

DEPARTMENT OF MILITARY AFFAIRS
OFFICE OF THE DIRECTOR AND ADJUTANT GENERAL
MILITARY APPEALS TRIBUNAL PROCEDURES

(By authority conferred on the adjutant general by section 147 of Act No. 523 of the Public Acts of 1980, being S32.1147 of the Michigan Compiled Laws)

R 32.171 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 523 of the Public Acts of 1980, being S32.1001 et seq. of the Michigan Compiled Laws.

(b) "Tribunal" means the military appeals tribunal established by the act.

History: 1986 AACCS.

R 32.172 Transmittal of documents.

Rule 2. (1) All pleadings and other papers required to be filed with the Military Appeals Tribunal shall be mailed or delivered to the Military Appeals Tribunal, Department of Military and Veterans Affairs, 3411 N. Martin Luther King, Jr., Blvd., Lansing, MI 48906 and are not filed until received in such office.

(2) When the filing of any pleading or other paper is required to be served upon the State Judge Advocate General it shall be mailed to the State Judge Advocate General, Department of Military and Veterans Affairs 3411 N. Martin Luther King, Jr., Blvd., Lansing, MI 48906 and is not filed until received in such office.

History: 1986 AACCS; 2014 AACCS.

R 32.173 Computation of period of time.

Rule 3. In computing any period of time prescribed or allowed by these rules, by order of the tribunal, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

History: 1986 AACCS.

R 32.174 Formal papers; verification; effect of signature.

Rule 4. All formal papers shall be signed, shall be typewritten or printed, and shall show all of the following information with respect to the signor:

(a) Name, address, and telephone number.

(b) Military grade, if any.

(c) The capacity in which the paper is signed. Such signature constitutes a certificate that the statements made therein are true and correct to the best of the knowledge, information, and belief of the person signing the paper and that the paper is filed in good faith and not for purposes of unnecessary delay.

History: 1986 AACCS.

R 32.175 Notice of appearance.

Rule 5. (1) Each appellate counsel shall file a written notice of appearance in the office of the state judge advocate general and with the tribunal.

(2) The filing of any pleading or other paper relative to a case in the office of the state judge advocate general which contains the signature of counsel constitutes notice of appearance for such counsel.

History: 1986 AACCS.

R 32.176 Review.

Rule 6. Under the act, the accused may petition the military appeals tribunal for review not more than 60 calendar days from the time of the receipt of actual notice of the final action on the accused's case. The petition for review shall be accompanied by a brief. Four typewritten or printed copies of the petition and brief shall be filed.

History: 1986 AACCS.

R 32.177 Service of copy of petition for review and brief; default; rebuttal; filing of record with tribunal; amicus curiae brief.

Rule 7. (1) A copy of the petition for review and brief shall be served upon the state judge advocate general and trial counsel within the time limit prescribed in R 32.176.

(2) Within 28 days after service upon him or her of appellant's brief, the trial counsel shall file with the tribunal 4 typewritten or printed copies of his or her brief and shall serve, within the time prescribed in R 32.176, 1 copy on defense counsel.

(3) In the case of default by the trial counsel for failure to serve a brief in a timely manner, trial counsel shall have no right to oral argument, except upon order of the tribunal, and the tribunal may, after notice and opportunity to respond, make such other order or relief as it may deem appropriate, including awarding the appellant all or part of his or her requested relief.

(4) The appellant shall have 14 days from the date of service of appellee's brief to file and serve on appellee his or her brief in rebuttal, if any.

(5) Within 14 days after the accused's petition for review is filed with the tribunal, the state judge advocate general shall file the original and 3 copies of the record with the tribunal.

(6) An amicus curiae brief may be filed only by permission of the tribunal.

History: 1986 AACCS.

R 32.178 Brief format.

Rule 8. Briefs shall be prepared in the format required by the Michigan general court rules for appeals to the court of appeals.

History: 1986 AACCS.

R 32.179 Proof of service; filing.

Rule 9. Proof of service of all petitions, pleadings, briefs, motions, and other documents filed with the tribunal shall be promptly filed with the tribunal.

History: 1986 AACCS.

R 32.180 Oral argument.

Rule 10. (1) Oral argument shall be allowed in all cases.

(2) Each side shall be allowed not more than 30 minutes for oral argument, unless the time is extended by leave of the tribunal.

(3) The tribunal shall give appellate counsel not less than 14 days' notice of the time and place of oral arguments.

(4) The tribunal may limit the number of counsel making an oral argument. The appellant has the right to make opening and closing arguments.

(5) Failure of appellate counsel to appear at the time and place set for oral argument may be regarded as a waiver thereof and the tribunal may proceed to act on the case as submitted without argument or, in its discretion, may continue the case for argument at a later date.

(6) The accused may be present at his or her own expense.

History: 1986 AACCS.

R 32.181 Motions.

Rule 11. (1) All motions, and affidavits and briefs in support thereof, shall be typewritten or printed and 4 copies thereof shall be filed with the tribunal. Allegations of fact in motions shall be supported by affidavit. Motions shall set out briefly, but distinctly, the grounds upon which they are founded and shall be signed by the attorney of the party on whose behalf they are filed.

(2) All motions shall be filed not later than 21 days from the date the accused filed the petition for review.

(3) Any opposition to a motion shall be filed within 14 days after receipt by the opposing party of service of the motion.

(4) Oral argument shall not be permitted on motions, except when ordered by the tribunal.

(5) A motion to dismiss an appeal may be made by the appellee on any of the following grounds:

(a) The appeal is not within the jurisdiction of the tribunal.

(b) The appeal was not taken or pursued in conformity with these rules.

(c) The question or questions sought to be reviewed were not properly raised or were not raised in a timely manner.

History: 1986 AACCS.

R 32.182 Suspension of rules.

Rule 12. Except where the appellant has failed to file a petition for review within 60 days from his or her actual receipt of final action in the case, for good cause shown, the tribunal may suspend the requirements or provisions of any of these rules in a particular case on petition of a party or on its own motion.

History: 1986 AACCS.

R 32.183 Stay or deferment of sentence.

Rule 13. Upon petition of the defendant, in any case where the sentence as approved includes a sentence of confinement, the tribunal shall grant a stay of the sentence until its decision on the merits of the case. In any other case, the tribunal may grant a stay or defer service of the sentence until its decision on the merits of the case. Any application for a stay shall be filed within the time limits prescribed in R 32.176.

History: 1986 AACCS.

R 32.184 Designation of presiding member of panel.

Rule 14. The chairperson shall designate a member of each panel as presiding member.

History: 1986 AACCS.

R 32.185 Recording, photographing, broadcasting, or televising tribunal session prohibited.

Rule 15. The recording, photographing, broadcasting, or televising of any session of the tribunal or other activity relating thereto is prohibited.

History: 1986 AACCS.

R 32.186 Tribunal deliberations to be closed unless otherwise directed by presiding member.

Rule 16. Deliberations of the tribunal shall be in closed session or as the presiding member may otherwise direct.

History: 1986 AACCS.