

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.

1994—Subsec. (a). Pub. L. 103-337 designated existing provisions as par. (1), added second sentence, struck out former second and third sentences which read as follows: “While so serving he is entitled to the grade of rear admiral or major general, as appropriate, unless entitled to a higher grade under another provision of law. The Deputy Judge Advocate General is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.”, and added par. (2).

1986—Subsec. (a). Pub. L. 99-661, §508(b)(1), substituted “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” for “A judge advocate of the Navy or Marine Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title shall be detailed as Deputy Judge Advocate General of the Navy”, and struck out “rank and” before “grade of” and struck out “rank or” before “grade under” in second sentence.

Subsec. (b). Pub. L. 99-661, §508(b)(2), substituted “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” for “While so serving he is entitled to the rank and grade of rear admiral (lower half), unless entitled to a higher rank or grade under another provision of law”.

Subsec. (c). Pub. L. 99-661, §508(b)(3), substituted “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” for “While so serving he is entitled to the rank and grade of brigadier general, unless entitled to a higher rank or grade under another provision of law”.

1985—Subsec. (b). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore” in three places.

1981—Subsec. (b). Pub. L. 97-86 substituted “commodore” for “commodore admiral” in three places.

1980—Subsec. (a). Pub. L. 96-513, §503(13)(A), struck out “(upper half)” after “entitled to the rank and grade of rear admiral”.

Subsec. (b). Pub. L. 96-513, §503(13)(B), (C), substituted “rank and grade of commodore admiral” for “rank and grade of rear admiral (lower half)” in two places, “retired as a commodore admiral” for “retired as a rear admiral”, and “retired pay of that grade” for “retired pay in the lower half of that grade”.

1968—Subsec. (c). Pub. L. 90-623 substituted “5148(b)” for “4158(b)”.

1967—Pub. L. 90-179 inserted reference to Deputy Judge Advocate General and substituted “Advocates General” for “Advocate General; succession to duties” after “Assistant Judge” in section catchline.

Subsec. (a). Pub. L. 90-179 substituted provisions relating to the detailing of a judge advocate of the Navy or Marine Corps as Deputy Judge Advocate General of the Navy, his rank while so serving and retirement privileges for provisions relating to the detailing of an officer of the Navy or Marine Corps as Assistant Judge Advocate General.

Subsecs. (b) to (d). Pub. L. 90-179 added subsecs. (b) and (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and in subsec. (d), as so redesignated, substituted “Deputy Judge Advocate General” for “Assistant Judge Advocate General, unless otherwise directed by the President.”.

Subsec. (e). Pub. L. 90-179 redesignated former subsec. (c) as (e) and in subsec. (e), as so redesignated, substituted provisions relating to the performance of the duties of the Judge Advocate General by the Assistant Judge Advocates General in the event of the absence or disability of the Deputy Judge Advocate General for provisions relating to the performance of such duties by the heads of the major divisions of the Office of the

Judge Advocate General in the event of the absence or disability of the Assistant Judge Advocate General.

1966—Pub. L. 89-718 struck out “pay,” before “succession” in section catchline.

1962—Subsec. (a). Pub. L. 87-649 repealed last sentence which provided that a person detailed as Assistant Judge Advocate General is entitled to the highest pay of his rank. See section 202 of Title 37, Pay and Allowances of the Uniformed Services.

1958—Subsec. (b). Pub. L. 85-861 substituted “office” for “Office”.

#### 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 1986 AMENDMENT

Amendment by Pub. L. 99-661 applicable with respect to appointments or details made on or after Nov. 14, 1986, see section 508(f) of Pub. L. 99-661, set out as an Effective Date note under section 12210 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, 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.

#### 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.

#### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(8) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

#### GRANDFATHERING OF RETIRED GRADE OF ASSISTANT JUDGE ADVOCATES GENERAL OF THE NAVY AS OF REPEAL OF STATUTORY SPECIFICATION OF GENERAL AND FLAG OFFICERS GRADES IN THE ARMED FORCES

Pub. L. 115-91, div. A, title V, §509, Dec. 12, 2017, 131 Stat. 1375, provided that:

“(a) IN GENERAL.—Notwithstanding the amendments made by section 502(gg)(2) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 2105) [amending this section], an officer selected to hold a position specified in subsection (b) as of December 23, 2016, may be retired after that date in the grade of rear admiral (lower half) or brigadier general, as applicable, with the retired pay of such grade (unless entitled to higher pay under another provision of law).

“(b) SPECIFIED POSITIONS.—Subsection (a) applies with respect to the Assistant Judge Advocates General of the Navy provided for by subsections (b) and (c) of section 5149 [now 8089] of title 10, United States Code.”

#### OFFICER SERVING AS DEPUTY AND ASSISTANT JUDGE ADVOCATE OF THE NAVY ON DEC. 7, 1967; RANK; RETIREMENT BENEFITS

Pub. L. 90-179, §9, Dec. 8, 1967, 81 Stat. 549, provided that: “Nothing in this Act [enacting sections 5578a and

5587a of this title, amending this section, sections 801, 806, 815, 827, 865, 936, 5148, 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 5184 of this title] shall operate to terminate or reduce the term of an officer who was serving as Deputy and Assistant Judge Advocate General of the Navy on the day before the effective date of this Act [Dec. 8, 1967] or to deprive to him of the rank, pay, allowances, or retirement privileges to which he was then entitled. Notwithstanding any other provision of law, an officer who was so serving on the day before the effective date of this Act shall be deemed to be detailed as Deputy Judge Advocate General, pursuant to section 5149 [now 8089] of title 10, United States Code, as amended by this Act [this section], and in addition to rights and benefits then accrued, to be entitled to the rank and retirement benefits authorized by that section. For the purposes of determining his eligibility for the retirement benefits authorized by section 5149 [now 8089] of title 10, United States Code, as amended by this Act [this section], an officer who is serving as Deputy Judge Advocate General on the effective date of this Act shall be credited with all service performed under appointment or detail as Deputy and Assistant Judge Advocate General before the effective date of this Act.”

### § 8090. Staff corps of the Navy

(a) The staff corps of the Navy are—

- (1) the Medical Corps;
- (2) the Dental Corps;
- (3) the Judge Advocate General’s Corps;
- (4) the Chaplain Corps; and

(5) such other staff corps as may be established by the Secretary of the Navy under subsection (b).

(b)(1) The Secretary of the Navy may establish staff corps of the Navy in addition to the Medical Corps, the Dental Corps, the Judge Advocate General’s Corps, and the Chaplain Corps. The Secretary may designate commissioned officers in, and may assign members to, any such staff corps.

(2) The Secretary of the Navy may provide for the appointment of the chief of any staff corps established under this subsection.

(Added Pub. L. 96-513, title III, § 351, Dec. 12, 1980, 94 Stat. 2902, § 5155; amended Pub. L. 97-22, § 6(a), July 10, 1981, 95 Stat. 129; Pub. L. 97-86, title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; renumbered § 5150, Pub. L. 99-433, title V, § 514(a)(2), Oct. 1, 1986, 100 Stat. 1054; Pub. L. 99-661, div. A, title XIII, § 1343(a)(23), Nov. 14, 1986, 100 Stat. 3994; Pub. L. 100-26, § 3(7), Apr. 21, 1987, 101 Stat. 274; Pub. L. 102-190, div. A, title X, § 1061(a)(22)(A), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 107-314, div. A, title V, § 504(a)(2), Dec. 2, 2002, 116 Stat. 2531; Pub. L. 112-239, div. A, title V, § 501(b), Jan. 2, 2013, 126 Stat. 1714; Pub. L. 114-328, div. A, title V, § 502(hh), Dec. 23, 2016, 130 Stat. 2105; renumbered § 8090, Pub. L. 115-232, div. A, title VIII, § 807(a)(2), Aug. 13, 2018, 132 Stat. 1834.)

#### AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5150 of this title as this section.

2016—Subsec. (b)(2). Pub. L. 114-328, § 502(hh)(1), substituted “The Secretary” for “Subject to subsection (c), the Secretary”.

Subsec. (c). Pub. L. 114-328, § 502(hh)(2), struck out subsec. (c) which read as follows: “The Secretary of the Navy, whenever the needs of the service require, may convene a selection board under section 611(a) of this

title to select an officer in the Nurse Corps or in the Medical Service Corps (if such corps has been established under subsection (a)) for promotion to the grade of rear admiral, in the case of an officer in the Nurse Corps, or rear admiral (lower half), in the case of an officer in the Medical Service Corps. An officer promoted pursuant to such a selection shall be appointed by the Secretary to the position of Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary.”

2013—Subsec. (c). Pub. L. 112-239 struck out at end “For the purpose of computing the total number of flag officers in the staff corps of the Navy under section 526 of this title, an officer so appointed shall be considered an additional number in grade.”

2002—Subsec. (c). Pub. L. 107-314 substituted “for promotion to the grade of rear admiral, in the case of an officer in the Nurse Corps, or rear admiral (lower half), in the case of an officer in the Medical Service Corps” for “for promotion to the grade of rear admiral (lower half)” in first sentence.

1991—Subsec. (c). Pub. L. 102-190 substituted “section 526” for “section 5444”.

1987—Subsec. (c). Pub. L. 100-26 made technical amendment to directory language of Pub. L. 99-661, § 1343(a)(23). See 1986 Amendment note below.

1986—Pub. L. 99-433 renumbered section 5155 of this title as this section.

Subsec. (c). Pub. L. 99-661, as amended by Pub. L. 100-26, substituted “rear admiral (lower half)” for “commodore”.

1981—Subsec. (c). Pub. L. 97-86 substituted “commodore” for “commodore admiral”.

Pub. L. 97-22 substituted “Nurse Corps or in the Medical Service Corps (if such corps has been established under subsection (a)) for promotion to the grade of commodore admiral” for “Nurse Corps or Medical Service Corps for promotion to the grade of commodore admiral or rear admiral, as appropriate”, substituted “An officer promoted pursuant to such a selection shall be appointed by the Secretary to the position of Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary” for “An officer so selected shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years to serve in the position, respectively, of Director of the Nurse Corps or Director of the Medical Service Corps”, and inserted provision that for the purpose of computing the total number of flag officers in the staff corps of the Navy under section 5444 of this title, an officer so appointed shall be considered an additional number in grade.

#### 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 1987 AMENDMENT

Amendment by Pub. L. 100-26 applicable as if included in Pub. L. 99-661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100-26, set out as a note under section 776 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

#### EFFECTIVE DATE

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