**Section 400.420 Trial Counsel and Defense Counsel**

a) Detail of trial counsel and defense counsel shall be pursuant to Code Section 27. *Except as provided in* subsection (b), *trial counsel or defense counsel detailed for a general or special court-martial must be:*

1) *a judge advocate as defined* in Code Section 1(a)(10); and

2) *in the case of trial counsel, a member in good standing of the bar of the highest court of the state* *where the court-martial is held*. (Code Section 27(b))

b) *When a defense counsel is not a member of the bar of the highest court of* the *state, the defense counsel shall be deemed admitted pro hac vice, subject to filing a certificate with the military judge setting forth the qualifications that:*

1) the *counsel is:*

A) *a commissioned officer of the armed forces of the United States or a component thereof;*

B) *a member in good standing of the bar of the highest court of a state; and*

C) *certified as a judge advocate in the Judge Advocate General's Corps of the Army, Air Force, Navy or Marine Corps*; or

2) the counsel is *a judge advocate as defined in Code Section 1(a)(10)*. (Code Section 27(c))

c) Trial counsel or assistant trial counsel cannot be a person who was a convening authority, accuser or investigating officer. However, the trial counsel and assistant trial counsel could have provided advice to the convening authority, the accuser or the investigator.

d) The defense counsel shall not be in the chain of command of the court-martial members, president of the court-martial, or convening authority.

e) A trial or defense counsel from one military component may be assigned to a court-martial in a different component and then detailed by the convening authority.

f) Upon appointment of defense counsel, the convening authority will provide sufficient resources to ensure effective assistance of counsel. Defense counsel may be placed in an appropriate duty or training status in order to provide defense services.

g) Trial counsel will be placed in an appropriate duty or training status in order to provide prosecutorial services.

h) The accused has a right to retain civilian counsel to represent him or her at his or her own expense and at no cost to the State or the United States. Civilian counsel must comply with the requirements of Code Section 27.