

ignated include communications, law, naval intelligence, photography, public affairs, psychology, geophysics, cryptography, and hydrography.

(d) Officers designated for engineering duty, aeronautical engineering duty, or special duty shall perform sea or shore duty appropriate to their special qualifications but may not succeed to command except on shore and then only as authorized by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 325, §5587; Pub. L. 90-179, §5(2), Dec. 8, 1967, 81 Stat. 547; Pub. L. 90-386, §1(5), July 5, 1968, 82 Stat. 293; Pub. L. 96-513, title III, §324, Dec. 12, 1980, 94 Stat. 2893; renumbered §8137, Pub. L. 115-232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
5587 .....	34 U.S.C. 77 (less statement of appointing authority). 34 U.S.C. 71, 73.	Aug. 7, 1947, ch. 512, § 408 (less statement of appointing authority), 61 Stat. 873. Aug. 29, 1916, ch. 417, 39 Stat. 580 (words preceding 3d proviso of 1st par. under "Officers for Engineering Duty Only"); May 11, 1928, ch. 522, 45 Stat. 498; Aug. 7, 1947, ch. 512, § 402(a), (c), 61 Stat. 870.
	34 U.S.C. 78 (less (b)).	Aug. 7, 1947, ch. 512, § 403 (less (b)), 61 Stat. 870.
	34 U.S.C. 211b (less (b)).	Aug. 7, 1947, ch. 512, § 401 (less (b)), 61 Stat. 869.

In subsection (a) the word "annually" and the words "and regularly commission" are omitted as surplusage. The word "male" is inserted in subsection (a) to limit the application of the appointing authority in this subsection to men. Authority to appoint women is covered in §5590 of this title.

In subsection (b) the words "on the active list" are inserted in order to exclude reserve and temporary officers, which is the intention of Congress determined from the use of the words "additional numbers in grade" and "percentage of officers on the active list" which apply only to regular officers holding permanent appointments. In the same subsection and in subsections (c) and (d) the provisions of the law that these officers are assigned to a certain duty and then "described and known as officers designated" for that duty have been written simply as providing that these officers may be "designated" for that duty. This is done as there is no apparent reason for any distinction between these officers and those appointed under subsection (a). In subsection (c) the words "specialized duties in the fields of" are omitted as surplusage.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5587 of this title as this section.

1980—Subsec. (a). Pub. L. 96-513, §324(a), substituted provision allowing the appointment of "persons" in the line of the Navy as regular officers for provision allowing the appointment of males only to the active list in the line of the Navy as officers, struck out provision specifying the rank designation of appointees, and struck out provision limiting the number of appointments under subsec. (a) to the number of vacancies that the Secretary of the Navy estimated would occur in a particular fiscal year in the grades and designations concerned.

Subsec. (b). Pub. L. 96-513, §324(b), substituted "a regular officer" for "any officer on the active list".

Subsec. (c). Pub. L. 96-513, §324(c), substituted "public affairs, psychology, geophysics, cryptography" for "public information, psychology".

Subsec. (d). Pub. L. 96-513, §324(d), struck out "are additional numbers in grade. They" after "special duty".

1968—Subsec. (c). Pub. L. 90-386 enumerated the types of engineering duty and aeronautical engineering duty for which officers may be designated.

1967—Subsec. (c). Pub. L. 90-179 struck out "law," after "communications,".

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 of 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.

§ 8138. Regular Marine Corps: judge advocates

With the approval of the Secretary of the Navy, any regular officer on the active-duty list of the Marine Corps who is qualified under section 827(b) of this title may, upon his application, be designated as a judge advocate.

(Added Pub. L. 90-179, §5(3), Dec. 8, 1967, 81 Stat. 548, §5587a; amended Pub. L. 96-513, title V, §503(30), Dec. 12, 1980, 94 Stat. 2913; renumbered §8138, Pub. L. 115-232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834.)

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5587a of this title as this section.

1980—Pub. L. 96-513 struck out designation "(a)" before "With the approval of the Secretary", substituted "active-duty list" for "active list", and struck out subsec. (b) which provided that, for the purposes of determining lineal position, permanent grade, seniority in permanent grade, and eligibility for promotion, a person appointed to the active list of the Marine Corps with a view to designation as a judge advocate could be credited with the amount of service prescribed by the Secretary of the Navy, but not more than three years.

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, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 8139. Regular Navy and Regular Marine Corps: officers designated for limited duty

(a) Original appointments as regular officers of the Navy in a grade below lieutenant commander in the line and in staff corps established by the Secretary of the Navy under section 8090(b) of this title and designated by the Secretary for the purposes of this section may be made from—

- (1) warrant officers;
- (2) chief petty officers; and
- (3) first-class petty officers;

in the Regular Navy, for the performance of duty in the technical fields indicated by their warrants or ratings.

(b) Original appointments as regular officers of the Marine Corps in a grade below major may be made from—

- (1) warrant officers;
- (2) master sergeants; and
- (3) technical sergeants;

in the Regular Marine Corps, for the performance of duty in the technical fields in which they are proficient.

(c)(1) An officer described in paragraph (2) may be given an original appointment as a regular officer of the Navy or the Marine Corps, as the case may be, in the grade, and with the date of rank in that grade, in which the officer is serving on the day before such original appointment.

(2) This subsection applies to an officer of the Navy and Marine Corps who—

- (A) is on the active-duty list;
- (B) holds a permanent enlisted or warrant officer grade;
- (C) is designated for limited duty under subsection (a) of section 8146 of this title; and
- (D) is serving in the grade of lieutenant commander or commander, or in the grade of major or lieutenant colonel, under a temporary appointment under subsection (d) of section 8146 of this title.

(d) To be eligible for an appointment under this section a member must have the qualifications specified in section 532(a) of this title and have completed at least 8 years of active naval service, excluding active duty for training in a reserve component.

(e) Each officer appointed under this section is known as an officer designated for limited duty. He may not suffer any reduction in the pay and allowances to which he was entitled at the time of his appointment because of his former permanent status.

(f) Any officer designated for limited duty, upon his application and upon determination by the Secretary of the Navy that he is qualified, may—

- (1) if he is in the line of the Navy, be designated for engineering duty, aeronautical engineering duty, or special duty, or be assigned to unrestricted performance of duty;
- (2) if he is in a staff corps of the Navy, be assigned to unrestricted performance of duty in that corps; or
- (3) if he is in the Marine Corps, be assigned to unrestricted performance of duty.

When an officer is so designated or assigned, his status as an officer designated for limited duty terminates.

(g) The Secretary shall prescribe regulations for the appointment, designation, and assignment of officers under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 326, § 5589; Pub. L. 87-123, § 5(10), Aug. 3, 1961, 75 Stat. 265; Pub. L. 96-513, title III, § 325, Dec. 12, 1980, 94 Stat. 2893; Pub. L. 99-433, title V, § 514(c)(3), Oct. 1, 1986, 100 Stat. 1055; Pub. L. 103-337, div. A, title V, § 502, Oct. 5, 1994, 108 Stat. 2748; renumbered § 8139 and amended Pub. L. 115-232, div. A, title V, § 512, title VIII, §§ 807(b)(4), 809(a), Aug. 13, 2018, 132 Stat. 1751, 1834, 1840.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5589 .....	34 U.S.C. 211c ((a) (less statement of appointing authority), and less (e)-(h)).	Aug. 7, 1947, ch. 512, § 404 ((a) (less statement of appointing authority), and less (e)-(h)), 61 Stat. 870; Aug. 5, 1949, ch. 402, § 1(f), 63 Stat. 568.

In subsections (a) and (b) the authority to make appointments under this section is confined to appointments in the grades of ensign and second lieutenant, since the authority in the source statute to make appointments in higher grades was limited and has been completely executed. The words “commissioned warrant officers” are omitted as surplusage, since the term “warrant officers” includes commissioned warrant officers.

The word “male” is inserted to limit the application of the section to men. Authority to appoint women is covered in § 5590 of this title.

## AMENDMENTS

2018—Pub. L. 115-232, § 807(b)(4), renumbered section 5589 of this title as this section.

Subsec. (a). Pub. L. 115-232, § 809(a), substituted “section 8090(b)” for “section 5150(b)” in introductory provisions.

Subsec. (c)(2)(C), (D). Pub. L. 115-232, § 809(a), substituted “section 8146” for “section 5596”.

Subsec. (d). Pub. L. 115-232, § 512, substituted “8 years” for “10 years”.

1994—Subsecs. (c) to (g). Pub. L. 103-337 added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

1986—Subsec. (a). Pub. L. 99-433 substituted “section 5150(b)” for “section 5155(b)”.

1980—Subsec. (a). Pub. L. 96-513, § 325(1), substituted “as regular officers of the Navy in a grade below lieutenant commander in the line and in staff corps established by the Secretary of the Navy under section 5155(b) of this title and designated by the Secretary for the purposes of this section may be made from” for “to the active list of the Navy in the grade of ensign in the line, in the Supply Corps, and in the Civil Engineer Corps may be made from male”.

Subsec. (b). Pub. L. 96-513, § 325(2), substituted “as regular officers of the Marine Corps in a grade below major may be made from” for “to the active list of the Marine Corps in the grade of second lieutenant may be made from male”.

Subsec. (c). Pub. L. 96-513, § 325(3), inserted “the qualifications specified in section 532(a) of this title and have”.

1961—Subsec. (e)(3). Pub. L. 87-123 struck out “be designated for supply duty or” before “be assigned to”.

## EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by sections 807(b)(4) and 809(a) of 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.

## TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions relating to Regular Navy or Regular Marine Corps officers designated as limited-duty officers under this section prior to September 15, 1981, see section 616 of Pub. L. 96-513, set out as a note under section 611 of this title.

**§ 8146. Navy and Marine Corps: temporary appointments of officers designated for limited duty**

(a) Under such regulations as he may prescribe, the Secretary of the Navy may make temporary appointments of officers designated for limited duty in the Regular Navy in grades not above lieutenant and in the Regular Marine Corps in grades not above captain from sources authorized under section 8139 of this title. Such appointments shall be made by warrant if in the grade of warrant officer, W-1, and by commission if in a higher grade.

(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person receiving a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(c) The following members of the naval service are ineligible for temporary appointments under this section:

- (1) Retired members.
- (2) Members of the Navy Reserve and the Marine Corps Reserve ordered to active duty for training.
- (3) Members of the Navy Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Navy Reserve or the Marine Corps Reserve.
- (4) Members of the Navy Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

(d) Officers designated for limited duty under subsection (a) may be temporarily appointed by the Secretary of the Navy in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps under such regulations as the Secretary may prescribe. Regulations prescribed under this section shall to the greatest extent practicable conform to the procedures prescribed in chapter 36 of this title for selection for promotion and promotion to higher permanent grades.

(e) The Secretary of the Navy may terminate any appointment made under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 328, §5596; Pub. L. 96-513, title III, §326, Dec. 12, 1980, 94 Stat. 2894; Pub. L. 102-190, div. A, title XI, §1113(c), (d)(2)(A), Dec. 5, 1991, 105 Stat. 1502; Pub. L. 109-163, div. A, title V, §515(b)(1)(G), Jan. 6, 2006, 119 Stat. 3233; renumbered §8146 and amended Pub. L. 115-232, div. A, title VIII, §807(b)(4), 809(a), Aug. 13, 2018, 132 Stat. 1834, 1840.)

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5596(b) .....	34 U.S.C. 3c(c).	Aug. 7, 1947, ch. 512, § 302(c), 61 Stat. 830.
5596(c) .....	34 U.S.C. 3c(h) (less 14th through 53d words).	Aug. 7, 1947, ch. 512, § 302(h) (less 14th through 53d words), 61 Stat. 830.
5596(d) .....	34 U.S.C. 135a(a) (last sentence as applicable to temporary appointments).	May 29, 1954, ch. 249, § 3(a) (3d sentence as applicable to temporary appointments), 68 Stat. 158.
	34 U.S.C. 135c(a) (last sentence as applicable to temporary appointments).	May 29, 1954, ch. 249, § 5(a) (last sentence as applicable to temporary appointments), 68 Stat. 159.
	34 U.S.C. 330 (last sentence as applicable to temporary promotions).	May 29, 1954, ch. 249, § 7 (last sentence as applicable to temporary promotions), 68 Stat. 159.
5596(e) .....	34 U.S.C. 3c(g).	Aug. 7, 1947, ch. 512, § 302(g), 61 Stat. 830.
	34 U.S.C. 626-1(a).	Aug. 7, 1947, ch. 512, § 314(a), 61 Stat. 863.
5596(f) .....	34 U.S.C. 3c(e).	Aug. 7, 1947, ch. 512, § 302(e), 61 Stat. 830.
	34 U.S.C. 135a(b).	May 29, 1954, ch. 249, § 3(b), 68 Stat. 158.
5596(g) .....	34 U.S.C. 105j.	June 12, 1948, ch. 449, § 215, 62 Stat. 370.
	34 U.S.C. 625h(a).	June 12, 1948, ch. 449, § 213(a), 62 Stat. 369.
	34 U.S.C. 3c(a) (as applicable to meaning of word "officers").	Aug. 7, 1947, ch. 512, § 302(a) (as applicable to meaning of word "officers"), 61 Stat. 829.
	34 U.S.C. 3c(h) (14th through 53d words).	Aug. 7, 1947, ch. 512, § 302(h) (14th through 53d words), 61 Stat. 830.
5596(h) .....	34 U.S.C. 306h (as applicable to temporary appointments under 34 U.S.C. 3c(c)).	Aug. 7, 1947, ch. 512, § 316(d) (as applicable to temporary appointments under § 302(c)), 61 Stat. 867.

Since appointments under this section are either made, or not made, in the discretion of the President, the proviso of 34 U.S.C. 3d, authorizing the President to suspend the operation of this section with respect to lieutenants (junior grade) and lieutenants in the Navy and first lieutenants and captains in the Marine Corps, is omitted from subsection (a) as unnecessary.

In subsections (b) and (c) the words "and above" have been executed by naming the grades they imply, to wit, chief petty officers and master and technical sergeants. In the statement of the grades to which appointments may be made, the words "including the grades of warrant officer and commissioned warrant officer" are omitted as surplusage. In the list of persons who may be appointed, reference to commissioned warrant officers is omitted because they are included within the term "warrant officers".

In subsection (f) the words "do not change the \* \* \* status" are substituted for the words "appointments \* \* \* shall not be vacated." The word "advancement", the words "in accordance with laws relating to the Regular Navy or Marine Corps", and the words "privileges and gratuities" are omitted as surplusage. The first proviso is omitted as unnecessary in view of the Career Compensation Act of 1949.

In subsection (g)(2) that portion of 34 U.S.C. 3c(a) which excludes officers on the retired list from the definition of the word "officers" is treated as precluding the appointment of such officers under this section. There is no express statement of law making retired enlisted members ineligible for such appointments; however, the context indicates this to be the intent of Congress. In subsection (g)(3) that portion of 34 U.S.C. 3c(a) which excludes officers on active duty for training from the definition of the word "officers" is treated as precluding the appointment of persons on training duty under this section. While there is no statement of law making enlisted members of the Naval Reserve and the Marine Corps Reserve on active duty for training ineligible for appointments under this section, the context

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5596(a) .....	34 U.S.C. 3d.	Aug. 7, 1947, ch. 512, §301, 61 Stat. 829; June 30, 1951, ch. 196, §1(b), 65 Stat. 108.