of the District of Columbia may delegate voting authority to another
4996 person from the District of Columbia for a specified meeting.

4997 (4) The bylaws may provide for meetings of the Interstate Commission to be
4998 conducted by telecommunication or electronic communication.

4999 (d) This section shall not be construed to create a private right of action against the
5000 Interstate Commission or any member state.

5001
5002 § 49-1410. Powers and duties of the Interstate Commission.

5003 The Interstate Commission shall have the power to:

5004 (1) Provide for dispute resolution among member states;

5005 (2) Promulgate rules and take all necessary actions to effect its goals,
5006 purposes, and obligations as enumerated in this compact; which rules shall have the force
5007 and effect of statutory law and shall be binding in the compact states to the extent and in
5008 the manner provided in this compact;

5009 (3) Issue, upon request of a member state, advisory opinions concerning the
5010 meaning or interpretation of the compact, its bylaws, rules, or actions;

5011 (4) Enforce compliance with the compact provisions, the rules promulgated by
5012 the Interstate Commission, and the bylaws using all necessary and proper means, including
5013 the use of the judicial process;

- 5014 (5) Establish and maintain offices, which shall be located within one or more
5015 of the member states;
- 5016 (6) Purchase and maintain insurance and bonds;
- 5017 (7) Borrow, accept, hire, or contract for services of personnel;
- 5018 (8) Establish and appoint committees, including the executive committee
5019 required by § 49-1409(b)(5), which shall have the power to act on behalf of the Interstate
5020 Commission in carrying out its powers and duties;
- 5021 (9) Elect or appoint officers, attorneys, employees, agents, or consultants, and
5022 to fix their compensation, define their duties, and determine their qualifications, and to
5023 establish the Interstate Commission's personnel policies and programs relating to conflicts
5024 of interest, rates of compensation, and qualifications of personnel;
- 5025 (10) Accept any and all donations and grants of money, equipment, supplies,
5026 materials, and services, and to receive, utilize, and dispose of the same;
- 5027 (11) Lease, purchase, accept contributions or donations of, or otherwise to
5028 own, hold, improve, or use any property, real, personal, or mixed;
- 5029 (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
5030 dispose of any property, real, personal, or mixed;
- 5031 (13) Establish a budget and make expenditures;
- 5032 (14) Adopt a seal and bylaws governing the management and operation of the
5033 Interstate Commission;
- 5034 (15) Report annually to the legislatures, governors, the Mayor of the District
5035 of Columbia, judiciary, and state councils of the member states concerning the activities of
5036 the Interstate Commission during the preceding year, including any recommendations that
5037 may have been adopted by the Interstate Commission;
- 5038 (16) Coordinate education, training, and public awareness regarding the
5039 compact, its implementation, and operation for officials and parents involved in compact
5040 activities;
- 5041 (17) Establish uniform standards for the reporting, collecting, and
5042 exchanging of data;
- 5043 (18) Maintain corporate books and records in accordance with the bylaws;
- 5044 (19) Perform such functions as may be necessary or appropriate to achieve
5045 the purposes of this compact; and
- 5046 (20) Provide for the uniform collection and sharing of information between
5047 and among member states and the schools and military families affected under this
5048 compact.

5049
5050 § 49-1411. Organization and operation of the Interstate Commission.

5051 (a) The Interstate Commission shall, by a majority of the members present and
5052 voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to
5053 govern its conduct as may be necessary or appropriate to carry out the purposes of the
5054 compact, including:

- 5055 (1) Establishing the fiscal year of the Interstate Commission;
- 5056 (2) Establishing an executive committee, and such other committees as may
5057 be necessary;
- 5058 (3) Providing for the establishment of committees and for governing any
5059 general or specific delegation of authority or function of the Interstate Commission;
- 5060 (4) Providing reasonable procedures for calling and conducting meetings of
5061 the Interstate Commission, and ensuring reasonable notice of each such meeting;

5062 (5) Establishing the titles and responsibilities of the officers and staff of the
5063 Interstate Commission;

5064 (6) Providing a mechanism for concluding the operations of the Interstate
5065 Commission and the return of surplus funds that may exist upon the termination of the
5066 compact after the payment of, and the reservation of funds for payment of, all of its debts
5067 and obligations; and

5068 (7) Providing start-up rules for the initial administration of the compact.

5069 (b) The Interstate Commission shall, by a majority of the members, elect annually
5070 from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom
5071 shall have such authority and duties as may be specified in the bylaws. The chairperson or,
5072 in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings
5073 of the Interstate Commission.

5074 (c) The officers elected pursuant to subsection (b) of this section shall serve without
5075 compensation or remuneration from the Interstate Commission; provided, that, subject to
5076 the availability of budgeted funds, the officers shall be reimbursed for ordinary and
5077 necessary costs and expenses incurred in the performance of their responsibilities as
5078 officers of the Interstate Commission.

5079 (d)(1) The executive committee shall have such authority and duties as may be set
5080 forth in the bylaws, which shall include:

5081 (A) Managing the affairs of the Interstate Commission in a manner
5082 consistent with the bylaws and purposes of the Interstate Commission;

5083 (B) Overseeing an organizational structure and appropriate
5084 procedures for the Interstate Commission to provide for the creation of rules, operating
5085 procedures, and administrative and technical support functions; and

5086 (C) Planning, implementing, and coordinating communications and
5087 activities with other state, federal, and local government organizations to advance the
5088 goals of the Interstate Commission.

5089 (2) The executive committee may, subject to the approval of the Interstate
5090 Commission, appoint or retain an executive director for such period, upon such terms and
5091 conditions, and for such compensation as the Interstate Commission considers appropriate.

5092 (3) The executive director shall serve as secretary to the Interstate
5093 Commission, but shall not be a member of the Interstate Commission.

5094 (4) The executive director shall hire and supervise such other persons as may
5095 be authorized by the Interstate Commission.

5096 (e) The Interstate Commission's executive director and its employees shall be
5097 immune from suit and liability, either personally or in their official capacity, for a claim for
5098 damage to or loss of property or personal injury or other civil liability caused or arising out
5099 of or relating to an actual or alleged act, error, or omission that occurred, or that such
5100 person had a reasonable basis for believing occurred, within the scope of Interstate
5101 Commission employment, duties, or responsibilities; provided, that such person shall not be
5102 protected from suit or liability for damage, loss, injury, or liability caused by the intentional
5103 or willful and wanton misconduct of such person.

5104 (f)(1) The liability of the Interstate Commission's executive director and its
5105 employees or Interstate Commission representatives, acting within the scope of their
5106 employment or duties for acts, errors, or omissions occurring within such person's state
5107 may not exceed the limits of liability set forth under the laws of that state for state officials,
5108 employees, and agents. The Interstate Commission is considered to be an instrumentality of
5109 the states for the purposes of any such action.

5110 (2) Nothing in this subsection shall be construed to protect such person from
5111 suit or liability for damage, loss, injury, or liability caused by the intentional or willful and
5112 wanton misconduct of such person.

5113 (g) The Interstate Commission shall defend the executive director and its employees,
5114 and, subject to the approval of the Attorney General or other appropriate legal counsel of
5115 the member state represented by an Interstate Commission representative, such Interstate
5116 Commission representative in any civil action seeking to impose liability arising out of an
5117 actual or alleged act, error, or omission that occurred within the scope of Interstate
5118 Commission employment, duties, or responsibilities, or that the defendant had a reasonable
5119 basis for believing occurred within the scope of Interstate Commission employment, duties,
5120 or responsibilities; provided, that the actual or alleged act, error, or omission did not result
5121 from intentional or willful and wanton misconduct on the part of such person.

5122 (h) To the extent not covered by the state involved, member state, or the Interstate
5123 Commission, the representatives or employees of the Interstate Commission shall be held
5124 harmless in the amount of a settlement or judgment, including attorney's fees and costs,
5125 obtained against such persons arising out of an actual or alleged act, error, or omission that
5126 occurred within the scope of Interstate Commission employment, duties, or responsibilities,
5127 or that such persons had a reasonable basis for believing occurred within the scope of
5128 Interstate Commission employment, duties, or responsibilities; provided, that the actual or
5129 alleged act, error, or omission did not result from intentional or willful and wanton
5130 misconduct on the part of such persons.

5131
5132 § 49-1412. Rulemaking functions of the Interstate Commission.

5133 (a) The Interstate Commission shall promulgate reasonable rules to effectively and
5134 efficiently achieve the purposes of this compact. Notwithstanding the foregoing, if the
5135 Interstate Commission exercises its rulemaking authority in a manner that is beyond the
5136 scope of the purposes of this chapter or the powers granted pursuant to this chapter, then
5137 such exercise by the Interstate Commission shall be invalid and have no force or effect.

5138 (b) Rules shall be made pursuant to a rulemaking process that substantially
5139 conforms to the Model State Administrative Procedure Act (1981), Uniform Laws
5140 Annotated, Vol. 15, p.1 (2000), as amended, as may be appropriate to the operations of the
5141 Interstate Commission.

5142 (c) Not later than 30 days after a rule is promulgated, any person may file a petition
5143 for judicial review of the rule; provided, that the filing of such a petition shall not stay or
5144 otherwise prevent the rule from becoming effective unless the court finds that the petitioner
5145 has a substantial likelihood of success. The court shall give deference to the actions of the
5146 Interstate Commission consistent with applicable law and shall not find the rule to be
5147 unlawful if the rule represents a reasonable exercise of the Interstate Commission's
5148 authority.

5149 (d) If a majority of the legislatures of the compacting states rejects a rule by
5150 enactment of a statute or resolution in the same manner used to adopt the compact, then
5151 such rule shall have no further force and effect in any compacting state.

5152
5153 § 49-1413. Oversight, enforcement, and dispute resolution.

5154 (a)(1) The executive, legislative, and judicial branches of state government in each
5155 member state shall enforce this compact and shall take all actions necessary and
5156 appropriate to effectuate the compact's purposes and intent. The provisions of this compact
5157 and the rules promulgated hereunder shall have standing as statutory law.

5158 (2) All courts shall take judicial notice of the compact and the rules in any
5159 judicial or administrative proceeding in a member state pertaining to the subject matter of
5160 this compact that may affect the powers, responsibilities, or actions of the Interstate
5161 Commission.

5162 (3)(A) The Interstate Commission shall be entitled to receive all service of
5163 process in any such proceeding and shall have standing to intervene in the proceeding for
5164 all purposes.

5165 (B) Failure to provide service of process to the Interstate Commission
5166 shall render a judgment or order void as to the Interstate Commission, this compact, or
5167 promulgated rules.

5168 (b)(1) If the Interstate Commission determines that a member state has defaulted in
5169 the performance of its obligations or responsibilities under this compact or the bylaws or
5170 promulgated rules, the Interstate Commission shall:

5171 (A) Provide written notice to the defaulting state and other member
5172 states of the nature of the default, the means of curing the default, and any action taken by
5173 the Interstate Commission; provided, that the Interstate Commission shall specify the
5174 conditions by which the defaulting state must cure its default;

5175 (B) Provide remedial training and specific technical assistance
5176 regarding the default; and

5177 (C) If the defaulting state fails to cure the default, terminate the
5178 defaulting state from the compact upon an affirmative vote of a majority of the member
5179 states, along with all rights, privileges, and benefits conferred by this compact from the
5180 effective date of termination.

5181 (2) A cure of the default shall not relieve the offending state of obligations or
5182 liabilities incurred during the period of the default.

5183 (3) Suspension or termination of membership in the compact shall be imposed
5184 only after all other means of securing compliance have been exhausted. Notice of intent to
5185 suspend or terminate shall be given by the Interstate Commission to the Mayor and the
5186 Council, and each of the member states.

5187 (4) The state that has been suspended or terminated is responsible for all
5188 assessments, obligations, and liabilities incurred through the effective date of suspension or
5189 termination including obligations, the performance of which extends beyond the effective
5190 date of suspension or termination.

5191 (5) The Interstate Commission shall not bear any costs relating to any state
5192 that has been found to be in default or that has been suspended or terminated from the
5193 compact, unless it is otherwise mutually agreed upon in writing between the Interstate
5194 Commission and the defaulting state.

5195 (6) The defaulting state may appeal the action of the Interstate Commission
5196 by petitioning the U.S. District Court for the District of Columbia or the federal district
5197 where the Interstate Commission has its principal offices. The prevailing party shall be
5198 awarded all costs of such litigation including reasonable attorney's fees.

5199 (c)(1) The Interstate Commission shall attempt, upon the request of a member state,
5200 to resolve disputes that are subject to the compact and which may arise among member
5201 states and between member and non-member states.

5202 (2) The Interstate Commission shall promulgate a rule providing for both
5203 mediation and binding dispute resolution for disputes, as appropriate.

5204 (d)(1) The Interstate Commission, in the reasonable exercise of its discretion, shall
5205 enforce the provisions and rules of this compact.

5206 (2) The Interstate Commission may, by majority vote of the members, initiate
5207 legal action in the United State District Court for the District of Columbia or, at the
5208 discretion of the Interstate Commission, in the federal district where the Interstate
5209 Commission has its principal offices, to enforce compliance with the provisions of the
5210 compact, or its promulgated rules and bylaws, against a member state in default. The relief
5211 sought may include both injunctive relief and damages. If judicial enforcement is necessary,
5212 the prevailing party shall be awarded all costs of such litigation, including reasonable
5213 attorney's fees.

5214 (3) The remedies herein shall not be the exclusive remedies of the Interstate
5215 Commission. The Interstate Commission may avail itself of any other remedies available
5216 under state law or the regulation of a profession.
5217

5218 § 49-1414. Financing of the Interstate Commission.

5219 (a) The Interstate Commission shall pay, or provide for the payment of, the
5220 reasonable expenses of its establishment, organization, and ongoing activities.

5221 (b) The Interstate Commission may levy on and collect an annual assessment from
5222 each member state to cover the cost of the operations and activities of the Interstate
5223 Commission and its staff, which must be in a total amount sufficient to cover the Interstate
5224 Commission's annual budget as approved each year. The aggregate annual assessment
5225 amount shall be allocated based on a formula to be determined by the Interstate
5226 Commission, which shall promulgate a rule binding upon all member states.

5227 (c) The Interstate Commission shall not incur obligations of any kind prior to
5228 securing the funds adequate to meet the same or pledge the credit of any of member state,
5229 except by and with the authority of the member state.

5230 (d) The Interstate Commission shall keep accurate accounts of all receipts and
5231 disbursements. The receipts and disbursements of the Interstate Commission shall be
5232 subject to the audit and accounting procedures established under its bylaws. All receipts
5233 and disbursements of funds handled by the Interstate Commission shall be audited yearly
5234 by a certified or licensed public accountant and a report of the audit shall be included in
5235 and become part of the annual report of the Interstate Commission.
5236

5237 § 49-1415. Local agency participation.

5238 (a) Each member state shall, through the creation of a State Council or use of an
5239 existing body or board, provide for the coordination among its agencies of government, local
5240 education agencies, and military installations concerning the state's participation in, and
5241 compliance with, this compact and Interstate Commission activities.

5242 (b) Each member state may determine the membership of its own State Council;
5243 provided, that its membership includes:

5244 (1) The State Superintendent of Education;

5245 (2) A representative from a military installation;

5246 (3) One representative each from the legislative and executive branches of
5247 government; and

5248 (4) Representatives of other offices and stakeholder groups the State Council
5249 considers appropriate.

5250 (c) A member state that does not have a school district considered to contain a high
5251 concentration of military children may appoint a superintendent from another school
5252 district to represent local education agencies on the State Council.

5253 (d) The State Council of each member state shall appoint or designate a military
5254 family education liaison to assist military families and the state in facilitating the
5255 implementation of this compact.

5256 (e) The compact commissioner responsible for the administration and management
5257 of the state's participation in the compact, in the case of the District of Columbia, shall be
5258 appointed by the Mayor, or as otherwise determined by this member state.

5259 (f) The compact commissioner and the appointed or designated military family
5260 education liaison shall be ex-officio members of the State Council, unless there is already a
5261 full-voting member of the State Council.

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5263 § 49-1416. Member states, effective date, and amendment.

5264 (a) Any state is eligible to become a member state.

5265 (b) The compact shall become effective and binding upon legislative enactment of the
5266 compact into law by no fewer than 10 states. The effective date shall be no earlier than
5267 December 1, 2007. After December 1, 2007, it shall become effective and binding as to any
5268 other member state upon enactment of the compact into law by that state. The governors of
5269 non-member states or their designees shall be invited to participate in the activities of the
5270 Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

5271 (c) The Interstate Commission may propose amendments to the compact for
5272 enactment by the member states. No amendment shall become effective and binding upon
5273 the Interstate Commission and the member states unless and until it is enacted into law by
5274 unanimous consent of the member states.

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5276 § 49-1417. Withdrawal and dissolution.

5277 (a) Once effective, the compact shall continue in force and remain binding upon each
5278 and every member state; provided, that a member state may withdraw from the compact by
5279 specifically repealing the statute that enacted the compact into law.

5280 (b) Withdrawal from this compact shall be by the enactment of a statute repealing
5281 the statute that enacted the compact into law, but the repeal shall not take effect until one
5282 year after the effective date of such statute and until written notice of the withdrawal has
5283 been given by the withdrawing state to the Governor of each other member jurisdiction.

5284 (c) The withdrawing state shall immediately notify the chairperson of the Interstate
5285 Commission in writing upon the introduction of legislation repealing this compact in the
5286 withdrawing state. The Interstate Commission shall notify the other member states of the
5287 withdrawing state's intent to withdraw within 60 days of its receipt of the notice of
5288 withdrawal.

5289 (d) The withdrawing state is responsible for all assessments, obligations, and
5290 liabilities incurred through the effective date of withdrawal, including the performance of
5291 obligations that extend beyond the effective date of withdrawal.

5292 (e) Reinstatement following withdrawal of a member state shall occur upon the
5293 withdrawing state reenacting the compact or upon such later date as determined by the
5294 Interstate Commission.

5295 (f)(1) This compact shall dissolve effective upon the date of the withdrawal or
5296 default of the member state that reduces the membership in the compact to one member
5297 state.

5298 (2) Upon the dissolution of this compact, the compact becomes null and void
5299 and shall be of no further force or effect, and the business and affairs of the Interstate
5300 Commission shall be concluded and surplus funds distributed in accordance with the
5301 bylaws.

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§ 49-1418. Severability and construction.

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

§ 49-1419. Binding effect of compact and other laws.

(a) Nothing in this chapter prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

(b)(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(2) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(3) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

§ 49-1420. District of Columbia State Interstate Compact Council.

(a) There is established the District of Columbia Educational Opportunity for Military Children State Council. The State Council shall be composed of 7 members. The State Council shall provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, the compact. The members of the State Council shall be:

(1) The Chairman of the Council, or his or her designee;

(2) The Mayor, or his or her designee;

(3) The State Superintendent of Education;

(4) A representative from a District military installation appointed by the U.S. Department of Defense;

(5) The Chancellor, or his or her designee;

(6) A public charter school leader designated by the Chairman of the Public Charter School Board; and

(7) A parent representative appointed by the Mayor.

(b) Five members of the State Council shall constitute a quorum for the transaction of official business and the issuance of rules and regulations.

(c)(1) The Mayor shall designate a chairman of the State Council from among its members.

(2) The State Council shall meet at least 3 times in each year on the call of its chairman or at the request of a majority of its members.

TITLE II. APPLICABILITY.

Sec. 201. Applicability.

(a) Chapters 1, 2, 3, 4, 10, and 11 of Title 49 shall apply upon the enactment of concurring legislation by the United States Congress.

5351 (b) Chapters 5, 6, 7, 8, 9, 12, 13, and 14 of Title 49 shall apply upon the effective
5352 date of this act.

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5354 TITLE III. FISCAL IMPACT STATEMENT; EFFECTIVE DATE

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5356 Sec. 301. Fiscal impact statement.

5357 The Council adopts the fiscal impact statement in the committee report as the fiscal
5358 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
5359 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

5360

5361 Sec. 302. Effective date.

5362 This act shall take effect following approval by the Mayor (or in the event of veto by
5363 the Mayor, action by the Council to override the veto), a 30-day period of congressional
5364 review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved
5365 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the
5366 District of Columbia Register.