

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, title V, Oct. 1, 1986, 100 Stat. 1063, which was formerly set out as a note under section 3033 of this title.

§ 8044. 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.

(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, §5044; renumbered §8044, Pub. L. 115-232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

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.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5044 of this title as this section.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8045. 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, §5045; 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; renumbered §8045, Pub. L. 115-232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5045 of this title as this section.

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.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8046. 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, §5046; 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; renumbered §8046, Pub. L. 115-232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5046 of this title as this section.

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 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.” for “The Staff Judge Advocate to the Commandant of the Marine Corps, while so serving, has the grade of major general.”

Subsecs. (c), (d). Pub. L. 112-239, §531(b), added subsec. (c) and redesignated former subsec. (c) as (d).

2008—Subsec. (a). Pub. L. 110-417 substituted “The Staff Judge Advocate to the Commandant of the Marine Corps, while so serving, has the grade of major general.” for “If an officer appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a lower regular grade, the officer shall be appointed in the regular grade of brigadier general.”

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

1994—Subsec. (a). Pub. L. 103-337, §504(b)(4)(A), added second sentence and struck out former second sentence which read as follows: “While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general if appointed to that grade by the President, by and with the advice and consent of the Senate.”

Subsec. (b). Pub. L. 103-337, §504(b)(4)(B), added subsec. (b) and struck out former subsec. (b) which read as follows: “An officer retiring from the position of Staff Judge Advocate to the Commandant of the Marine Corps, after serving at least three years in that position, shall be retired in the highest grade in which that

officer served on active duty satisfactorily, as determined by the Secretary of the Navy.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE

Pub. L. 99-661, div. A, title V, §509(b), Nov. 14, 1986, 100 Stat. 3868, provided that: “Section 5046 [now 8046] of title 10, United States Code, as added by subsection (a), shall apply only with respect to appointments as Staff Judge Advocate to the Commandant of the Marine Corps made on or after the date of the enactment of this Act [Nov. 14, 1986].”

TRANSITION PROVISION FOR RETIREMENT OF STAFF JUDGE ADVOCATES

Pub. L. 99-661, div. A, title V, §509(d), Nov. 14, 1986, 100 Stat. 3868, provided that: “Notwithstanding section 1370(a)(2) of title 10, United States Code, an officer serving in the position of Staff Judge Advocate to the Commandant of the Marine Corps, or an equivalent position, on the day before the date of the enactment of this Act [Nov. 14, 1986], if retired after having served in such position (or equivalent position) at least three years, including any service in such position (or its equivalent) before such date, shall be retired in the highest grade in which the officer served on active duty satisfactorily, as determined by the Secretary of the Navy.”

§ 8047. Legislative Assistant to the Commandant

There is in the Marine Corps a Legislative Assistant to the Commandant.

(Added Pub. L. 107-314, div. A, title V, §504(d)(3)(A), Dec. 2, 2002, 116 Stat. 2532, §5047; amended Pub. L. 114-328, div. A, title V, §502(y), Dec. 23, 2016, 130 Stat. 2104; renumbered §8047, Pub. L. 115-232, div. A, title VIII, §807(a)(1), Aug. 13, 2018, 132 Stat. 1834.)

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5047 of this title as this section.

2016—Pub. L. 114-328 struck out second sentence which read as follows: “An officer assigned to that position shall be in a grade above colonel.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

CHAPTER 807—COMPOSITION OF THE DEPARTMENT OF THE NAVY

Sec.	
8061.	Department of the Navy: composition.
8062.	United States Navy: composition; functions.
8063.	United States Marine Corps: composition; functions.

PRIOR PROVISIONS

A prior chapter 807, consisting of sections 8061 to 8084, related to the Air Force, prior to renumbering as chapter 907 of this title.

AMENDMENTS

2018—Pub. L. 115-232, div. A, title VIII, §807(e)(1), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated