

UPDATES TO MODEL PLEA AGREEMENT AND APPELLATE RIGHTS ADVISEMENT

This Sidebar announces updated versions of the Model Plea Agreement and Appellate Rights Advisement.

Model Plea Agreement:

The Model Plea Agreement has been updated to clarify the relationship between plea agreements and administrative processes. Specifically, the model plea agreement clarifies that the authority to determine final retirement grade or grant a request to transfer to the Fleet Reserves rests exclusively with the Secretary of the Navy, who is not a party to the plea agreement. Additionally, regarding the impact of a guilty plea on administrative separation proceedings, the model plea agreement clarifies that nothing in the agreement ensures or promises that administrative separation processing will be disapproved for the misconduct underlying the charges at this court-martial, as the separation authority may not be party to the plea agreement.

Appellate Rights Advisement and Special Power of Attorney

The post-MJA 2016 Appellate Rights Advisement form has been updated to reflect the creation of a Special Power of Attorney (SPOA) for appellate processing. Specifically, the SPOA allows appointed appellate defense counsel the specific authority to file appeals pursuant to Article 66, UCMJ, petition for a new trial under Article 73, UCMJ, petition for review before CAAF under Article 67, UCMJ, and file for a writ of certiorari to the Supreme Court under Article 67a, UCMJ. Defense counsel should thoroughly review the new Appellate Rights Advisement and explain the impact of signing or failing to sign the SPOA with defense clients.

The updated documents are available online at: https://www.jag.navy.mil/trial_judiciary.htm

This Sidebar has been posted at the following USN and USMC websites:

<https://portal.secnav.navy.mil/orgs/JAG/20/SitePages/Home.aspx>

<https://www.hqmc.marines.mil/sja>

Please direct any questions to LT Shannon Welch, shannon.a.welch1@navy.mil for USN inquires and LtCol Adam King, adam.m.king@usmc.mil for USMC inquiries.