

§ 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 failure to complete the course is omitted as unnecessary.

AMENDMENTS

2018—Pub. L. 115-232, §807(c)(1), renumbered section 6956 of this title as this section.

Subsec. (b). Pub. L. 115-232, §809(a), substituted “section 8454(a)” for “section 6954(a)”.

2013—Subsec. (b). Pub. L. 112-239 substituted “paragraphs” for “clauses”.

2006—Subsec. (a)(2). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

1990—Subsec. (a). Pub. L. 101-510, §1322(a)(14), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: “The Secretary of the Navy shall, as soon as possible after the first of June of each year, notify in writing each Senator, Representative, and delegate in Congress of any vacancy that will exist at the Naval Academy because of graduation in the following year, or that may occur for other reasons, for which the member or delegate is entitled to nominate a candidate and nine alternates.”

Subsec. (b). Pub. L. 101-510, §1322(a)(14)(B), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 101-510, §1322(a)(14)(B), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 101-510, §532(b)(2), substituted “clauses (2) through (8)” for “clauses (2)-(9)”.

Subsec. (d). Pub. L. 101-510, §1322(a)(14)(B), redesignated subsec. (d) as (c).

1981—Subsecs. (b) to (d). Pub. L. 97-60 redesignated subsecs. (d), (e), and (f) as (b), (c), and (d), respectively. Former subsec. (b) providing that a nomination following notification under subsection (a) be made by the fourth of March of the year following that in which notice of the vacancy was given and that, if the candidate died or declined the nomination, or if the nomination could not be made by reason of a vacancy in the membership of the Senate or the House of Representatives, the nomination could be made, as determined by the Secretary, not later than the date of the final entrance examination for that year, and former subsec. (c) providing that the nomination of candidates to fill vacancies for the District of Columbia, and selection of all candidates at large, be made by the fourth of March of the year in which the candidates were to enter the Academy, were struck out.

1975—Subsec. (d). Pub. L. 94-106 substituted “enlisted members” for “enlisted men” in pars. (1) and (2).

1973—Subsec. (e). Pub. L. 93-171 substituted reference to clauses (2)-(9) of section 6954(a) for reference to clauses (2)-(8) of section 6954(a).

1968—Subsec. (a). Pub. L. 90-374 substituted “nine alternates” for “five alternates”.

1964—Subsec. (a). Pub. L. 88-276, §3(1), substituted “five alternates” for “one or more alternates”.

Subsec. (e). Pub. L. 88-276, §3(2), substituted “three-fourths of those nominated” for “two-thirds of those nominated”.

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 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-171, see section 4 of Pub. L. 93-171, set out as a note under section 7442 of this title.

NUMBER OF ALTERNATE-APPOINTEES FROM CONGRESSIONAL SOURCES NOT TO BE REDUCED BECAUSE OF ADDITIONAL PRESIDENTIAL APPOINTMENTS

Nonreduction of number of appointees from congressional sources under this section because of additional presidential appointments under section 6954(b)(1) of this title, see note set out under section 7443 of this title.

§ 8458. Midshipmen: qualifications for admission

(a) Each candidate for admission to the Naval Academy—

(1) must be at least 17 years of age and must not have passed his twenty-third birthday on July 1 of the calendar year in which he enters the Academy; and

(2) shall be examined according to such regulations as the Secretary of the Navy prescribes, and if rejected at one examination may not be examined again for admission to the same class unless recommended by the Academic Board.

(b) Each candidate for admission nominated under clauses (3) through (9) of section 8454(a) of this title must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

(c) Each candidate nominated under clause (2) or (3) of section 8454(b) of this title—

(1) must be a citizen of the United States;

(2) must have passed the required physical examination; and

(3) shall be appointed in the order of merit from candidates who have, in competition with each other, passed the required mental examination.

(d) To be admitted to the Naval Academy, an appointee must take and subscribe to an oath prescribed by the Secretary of the Navy. If a candidate for admission refuses to take and subscribe to the prescribed oath, the candidate's appointment is terminated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 431, §6958; Pub. L. 87-663, §1(4), Sept. 14, 1962, 76 Stat. 547; Pub. L. 93-171, §2(5), Nov. 29, 1973, 87 Stat. 690; Pub. L. 101-510, div. A, title V, §532(b)(3), Nov. 5, 1990, 104 Stat. 1563; Pub. L. 102-190, div. A, title V, §512, Dec. 5, 1991, 105 Stat. 1360; Pub. L. 104-201, div. A, title V, §555(c), Sept. 23, 1996, 110 Stat. 2527; Pub. L. 105-85, div. A, title V, §541(a), Nov. 18, 1997, 111 Stat. 1740; renumbered §8458 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)
6958(a)(1)	34 U.S.C. 1047 (less 1st proviso).	June 30, 1950, ch. 421, §2 (less 1st proviso), 64 Stat. 304.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6958(a)(2) 6958(b)	34 U.S.C. 1043. 34 U.S.C. 1047 (2d proviso).	R.S. 1515. June 30, 1950, ch. 421, §2 (2d proviso), 64 Stat. 304.
6958(c)	34 U.S.C. 1042. 34 U.S.C. 1032 (less 1st 70 words).	Mar. 4, 1917, ch. 180, 39 Stat. 1182 (1st par.). Dec. 20, 1917, ch. 5, §1 (less 1st 70 words), 40 Stat. 430; Aug. 13, 1946, ch. 962, §16, 60 Stat. 1061; May 16, 1947, ch. 77, §1(o), 61 Stat. 100.

In subsection (a) the effective date is omitted as executed. The words "at least 17 years of age and must not have passed his twenty-second birthday" are substituted for the words "not less than seventeen years of age and not more than twenty-two years of age" to remove ambiguity, and for uniformity of treatment of provisions of this type. The reference to time of examination is omitted as being included within the Secretary's authority to prescribe regulations, which is stated in the subsection. The words "Academic Board" are substituted for the words "board of examiners".

In subsection (b) the words "domiciled in" are substituted for the words "actual resident of" since this term has been so interpreted.

AMENDMENTS

2018—Pub. L. 115-232, §807(c)(1), renumbered section 6958 of this title as this section.

Subsec. (b). Pub. L. 115-232, §809(a), substituted "clauses (3) through (9) of section 8454(a)" for "clauses (3) through (9) of section 6954(a)".

Subsec. (c). Pub. L. 115-232, §809(a), substituted "clause (2) or (3) of section 8454(b)" for "clause (2) or (3) of section 6954(b)" in introductory provisions.

1997—Subsec. (d). Pub. L. 105-85 added subsec. (d).

1996—Subsec. (a)(1). Pub. L. 104-201 substituted "twenty-third birthday" for "twenty-second birthday".

1991—Subsec. (c)(2) to (4). Pub. L. 102-190 redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which required candidates to have served at least one year as enlisted members on date of entrance.

1990—Subsec. (b). Pub. L. 101-510 substituted "clauses (3) through (9)" for "clauses (3)-(7), (9) and (10)".

1973—Subsec. (b). Pub. L. 93-171 substituted ", (9) and (10) of section 6954(a)" for "and (9) of section 6954(a)" and struck out "or Territory".

1962—Subsec. (b). Pub. L. 87-663 inserted references to American Samoa, Guam, and the Virgin Islands, and substituted "clauses (3)-(7) and (9)" for "clauses (3)-(7)".

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 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-171, see section 4 of Pub. L. 93-171, set out as a note under section 7442 of this title.

AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO SERVICE ACADEMIES FOR CERTAIN ENLISTED MEMBERS WHO SERVED DURING PERSIAN GULF WAR

For authority to waive maximum age limitation in subsec. (a)(1) of this section on basis of service on active duty in connection with Operation Desert Storm, see section 514 of Pub. L. 102-190, set out as a note under section 7446 of this title.