

receive military pay and allowances and shall not receive the pay prescribed for such position.

(2) Funds from which pay and allowances under paragraph (1) are paid to an officer while so serving shall be reimbursed as follows:

(A) For an officer serving in a position within the Central Intelligence Agency, such reimbursement shall be made from funds available to the Director of the Central Intelligence Agency.

(B) For an officer serving in a position within the Office of the Director of National Intelligence, such reimbursement shall be made from funds available to the Director of National Intelligence.

(g) COVERED POSITIONS.—The positions covered by this section are the positions specified in subsections (b) and (c) and the positions designated under subsection (d).

(Added Pub. L. 108-136, div. A, title V, §507(a), Nov. 24, 2003, 117 Stat. 1458; amended Pub. L. 109-163, div. A, title V, §507(a), Jan. 6, 2006, 119 Stat. 3228; Pub. L. 109-364, div. A, title V, §501(a), (b)(1), Oct. 17, 2006, 120 Stat. 2175, 2176; Pub. L. 110-417, [div. A], title IX, §933, Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-259, title VIII, §803, Oct. 7, 2010, 124 Stat. 2746; Pub. L. 112-81, div. A, title V, §502(d)(1), (2)(A), Dec. 31, 2011, 125 Stat. 1387, 1388.)

Editorial Notes

PRIOR PROVISIONS

A prior section 528, added Pub. L. 103-337, div. A, title IV, §405(b)(1), Oct. 5, 1994, 108 Stat. 2744; amended Pub. L. 104-106, div. A, title IV, §403(b), title XV, §1503(a)(4), Feb. 10, 1996, 110 Stat. 287, 511; Pub. L. 104-201, div. A, title X, §1074(a)(3), Sept. 23, 1996, 110 Stat. 2658, which related to limitation on number of officers on active duty in grades of general and admiral, was repealed by Pub. L. 107-107, div. A, title V, §501(a), Dec. 28, 2001, 115 Stat. 1079.

AMENDMENTS

2011—Pub. L. 112-81, §502(d)(2)(A), substituted “Officers serving in certain intelligence positions: military status; application of distribution and strength limitations; pay and allowances” for “Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances” in section catchline.

Subsecs. (b) to (d). Pub. L. 112-81, §502(d)(1), added subsecs. (b) to (d) and struck out former subsecs. (b) to (d) which related to Director and Deputy Director of CIA, Associate Director of Military Affairs of CIA, and Officers Serving in the Office of DNI, respectively.

2010—Subsec. (c). Pub. L. 111-259 substituted “Associate Director of Military Affairs, CIA” for “Associate Director of CIA for Military Affairs” in heading and “Associate Director of Military Affairs, Central Intelligence Agency, or any successor position” for “Associate Director of the Central Intelligence Agency for Military Affairs” in text.

2008—Subsec. (c). Pub. L. 110-417 substituted “Military Affairs” for “Military Support” in heading and text.

2006—Pub. L. 109-364, §501(b)(1), amended section catchline generally, substituting “Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances” for “Exclusion: officers serving in certain intelligence positions”.

Pub. L. 109-163 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) When none of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, an officer of the armed forces assigned to the position of Associate Director of Central Intelligence for Military Support, while serving in that position, shall not be counted against the numbers and percentages of officers of the grade of that officer authorized for that officer’s armed force.

“(b) The positions referred to in subsection (a) are the following:

“(1) Director of Central Intelligence.

“(2) Deputy Director of Central Intelligence.

“(3) Deputy Director of Central Intelligence for Community Management.”

Subsecs. (a), (b). Pub. L. 109-364, §501(a)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

“(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.

“(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

“(1) Director of the Central Intelligence Agency.

“(2) Deputy Director of the Central Intelligence Agency.”

Subsecs. (e) to (g). Pub. L. 109-364, §501(a)(2), added subsecs. (e) to (g).

CHAPTER 33—ORIGINAL APPOINTMENTS OF REGULAR OFFICERS IN GRADES ABOVE WARRANT OFFICER GRADES

Sec.

- | | |
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| 531. | Original appointments of commissioned officers. |
| 532. | Qualifications for original appointment as a commissioned officer. |
| 533. | Service credit upon original appointment as a commissioned officer. |
| 541. | Graduates of the United States Military, Naval, and Air Force Academies. |
- [555 to 565. Repealed.]

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-190, div. A, title XI, §1112(b)(1), Dec. 5, 1991, 105 Stat. 1501, substituted “ORIGINAL APPOINTMENTS OF REGULAR OFFICERS IN GRADES ABOVE WARRANT OFFICER GRADES” for “APPOINTMENTS IN REGULAR COMPONENTS” as chapter heading, struck out analysis of subchapters listing subchapter I “Original Appointments of Regular Officers in Grades above Warrant Officer Grades” and subchapter II “Appointments of Regular Warrant Officers”, and struck out subchapter I heading.

1980—Pub. L. 96-513, title I, §104(a), Dec. 12, 1980, 94 Stat. 2845, inserted an analysis of subchapters immediately following chapter heading, added subchapter I heading, and, in analysis of sections following subchapter I heading, added items 531, 532, and 533 preceding item 541, re-enacted item 541 without change, and struck out, following item 541, items 555 to 565. The items 555 to 565 formerly set out in the analysis of sections immediately following chapter heading were transferred to a position following a new heading for subchapter II preceding section 555.

§531. Original appointments of commissioned officers

(a)(1) Original appointments in the grades of second lieutenant, first lieutenant, and captain in the Regular Army, Regular Air Force, and Regular Marine Corps in the grades of ensign, lieutenant (junior grade), and lieutenant in the

Regular Navy, and in the equivalent grades in the Regular Space Force shall be made by the President alone.

(2) Original appointments in the grades of major, lieutenant colonel, and colonel in the Regular Army, Regular Air Force, and Regular Marine Corps in the grades of lieutenant commander, commander, and captain in the Regular Navy, and in the equivalent grades in the Regular Space Force shall be made by the President, by and with the advice and consent of the Senate.

(b) The grade of a person receiving an appointment under this section who at the time of appointment (1) is credited with service under section 533 of this title, and (2) is not a commissioned officer of a reserve component shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited. The grade of a person receiving an appointment under this section who at the time of the appointment is a commissioned officer of a reserve component is determined under section 533(f) of this title.

(c) Subject to the authority, direction, and control of the President, an original appointment as a commissioned officer in the Regular Army, Regular Air Force, Regular Navy, Regular Marine Corps, or Regular Space Force may be made by the Secretary of Defense in the case of a reserve commissioned officer upon the transfer of such officer from the reserve active-status list of a reserve component of the armed forces to the active-duty list of an armed force, notwithstanding the requirements of subsection (a).

(Added Pub. L. 96-513, title I, §104(a), Dec. 12, 1980, 94 Stat. 2845; amended Pub. L. 97-22, §3(a), July 10, 1981, 95 Stat. 124; Pub. L. 108-375, div. A, title V, §501(a)(4), (c)(5), Oct. 28, 2004, 118 Stat. 1873, 1874; Pub. L. 116-92, div. A, title V, §501(a), Dec. 20, 2019, 133 Stat. 1343; Pub. L. 116-283, div. A, title IX, §924(b)(4)(A), (13), Jan. 1, 2021, 134 Stat. 3822, 3823.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 116-283, §924(b)(13)(A), substituted “in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy, and in the equivalent grades in the Regular Space Force” for “and in the grades of ensign, lieutenant (junior grade), and lieutenant in the Regular Navy”.

Subsec. (a)(2). Pub. L. 116-283, §924(b)(13)(B), substituted “in the grades of lieutenant commander, commander, and captain in the Regular Navy, and in the equivalent grades in the Regular Space Force” for “and in the grades of lieutenant commander, commander, and captain in the Regular Navy”.

Subsec. (c). Pub. L. 116-283, §924(b)(4)(A), substituted “Regular Marine Corps, or Regular Space Force” for “or Regular Marine Corps”.

2019—Subsec. (c). Pub. L. 116-92 substituted “the Secretary of Defense” for “the Secretary concerned”.

2004—Subsec. (a). Pub. L. 108-375, §501(a)(4), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Original appointments in the grades of second lieutenant through colonel in the Regular Army, Regular Air Force, and Regular Marine Corps and in the grades of ensign through captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.”

Subsec. (c). Pub. L. 108-375, §501(c)(5), added subsec. (c).

1981—Pub. L. 97-22 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title V, §501(g), Oct. 28, 2004, 118 Stat. 1875, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 647 of this title, amending this section and sections 532, 619, 641, 1174, 2114, 12201, 12203, and 12731 of this title, and repealing section 522 of this title] shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act [Oct. 28, 2004].

“(2) The amendment made by subsection (a)(1) [amending section 532 of this title] shall take effect on May 1, 2005.”

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter 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.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of this title.

PROGRAM TO INCREASE USE OF CERTAIN NURSES BY MILITARY DEPARTMENTS

Pub. L. 101-189, div. A, title VII, §708, Nov. 29, 1989, 103 Stat. 1475, provided that:

“(a) PROGRAM REQUIRED.—(1) Not later than September 30, 1991, the Secretary of each military department shall implement a program to appoint persons who have an associate degree or diploma in nursing (but have not received a baccalaureate degree in nursing) as officers and to assign such officers to duty as nurses.

“(2) An officer appointed pursuant to the program required by subsection (a) shall be appointed in a warrant officer grade or in a commissioned grade not higher than O-3. Such officer may not be promoted above the grade of O-3 unless the officer receives a baccalaureate degree in nursing.

“(b) REPORT ON IMPLEMENTATION.—Not later than April 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the actions taken by the Secretaries of the military departments to implement the program required by this section.”

Executive Documents

EX. ORD. NO. 13384. ASSIGNMENT OF FUNCTIONS RELATING TO ORIGINAL APPOINTMENTS AS COMMISSIONED OFFICERS AND CHIEF WARRANT OFFICER APPOINTMENTS IN THE ARMED FORCES

Ex. Ord. No. 13384, July 27, 2005, 70 F.R. 43739, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Assignment of Functions to the Secretary of Defense.* The Secretary of Defense shall perform the

functions of the President under the following provisions of title 10, United States Code:

- (a) subsection 531(a)(1); and
- (b) the second sentence of subsection 571(b).

SEC. 2. *Reassignment of Functions Assigned.* The Secretary of Defense may not reassign the functions assigned to him by this order.

SEC. 3. *General Provisions.* (a) Nothing in this order shall be construed to limit or otherwise affect the authority of the President as Commander in Chief of the Armed Forces of the United States, or under the Constitution and laws of the United States to nominate or to make or terminate appointments.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

GEORGE W. BUSH.

§ 532. Qualifications for original appointment as a commissioned officer

(a) Under regulations prescribed by the Secretary of Defense, an original appointment as a commissioned officer (other than as a commissioned warrant officer) in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Space Force may be given only to a person who—

- (1) is a citizen of the United States;
 - (2) is of good moral character;
 - (3) is physically qualified for active service;
- and

(4) has such other special qualifications as the Secretary of the military department concerned may prescribe by regulation.

(b)(1) Original appointments in the Regular Army in the Medical Corps or Dental Corps, and original appointments in the Regular Air Force with a view to designation of an officer as a medical or dental officer, may be made in the grades of first lieutenant through colonel. Original appointments in the Regular Navy in the Medical Corps or Dental Corps may be made in the grades of lieutenant (junior grade) through captain. Such appointments may be made only from persons who are qualified doctors of medicine, osteopathy, or dentistry.

(2) To be eligible for an original appointment as a medical officer, a doctor of osteopathy must—

(A) be a graduate of a college of osteopathy whose graduates are eligible to be licensed to practice medicine or surgery in a majority of the States;

(B) be licensed to practice medicine, surgery, or osteopathy in a State or in the District of Columbia;

(C) under regulations prescribed by the Secretary of Defense, have completed a number of years of osteopathic and preosteopathic education equal to the number of years of medical and premedical education prescribed for persons entering recognized schools of medicine who become doctors of medicine and who would be qualified for an original appointment in the grade for which that person is being considered for appointment; and

(D) have such other qualifications as the Secretary of the military department concerned prescribes after considering the recommendations, if any, of the Surgeon General of the armed force concerned.

(c) Original appointments in the Regular Navy or Regular Marine Corps of officers designated for limited duty shall be made under section 8139 or 8146 of this title.

[(d) Repealed. Pub. L. 115-232, div. A, title V, § 501(b), Aug. 13, 2018, 132 Stat. 1739.]

[(e) Repealed. Pub. L. 108-375, div. A, title V, § 501(a)(1), Oct. 28, 2004, 118 Stat. 1872.]

(f) The Secretary of Defense may waive the requirement of paragraph (1) of subsection (a) with respect to a person who has been lawfully admitted to the United States for permanent residence, or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title, when the Secretary determines that the national security so requires, but only for an original appointment in a grade below the grade of major or lieutenant commander.

(Added Pub. L. 96-513, title I, § 104(a), Dec. 12, 1980, 94 Stat. 2845; amended Pub. L. 97-22, § 3(b), July 10, 1981, 95 Stat. 124; Pub. L. 97-295, § 1(7), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 102-190, div. A, title V, § 501, Dec. 5, 1991, 105 Stat. 1354; Pub. L. 103-160, div. A, title V, § 510, Nov. 30, 1993, 107 Stat. 1648; Pub. L. 108-375, div. A, title V, § 501(a)(1)-(3)(A), Oct. 28, 2004, 118 Stat. 1872; Pub. L. 109-163, div. A, title V, § 534(c), Jan. 6, 2006, 119 Stat. 3248; Pub. L. 111-383, div. A, title V, § 501(a), Jan. 7, 2011, 124 Stat. 4206; Pub. L. 115-232, div. A, title V, § 501(a), (b), title VIII, § 809(a), Aug. 13, 2018, 132 Stat. 1739, 1840; Pub. L. 116-283, div. A, title IX, § 924(b)(4)(B), Jan. 1, 2021, 134 Stat. 3822.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283 substituted “Regular Marine Corps, or Regular Space Force” for “or Regular Marine Corps” in introductory provisions.

2018—Subsec. (a)(2) to (5). Pub. L. 115-232, § 501(a), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: “is able to complete 20 years of active commissioned service before his sixty-second birthday.”

Subsec. (c). Pub. L. 115-232, § 809(a), substituted “section 8139 or 8146” for “section 5589 or 5596”.

Subsec. (d). Pub. L. 115-232, § 501(b), struck out subsec. (d) which read as follows:

“(1) A person receiving an original appointment as a medical or dental officer, as a chaplain, or as an officer designated for limited duty in the Regular Navy or Regular Marine Corps is not subject to clause (2) of subsection (a).

“(2) A commissioned officer appointed in a medical skill other than as a medical officer or dental officer (as defined in regulations prescribed by the Secretary of Defense) is not subject to clause (2) of subsection (a).”

2011—Subsec. (d)(2). Pub. L. 111-383 struck out “reserve” before “commissioned officer”.

2006—Subsec. (f). Pub. L. 109-163 inserted “, or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title,” after “for permanent residence”.

2004—Subsec. (a)(2). Pub. L. 108-375, § 501(a)(2), substituted “sixty-second birthday” for “fifty-fifth birthday”.

Subsec. (e). Pub. L. 108-375, § 501(a)(1), struck out subsec. (e) which read as follows: “After September 30, 1996, no person may receive an original appointment as a commissioned officer in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps