



NATIONAL HEADQUARTERS CIVIL AIR PATROL

CAP REGULATION 111-1

5 SEPTEMBER 2013

Legal

QUALIFICATIONS AND DUTIES OF LEGAL OFFICERS

This regulation establishes the policy on qualifications and duties of legal personnel in Civil Air Patrol (CAP). The body of legal officers in CAP may be referred to in this Regulation and elsewhere as the "CAP Legal Officer Corps."

SUMMARY OF CHANGES.

Incorporates recent National Legal Officers College financial hardship information. **Note: Shaded areas identify new or revised material.**

1. Responsibilities of Commanders.

a. Only commanders (commanders at wing level or above) may appoint legal officers. Appointments may be submitted either electronically through the on-line Duty Assignment application or by submitting a CAP Form (CAPF) 2a, *Request for and Approval of Personnel Actions*, to NHQ CAP/DP.

b. All members are encouraged to recruit licensed attorneys for appointment as legal officers.

2. Appointment and Promotion.

a. **Initial Appointment.** Initial appointment of a legal officer may be made by an authorized commander as specified in paragraph 1, above, subject to prior review of such appointment by the legal officer assigned to that commander's superior (the region legal officer in the case of a wing commander's appointment and the Chief of the CAP Legal Officer Corps in the case of a region commander's appointment). The National Commander shall appoint the Chief of the CAP Legal Officer Corps, any deputy chiefs and any assistant deputy chiefs who are assigned primarily or as additional duty to the national staff.

b. **Standard for Review and Approval.** Managing legal officers shall review appointments of subordinate legal officers by confirming the candidates' credentials and shall approve a candidate if he or she is satisfied that the candidate is properly qualified to perform the duties and responsibilities of a legal officer (see paragraphs 3 and 4 below).

c. **Procedure.** Requests for appointments of legal officers may be submitted by unit commanders to the appropriate region or wing commander for approval. The region or wing commander shall forward prospective appointments to the appointee's managing legal officer for review prior to final approval. Appointments may then be submitted either electronically through the on-line Duty Assignment application or by submitting a CAPF 2a, *Request for and Approval of Personnel Actions*, to NHQ CAP/DP.

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d. Other Policies. Other policies relating to the promotion of legal officers are set forth in CAPR 35-5, *CAP Officer and NCO Appointments and Promotions*.

3. Qualifications of Legal Officers. “Legal officer” means a CAP senior member and licensed attorney who has Civil Air Patrol as a client. Legal officer assignments include Chief of the CAP Legal Officer Corps, region legal officer, wing legal officer, group legal officer, unit legal officer and assistants to the foregoing. Titles may vary; e.g., Wing Director of Legal Affairs, Assistant Region Legal Officer, Deputy Wing Legal Officer, Special Counsel to the Commander and Senior Legal Advisor to the Inspector General. Personnel assigned to positions as legal officers:

a. Must be currently authorized and licensed to practice law before the highest court of a state, the Commonwealth of Puerto Rico or the District of Columbia. Qualification as a legal officer is not an authorization to practice law. Such authority is controlled by local law. For purposes of compliance with state rules governing the practice of law, legal officers are not considered to be “in-house counsel” to CAP.

b. Must never have been disbarred as the result of misconduct or moral turpitude. This requirement may be waived only upon authority of the Chief of the CAP Legal Officer Corps in consultation with the General Counsel.

4. Duties of Legal Officers.

a. Fiduciary Duty. Civil Air Patrol is the client of each and every attorney assigned as a legal officer. Every legal officer owes a fiduciary duty to the Corporation, notwithstanding that the officer's advice and counsel are rendered to CAP through constituents acting on behalf of CAP.

b. Responsibilities. Subject to constraints imposed by local law upon the unauthorized practice of law, responsibilities of a legal officer include, but are not limited to, the following:

(1) Rendering legal advice and opinions regarding CAP activities.

(2) Assisting the unit safety officer in conducting safety investigations as directed by the commander to whom he or she reports.

(3) Investigating complaints under the direction of the commander to whom he or she reports in accordance with CAPR 123-2, *Complaints*. In performing this function, the member would not be acting in the role of a legal officer.

(4) Conducting legal reviews of adverse personnel actions (including proposed membership terminations) and legal sufficiency reviews of reports of investigation as they progress and prior to final action. Also responsible for reviewing letters of notification to members concerned.

(5) Serving as the CAP representative at membership termination appeals hearings as directed by the commander to whom he or she reports.

(6) Serving on a unit membership board as directed by the commander to whom he or she reports.

(7) Advising the commander to whom he or she reports on legal implications of CAP programs and activities to include interpretation of laws, regulations and directives; contracts or agreements; claims; insurance; real estate; taxation; investigations; corporate records; fund raising; and relations with local agencies.

(8) Monitoring compliance with the CAP Constitution and Bylaws and CAP directives.

(9) Serving as counsel to subordinate units without an assigned legal officer.

(10) Serving as counsel to the CAP Inspector General or any wing or region inspector general as directed by the commander to whom he or she reports, with the approval of his or her managing legal officer (if any).

(11) Promoting the availability and utilization of legal services to CAP's decision makers.

(12) Educating members and leaders about the law and related matters as consistent with CAP's corporate missions, goals and objectives.

c. Management of the Legal Officer Corps. National, region and wing legal officers shall be responsible for managing legal officers assigned to their respective headquarters and the unit legal officers of the headquarters immediately below them. Managing legal officers are responsible for the review of appointments, management and coordination of legal officers at their own and subordinate echelons. "Management" in this context refers to monitoring and mentoring of subordinates with respect to the quality and continuity of legal services provided, not necessarily to specific tasking (which shall be governed by the commander of the unit or headquarters to which the legal officer is assigned). For example, the Chief of the CAP Legal Officer Corps is responsible for managing legal officers serving at National Headquarters and region legal officers. The region legal officer has the same responsibility with respect to region headquarters and wing legal officers. The wing legal officer is responsible for managing all subordinate legal officers; this responsibility will not be delegated to groups or below.

5. Legal Officer Reporting.

a. Legal officers, while performing as such, shall report to a corporate officer or to a commander who has delegated authority from a corporate officer pursuant to CAPR 20-1. In addition, a legal officer may report directly to or through legal officers who do report to a corporate officer (e.g., a squadron legal officer may report to a group legal officer, who reports to a wing legal officer who reports to a regional legal officer who reports to the Chief of the CAP Legal Officer Corps). Members serving as legal officers are encouraged to accept and serve in other additional assignments, to the extent permitted by their professional responsibilities. Legal officers shall also report to the commander of the unit to which they are assigned for receipt of specific tasking as a legal officer as well as for assignments not related to their status as a legal officer (emergency services missions and government relations assignments are examples of these).

b. Legal officers will report National Legal Officers College (NLOC) completion in accordance with CAPR 50-17, paragraph 6-3f. NOTE: The Civil Air Patrol, at its discretion, may provide a course fee waiver or a full or partial scholarship, dependent on available scholarship funds, for any attorney, member or non-member, who wishes to attend NLOC, but for whom the cost would be a financial hardship. To apply, applicants must submit a request, on letterhead if possible, to the NLOC Director stating the reason for their interest, proof of income or an explanation of their financial hardship, and a completed course registration form at least 30 days before the registration deadline for each bi-annual NLOC. Scholarships will be awarded on a space-available basis, with preference given to applicants in order of date submitted.

6. Implementing Legal Holds.

a. Reasonable anticipation of litigation arises when Civil Air Patrol is on notice of a credible threat it will become involved in litigation or anticipates taking action to initiate litigation. Civil Air Patrol has a duty to preserve information relevant to such litigation when a reasonable anticipation of litigation arises.

b. When a duty to preserve information arises, reasonable steps should be taken to identify and preserve relevant information as soon as is practicable. Consequently, a legal officer may, as determined by the particular circumstances in his or her reasonable legal judgment, issue a written legal hold directing persons likely to have relevant information in their possession, custody or control, to preserve such information and/or to provide the originals or copies of such information to the legal officer issuing such legal hold, in either case until otherwise directed by the General Counsel.

c. Following the issuance of a legal hold, the legal officer issuing such a hold shall within twenty-four (24) hours inform (i) the commander to whom he or she reports (directly or through a superior legal officer) and (ii) the General Counsel of the imposition of the hold, the circumstances surrounding the legal hold and the circumstances giving rise to the reasonable anticipation of litigation.

d. The provisions of this regulation shall not prevent or prohibit any commander from issuing a legal hold. The provisions of this regulation shall not be construed to limit, repeal or modify any other regulations that permit or direct the preservation of evidence.

7. Suspension/Disbarment. If at any time the authority or license of a CAP legal officer in any state is suspended or terminated, the legal officer shall immediately advise the commander to whom he or she is assigned and his or her managing legal officer and shall be immediately on suspended status with regard to his or her duties as legal officer. In the event that the legal officer is disbarred, he or she shall be relieved of his or her duties as legal officer and an investigation shall be undertaken to determine if membership termination is warranted.

8. Uniforms and Insignia:

a. Legal officers are not required to wear a uniform unless required by a specific activity. When the uniform is worn, it will be worn as prescribed by CAPM 39-1, *CAP Uniform Manual*. Any CAP uniform, including the CAP blazer combination or appropriate civilian attire, may be worn.

b. Legal insignia, badges and certification patches, will be prescribed by CAPM 39-1. Wear of the legal officer badge is restricted to members currently assigned as legal officers.

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Commander