

this title, but such authority to be exercised within a program providing for the orderly and expeditious admission of women to the Academy, consistent with the needs of the services, see section 803(c) of Pub. L. 94-106, set out as a note under section 7442 of this title.

§ 8455. Midshipmen: allotment upon redistricting of Congressional Districts

If as a result of redistricting a State the domicile of a midshipman, or a nominee, nominated by a Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of midshipmen otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a midshipman or when he is finally separated from the Naval Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 430, § 6955; renumbered § 8455, Pub. L. 115-232, div. A, title VIII, § 807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--------------------------------------|
| 6955 | 34 U.S.C. 1032-1. | July 7, 1943, ch. 193, 57 Stat. 383. |

The word “domicile” is substituted for the words “place of residence” to conform to the long-standing interpretation of this section (see also opinions of the Judge Advocate General of the Army R. 29, 83; J.A.G. 351.11, Feb. 10, 1925). The words “a congressional district other than that from which he was nominated” are substituted for the word “another”. The words “were appointed with respect to”, “of the former district”, “as additional numbers”, “at such academy for the Representative”, “temporarily”, and “in attendance at either academy under an appointment from such former district” are omitted as surplusage. The words “the district in which his domicile so falls” are substituted for the words “of the latter district”. The words “to include him” are substituted for 34 U.S.C. 1032-1 (18 words before proviso). The words “However, the number as so increased” are substituted for 34 U.S.C. 1032-1 (1st 13 words of proviso). The words “if he fails to become a midshipman” are inserted for clarity.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 6955 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.

§ 8456. Midshipmen: nomination and selection to fill vacancies

- (a) If the annual quota of midshipmen from—
- (1) enlisted members of the Regular Navy and the Regular Marine Corps;
 - (2) enlisted members of the Navy Reserve and the Marine Corps Reserve; or
 - (3) at large by the President;

is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(b) If it is determined that, upon the admission of a new class to the Academy, the number of midshipmen at the Academy will be below the authorized number, the Secretary may fill the vacancies by nominating additional midshipmen from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board. At least three-fourths of those nominated under this subsection shall be from qualified alternates under paragraphs (2) through (8) of section 8454(a) of this title, and the remainder shall be from qualified candidates who competed for appointment under any other provision of law. An appointment of a nominee under this subsection is an additional appointment and is not in place of an appointment otherwise authorized by law.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the appointment of his successor.

(Aug. 10, 1956, ch. 1041, 70A Stat. 430, § 6956; Pub. L. 88-276, § 3, Mar. 3, 1964, 78 Stat. 151; Pub. L. 90-374, July 5, 1968, 82 Stat. 283; Pub. L. 93-171, § 2(4), Nov. 29, 1973, 87 Stat. 690; Pub. L. 94-106, title VIII, § 803(b)(2), Oct. 7, 1975, 89 Stat. 538; Pub. L. 97-60, title II, § 206, Oct. 14, 1981, 95 Stat. 1007; Pub. L. 101-510, div. A, title V, § 532(b)(2), title XIII, § 1322(a)(14), Nov. 5, 1990, 104 Stat. 1563, 1671; Pub. L. 109-163, div. A, title V, § 515(b)(1)(R), Jan. 6, 2006, 119 Stat. 3233; Pub. L. 112-239, div. A, title X, § 1076(f)(41), Jan. 2, 2013, 126 Stat. 1954; renumbered § 8456 and amended Pub. L. 115-232, div. A, title VIII, §§ 807(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|--------------------|-------------------------------|--|
| 6956(a), (b), (c). | 34 U.S.C. 1041. | June 29, 1906, ch. 3590, 34 Stat. 578 (last par.). |
| 6956(d) | 34 U.S.C. 1040. | Aug. 13, 1946, ch. 962, § 14, 60 Stat. 1061. |
| 6956(e) | 34 U.S.C. 1049. | June 30, 1950, ch. 421, § 4, 64 Stat. 305. |
| 6956(f) | 34 U.S.C. 1047 (1st proviso). | June 30, 1950, ch. 421, § 2 (1st proviso), 64 Stat. 304. |

The section is worded to indicate that all appointments are made by the President, and that, before appointment, prospective midshipmen are “nominees” or “candidates”, as appropriate.

In subsection (b) the provision authorizing the Secretary of the Navy to nominate candidates in the event nominations to fill vacancies under subsection (a) are not made by March fourth is omitted as covered by subsection (e), the purpose of which was to assure the entrance of a full class each year.

Reference in subsection (e) to the strength of the “brigade of midshipmen” is dropped, since there is no statutory requirement that the midshipmen at the Academy be so organized, and the term is a recognition of current organization only. The language authorizing the Secretary, in his discretion, to nominate additional midshipmen to meet the needs of the armed services but not to exceed the authorized strength of the Academy is changed to authorize the Secretary to “fill the vacancies by nominating additional midshipmen”. In exercising his discretion under this subsection, these factors are necessarily considered by the Secretary, irrespective of a specific provision so instructing him.

In subsection (f) the word “admission” is changed to the word “appointment”, since the admission of a person is a consequence of, and follows automatically from, his appointment. The statement of reasons for