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Law

**JUDGE ADVOCATE CONTINUATION PAY
(JACP) PROGRAM**

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(Captain Theresa A. Bruno)
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This instruction sets eligibility requirements and governs the judge advocate continuation pay program (JACP) for all Air Force judge advocates. This program does not apply to Air Force Reserve or Air National Guard judge advocates. This publication implements Air Force Policy Directive (AFPD) 51-13, *Judge Advocate Incentive and Special Pay Programs*.

This instruction requires the collection and maintenance of information protected by the Privacy Act of 1974. Title 37 United States Code (U.S.C.) Section 321 authorizes collection and maintenance of the information; System of Records Notice, T7340, and Defense Joint Military Pay System-Active Component apply. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFPD 37-1, *Air Force Information Management* and AFMAN 37-123, *Management of Records*, and disposed of in accordance with the *Air Force Records Disposition Schedule (RDS)* located at <https://webrims.amc.af.mil>. Refer to **Attachment 1** for glossary of references and supporting information.

SUMMARY OF REVISIONS

This document is substantially revised and must be completely reviewed.

This instruction revises AFI 51-1301. In addition to updating office symbols and references to Air Force Instructions, it makes several substantive changes: It revises the payment options by reducing to two the number of Judge Advocate Continuation Pay (JACP) contracts; amends the length of JACP contracts; provides that all payments will be made in lump sum amounts; includes guidance on reasons for disapproving a JACP application; adds provisions on processing disapproved JACP applications; and eliminates the need for judge advocates to provide an endorsement statement with their application in those cases where JAX is the JACP supervisor.

Chapter 1

PROGRAM ELEMENTS

1.1. Determining Eligibility. The Office of Professional Development, Office of The Judge Advocate General (HQ USAF/JAX) determines whether a judge advocate is eligible to apply for, and receive, Judge Advocate Continuation Pay (JACP). In order to be eligible for JACP, a judge advocate must:

- 1.1.1. Be an Air Force officer on full-time active duty.
- 1.1.2. Be qualified, designated and serving as a judge advocate as defined in 10 U.S.C. § 801.
- 1.1.3. Have completed the active duty service commitment (ADSC) incurred upon initial entry into The Judge Advocate General's Corps (TJAGC) of the United States Air Force.
- 1.1.4. Have served no more than eight years and 30 days Total Active Federal Commissioned Service (TAFCS) at the time the judge advocate signs the JACP application.
- 1.1.5. Not have an approved retirement or separation date. Approved retirement or separation dates may be withdrawn prior to submitting an application for JACP.
- 1.1.6. Not have participated in the Funded Legal Education Program (FLEP).

1.2. JACP Active Duty Service Commitment (ADSC).

- 1.2.1. Judge advocates with approved JACP contracts incur an ADSC equal to the JACP contract length. For example, judge advocates who enter into a two-year JACP contract incur a two-year ADSC; and judge advocates entering into a four-year contract incur a four-year ADSC. JACP ADSCs will be served concurrently with any non-JACP ADSCs unless otherwise specified in Air Force Instructions.
- 1.2.2. Judge advocates entering into a JACP contract are not guaranteed selection for Conditional Reserve Status (CRS) or continued active duty military service. For example, a judge advocate who has been twice deferred for promotion may be separated before they have fulfilled their JACP ADSC. The recoument provisions in Para [1.4.](#), below, will apply.

1.3. JACP Contract Payment Rates, Length, and Proration. Eligible judge advocates may receive not more than \$60,000 in JACP payments. Payment of applicable federal and state income taxes is the responsibility of the JACP recipient. All payments made will be in lump sum amounts in accordance with [Table 1.1.](#)

Table 1.1. JACP Contract Availability.

Status of Judge Advocate	Contract Length Available	Lump Sum Amount Paid for Contract
Has completed initial ADSC of 4 years incurred upon entry to TJAGC and has 4 years TAFCS (see Note 1)	2 years	\$20,000
Is within 30 days before or 30 days after 5 years TAFCS, has not entered into a JACP contract previously and has completed the initial ADSC incurred upon entry into TJAGC (see Note 2)	No contract available until 6 years TAFCS	Not available
Is within 30 days before or 30 days after 6 years TAFCS	4 years	\$40,000
Is within 30 days before or 30 days after 7 years TAFCS, has not entered into a JACP contract previously and has completed the initial ADSC incurred upon entry into TJAGC (see Note 2)	3 years	\$30,000
Is within 30 days before or 30 days after 8 years TAFCS, has not entered into a JACP contract previously and has completed the initial ADSC incurred upon entry into TJAGC (see Note 2)	2 years	\$20,000
Has between 8 and 10 years TAFCS (see Note 2)	No contract available	Not available
Has 10 or more years TAFCS	No contract available	Not available
Has existing JACP contract that was signed between 1 October 2001 and the date of this AFI	Contact HQ USAF/JAX	Contact HQ USAF/JAX

NOTES:

1. This option applies only to judge advocates accessed into TJAGC through the Direct Appointment Program, One Year College Program, Graduate Law Program, and Educational Delay Program or who otherwise enter TJAGC with no prior commissioned service.
2. This option only applies to judge advocates accessed into TJAGC with prior commissioned service who enter TJAGC through the following programs: intraservice or interservice transfer, the Direct Appointment Program, the Excess Leave Program, recall and any other such program where the judge advocate enters TJAGC with prior commissioned service.

1.4. JACP Recoupment. HQ USAF/JAX initiates JACP recoupment in accordance with 37 USC § 321 when a judge advocate fails to complete their agreed-upon JACP ADSC for any reason except due to the judge advocate's death occurring in the line of duty, or as waived by the Secretary of the Air Force. Recoupment will be an amount that bears the same ratio to the total payment made to the officer as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve.

1.5. Release from JACP-Incurred ADSC. Judge advocates with JACP contracts desiring to separate from the Air Force prior to completing their JACP ADSC may submit a request through their respective Air Force judge advocate supervisory chain to TJAG. Recoupment provisions as provided in Para 1.4. will apply.

1.6. The Judge Advocate General (TJAG). TJAG is the final approval or disapproval authority for JACP contracts and their modification. In addition, TJAG will recommend the approval or disapproval of any change to a judge advocate's JACP ADSC to HQ AFPC/DPPR.

Chapter 2

APPLYING FOR JACP

2.1. Judge Advocates. Review this instruction before requesting counseling from JACP Supervisors. JACP is not an entitlement and is subject to the provisions of this AFI. While HQ USAF/JAX will attempt to contact JACP-eligible judge advocates concerning JACP, the burden rests on the individual judge advocate to confirm JACP eligibility with HQ USAF/JAX.

2.1.1. Judge advocates become eligible for JACP IAW the requirements of Para 1.1. and Table 1.1. and upon completing the initial ADSC incurred upon entering TJAGC, which is referred to as the JACP eligibility date.

Table 2.1. Eligibility Window to Apply for JACP.

Status of Judge Advocate	When JACP Eligibility Occurs (Eligibility Window)	If No JACP Application Submitted During Eligibility Window
Has completed initial ADSC of 4 years incurred upon entry into TJAGC and has 4 years TAFCS	The period 30 days before to 30 days after completion of the ADSC incurred upon entry into TJAGC	Next eligibility window at completion of 2 additional years of service
Has 5 years TAFCS, has not entered into a JACP contract previously and has completed the initial ADSC incurred upon entry into TJAGC	No contract available until 6 years TAFCS	Eligibility window available at 6 years TAFCS
Has 6 years TAFCS	The period 30 days before to 30 days after reaching 6 years TAFCS	No further eligibility
Has 7 years TAFCS, has not entered into a JACP contract previously and has completed the initial ADSC incurred upon entry into TJAGC	The period 30 days before to 30 days after completing initial ADSC incurred upon entry into TJAGC	No further eligibility
Has 8 years TAFCS, has not entered into a JACP contract previously and has completed the initial ADSC incurred upon entry into TJAGC	The period 30 days before to 30 days after completing initial ADSC incurred upon entry into TJAGC	No further eligibility
Has between 8 and 10 years TAFCS	No contract available	Not applicable

Status of Judge Advocate	When JACP Eligibility Occurs (Eligibility Window)	If No JACP Application Submitted During Eligibility Window
Has 10 years or more TAFCS	No contract available	Not applicable
Has existing JACP contract that was signed between 1 October 2001 and the date of this AFI	The period 30 days before to 30 days after the expiration of the existing JACP contract	No further eligibility

2.2. JACP Supervisor Responsibilities. Ordinarily, the JACP Supervisor is the JACP-eligible judge advocate's rater. For example, at a typical Air Force wing legal office, the Staff Judge Advocate is the JACP Supervisor. (See **Attachment 1 - Terms** for additional JACP Supervisor examples). In non-standard situations, HQ USAF/JAX will designate a JACP Supervisor at the request of the JACP applicant. JACP Supervisors are responsible for ensuring eligible judge advocates review this instruction and will counsel eligible judge advocates on the JACP program, to include: payment amounts, related ADSC, JACP effective date, and potential recoupment issues.

2.2.1. The Chief, HQ USAF/JAX is the JACP Supervisor for certain JACP-eligible judge advocates (e.g., LL.M. students). As a JACP Supervisor, the Chief, HQ USAF/JAX will prepare and submit a Rater's Indorsement Memorandum (see **Attachment 3**) with any submitted JACP contract.

2.3. Processing JACP Application - JACP Supervisors. JACP Supervisors must recommend a judge advocate's JACP application be either approved or disapproved.

2.3.1. Approval Recommendations:

2.3.1.1. For judge advocates applying for JACP during their JACP eligibility window, circle "Recommend Approval" on the JACP contract (see **Attachment 2**).

2.3.1.2. Send the original, signed JACP application and forward through all intervening levels of judge advocate supervision to HQ USAF/JAX (e.g., NAF SJA, MAJCOM SJA, or CCDC, JAJD, AFLSA/CC).

2.3.2. Reasons for recommending disapproval of a judge advocate's request include, but are not limited to:

2.3.2.1. Potential or ongoing investigation into a military or civil offense(s).

2.3.2.2. Potential involuntary separation action under AFI 36-3206, *Administrative Discharge Procedures* or AFI 36-3207, *Separating Commissioned Officers*.

2.3.2.3. Misconduct or substandard duty performance rendering the officer a poor candidate for retention on active duty.

2.3.3. Disapproval Recommendations:

2.3.3.1. Circle "Recommend Disapproval" on the JACP application and provide sufficient endorsement or separate memorandum and any pertinent documents substantiating why the judge advocate's JACP application should be disapproved.

2.3.3.2. Judge advocates must be counseled on the reason(s) their JACP application is recommended for disapproval. JACP Supervisors, or the judge advocate recommending that a JACP application be disapproved, must provide the judge advocate with a copy of the disapproval endorsement or memorandum and have the applicant sign a written acknowledgment and receipt. Applicants may submit a rebuttal to the disapproval endorsement or memorandum within 14 calendar days. JACP Supervisors, or the judge advocate recommending that a JACP application be disapproved, may grant reasonable extensions to the 14 calendar day response time period. If no rebuttal is received within 14 calendar days, or approved extension thereof, the JACP applicant forfeits any opportunity to respond. If the JACP applicant provides a rebuttal to the disapproval endorsement or memorandum, the JACP Supervisor may further comment on the merits of the applicant's submission. However, if the JACP Supervisor includes additional matters not previously provided to the JACP applicant, the applicant must be provided with the new information and allowed 14 calendar days to respond. Forward the judge advocate's JACP application, along with the disapproval recommendation document(s) and rebuttal (if any), through all levels of intermediate Air Force judge advocate supervisory chain to TJAG for final action. If at any point in the judge advocate supervisory chain, a recommendation for disapproval is made, the rebuttal provisions of this Paragraph shall apply.

2.4. Processing JACP Applications - Judge Advocate Supervisory Chain. JACP Supervisors forward completed JACP applications through their Air Force judge advocate supervisory chain. In most instances, the first level in the Air Force judge advocate supervisory chain is the general court-martial convening authority (GCMCA) staff judge advocate. For judge advocates who do not have a first level Air Force judge advocate supervisor, contact HQ USAF/JAX regarding processing of JACP applications. GCMCA staff judge advocates will review all forwarded JACP applications and recommend either their approval or disapproval. The GCMCA staff judge advocate's recommendation will be forwarded to the next level in the judge advocate's supervisory chain. If the judge advocate's application is recommended for disapproval at the GCMCA level, refer to the procedures in Para [2.3.3.2.](#), above.

2.5. Processing JACP Applications - Major Command (MAJCOM), or equivalent, Responsibilities. MAJCOM, or equivalent, staff judge advocates will review all forwarded JACP applications and recommend approval or disapproval and will forward to HQ USAF/JAX. If the judge advocate's application is recommended for disapproval at the MAJCOM level, refer to the procedures in Para [2.3.3.2.](#)

2.6. Processing JACP Applications - HQ USAF/JAX Responsibilities. When JACP applications are forwarded by the MAJCOM, or equivalent, HQ USAF/JAX will verify their completeness and ensure a judge advocate's eligibility status has not changed since the judge advocate signed the application. In addition, as the office of primary responsibility for JACP, HQ USAF/JAX will:

2.6.1. Forward all approved JACP contract payment information to Defense Finance and Accounting Service and update ADSCs as required upon TJAG approval of the contract.

2.6.2. Retain completed (approved and disapproved) JACP contracts and all allied documents in accordance with Air Force Manual (AFMAN) 37-138, *Records Disposition -- Procedures and Responsibilities.*

2.7. The Judge Advocate General. HQ USAF/JAX will forward all JACP contracts to TJAG for final decision.

THOMAS J. FISCUS, Major General, USAF
The Judge Advocate General

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Title 10, U.S.C., Section 801

Title 37, U.S.C., Section 321

AFI 36-3206, *Administrative Discharge Procedures for Commissioned Officers*

AFI 36-3207, *Separating Commissioned Officers*

AFMAN 37-138, *Records Disposition -- Procedures and Responsibilities*

AFMAN 37-123, *Management of Records*

AFPD 37-1, *Air Force Information Management*

Abbreviations and Acronyms

ADSC—Active Duty Service Commitment

AFI—Air Force Instruction

AFMAN—Air Force Manual

CRS—Conditional Reserve Status

DFAS—Defense Finance and Accounting Service

DOS—Date of Separation

ELP—Excess Leave Program

FLEP—Funded Legal Education Program

GCMCA—General Court-Martial Convening Authority

JACP—Judge Advocate Continuation Pay

JAX—Office of Professional Development, Office of The Judge Advocate General

LL.M.—Master of Laws

MAJCOM—Major Command

TAFCS—Total Active Federal Commissioned Service

TJAG—The Judge Advocate General

TJAGC—The Judge Advocate General's Corps

U.S.C.—United States Code

Terms

JACP Application—A judge advocate eligible for JACP under this instruction may submit an application for JACP. A JACP application becomes a legal contract when approved by TJAG, who serves

as the final JACP approval authority.

JACP Contract—The judge advocate's approved application for JACP. After TJAG signs the contract, it becomes a legal agreement between the United States and the judge advocate. *See* [Attachment 2](#).

JACP Approval Authority—TJAG is the final JACP approval authority.

JACP Eligibility Window—The period from 30 days before to 30 days after a judge advocate's completion of the ADSC incurred upon entry into TJAGC. The eligibility window to sign a second or third JACP contract is the period between 30 days before or 30 days after the date on which the first contract expires.

JACP Supervisor—The judge advocate who counsels JACP-eligible judge advocates and recommends approval or disapproval of a judge advocate's JACP application. At a typical Air Force legal office, at any level, the SJA is normally the JACP Supervisor. For judge advocates assigned as Area Defense Counsel or Circuit Defense Counsel, the Chief Circuit Defense Counsel is the JACP Supervisor. For judge advocates assigned as Circuit Trial Counsel, the Chief Circuit Trial Counsel is the JACP Supervisor. For all other judge advocates assigned to Air Force Legal Services Agency and judge advocates assigned to Headquarters, United States Air Force, the Division Chief is the JACP Supervisor. For all others, HQ USAF/JAX is the JACP Supervisor.

Attachment 2

SAMPLE JUDGE ADVOCATE CONTINUATION PAY (JACP) CONTRACT

CONDITIONS OF CONTRACT. Pursuant to 37 USC § 321 and AFI 51-1301, I understand and agree that:

a. I _____ (name/rank/SSN) _____ agree to remain on active duty as a judge advocate as a result of contracting for JACP on this day _____ (date signed), in return for \$_____.

b. I understand that I will incur an active duty service commitment (ADSC) of _____ years, effective _____. This ADSC will be served concurrent with other non-JACP commitments and consecutive to any other JACP commitment I may have incurred.

c. I recognize that JACP payments are an advance payment for future services. I further understand that:

If I fail to fulfill any ADSC related to this JACP contract, that any unearned portion of JACP will be considered a debt to the United States Government and recouped IAW AFI 51-1301 and 37 USC § 321. I further acknowledge that I cannot legally discharge the debt through bankruptcy.

d. This contract does not guarantee that I will be allowed to continue to serve on active duty until I complete the JACP ADSC established under this contract.

e. I understand that if I am mistakenly paid JACP, the amount paid will be recouped.

f. I have read and thoroughly understand the above statement of terms under which I am receiving JACP (including all statutes, directives, policies and regulations incorporated by reference). I certify that no promise of any kind has been made to me concerning an assignment as an inducement to sign this contract. I understand that this is the entire contract between the United States Air Force and myself and that there are no oral or other contracts, understandings, or representations affecting the contract or relating to my military service, except as otherwise specifically provided herein.

_____ (signature) _____

Typed Name/Grade/Date

Recommend Approval/Recommend Disapproval*

Memo Is Attached/Is Not Attached

_____ (signature) _____
Typed Name/Grade of JACP Supervisor/Date

Recommend Approval/Recommend Disapproval*

Memo Is Attached/Is Not Attached

_____ (signature) _____
Typed Name/Grade of Intermediate JAG Reviewer/Date

Recommend Approval/Recommend Disapproval

Memo Is Attached/Is Not Attached

_____ (signature) _____
Typed Name/Grade of Intermediate JAG Reviewer/Date

Approved/Disapproved

(Insert TJAG's Name)
Major General, USAF
The Judge Advocate General

Date

* In the event of disapproval, see Para [2.3.3.2.](#) and [Attachment 4.](#)

PRIVACY ACT STATEMENT

AUTHORITY: Title 37, United States Code, Section 321(b)

PURPOSE: To provide necessary information for the approval/disapproval authority to determine if applicant meets all requirements for the payment of Judge Advocate Continuation Pay.

ROUTINE USES: For processing activities and the approval/disapproval authority to determine if applicant meets all eligibility requirements for the program. Use of SSN is necessary to make positive identification of individual and records.

DISCLOSURE IS VOLUNTARY: If the applicant does not provide the information, however, no further action can be taken on the request and all further processing terminates.

Attachment 3**SAMPLE JUDGE ADVOCATE'S RATER'S INDORSEMENT MEMORANDUM**

(date)

MEMORANDUM FOR AF/JA

FROM: AF/JAX

SUBJECT: JACP Rater's Indorsement - (name of eligible judge advocate)

_____ (name of eligible judge advocate), _____ (judge advocate's Social Security Number),

Has/does not have potential or ongoing investigation into a military or civil offense(s).

Is/is not facing potential involuntary separation action under AFI 36-3206, *Administrative Discharge Procedures* or AFI 36-3207, *Separating Commissioned Officers*.

Has/does not have Misconduct or substandard duty performance rendering the officer a poor candidate for retention on active duty.

Does/does not have a voluntary established date of separation (DOS) or retirement date.

If you have questions, please contact me at DSN _____ , _____ (Office Mailing Address).

(rater's signature)

(typed name, grade rater)

Attachment 4

**SAMPLE JUDGE ADVOCATE CONTINUATION PAY (JACP) DISAPPROVAL
MEMORANDUM**

(date)

MEMORANDUM FOR (ELIGIBLE JUDGE ADVOCATE)

FROM: JACP Supervisor

SUBJECT: Notification for Recommended Disapproval of Judge Advocate Continuation Pay (JACP)

I recommend disapproval of your request for JACP based on (explain reasons here). A copy of this memorandum is attached to your contract and will be forwarded through intermediate judge advocate channels to HQ USAF/JAX. The Judge Advocate General of the Air Force is the final decision authority for your JACP contract request.

You may submit a rebuttal to accompany my recommendation. You must submit your rebuttal to me within 14 calendar days from the date you receive and endorse this memorandum. If you do not submit a rebuttal to me within 14 calendar days, your JACP request and this disapproval memorandum will be forwarded through all intermediate judge advocate channels to HQ USAF/JAX for final processing.

Sign and date acknowledging that you received this memorandum. Indicate in your indorsement if you intend to submit a rebuttal.

(signature)

(typed name, grade JACP Supervisor)

Attachment(s):

As Required

(date)

1st Ind (functional address symbol of eligible judge advocate)

TO: (All intermediate judge advocate channels)

I acknowledge receipt of your recommended disapproval of JACP. I (will) (will not) submit a written rebuttal.

(signature)

(typed name, grade of eligible judge advocate)