

Version

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FUNDED LAW EDUCATION (FLEP) & EXCESS LEAVE  
PROGRAM (LAW) (ELP)

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Judge Advocate Support Branch, Judge Advocate Division

# FLEP/ELP Survival Guide

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JUDGE ADVOCATE SUPPORT BRANCH, JUDGE ADVOCATE DIVISION

# FLEP/ELP Survival Guide

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# Introduction

**C**ongratulations on your selection to the Funded Law Education Program (FLEP) or the Excess Leave Program (Law) (ELP)! It will not be long before you begin law school and start hitting the books. Over the next few months and years you will encounter many challenges. This “survival guide” is designed to answer questions you may have and help ensure your FLEP/ELP experience is a positive one.

During your three years of law school, the Judge Advocate Support (JAS) Branch, Judge Advocate Division, Headquarters Marine Corps will be your primary point of contact with the Marine Corps for program specific issues. JAS’ duties include monitoring your progress in law school, arranging your summer duties, writing fitness reports for FLEP students, and making recommendations for your final assignments upon completion of law school. Additionally, we are the subject-matter experts on the FLEP/ELP programs and are here to answer your questions as they arise.

This guide is divided into several chapters in accordance with how you might encounter them chronologically. The first chapter gives you information on settling into your life as a law student and the basics of the FLEP/ELP programs. Chapter

Two, entitled “Summer Duty,” contains information on how you will be spending your summer vacation while in law school. A little hint – it may be near the beach, but it’s not what you might expect. Finally, in Chapter Three, your first assignment after law school and your future as a new judge advocate is discussed. Throughout this guide you will notice the use of icons to highlight important information, people you need to know or forms you may need. The key above will serve as a quick and easy reference for when you need answers to your questions.

Once again, please accept our congratulations on your selection to the FLEP/ELP program. We wish you the best of luck during your law school career. Please let JAS know if there is anything we can do to make your FLEP/ELP experience any better.

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## Getting Started

**A**lthough the prospect of three years outside of the Marine Corps may be a welcome vacation after many years of hard work, you're probably wondering about paying for tuition and books in addition to figuring out where your classes are. There's no need to worry, however, your experiences as a Marine officer have more than adequately prepared you for law school. The Socratic method will certainly challenge you, but it pales in comparison to what you've had to deal with in the Marine Corps.

## First Things First

Shortly after your acceptance into FLEP/ELP, and within a reasonable time before classes begin, you will be transferred via permanent change of station orders to a Marine Corps activity close to your law school. You might end up administratively attached to a major Marine Corps installation like Camp Pendleton, or you may wind up attached to a Marine Corps Reserve command or Inspector-Instructor (I&I) staff. In either case, the command you are assigned to will be responsible for all of your administrative needs and will serve as your immediate connection to the Marine Corps. Some commands may have never had a student like you attached to them before. They may have no idea what to do with you or how to treat you. If you run into any problems or issues, give them the JAS phone number and we'll gladly talk them through it. It will save you a lot of headaches in the long run.

Once you start law school, your primary duty is as a law student. Being a law student is quite rigorous and you should be focused on your studies from the beginning of the semester to the end of your exams. During this time, the Marine Corps will not require you to report in on a regular basis except in the case of necessary administrative processing, e.g., pay related matters, annual leave request/authorizations, receipt of summer TAD orders, annual fitness reports, PFTs, etc.. You are encouraged, however, to maintain periodic contact with your command. Additionally, you are required to maintain regular communication with JAS during law school. At a minimum, you must contact JAS prior to the beginning of each semester with an updated point of contact email and phone number, and after final examination grades have posted. JAS needs to be informed of the classes you intend to take and the grades you receive—see LEGALADMIN Manual Ch 19.

Finally, while in FLEP/ELP, please remember that you are a representative of the Marine Corps and under constant scrutiny from your professors and fellow students. Consequently, your conduct, personal appearance, demeanor and activities as a law student should project the highest standards of a Marine

officer. Failure to maintain the standards of a Marine officer, in addition to poor academic performance or abandonment of law studies can result in termination from FLEP/ELP. With regards to academic performance, receipt of one or more failing grades or failure to maintain your respective law school's minimum grade point average can result in termination from the program. In the event of student misconduct, officers may be subject to administrative action like non-judicial punishment or even prosecution by court-martial. Before an officer is terminated from FLEP/ELP, the officer will be notified of the grounds for their dismissal and afforded the opportunity to respond in writing within a reasonable period of time. The reply, in addition to other supporting documentation, will be forwarded to CMC for final disposition. Officers will be provided with a copy of CMC's final decision.

## Law School Attendance

A FLEP/ELP officer's primary place of duty during the academic year is the law school being attended. During your first year, it is likely your classes are already set by the law school and your schedule is determined by which section (day or evening) you choose. After your first year, you will have greater discretion in the classes you select. In either event, you must attend all classroom periods of instruction and all other mandatory events at the law school unless you have been excused by JAS or your local reserve command.

## Course Selection

In addition to the courses required by the law school, FLEP/ELP officers should select elective courses that will either assist them in passing their state bar exam or that provide the greatest benefit to the Marine Corps. Additionally, when offered, students should take advantage of trial advocacy clinics or practicums that provide "hands on" experience. Unless required for the state bar examination, students should avoid taking courses like secured transactions, business associations, and corporate law because it is unlikely you will encounter these issues in your practice as a judge advocate. Finally, prior to registration, all students will provide JAS a proposed selection of courses for each semester. Although JAS does not normally dictate the electives you can take, we want to ensure students' course selections are consistent with military law practice.

### Recommended Electives

- Estate Planning
- Family Law
- Environmental Law
- Labor Law
- International Law
- Admiralty
- Employment Discrimination
- Islamic Law
- Federal Courts and the Federal System
- Animal Law
- Appellate/Criminal Process and Procedure

### Discouraged Electives

- Commercial Paper
- Secured Transactions
- Corporate Law
- Business Associations
- Banking Law
- Health Care Law
- Real Estate Law
- Bankruptcy Law
- Intellectual Property Law
- Business Planning
- Sports and Entertainment Law

There will also be many opportunities outside the classroom to develop your knowledge and practice of the law. Students are encouraged to participate in extracurricular activities at their law school so long as they do not negatively impact academic performance. Activities such as moot court, law review, student bar association, legal aid clinics and law fraternities are an excellent means of meeting your fellow students and sharpening your legal skills.

As a result of your participation in extracurricular activities, you may be eligible for an award, stipend or payment for your services. Do not confuse student work payments from a financial aid package with payments from extracurricular activities. One example is the stipend a student might receive for being the editor of a law review journal. FLEP/ELP students shall consult with JAS prior to accepting any payments or compensation for their participation in an extracurricular activity. JAS will determine the propriety of the payments and act as the acceptance authority for students in the FLEP/ELP program. If JAS determines the payments are proper, a letter authorizing acceptance of the financial component will be forwarded to you.

## Getting Paid

### *FLEP Students*

In the case of students selected for the FLEP, getting paid is not much of an issue. FLEP students receive their normal pay and allowances (in addition to having their tuition and a portion of their books paid for). The transition to FLEP should be seamless to those officers. The only issue remaining is who will take care of your administrative needs, should they arise. As mentioned previously, the Marine Corps activity or reserve command to which you are attached should be able to solve any administrative issues you might encounter. In the event your unit is not able to solve your issues, please contact JAS for further assistance.

The payment of mandatory tuition and fees, as well as book reimbursements, are coordinated through the Commanding General, Training and Education Command, Financial Management Branch (C464) (TECOM). Students must contact their respective school's "third-party billing" clerk (generally an assistant located within the university's "student accounts" section) and make arrangements for tuition payment. Students should inform the clerk that the Marine Corps will be coordinating payment of the student's bill and in order to do so the school must provide the student with an itemized billing statement. You should then forward the itemized billing statement to TECOM. TECOM will, in turn, forward the tuition statement to DFAS for processing and payment. Students are strongly encouraged to track and confirm payment with student accounts so as to avoid being placed in a "hold" status.

In addition to your tuition, the Marine Corps will reimburse you for a portion of your required textbooks. Currently the Marine Corps will reimburse you up to \$150 annually for required textbooks. Study guides, hornbooks, and "casenotes," while helpful, are not reimbursable books. Students are encouraged to purchase those materials, but at their own expense. In order to receive textbook reimbursement students must forward a required book list and a legible copied payment receipt to TECOM.

### *ELP Students*

As an ELP student you may be concerned about how to make ends meet. The prospect of three years of law school without full pay and allowances can seem quite daunting. Furthermore, financial aid packages comprised primarily of loans can be unappealing in the face of skyrocketing law school tuition. Basically,

ELP students are paid a pro rata portion of their pay and allowances for each day they are not in class or taking an exam. Specifically, you are eligible for Pay Status Assignment (PSA) orders on any day you do not have a class or examination scheduled. While on PSA orders, an ELP student may be asked to perform appropriate military duties (e.g. CACO, staff duty officer, inspections, etc.) but the performance of duties is not a prerequisite to getting paid. Although you are subject to performing duties, JAS has asked reserve commands and I&I staffs to refrain from asking students to work. Students that desire to work at their reserve command are encouraged to do so if it does not negatively impact their studies. Many commands need assistance with legal-related matters (e.g.. administrative discharge boards) and these are an excellent means of honing your advocacy skills and maintaining contact with fellow Marines.

When in PSA, you are entitled to pay and allowances at the rate of 1/30<sup>th</sup> of a month's pay and allowances (basic pay, BAH and BAS) each day. Leave accumulates at 0.5 days for every six days you are in PSA. For first year students, your ability to structure your class schedule is typically limited. The school normally requires certain courses and schedules you accordingly. As a result, your ability to take advantage of PSA may be limited. You should plan your budget based on 25% of your current income. After your first year, you are able to select elective courses and may be able to maximize your income by scheduling your classes on the same day or days. Maximizing your income should not be your primary consideration when selecting courses however. Once you have finalized your schedule, you may request PSA from your local command. To request PSA, you will submit a letter to the command notifying them of the days you are available and they will coordinate payments through DFAS Kansas City.

ELP students are eligible for VA educational benefits including use of the Post-9/11 GI Bill and the Montgomery GI Bill- Active Duty. In an effort to defray legal education costs ELP students are encouraged to investigate and apply for law school loan repayment programs offered by their respective law schools. ELP students are also encouraged to consider the use of the College Cost Reduction and Access Act (CCRAA) of 2007 in order to defray legal education costs (see <http://sja.hqmc.usmc.mil/jas/files/JAS%20Presentations/CCRAA/CCRAA%20Analysis%20paper.doc>). ELP students are eligible for use of government quarters; however, students will be charged a rental fee equal to the Basic Allowance for Housing and applicable Variable Housing Allowance rate of active duty personnel of comparable rank. ELP students are not permitted to engage in outside employment while attending law school unless specifically authorized by JAS. Failure to adhere to this policy may result in a student's disenrollment from ELP. Unlike FLEP students, ELP students are not eligible for book reimbursement, but are eligible for reimbursement of bar review and examination fees.

## Fitness Reports

Depending on the program you are in, either JAS or the commander of the organization to which an ELP student is assigned is responsible for preparing your fitness reports during the academic year. FLEP students are required to provide JAS a copy of their transcript along with a statement of extracurricular activities during the school year. Additionally, FLEP students should submit a copy of any law review or published writings and evidence of any honors or awards received. ELP students will provide the same materials to their respective commander for fitness report processing. Specific guidance to commanding officers is provided in MCO P5800.16A, Chapter 19, Para. 19009. In general, fitness reports will be prepared at required intervals (i.e., annual reports, TD/FD). Typically, you will receive a "not observed" report due to the fact that you are in school and do not have consistent contact with your reporting senior. In the event you perform duties regularly for your reporting senior, you may rate an observed

report. In either event, there is no preference for an observed report over a not observed report. Fitness reports for summer duty will be addressed in the next chapter.

## Valuable Information

FLEP/ELP controlling references are DoD Directive 1322.12, SECNAVINST 1520.7F and MCO P5800.16, Chap. 19.

## Points of Contact

### Judge Advocate Support Branch (JAS)

POCs: Maj Hanorah Tyer-Witek & Capt Jason Foscolo

Email: hanorah.tyer-witek@usmc.mil/jason.foscolo@usmc.mil

Address: HQMC (JAS), 3000 Marine Corps Pentagon, Room 4D586, Washington, DC 20350-3000

Telephone: (703) 614-1318

Fax: (703) 697-2771

### Training and Education Command (C464)

POC: Ms. Corina Simien, GySgt Scott Pruitt, or Sgt Takeisha Jones

Email: corina.simien@usmc.mil/scott.pruitt@usmc.mil/takeisha.jones@usmc.mil

Address: Training and Education Command, Financial Management Branch C464, 3300 Russell Rd, Quantico, VA 22134

Telephone: (703) 784-0684/1248

Fax: (703) 784-3088

## Helpful Forms

**FLEP Tuition Reimbursement** - An example tuition payment request is shown at Figure 19-5, MCO P5800.16A, LEGADMINMAN, page 19-26.

→ Fillable form: <http://www.mfr.usmc.mil/4thmaw/mag42/documents/NAVMC+10274.pdf>

**Textbook Reimbursement** - An example textbook reimbursement request is shown at Figure 19-6, MCO P5800.16A, LEGADMINMAN, page 19-27.

→ Fillable form: <http://www.mfr.usmc.mil/4thmaw/mag42/documents/NAVMC+10274.pdf>

**PSA Orders/Request:** A sample PSA request is shown at Figure 19-4, MCO P5800.16A, LEGADMINMAN, pages 19-23 and 19-24.

## Summer Duty (“Summer Fun”)

Every summer, while your classmates are on vacation, you are expected to work. Don’t worry- it’s not as bad as it sounds. Actually, you may have noticed your classmates scrambling around to get the perfect clerkship or internship for the summer. Instead of stressing out, you can relax because your summer plans are certain and beneficial to your development as a future judge advocate.

All FLEP and ELP students must perform military duties during the summer months unless excused by JAS. Over the years, summer duties have become known as “summer fun” because they offer an opportunity to get legal experience in a relaxed office environment. The fact that you are close to the beaches doesn’t hurt either! Your duties will normally take place at a law office aboard a major Marine Corps installation or support agency. Typically, your summer duty will be spent at a geographical location close to your law school. Sometime during mid-second semester JAS will forward FLEP/ELP students a list of available summer fun billets. Considering fiscal year budget constraints, students may be able to fulfill summer duty on the east coast one year and the west coast the following, and vice-a-versa. TAD expenses are covered by JAS and appropriation data will be sent to your local command for orders.

Summer fun duties vary but typically you will observe judge advocates in their day-to-day operations, observe courts-martial and other court proceedings, assist with legal research and writing, assist with litigation, or be assigned independent projects. Because you are not a licensed attorney, you will not have the opportunity to directly represent clients. Depending on your experience level, you may be assigned a significant role as assistant trial counsel (prosecutor) in a complex court-martial. In any event, you will find your summer duties rewarding and an integral part of your law school experience.

In conjunction with the announcement of the summer fun billets, JAS will require that you inform them of your summer vacation dates. As directed, advise JAS when you will complete your last examination for the spring semester and when the first class of the fall semester starts. Your summer duties will take place sometime within that period. JAS will publish student assigned billets with enough time to coordinate TAD orders with your local command and to coordinate lodging and travel in conjunction with those orders. Generally, you will be given a short period at the end of the school year and the beginning of the next semester to get your personal affairs in order and to take annual leave. JAS will make summer assignments based on the needs of the Marine Corps and your personal preferences. Because you are given some time off between classes and your TAD period, you are discouraged from taking leave during the summer fun period. If you want to take leave after school ends or before school starts in the fall, please coordinate with JAS. We will adjust your TAD period accordingly.

# TAD Fitness Reports

Regardless of which program you are in, your TAD command is responsible for preparing your fitness report for your summer TAD period. These fitness reports will be quite similar in content to the fitness reports you received prior to entering a Law Education Program. Specific guidance to reporting seniors is provided in MCO P5800.16A, Chapter 19, Para. 19009. In general, the fitness report you receive upon completing your TAD will be prepared as an “FD” or “from TAD” report. Be aware that the annual reporting period for captains ends May 31. You should ensure that other normally required reports (i.e., annual reports) are filed while you are performing summer duties. Typically, you will receive an “observed” report due to the fact that you are in a duty status longer than 30 days and have consistent contact with your reporting senior. In the event your summer TAD period is less than 30 days, you may not receive an observed report.

## Summer School

In some cases, you may be allowed to take summer school classes in lieu of summer duty. Generally, summer school attendance is discouraged unless you plan to take a bar examination in a jurisdiction that requires proficiency in a number of subjects. Summer school attendance is at your expense. In the event you cannot complete these courses during the normal three-year schooling period, you may be allowed to take them during the summer. If you desire to take summer school classes, you should submit a written request to JAS including as an enclosure course descriptions of your proposed curriculum. If you are authorized to attend summer school, it will replace all or a portion of your normal summer duties

## Graduation and Beyond

Midway through your third-year of law school, you will undoubtedly be ready to move on. However, there are several steps you must complete between graduating law school and becoming a certified judge advocate. Over the next few months students will study for their bar examination, attend Naval Justice School, and check-into a new duty station. In the fall, prior to graduation, students should contact JAS regarding their future. Specifically, students need to inform JAS of their intended date of graduation, the bar study course they plan to attend, the jurisdiction they intend to take their bar exam, and their preferences for duty stations.

## Studying for the Bar Exam

After graduation from law school, studying for the bar examination will be your primary duty. For FLEP students, you will be retained at your duty station in a “duty under instruction” status. In other words, you will remain near your law school to complete your bar preparation. ELP students will be retained at their duty station as well. However, after your last law school examination, you will drop out of ELP status and resume a full pay status. Although you are subject to duty assignment, your commander is specifically prohibited from assigning duties that interfere with your bar studies.

Students are required to take the bar examination in the jurisdiction where they attended law school, or the jurisdiction of their home of record. Students planning to take a bar examination in any other location shall seek the prior approval of JAS. Students in jurisdictions that automatically admit law school graduates to the bar (e.g. Wisconsin) are encouraged to report to the first Naval Justice School class available. If desired, those students may study for and take a bar examination in the state of their choosing. If the jurisdiction they choose is geographically distant from their law school, no-cost Permissive TAD orders will be issued to cover them while studying.

In the event that a student fails to pass his or her initial bar examination, that student must take the next available bar exam at his or her own expense. In the event that an officer fails to be admitted to the practice of law within one year from the date of graduation from law school, that officer will serve, unless sooner separated, the period of obligated active duty service, computed per the order (1 or 2 years for every year spent at law school), in that officer's former military occupational specialty, in addition to any service obligation incurred by that individual under any other provisions of law or agreement.

As you will learn, preparing for and taking the bar examination is not cheap. Both FLEP and ELP students are eligible for payment of one bar review course and mandatory bar examination fees. Other expenses, like travel

and meals, incurred while studying for, and taking the bar exam will be borne by you. Additionally any costs associated with being sworn-in will be borne by you. Students are encouraged to sign up for bar preparation courses early during their first year of law school. Often, bar study services like Bar/Bri or West Publishing will offer study guides as an incentive for early sign-up. These guides are very helpful in preparing for your first-year law exams. Also, by signing up early, you typically lock in a lower rate. Finally, JAS has one last helpful hint regarding bar examinations. Many jurisdictions require an ethics exam known as the Multistate Professional Responsibility Exam (MPRE) in addition to your bar exam. Most jurisdictions allow you to take this exam during your second or third year of law school after you have taken a class on Professional Responsibility. Because studying for the bar exam is difficult enough by itself, students would be wise to take this exam in advance of the bar exam.

## After the Bar Exam

Most jurisdictions schedule bar examinations during the month of July and, after long hours of study, you will be ready to move on to something new. Instead of waiting for results to come out, you will receive orders to report to the Basic Lawyer Class at Naval Justice School in Newport, Rhode Island. The class you will likely attend starts the first full week of August and goes through the first full week of October.

Naval Justice School is similar to most military schools you may have attended throughout your Marine Corps career. Your instructors are experienced judge advocates and they are focused on teaching you the basics of military law. A substantial portion of the curriculum is preparing you for your first court-martial. Practical trial advocacy skills are stressed and a variety of methods, to include video recording, are used. The Basic Lawyer Course is not law school. You are not forced to brief endless cases and the Socratic method is a distant memory.

Your class will include officers from the Navy and the Coast Guard. Most, if not all, of your fellow Navy students will be fresh from Officer Indoctrination School. Many of your fellow Marines will be straight out of the Basic School. Needless to say, the level of military proficiency will be varied amongst your fellow students. Although you may be concerned about the fact you have spent the last three years away from the Marine Corps, you need not worry, you will be “salty” by comparison to everyone else.

## Your First Duty Station

When you graduate from the Naval Justice School and pass the Bar, you will be certified as a judge advocate in accordance with Article 27b of the UCMJ. If you have not yet received your bar exam results by the time you graduate from the Basic Lawyer Course, your certificates will be sent from NJS to JAS until you report your bar results. After you are sworn in, JAS will scan and send or mail your certificates to you and you will be sworn in by your OIC or the local SJA. After you take the oath and sign your certificates, you must return a copy of the signed certificates to JAS for placement in your file. You must also bring them to your consolidated administration facility and follow the local procedures (AA form, PAR, etc...) to request your MOS run on the unit diary as 4402. You should also send your certificates to be included in your official military personnel file at MMSB.

JAS is sensitive to the unique position of LEP students and will recommend duty stations that are commensurate with providing a place for you to learn and grow, with many opportunities for you to gain experience a little bit more quickly. However, your choice of duty stations really depends mostly on timing of what billets are open when you are moving. JAS, as occupational field sponsor, will work with the monitors at MMOA to ensure you are set up for success as much as possible.

## Valuable Information

Further information about the Naval Justice School can be found at:  
<http://www.jag.navy.mil/FieldOffices/NJS3.htm>.

Before you report, check out the NJS Welcome Aboard Package online:  
<http://www.jag.navy.mil/documents/NJSNewportWelcomeAboard2002.doc>.

Send certificates with name, grade and last 4 of your social security number on each to MMSB at:  
[https://www.manpower.usmc.mil/portal/page?\\_pageid=278,1937156&\\_dad=portal&\\_schema=PORTAL](https://www.manpower.usmc.mil/portal/page?_pageid=278,1937156&_dad=portal&_schema=PORTAL)

## Helpful Forms

**Bar Expenses Reimbursement:** An example bar review and examination fee reimbursement request is shown at Figure 19-7, MCO P5800.16A, LEGADMINMAN, page 19-28.