

(Added Pub. L. 99-433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1052.)

§ 5043. Commandant of the Marine Corps

(a)(1) There is a Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate. The Commandant shall be appointed for a term of four years from the general officers of the Marine Corps. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as Commandant of the Marine Corps only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f)¹ of this title) as a general officer.

(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

[(c) Repealed. Pub. L. 104-106, div. A, title V, §502(c), Feb. 10, 1996, 110 Stat. 293.]

(d) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Commandant performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(e) Subject to the authority, direction, and control of the Secretary of the Navy, the Commandant shall—

(1) preside over the Headquarters, Marine Corps;

(2) transmit the plans and recommendations of the Headquarters, Marine Corps, to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Headquarters, Marine Corps, by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Marine Corps and the Navy as the Secretary determines;

(5) perform the duties prescribed for him by sections 171 and 2547 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

(f)(1) The Commandant shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Commandant in the performance of his duties as a member of the

Joint Chiefs of Staff, the Commandant shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Commandant shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(Added Pub. L. 99-433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1052; amended Pub. L. 100-456, div. A, title V, §519(a)(3), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 102-190, div. A, title V, §505(b), Dec. 5, 1991, 105 Stat. 1358; Pub. L. 104-106, div. A, title V, §502(c), Feb. 10, 1996, 110 Stat. 293; Pub. L. 108-136, div. A, title V, §501(b), Nov. 24, 2003, 117 Stat. 1456; Pub. L. 114-92, div. A, title VIII, §802(d)(4)(C), Nov. 25, 2015, 129 Stat. 880.)

REFERENCES IN TEXT

Section 664(f) of this title, referred to in subsec. (a)(2)(B), was redesignated as section 664(d) of this title by Pub. L. 114-328, div. A, title V, §510(g)(1), Dec. 23, 2016, 130 Stat. 2111.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5201 of this title prior to enactment of Pub. L. 99-433.

AMENDMENTS

2015—Subsec. (e)(5). Pub. L. 114-92 substituted “sections 171 and 2547” for “section 171”.

2003—Subsec. (a)(1). Pub. L. 108-136 substituted “from the general officers of the Marine Corps” for “from officers on the active-duty list of the Marine Corps not below the grade of colonel”.

1996—Subsec. (c). Pub. L. 104-106 struck out subsec. (c) which read as follows: “An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower grade than general, may, in the discretion of the President and by and with the advice and consent of the Senate, be retired with the grade of general.”

1991—Subsec. (c). Pub. L. 102-190 inserted “and by and with the advice and consent of the Senate” after “President”.

1988—Subsec. (a)(2)(B). Pub. L. 100-456 substituted “full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)” for “joint duty assignment”.

WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF

For provisions giving President temporary authority to waive requirements in subsec. (a)(2) of this section, see section 532(c) of Pub. L. 99-433, formerly set out as a note under section 3033 of this title.

§5044. Assistant Commandant of the Marine Corps

(a) There is an Assistant Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list of the Marine Corps not restricted in the performance of duty.

(b) The Assistant Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

¹ See References in Text note below.

(c) The Assistant Commandant has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Assistant Commandant in performing such duties have the same effect as those issued by the Commandant.

(d) When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the Commandant—

(1) the Assistant Commandant of the Marine Corps shall perform the duties of the Commandant until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Assistant Commandant of the Marine Corps or the Assistant Commandant is absent or disabled, unless the President directs otherwise, the most senior officer of the Marine Corps in the Headquarters, Marine Corps, who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Commandant until a successor to the Commandant or the Assistant Commandant is appointed or until the absence or disability of the Commandant or Assistant Commandant ceases, whichever occurs first.

(Added Pub. L. 99-433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1054.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5202 of this title prior to enactment of Pub. L. 99-433.

§ 5045. Deputy Commandants

There are in the Headquarters, Marine Corps, not more than seven Deputy Commandants, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.

(Added Pub. L. 99-433, title V, §513(b), Oct. 1, 1986, 100 Stat. 1054; amended Pub. L. 106-398, §1 [[div. A], title IX, §902(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-224; Pub. L. 107-314, div. A, title IX, §934, Dec. 2, 2002, 116 Stat. 2626; Pub. L. 114-328, div. A, title V, §503(c), Dec. 23, 2016, 130 Stat. 2107.)

AMENDMENTS

2016—Pub. L. 114-328 substituted “seven” for “six”.

2002—Pub. L. 107-314 substituted “six” for “five”.

2000—Pub. L. 106-398 amended section catchline and text generally. Prior to amendment, text read as follows: “There are in the Headquarters, Marine Corps, a Chief of Staff, not more than five Deputy Chiefs of Staff, and not more than three Assistant Chiefs of Staff, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.”

§ 5046. Staff Judge Advocate to the Commandant of the Marine Corps

(a) An officer of the Marine Corps who is a judge advocate and a member of the bar of a Federal court or the highest court of a State or territory and who has had at least eight years of experience in legal duties as a commissioned officer may be appointed by the President, by and with the advice and consent of the Senate, as Staff Judge Advocate to the Commandant of the Marine Corps.

(b)(1) 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 Staff Judge Advocate to the Commandant of the Marine Corps, 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.

(2) If the Secretary of the Navy elects to convene a selection board under section 611(a) of this title to consider eligible officers for selection to appointment as Staff Judge Advocate, the Secretary may, in connection with such consideration for selection—

(A) treat any section in chapter 36 of this title referring to promotion to the next higher grade as if such section referred to promotion to a higher grade; and

(B) waive section 619(a)(2) of this title if the Secretary determines that the needs of the Marine Corps require the waiver.

(c) The Staff Judge Advocate to the Commandant of the Marine Corps, under the direction of the Commandant of the Marine Corps and the Secretary of the Navy, shall—

(1) perform such duties relating to legal matters arising in the Marine Corps as may be assigned to the Staff Judge Advocate;

(2) perform the functions and duties, and exercise the powers, prescribed for the Staff Judge Advocate to the Commandant of the Marine Corps in chapter 47 (the Uniform Code of Military Justice) and chapter 53 of this title; and

(3) perform such other duties as may be assigned to the Staff Judge Advocate.

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

(1) the ability of the Staff Judge Advocate to the Commandant of the Marine Corps to give independent legal advice to the Commandant of the Marine Corps; or

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

(Added Pub. L. 99-661, div. A, title V, §509(a)(1), Nov. 14, 1986, 100 Stat. 3868; amended Pub. L. 103-337, div. A, title V, §504(b)(4), Oct. 5, 1994, 108 Stat. 2751; Pub. L. 108-375, div. A, title V, §574(b)(2), Oct. 28, 2004, 118 Stat. 1922; Pub. L. 110-417, [div. A], title V, §504(a), Oct. 14, 2008, 122 Stat. 4434; Pub. L. 112-239, div. A, title V, §531(a), (b), Jan. 2, 2013, 126 Stat. 1725, 1726; Pub. L. 114-328, div. A, title V, §502(x), Dec. 23, 2016, 130 Stat. 2104; Pub. L. 115-91, div. A, title V, §508(a), Dec. 12, 2017, 131 Stat. 1375.)

AMENDMENTS

2017—Subsec. (b). Pub. L. 115-91 designated existing provisions as par. (1) and added par. (2).

2016—Subsec. (a). Pub. L. 114-328 struck out last sentence which read as follows: “If the officer to be appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a grade lower than the grade of major general immediately before the appointment, the officer shall be appointed in the grade of major general.”

2013—Subsec. (a). Pub. L. 112-239, §531(a), substituted “appointed by the President, by and with the advice and consent of the Senate,” for “detailed” and “If the