



THE SECRETARY OF THE NAVY
WASHINGTON DC 20350-1000

APR - 5 2022

From: Secretary of the Navy
To: President, FY-23 Active-Duty Rear Admiral (lower half)
Staff Corps (Judge Advocate General's Corps) Promotion
Selection Board

Subj: ORDER CONVENING THE FY-23 PROMOTION SELECTION BOARD TO
CONSIDER OFFICERS IN THE JUDGE ADVOCATE GENERAL'S CORPS
ON THE ACTIVE-DUTY LIST OF THE NAVY FOR PERMANENT
PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF)

Ref: (a) FY-23 Active-Duty and Reserve Navy Flag Officer
Promotion Selection Board Precept

Encl: (1) Board Members
(2) Board Recorders and Administrative Support
(3) Statutory and Regulatory Promotion Objectives

1. Date and Location

a. The promotion selection board, consisting of you as president and the officers listed in enclosures (1) and (2), are ordered to convene at the Navy Personnel Command, Millington, TN, at 0800, Wednesday, May 11, 2022, or as soon as practicable thereafter.

b. The board shall proceed in accordance with all guidance in this letter, the FY-23 Active-Duty and Reserve Navy Flag Officer Promotion Selection Board Precept, reference (a), and Statutory and Regulatory Promotion Objectives, enclosure (3).

2. Promotion Board Authorized Selections. The zones for selection to flag have been set forth in NAVADMIN 092/22. The board may recommend the number I have provided below.

COMPETITIVE CATEGORY

NUMBER TO SELECT

Staff Corps

Judge Advocate General's Corps

1

3. Best and Fully Qualified Selection Standard

a. Fully Qualified. The officer recommended for promotion must be fully qualified; that is, the officer recommended must be capable of performing the duties of the next higher pay

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grade. Officers who do not meet this standard shall not be recommended for promotion.

(1) Officers fully qualified for promotion demonstrate an appropriate level of leadership, professional skills, integrity, management acumen, grounding in business practices, and resourcefulness in difficult and challenging assignments. Their personal and professional attributes include adaptability, intelligent risk-taking, critical thinking, innovation, adherence to Navy and Department of Defense ethical standards, physical fitness, and loyalty to the Navy core values.

(2) There should be no restrictions on an officer's assignability. An officer, once selected, must be capable of being assigned to a flag officer billet immediately upon confirmation by the U.S. Senate. This is an essential element of a fully qualified officer.

(3) The Navy is composed of men and women representing dozens of different ethnic groups and hundreds of cultural heritages. Fully qualified officers must have shown the ability to successfully lead and mentor a diverse workforce, while executing the Navy's strategic diversity initiatives and effectively retaining the right quality and quantity of performance-proven personnel.

b. **Best Qualified.** Among the fully qualified officers, you must recommend for promotion the best qualified officer. The following core considerations should guide your recommendations. Members assigned to brief individual records are expected to use these considerations to guide the review and structure of their briefs. Each board member is expected to apply this guidance when deliberating and voting. Considerations are:

(1) **Proven and Sustained Performance**

(a) You are statutorily required to pick the best officer. Proven and sustained superior performance in leadership positions in difficult and challenging assignments is the ultimate test of fitness for promotion. This is the number one factor that should guide your recommendation.

(b) Our dynamic Navy requires equal consideration to those who have served in non-traditional, combat-related, nation-building roles. Successful performance and leadership

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demonstrates exceptional promotion potential and should be given special consideration.

(c) You should also consider for promotion those men and women possessing the education, experience, and language skills that help improve the Navy's gender and cultural awareness, and those who demonstrate mentoring skills that enhance the professional development of the Navy's future male and female leaders and the wide and varied diversity of the Navy.

(d) A critical goal of the Navy is to encourage -- to demand -- innovation and efficiency to ensure that we retain an adaptive, flexible, and effective naval force able to anticipate events and win across the spectrum of conflict. In your consideration, recognize that the continued preeminence of the Navy in the future is inextricably linked to its ability to successfully change and to manage for efficiency. Our future depends on male and female leaders who have demonstrated their awareness of this fact. Within the charter of best and fully qualified, seek to select this officer. Likewise, we must not restrict or limit the opportunity of any officer to think creatively, develop new ideas, take prudent risks, and maximize capabilities through sound management practices. Bear in mind that, in the context of a changing Navy, officers demonstrating innovative thinking, efficient management skills, prudent risk-taking, and effective business practices, may reflect a variety of backgrounds.

(2) Education/ Personal and Professional Development

(a) The Navy's ability to support future operational requirements depends on a well-educated and trained officer workforce. The Navy needs officers who have helped create a culture of continuous learning demonstrated by his or her professional development through education and training. You shall favorably consider professional military education (PME), relevant graduate education, and experience in specialized areas. The PME Continuum integrates four components of education: advanced education, Navy-specific professional military education (NPME), JPME, and leadership development. Best and fully qualified candidates seek opportunities to improve performance by increasing their knowledge throughout their careers.

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(b) Applying advanced education in subspecialty
tours and achieving specialized skills as reflected in
Additional Qualification Designator codes are significant career
milestones.

(3) **Joint Duty.** Judge advocates receive a professional
waiver under DoD Instruction 1300.19, and need not be designated
a Joint Qualified Officer (JQO) prior to promotion to flag rank.
In making your determination of the officer who is best and
fully qualified for selection, view joint duty assignments as
having the same value as similar assignments in the Navy (e.g.,
Joint Staff is equal to OPNAV staff; combatant commander staff
is equal to Navy Fleet commander staff).

(4) **Demonstration of Core Attributes.** The challenges
facing our Navy are growing in scope, scale, and pace. To meet
these challenges, the Navy needs male and female leaders who
have demonstrated estimable character and are prepared for
decentralized operations. You should give careful consideration
to officers who demonstrate the four core attributes that guide
our decisions and actions: integrity, accountability,
initiative, and toughness. Integrity may be demonstrated, as an
individual or as a team member, when an officer displays conduct
that is upright and honorable, and works to strengthen the
resolve of their peers, superiors, and subordinates.
Accountability may be demonstrated by achieving and maintaining
high standards, honestly assessing progress, and adjusting as
required. Officers demonstrate initiative by taking ownership,
acting to the limit of their authorities, and looking at new
ideas with an open mind. Toughness can mean marshalling all
sources of strength and resilience, including rigorous training,
encouraging the fighting spirit of our people, and providing
steadfast support of our families. Officers who demonstrate
these core attributes ensure the U.S. Navy remains the world's
finest Navy and deserve your careful consideration when
selecting the officer who is best and fully qualified.

4. Equal Opportunity Guidance

a. Diversity is the strength of Our Nation. The Navy benefits
when we capitalize on the diverse experience, perspective,
innovative spirit, background, and ideas in our ranks.
Diversity is not founded on statistics, percentages, or quotas.
Diversity is about achieving peak performance. Our Navy should
draw upon the entire possible set of talents and backgrounds to

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maximize our warfighting capability, innovate to address new threats and challenges, and take advantage of emergent opportunities.

b. The Department of the Navy is dedicated to equality of treatment and opportunity for all personnel without regard to race, religion, color, sex (including pregnancy), gender, gender identity, sexual orientation, or national origin. Discrimination on any of these bases is contrary to the Department's core values of honor, courage, and commitment. The Navy strives to maintain a professional working environment in which an individual's race, religion, color, sex (including pregnancy), gender, gender identity, sexual orientation, or national origin will not limit his or her professional opportunities. Accordingly, within this board's charter to determine the officer who is "best and fully qualified," you must ensure that officers of every race, religion, color, sex (including pregnancy), gender, gender identity, sexual orientation, and national origin are given fair and equitable consideration.

c. Your evaluation of all officers must be fair and equitable. You should be particularly vigilant in your evaluation of records to take care that no officer's promotion opportunity is disadvantaged by service utilization policies or practices. You should evaluate each officer's potential to assume the responsibilities of the next higher grade, including his or her ability to successfully lead a diverse organization, the overriding factor being performance of assigned duties.

d. Impermissible Considerations. Promotion boards are prohibited from considering the following:

(1) The marital status, civilian employment, religion, or volunteer service of an officer;

(2) Any information regarding an officer's spouse, including, but not limited to, civilian or military employment, education, race, religion, color, sex (including pregnancy), gender, gender identity, sexual orientation, national origin, and volunteer service;

(3) An officer's previous decision to opt out of a promotion selection board; and

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(4) An officer's previous participation in the Career Intermission Program.

e. The Navy has assigned some officers outside of traditional career development patterns, e.g., institutional instructors, diversity officers, recruiting, and equal opportunity billets. These assignments, though greatly beneficial to the Navy, may have foreclosed to the officers so assigned opportunities available to other officers. In addition, other utilization policies or practices, such as those based on statutory restrictions on the assignment of women, may have had an effect on career opportunities. Such assignment practices should not prejudice the selection of these men and women for promotion; to do so may deny the Navy the diversity of talent, background, and experience we should seek and which is necessary for sustained success in our changing world. Successful performance of duties assigned is the key in measuring an officer's potential for promotion; duty performed well by men and women affected by such utilization policies or practices should be given weight equal to duty performed well by an officer not affected by such policies or practices.

f. This guidance shall not be interpreted as requiring or permitting preferential treatment of any officer or group of officers on the grounds of race, religion, color, sex (including pregnancy), gender, gender identity, sexual orientation, or national origin.

5. **Competency and Skill Guidelines**. The officer selected for promotion to the grade of rear admiral (lower half) will serve as the Navy Lead Special Trial Counsel. In accordance with paragraph 3b of this convening order, the officer recommended for promotion will be the one whom the majority of the members of the board considers best qualified; that is, the officer determined to be the most capable of performing the duties and responsibilities of the Navy Lead Special Trial Counsel. Per title 10, U.S. Code, section 615(b)(4), the board shall apply the following guidelines relating to the Navy's need for a rear admiral (lower half) who possesses the competencies and skills indicated. Each board member is expected to apply this guidance.

a. **Navy Lead Special Trial Counsel**. The Navy Lead Special Trial Counsel will be responsible for the overall supervision and oversight of the activities of the special trial counsel of

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the Navy. The Navy Lead Special Trial Counsel will lead the Navy Office of Special Trial Counsel (OSTC), a global enterprise that will report directly to the Secretary of the Navy. The mission of the OSTC will be to provide highly skilled, specialized, and ethical representation of the United States in the investigation and trial-level litigation of all covered offenses. Covered offenses are Articles 117a (wrongful broadcast or distribution of intimate visual images), 118 (murder), 119 (manslaughter), 120 (rape and sexual assault), 120b (rape and sexual assault of a child), 120c (other sexual misconduct), 125 (kidnapping), 128b (domestic violence), 130 (stalking), 132 (retaliation), 134 (only the offense of child pornography), and conspiracy, solicitation or attempt to commit one of these offenses.

b. **Core Considerations.** In determining the officer who is best qualified to perform the duties of the Navy Lead Special Trial Counsel, the following core considerations will guide your recommendation.

(1) **Military Justice Expertise.** The selected officer must be highly skilled and experienced in military justice, specifically the investigation and trial-level prosecution of covered offenses. The required level of skill and experience is generally developed through multiple litigation tours including as a trial and defense counsel and senior trial and defense counsel, especially those who served as senior trial and defense counsel of large litigation teams (e.g. Norfolk, San Diego, Jacksonville). Judge advocates holding the qualification of "expert" in the military justice litigation career track (MJLCT) have demonstrated significant qualitative and quantitative military justice litigation experience and leadership of judge advocates. Officers designated as expert in the MJLCT generally have more than 12 years of litigation experience, including as both trial and defense counsel and potentially as a military judge, and have substantially participated in over 50 courts-martial as either counsel or military judge. The selected officer should have similar experience to an expert in MJLCT, and designation of an officer as MJLCT expert shall be given favorable consideration. The board shall give favorable consideration to those officers who have demonstrated superior performance while holding billets requiring military justice significant experience and an in-depth knowledge of military justice. Such billets include, but are not limited to, trial counsel, defense counsel, OJAG (Criminal Law Division), Naval

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Justice School instructor in criminal law or trial advocacy,
Trial and Defense Counsel Assistance Program, SJA positions with
a significant military justice component, appellate counsel,
military trial judge, and military appellate judge.

(2) **Military Justice Supervision in the Navy.** The selected officer will oversee all trial-level prosecutions of covered offenses. The board shall give favorable consideration to those officers who have proven performance in leadership positions related to military justice. Such billets include, but are not limited to, Senior Defense Counsel or Senior Trial Counsel, Commanding Officer or Executive Officer, OJAG Division Director, Chief Circuit Judge (trial level), Chief Judge Navy-Marine Corps Trial Judiciary, Senior Judge Navy-Marine Corps Court of Criminal Appeals, Chief Judge Navy-Marine Corps Court of Criminal Appeals, and Assistant Judge Advocate General (Chief Judge, Department of the Navy).

(3) **Performance in Command.** Performance in command is the defining test for all top naval officers, and demonstrated success in command represents the preeminent test of an officer's leadership and judgment. The selected officer will lead the largest prosecution office in the Navy, as all special trial counsel, special trial counsel paralegals and administrative support personnel, will be assigned to the OSTC. The selected officer will be responsible for the training and professional development of these personnel. Accordingly, success in command shall be given favorable consideration.

(4) **Leadership and Alignment to Serving the Fleet and Shore Establishment.** The Lead Special Trial Counsel reports directly to the Secretary of the Navy, without intervening authority, and must coordinate closely with the Secretary of the Navy and other senior leaders on a wide range of matters related to the OSTC legal services and allocation of legal resources. In his or her past assignments, the officer you select must have demonstrated the ability to form cohesive teams, to provide oversight of legal services performed by others, and to meet the legal needs of the Fleet and Warfighter. These and other traits of superior leadership may be developed and demonstrated in billets both inside and outside the officer's military justice experience.

(5) **Legal Supervision and Independence.** The Lead Special Trial Counsel performs an important role in ensuring

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that legal services are competently and professionally performed, without conflicts of interest or violations of the rules of professional responsibility. In fulfilling these responsibilities, the Lead Special Trial Counsel will operate independently of the military chains of command of both victims of alleged covered offenses and those accused of covered offenses. In addition, the officer you select will work closely with the Secretary of the Navy and others across the Department of the Navy, and must conduct all assigned duties free from unlawful or otherwise unauthorized influence or coercion.



Carlos Del Toro

STATUTORY AND REGULATORY PROMOTION OBJECTIVES

(These objectives DO NOT alter the best and fully qualified selection standard discussed in the convening order)

1. **Statutory Joint Objectives**. For officers assigned to joint duty, within the best and fully qualified standard, the board shall strive to ensure that the following statutory promotion objectives are achieved:

a. Officers who are serving, or have served, on the Joint Staff (JS) are expected, as a group, to be promoted to the next higher grade at a rate not less than the rate for officers in the same grade and competitive category who are serving, or have served, at Navy Headquarters; and,

JS Rate \geq HQ Rate of Selection

b. Officers in the grades of lieutenant commander and above, who have been designated as a joint qualified officer (JQO), are expected, as a group, to be promoted to the next higher grade at a rate not less than the rate for all officers in the same grade and competitive category.

JQO Rate \geq Overall Selection Rate for Category

2. **Regulatory Objective**. Although not contained in statute, the Secretary of Defense has established an additional promotion objective as a matter of policy. Officers who are serving, or have served since being considered by the most recent promotion board, on the staff of the Secretary of Defense will, as a group, be promoted to the next higher grade at a rate not less than the rate for officers in the same grade and competitive category who are serving, or who have served since being considered by the most recent promotion board, at Navy Headquarters.

OSD Rate \geq HQ Rate of Selection

3. Prior to adjournment, the board must review the extent to which the statutory and regulatory promotion objectives have been met.