

Judge Advocate General, while so serving, shall hold a grade not lower than major general.”

Subsec. (d). Pub. L. 110-181, § 543(a)(2)(B), substituted “Deputy Judge Advocate General” for “Assistant Judge Advocate General”.

2006—Subsec. (a). Pub. L. 109-163, § 508(a), substituted “The Judge Advocate General, while so serving, shall hold a grade not lower than major general. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.” for “If an officer who is so appointed holds a lower regular grade, he shall be appointed in the regular grade of major general.”

Subsec. (b). Pub. L. 109-163, § 1057(a)(2), struck out “or Territory” after “a State”.

2004—Subsec. (a). Pub. L. 108-375, § 574(a)(1), substituted “The term of office of the Judge Advocate General and the Assistant Judge Advocate General is four years.” for “An officer appointed as the Judge Advocate General or Assistant Judge Advocate General normally holds office for four years. However, the President may terminate or extend the appointment at any time.”

Subsec. (e). Pub. L. 108-375, § 574(a)(2), added subsec. (e).

1994—Subsec. (d). Pub. L. 103-337 added subsec. (d).

1958—Subsec. (a). Pub. L. 85-861 provided that the Judge Advocate General or Assistant Judge Advocate General shall normally hold office for four years, and empowered the President to terminate or extend the appointment at any time.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of this title.

§ 3038. Office of Army Reserve: appointment of Chief

(a) There is in the executive part of the Department of the Army an Office of the Army Reserve which is headed by a chief who is the adviser to the Chief of Staff on Army Reserve matters.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Army Reserve from general officers of the Army Reserve who have had at least 10 years of commissioned service in the Army Reserve.

(2) The Secretary of Defense may not recommend an officer to the President for appointment as Chief of Army Reserve unless the officer—

(A) is recommended by the Secretary of the Army; and

(B) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(3) An officer on active duty for service as the Chief of Army Reserve shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(4) Until December 31, 2006, the Secretary of Defense may waive subparagraph (B) of paragraph (2) with respect to the appointment of an officer as Chief of Army Reserve if the Secretary of the Army requests the waiver and, in the judgment of the Secretary of Defense—

(A) the officer is qualified for service in the position; and

(B) the waiver is necessary for the good of the service.

Any such waiver shall be made on a case-by-case basis.

(c) TERM; REAPPOINTMENT; GRADE.—(1) The Chief of Army Reserve is appointed for a period of four years, but may be removed for cause at any time. An officer serving as Chief of Army Reserve may be reappointed for one additional four-year period.

(2) The Chief of Army Reserve, while so serving, holds the grade of lieutenant general.

(d) BUDGET.—The Chief of Army Reserve is the official within the executive part of the Department of the Army who, subject to the authority, direction, and control of the Secretary of the Army and the Chief of Staff, is responsible for justification and execution of the personnel, operation and maintenance, and construction budgets for the Army Reserve. As such, the Chief of Army Reserve is the director and functional manager of appropriations made for the Army Reserve in those areas.

(e) FULL TIME SUPPORT PROGRAM.—The Chief of Army Reserve manages, with respect to the Army Reserve, the personnel program of the Department of Defense known as the Full Time Support Program.

(f) ANNUAL REPORT.—(1) The Chief of Army Reserve shall submit to the Secretary of Defense, through the Secretary of the Army, an annual report on the state of the Army Reserve and the ability of the Army Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Staff of the Army and may be submitted in classified and unclassified versions.

(2) The Secretary of Defense shall transmit the annual report of the Chief of Army Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.

(Added Pub. L. 90-168, § 2(16), Dec. 1, 1967, 81 Stat. 523, § 3019; renumbered § 3038 and amended Pub. L. 99-433, title V, §§ 501(a)(4), 502(g)(1), Oct. 1, 1986, 100 Stat. 1034, 1042; Pub. L. 103-337, div. A, title XVI, § 1672(c)(1), Oct. 5, 1994, 108 Stat. 3015; Pub. L. 104-201, div. A, title XII, § 1212(a), Sept. 23, 1996, 110 Stat. 2691; Pub. L. 106-65, div. A, title V, § 554(b), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106-398, § 1 [[div. A], title V, § 507(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-102; Pub. L. 107-314, div. A, title V, § 501(a), Dec. 2, 2002, 116 Stat. 2529; Pub. L. 108-375, div. A, title V, § 536(a), Oct. 28, 2004, 118 Stat. 1901.)

PRIOR PROVISIONS

A prior section 3038, act Aug. 10, 1956, ch. 1041, 70A Stat. 164, charged Chief of Engineers with responsibility for Army construction, real estate acquisition and management, and the operation of water, gas, electric, and sewer utilities, prior to repeal by Pub. L. 89-718, § 25(a), Nov. 2, 1966, 80 Stat. 1119.

AMENDMENTS

2004—Subsec. (b)(4). Pub. L. 108-375 substituted “December 31, 2006” for “December 31, 2004” in introductory provisions.

2002—Subsec. (b)(4). Pub. L. 107-314 substituted “October 1, 2003” for “October 1, 2003” in introductory provisions.

2000—Subsec. (b). Pub. L. 106-398 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The President, by and with the advice and consent of the Senate, shall appoint the Chief of Army Reserve from officers of the Army Reserve not on active duty, or on active duty under section 10211 of this title, who—

“(1) have had at least 10 years of commissioned service in the Army Reserve;

“(2) are in grade of brigadier general and above; and

“(3) have been recommended by the Secretary of the Army.”

Subsec. (c). Pub. L. 106-398 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Chief of Army Reserve holds office for four years but may be removed for cause at any time. He is eligible to succeed himself. If he holds a lower reserve grade, he shall be appointed in the grade of major general for service in the Army Reserve. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general.”

1999—Subsec. (c). Pub. L. 106-65 inserted at end “However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general.”

1996—Subsecs. (d) to (f). Pub. L. 104-201 added subsecs. (d) to (f).

1994—Subsec. (b). Pub. L. 103-337 substituted “10211” for “265”.

1986—Pub. L. 99-433, §501(a)(4), renumbered section 3019 of this title as this section.

Subsec. (c). Pub. L. 99-433, §502(g)(1), substituted “service” for “services”.

EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Pub. L. 106-65, div. A, title V, §554(g), (h), Oct. 5, 1999, 113 Stat. 617, provided that:

“(g) EFFECTIVE DATE.—The amendments made by this section [enacting section 12505 of this title and amending this section and sections 5143, 5144, 8038, and 10506 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 5, 1999].

“(h) APPLICABILITY TO INCUMBENTS.—(1) If an officer who is a covered position incumbent is appointed under the amendments made by this section to the grade of lieutenant general or vice admiral, the term of service of that officer in that covered position shall not be extended by reason of such appointment.

“(2) For purposes of this subsection:

“(A) The term ‘covered position incumbent’ means a reserve component officer who on the effective date specified in subsection (g) is serving in a covered position.

“(B) The term ‘covered position’ means a position specified in section 12505 of title 10, United States Code, as added by subsection (a).”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE

Section effective on first day of first calendar month following date of enactment of Pub. L. 90-168, which was approved Dec. 1, 1967, see section 7 of Pub. L. 90-168, set out as an Effective Date of 1967 Amendment note under section 138 of this title.

§ 3039. Deputy and assistant chiefs of branches

(a) Each officer named in section 3036 of this title shall have, in addition to the assistants prescribed by subsections (b) and (c) and by section 3037 of this title, such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be

an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary similar to that prescribed in section 3036 of this title.

(b) There is an Assistant Surgeon General appointed from the officers of the Dental Corps, as prescribed in section 3036 of this title. The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army. An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.

(c) There are two assistants to the Chief of Engineers appointed as prescribed in section 3036 of this title. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general.

(Aug. 10, 1956, ch. 1041, 70A Stat. 165, §3040; Pub. L. 95-485, title VIII, §805(a), Oct. 20, 1978, 92 Stat. 1621; renumbered §3039 and amended Pub. L. 99-433, title V, §502(f)(2), Oct. 1, 1986, 100 Stat. 1042.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3040(a)	10:21h(a).	June 28, 1950, ch. 383, §208 (less (c)), 64 Stat. 268.
3040(b)	10:21h(b).	June 3, 1916, ch. 134, §11 (18th through 25th words); restated June 4, 1920, ch. 227, subch. I, §11 (18th through 25th words), 41 Stat. 768.
3040(c)	10:181 (18th through 25th words). 10:181a (14th through 30th words).	June 26, 1936, ch. 839 (16th through 31st words), 49 Stat. 1974.

In subsection (a), the words “in addition to the assistants prescribed by subsections (b) and (c) and section 3037 of this title” are substituted for the words “Except as prescribed in subsections (b) and (c) of this section”. The words “selected and”, “which procedure shall be”, and 10:21h(a) (last 21 words) are omitted as surplusage.

In subsection (b), the words “appointed from the officers of the Dental Corps” are substituted for the words “who shall be an officer of the Dental Corps, and who shall be selected and appointed”. The last sentence is substituted for the words “with the rank of major general”.

Subsection (c) is based on section 11 of the National Defense Act, as amended by the Act of June 26, 1936, ch. 839, 49 Stat. 1974 (10:181 and 181a), which provides for two assistants to the Chief of Engineers with the rank of brigadier general, and as impliedly amended by section 513(a) and 513(b) of the Officer Personnel Act of 1947 (10:559g), which provides the method of selection of assistant chiefs of branches, and prescribes that assistant chiefs be promoted to the grade held as such in the Regular Army if they hold a lower grade in the Regular Army. Section 404(f) of the Army Organization Act of 1950, 64 Stat. 274, exempts these two positions from the operation of section 208(a) of that act (10:21h(a)).

PRIOR PROVISIONS

A prior section 3039, act Aug. 10, 1956, ch. 1041, 70A Stat. 164, related to Inspector General and Provost Marshal General, prior to repeal by Pub. L. 99-433, §502(f)(1). See section 3020 of this title.

AMENDMENTS

1986—Pub. L. 99-433 renumbered section 3040 of this title as this section and substituted “section 3036” for “sections 3036 and 3039” in subsec. (a).