WEST VIRGINIA CODE: §15-1E-34

§15-1E-34. Advice of judge advocate and reference for trial.

(a) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to a judge advocate for consideration and advice. The convening authority may not refer a specification under a charge to a general court-martial for trial unless the convening authority has been advised in writing by a judge advocate that:

(1) The specification alleges an offense under this article;

(2) The specification is warranted by the evidence indicated in the report of investigation under section thirty-two of this article, if there is such a report; and

(3) A court-martial would have jurisdiction over the accused and the offense.

(b) The advice of the judge advocate under subsection (a) with respect to a specification under a charge shall include a written and signed statement by the judge advocate:

(1) Expressing conclusions with respect to each matter set forth in subsection (a); and

(2) Recommending action that the convening authority take regarding the specification.

If the specification is referred for trial, the recommendation of the judge advocate shall accompany the specification.

(c) If the charges or specifications are not correct formally or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence, may be made.

WV Legislature