

(c) SPECIAL COURTS-MARTIAL.—Special courts-martial are of the following two types:

(1) A special court-martial consisting of a military judge and four members, subject to sections 825(e)(3) and 829 of this title (articles 25(e)(3) and 29).

(2) A special court-martial consisting of a military judge alone—

(A) if the case is so referred by the convening authority, subject to section 819 of this title (article 19) and such limitations as the President may prescribe by regulation; or

(B) if the case is referred under paragraph (1) and, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court composed of a military judge alone and the military judge approves the request.

(d) SUMMARY COURT-MARTIAL.—A summary court-martial consists of one commissioned officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 42; Pub. L. 90-632, §2(3), Oct. 24, 1968, 82 Stat. 1335; Pub. L. 98-209, §3(a), Dec. 6, 1983, 97 Stat. 1394; Pub. L. 107-107, div. A, title V, §582(a), Dec. 28, 2001, 115 Stat. 1124; Pub. L. 114-328, div. E, title LIV, §5161, Dec. 23, 2016, 130 Stat. 2897; Pub. L. 115-91, div. A, title X, §1081(c)(1)(C), Dec. 12, 2017, 131 Stat. 1597.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
816 .....	50:576.	May 5, 1950, ch. 169, §1 (Art. 16), 64 Stat. 113.

The word “The” is substituted for the words “There shall be”. The word “are” is substituted for the word “namely”. The words “not less than five members” are substituted for the words “any number of members not less than five”. The words “not less than three members” are substituted for the words “any number of members not less than three”. The word “commissioned” is inserted before the word “officer” in clause (3) for clarity.

#### AMENDMENTS

2017—Subsecs. (b), (c). Pub. L. 115-91 substituted “sections 825(e)(3) and 829 of this title (articles 25(e)(3) and 29)” for “sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29)” wherever appearing.

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section defined the three kinds of courts-martial in each of the armed forces.

2001—Par. (1)(A). Pub. L. 107-107 inserted “or, in a case in which the accused may be sentenced to a penalty of death, the number of members determined under section 825a of this title (article 25a)” after “five members”.

1983—Par. (1)(B). Pub. L. 98-209 substituted “orally on the record or in writing” for “in writing”.

1968—Pub. L. 90-632 provided that a general or special court-martial shall consist of only a military judge if the accused, before the court is assembled, so requests in writing and the military judge approves, with the added requirements that the accused know the identity of the military judge and have the advice of counsel, and that the election be available in the case of a special court-martial only if a military judge has been detailed to the court.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-91 effective immediately after the amendments made by div. E (§§ 5001-5542) of Pub. L. 114-328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115-91, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title V, §582(d), Dec. 28, 2001, 115 Stat. 1125, provided that: “The amendments made by this section [enacting section 825a of this title and amending this section and section 829 of this title] shall apply with respect to offenses committed after December 31, 2002.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98-209, set out as a note under section 801 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90-632, set out as a note under section 801 of this title.

### § 817. Art. 17. Jurisdiction of courts-martial in general

(a) Each armed force has court-martial jurisdiction over all persons subject to this chapter. The exercise of jurisdiction by one armed force over personnel of another armed force shall be in accordance with regulations prescribed by the President.

(b) In all cases, departmental review after that by the officer with authority to convene a general court-martial for the command which held the trial, where that review is required under this chapter, shall be carried out by the department that includes the armed force of which the accused is a member.

(Aug. 10, 1956, ch. 1041, 70A Stat. 43.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
817(a) .....	50:577(a).	May 5, 1950, ch. 169, §1 (Art. 17), 64 Stat. 114.
817(b) .....	50:577(b).	

In subsection (a), the word “has” is substituted for the words “shall have”.

In subsection (b), the word “after” is substituted for the words “subsequent to”. The words “the provisions of” are omitted as surplusage. The words “department that includes the” are inserted before the words “armed force”, since the review is carried out by the department and not by the armed force.

### § 818. Art. 18. Jurisdiction of general courts-martial

(a) Subject to section 817 of this title (article 17), general courts-martial have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter and may,