

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 Commander, Marine Forces Reserve, if the Secretary of the Navy 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 Commander, Marine Forces Reserve, is appointed for a term determined by the Commandant of the Marine Corps, normally four years, but may be removed for cause at any time. An officer serving as Commander, Marine Forces Reserve, may be reappointed for one additional term of up to four years.

(2) The Commander, Marine Forces Reserve, while so serving, holds the grade of lieutenant general.

(d) ANNUAL REPORT.—(1) The Commander, Marine Forces Reserve, shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Marine Corps Reserve and the ability of the Marine Corps Reserve to meet its missions. The report shall be prepared in conjunction with the Commandant of the Marine Corps and may be submitted in classified and unclassified versions.

(2) The Secretary of Defense shall transmit the annual report of the Commander, Marine Forces 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. 104-201, div. A, title XII, § 1212(c)(1), Sept. 23, 1996, 110 Stat. 2692; amended Pub. L. 106-65, div. A, title V, § 554(d), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106-398, § 1 [[div. A], title V, § 507(c), title X, § 1087(a)(19)], Oct. 30, 2000, 114 Stat. 1654, 1654A-103, 1654A-291; 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 5144, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, related to appointment and term of Chief of Bureau of Ordnance, and authorized detail of an officer as Deputy Chief of Bureau, prior to repeal by Pub. L. 86-174, § 2(3), Aug. 18, 1959, 73 Stat. 396, effective July 1, 1960, or any earlier date on which the Secretary of the Navy made a formal finding that all the functions of the Bureau of Aeronautics and the Bureau of Ordnance had been transferred to the Bureau of Naval Weapons or elsewhere.

AMENDMENTS

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

2002—Subsec. (b)(4). Pub. L. 107-314 substituted “December 31, 2004” for “October 1, 2003”.

2000—Subsec. (b). Pub. L. 106-398, § 1 [[div. A], title V, § 507(c)], amended heading and text of subsec. (b) gener-

ally. Prior to amendment, text read as follows: “The President, by and with the advice and consent of the Senate, shall appoint the Commander, Marine Forces Reserve, from officers of the Marine Corps who—

“(1) have had at least 10 years of commissioned service;

“(2) are in a grade above colonel; and

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

Subsec. (c). Pub. L. 106-398, § 1 [[div. A], title V, § 507(c)], amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(c) TERM OF OFFICE; GRADE.—(1) The Commander, Marine Forces Reserve, holds office for a term determined by the Commandant of the Marine Corps, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

“(2) The Commander, Marine Forces Reserve, while so serving, has the grade of major general, without vacating the officer’s permanent grade. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general.”

Subsec. (c)(2). Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(19)], substituted “has the grade of” for “has a grade”.

1999—Subsec. (c)(2). Pub. L. 106-65 substituted “major general” for “above brigadier general” and inserted at end “However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general.”

EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Amendment by Pub. L. 106-65 effective 60 days after Oct. 5, 1999, with special provision for an officer who is a covered position incumbent who is appointed under that amendment to the grade of lieutenant general or vice admiral, see section 554(g), (h) of Pub. L. 106-65, set out as a note under section 3038 of this title.

[[§§ 5145 to 5147. Repealed. Pub. L. 89-718, § 35(5), Nov. 2, 1966, 80 Stat. 1120]]

Section 5145, acts Aug. 10, 1956, ch. 1041, 70A Stat. 289; May 13, 1960, Pub. L. 86-454, 74 Stat. 103; Sept. 7, 1962, Pub. L. 87-649, § 14(c)(19), 76 Stat. 501, provided for appointment of Chief of Bureau of Ships, detailing and rank of Deputy Chief, and detailing of heads of major divisions of Bureau of Ships.

Section 5146, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, provided for appointment of Chief of Bureau of Supplies and Accounts and detailing of Deputy Chief.

Section 5147, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, provided for appointment of Chief of Bureau of Yards and Docks and detailing of Deputy Chief.

§ 5148. Judge Advocate General’s Corps: Office of the Judge Advocate General; Judge Advocate General; appointment, term, emoluments, duties

(a) The Judge Advocate General’s Corps is a Staff Corps of the Navy, and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

(b) There is in the executive part of the Department of the Navy the Office of the Judge Advocate General of the Navy. The Judge Advocate General shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. He shall be appointed from judge advocates of the Navy or the Marine Corps who are members of the bar of a Federal court or the highest court of a State and who have had at least eight years of experience in legal duties as commissioned officers. The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate.

(c) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(d) The Judge Advocate General of the Navy, under the direction of the Secretary of the Navy, shall—

(1) perform duties relating to legal matters arising in the Department of the Navy as may be assigned to him;

(2) perform the functions and duties and exercise the powers prescribed for the Judge Advocate General in chapter 47 of this title;

(3) receive, revise, and have recorded the proceedings of boards for the examination of officers of the naval service for promotion and retirement; and

(4) perform such other duties as may be assigned to him.

(e) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Navy or the Chief of Naval Operations; or

(2) the ability of judge advocates of the Navy assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 289; Pub. L. 87-649, §14c(20), Sept. 7, 1962, 76 Stat. 501; Pub. L. 90-179, §2(1), Dec. 8, 1967, 81 Stat. 546; Pub. L. 96-513, title III, §343, Dec. 12, 1980, 94 Stat. 2901; Pub. L. 103-337, div. A, title V, §504(b)(1), Oct. 5, 1994, 108 Stat. 2750; Pub. L. 108-375, div. A, title V, §574(b)(1), Oct. 28, 2004, 118 Stat. 1922; Pub. L. 109-163, div. A, title V, §508(b), title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3229, 3440; Pub. L. 110-181, div. A, title V, §543(b), Jan. 28, 2008, 122 Stat. 115.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
5148	5 U.S.C. 428.	June 8, 1880, ch. 129, 21 Stat. 164; June 5, 1896, ch. 331, 29 Stat. 251.
	50 U.S.C. 741 (as applicable to Navy JAG).	May 5, 1950, ch. 169, §13 (as applicable to Navy JAG), 64 Stat. 147.
	5 U.S.C. 441 (as applicable to JAG).	July 1, 1918, ch. 114, 40 Stat. 717 (1st sentence on p. 717, as applicable to JAG).
	5 U.S.C. 425a (as applicable to JAG).	June 22, 1938, ch. 567 (as applicable to JAG), 52 Stat. 839.

In subsection (b) the rank, pay, allowances, and privileges of retirement of chiefs of bureaus of the Navy are incorporated. 5 U.S.C. 441 apparently relates the Judge Advocate General of the Navy to the Judge Advocate General of the Army, as well as to bureau chiefs. However, since the creation of the Department of the Air Force by the National Security Act of 1947, if the incorporation to the Army provision is retained, the saving provisions in the act require an incorporation also to the rank, etc., of the Judge Advocate General of the Air Force. The rank of the Judge Advocate General of each of the other departments is now specified in organiza-

tional law to be major general. Since it is possible that these ranks may at some future time not be the same, incorporation by reference to them is no longer appropriate. Instead, the section relates the Judge Advocate General's rank, pay, allowances, and privileges of retirement to those of bureau chiefs as does 5 U.S.C. 441, in part.

In subsection (c), clauses (1) and (4) are substituted for the words "and perform such other duties as have heretofore been performed by the Solicitor and Naval Judge Advocate General" to describe the duties of the Judge Advocate General directly instead of by reference to the duties performed by an officer whose office was abolished more than 75 years ago.

Subsection (c)(2) is substituted for the reference, in 5 U.S.C. 428, to courts-martial and courts of inquiry, since the Uniform Code of Military Justice has superseded prior law as to the duties of the Judge Advocates General relating to these courts.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-181 substituted "The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate." for "The Judge Advocate General, while so serving, shall hold a grade not lower than rear admiral or major general, as appropriate."

2006—Subsec. (b). Pub. L. 109-163, §1057(a)(2), struck out "or Territory" after "highest court of a State".

Pub. L. 109-163, §508(b), substituted "The Judge Advocate General, while so serving, shall hold a grade not lower than rear admiral or major general, as appropriate." for "If an officer appointed as the Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."

2004—Subsec. (e). Pub. L. 108-375 added subsec. (e).

1994—Subsec. (b). Pub. L. 103-337, §504(b)(1)(A), added last sentence and struck out former last sentence which read as follows: "While so serving, the Judge Advocate General of the Navy shall be entitled to the rank and grade of rear admiral or major general, as appropriate, unless entitled to a higher rank and grade under another provision of law."

Subsec. (c). Pub. L. 103-337, §504(b)(1)(B), added subsec. (c) and struck out former subsec. (c) which read as follows: "The Judge Advocate General of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title."

1980—Subsec. (b). Pub. L. 96-513 inserted provision entitling Judge Advocate General of Navy to rank and grade of rear admiral or major general, as appropriate.

1967—Pub. L. 90-179, §2(1)(A), inserted reference to Judge Advocate General's Corps in section catchline.

Subsecs. (a) to (d). Pub. L. 90-179, §2(1)(B), (C), added subsec. (a), redesignated existing subsecs. (a) to (c) as (b) to (d), respectively, and in subsec. (b) as so redesignated substituted "judge advocates" for "officers".

1962—Subsec. (b). Pub. L. 87-649 struck out "pay, allowances," after "same rank". See Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

REDESIGNATION OF NAVY LAW SPECIALISTS AS JUDGE ADVOCATES

Pub. L. 90-179, §8, Dec. 8, 1967, 81 Stat. 549, provided that:

“(a) In this section ‘law specialist’ means a line officer on the active or retired list of the Regular Navy or of the Naval Reserve designated for special duty (law) or a line officer of the Naval Reserve [now Navy Reserve] assigned a numerical designator indicating a special duty officer (law).

“(b) All law specialists in the Navy are redesignated as judge advocates in the Judge Advocate General’s Corps of the Navy. Each law specialist of the Navy who is on a promotion list on the day before the effective date of this Act [Dec. 8, 1967] shall be placed on the appropriate promotion list for the Judge Advocate General’s Corps and shall be eligible for promotion when the officer who is to be his running mate in the next higher grade becomes eligible for promotion in that grade.”

SAVINGS PROVISION

Pub. L. 90-179, §10, Dec. 8, 1967, 81 Stat. 549, provided that: “This Act [enacting sections 5578a and 5587a of this title, amending this section, sections 801, 806, 815, 827, 865, 936, 5149, 5404, 5508, 5581, 5587, 5600, 5652a, 5702, 5708, 5753, 5762, 5896, 5897 and 6378 of this title, and section 202 of Title 37, and enacting provisions set out as notes under this section and section 5149 of this title] does not affect rights accrued, duties matured, or proceedings commenced before its effective date. Redesignation of an officer under section 8(b) of this Act [set out as a note under this section] shall not operate to change the computation of his service for any purpose.”

WOMEN OFFICERS IN JUDGE ADVOCATE GENERAL’S CORPS OF NAVY

Pub. L. 90-179, §11, Dec. 8, 1967, 81 Stat. 549, provided that all provisions of law applicable to male officers in the Navy Judge Advocate General’s Corps, including Naval Reserve, were applicable to women Corps officers, prior to repeal by Pub. L. 97-295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

§ 5149. Office of the Judge Advocate General: Deputy Judge Advocate General; Assistant Judge Advocates General

(a)(1) There is a Deputy Judge Advocate General of the Navy who is appointed by the President, by and with the advice and consent of the Senate, from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General. If an officer appointed as the Deputy Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate.

(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(b) An officer of the Judge Advocate General’s Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. While so serving, a judge advocate who holds a grade lower than rear admiral (lower half) shall hold the grade of rear admiral (lower half), if he is appointed to that grade by the President, by and with the advice and consent of the Senate. An officer who is retired while serving as Assistant Judge Advocate General of the Navy under this subsection

or who, after serving at least twelve months as Assistant Judge Advocate General of the Navy, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the rank and grade of rear admiral (lower half). If he is retired as a rear admiral (lower half), he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.

(c) A judge advocate of the Marine Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general, if he is appointed to that grade by the President, by and with the advice and consent of the Senate. An officer who is retired while serving as Assistant Judge Advocate General of the Navy under this subsection or who, after serving at least twelve months as Assistant Judge Advocate General of the Navy, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the rank and grade of brigadier general. If he is retired as a brigadier general, he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.

(d) When there is a vacancy in the Office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

(e) When subsection (d) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the Assistant Judge Advocates General, in the order directed by the Secretary of the Navy, shall perform the duties of the Judge Advocate General.

(Aug. 10, 1956, ch. 1041, 70A Stat. 290; Pub. L. 85-861, §33(a)(28), Sept. 2, 1958, 72 Stat. 1566; Pub. L. 87-649, §14c(21), Sept. 7, 1962, 76 Stat. 501; Pub. L. 89-718, §36, Nov. 2, 1966, 80 Stat. 1120; Pub. L. 90-179, §2(2), Dec. 8, 1967, 81 Stat. 546; Pub. L. 90-623, §2(9), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96-513, title V, §503(13), Dec. 12, 1980, 94 Stat. 2912; Pub. L. 97-86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99-145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99-661, div. A, title V, §508(b), Nov. 14, 1986, 100 Stat. 3867; Pub. L. 103-337, div. A, title V, §504(b)(2), Oct. 5, 1994, 108 Stat. 2751.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5149(a)	5 U.S.C. 444 (less last 19 words).	Aug. 29, 1916, ch. 417 (3d par., 96th through 121st word), 39 Stat. 558.
	5 U.S.C. 453 (as applicable to Asst. JAG).	Mar. 4, 1925, ch. 536, §15 (as applicable to Asst. JAG), 43 Stat. 1275.
5149(b)	5 U.S.C. 444 (last 19 words).	Aug. 29, 1916, ch. 417 (3d par., 122d word to end of par.), 39 Stat. 558.
5149(c)	5 U.S.C. 432a (as applicable to JAG).	Feb. 3, 1942, ch. 35, §1 (as applicable to JAG), 56 Stat. 47.