

prepared in conjunction with the Commandant of the Marine Corps and may be submitted in classified and unclassified versions.

(Added Pub. L. 104-201, div. A, title XII, § 1212(c)(1), Sept. 23, 1996, 110 Stat. 2692, § 5144; 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; Pub. L. 114-328, div. A, title V, § 502(ee), Dec. 23, 2016, 130 Stat. 2105; Pub. L. 115-91, div. A, title X, § 1051(a)(29), Dec. 12, 2017, 131 Stat. 1562; renumbered § 8084 and amended Pub. L. 115-232, div. A, title VIII, §§ 807(a)(2), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

PRIOR PROVISIONS

A prior section 8084 was renumbered section 9084 of this title.

AMENDMENTS

2018—Pub. L. 115-232, § 807(a)(2), renumbered section 5144 of this title as this section.

Subsec. (b)(1). Pub. L. 115-232, § 809(a), substituted “section 8001(2)” for “section 5001(2)”.

2017—Subsec. (d). Pub. L. 115-91 struck out par. (1) designation before “The Commander,” and struck out par. (2) which read as follows: “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.”

2016—Subsec. (c). Pub. L. 114-328, in heading, struck out “; Grade” after “Reappointment”, and in text, struck out par. (1) designation before “The Commander, Marine Forces Reserve,” and struck out par. (2) which read as follows: “The Commander, Marine Forces Reserve, while so serving, holds the grade of lieutenant general.”

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) generally. 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 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 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 7038 of this title.

§ 8088. 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.

(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, §5148; 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; Pub. L. 114-328, div. A, title V, §502(ff), Dec. 23, 2016, 130 Stat. 2105; renumbered §8088, Pub. L. 115-232, div. A, title VIII, §807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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 organizational 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

2018—Pub. L. 115-232 renumbered section 5148 of this title as this section.

2016—Subsec. (b). Pub. L. 114-328 struck out last sentence which read as follows: "The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate."

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 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 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 sec-

tion 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.”

§ 8089. 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 from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General.

(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.

(3) 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 Deputy Judge Advocate General, 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 Navy require the waiver.

(b) An officer of the Judge Advocate General's Corps who has the qualifications prescribed for the Judge Advocate General in section 8088(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. 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).

(c) A judge advocate of the Marine Corps who has the qualifications prescribed for the Judge Advocate General in section 8088(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. 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.

(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, §5149; 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; Pub. L. 114-328, div. A, title V, §502(gg), Dec. 23, 2016, 130 Stat. 2105; Pub. L. 115-91, div. A, title V, §508(b), Dec. 12, 2017, 131 Stat. 1375; renumbered §8089 and amended Pub. L. 115-232, div. A, title VIII, §§807(a)(2), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
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.

Changes in phraseology are made to conform to the language used in §5135 of this title.

AMENDMENTS

2018—Pub. L. 115-232, §807(a)(2), renumbered section 5149 of this title as this section.

Subsecs. (b), (c). Pub. L. 115-232, §809(a), substituted “section 8088(b)” for “section 5148(b)”.

2017—Subsec. (a)(3). Pub. L. 115-91 added par. (3).

2016—Subsec. (a)(1). Pub. L. 114-328, §502(gg)(1), struck out “, by and with the advice and consent of the Senate,” after “appointed by the President” and struck out second sentence which read as follows: “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.”

Subsec. (b). Pub. L. 114-328, §502(gg)(2), struck out second and last sentences which read “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.” and “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.”, respectively.

Subsec. (c). Pub. L. 114-328, §502(gg)(2), struck out second and last sentences which read “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.” and “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.”, respectively.