

of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

SERVICE OF INCUMBENTS IN CERTAIN POSITIONS
WITHOUT REAPPOINTMENT

For continued service of Surgeon General of the Air Force under this section after Jan. 1, 2021, without further appointment, notwithstanding amendment by section 923(b)(6) of Pub. L. 116-283, see section 923(f) of Pub. L. 116-283, set out as a note under section 9020 of this title.

§ 9037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties

(a) There is a Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force. The term of office is four years.

(b) The Judge Advocate General of the Air Force shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State, and who have had at least eight years of experience in legal duties as commissioned officers.

(c) The Judge Advocate General, in addition to other duties prescribed by law—

(1) is the legal adviser of the Secretary of the Air Force and of all officers and agencies of the Department of the Air Force;

(2) shall direct the officers of the Air Force designated as judge advocates in the performance of their duties; and

(3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

(d)(1) There is a Deputy Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Deputy Judge Advocate General is four years.

(2) 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.

(3) When paragraph (2) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Air Force, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.

(e)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) 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.

(2) If the Secretary of the Air Force 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 Air Force or the Space Force require the waiver.

(f) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Air Force, the Chief of Staff of the Air Force, or the Chief of Space Operations; or

(2) the ability of officers of the Air Force who are designated as judge advocates who are assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 495, § 8072; Pub. L. 96-343, § 12(a), (b)(1), Sept. 8, 1980, 94 Stat. 1130, 1131; renumbered § 8037, Pub. L. 99-433, title V, § 522(f), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 103-337, div. A, title V, § 504(c), Oct. 5, 1994, 108 Stat. 2751; Pub. L. 104-106, div. A, title V, § 507(a), Feb. 10, 1996, 110 Stat. 296; Pub. L. 108-375, div. A, title V, § 574(c), Oct. 28, 2004, 118 Stat. 1922; Pub. L. 109-163, div. A, title V, § 508(c), title X, § 1057(a)(2), Jan. 6, 2006, 119 Stat. 3229, 3440; Pub. L. 110-181, div. A, title V, § 543(c), Jan. 28, 2008, 122 Stat. 115; Pub. L. 114-328, div. A, title V, § 502(kk), Dec. 23, 2016, 130 Stat. 2106; Pub. L. 115-91, div. A, title V, § 508(c), Dec. 12, 2017, 131 Stat. 1375; renumbered § 9037, Pub. L. 115-232, div. A, title VIII, § 806(c), Aug. 13, 2018, 132 Stat. 1833; Pub. L. 116-283, div. A, title IX, § 923(b)(7), Jan. 1, 2021, 134 Stat. 3809.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8072(a)	10:1840(a).	Sept. 19, 1951, ch. 407, § 310(a), (b) (less 1st sentence), 65 Stat. 332.
8072(b)	50:741.	May 5, 1950, ch. 169, § 13 (as applicable to Air Force), 64 Stat. 147.
8072(c)	10:62, 10:1840(b) (last sentence).	R.S. 1199. June 23, 1874, ch. 458, § 2, 18 Stat. 244.

In subsection (a), the words “subject to the provisions of section 741 of Title 50” are omitted as surplusage. The words “but may be sooner terminated, or extended, by the President” are substituted for 10:1840(a) (last 11 words of 1st sentence, and 2d sentence). 10:1840(a) (1st 46 words of 3d sentence) is omitted as surplusage. 10:1840(a) (last sentence) is omitted as executed. The words “by the President, by and with the advice and consent of the Senate”, as they relate to the appointment as a major general in the Regular Air Force, are omitted as covered by section 8284 of this title.

In subsection (b), the words “Hereafter” and “exclusive of the present incumbents” are omitted as surplusage. The words “at least” are substituted for the words “not less than a total”.

In subsection (c), the Act of June 23, 1874, ch. 458, § 2 (words before semicolon of 1st sentence, and last sen-

tence), 18 Stat. 244, are not contained in 10:62. They are also omitted from the revised section, since the Air Force does not have organic corps created by statute.

Editorial Notes

AMENDMENTS

2021—Subsec. (e)(2)(B). Pub. L. 116-283, § 923(b)(7)(A), inserted “or the Space Force” after “of the Air Force”.

Subsec. (f)(1). Pub. L. 116-283, § 923(b)(7)(B), substituted “the Secretary of the Air Force, the Chief of Staff of the Air Force, or the Chief of Space Operations” for “the Secretary of the Air Force or the Chief of Staff of the Air Force”.

2018—Pub. L. 115-232 renumbered section 8037 of this title as this section.

2017—Subsec. (e). Pub. L. 115-91 designated existing provisions as par. (1) and added par. (2).

2016—Subsec. (a). Pub. L. 114-328, § 502(kk)(1), struck out last sentence which read as follows: “The Judge Advocate General, while so serving, has the grade of lieutenant general.”

Subsec. (d)(1). Pub. L. 114-328, § 502(kk)(2), struck out last sentence which read as follows: “An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.”

2008—Subsec. (a). Pub. L. 110-181 substituted “The Judge Advocate General, while so serving, has the grade of lieutenant general.” for “The Judge Advocate General, while so serving, shall hold a grade not lower than major general.”

2006—Subsec. (a). Pub. L. 109-163, § 508(c), substituted “The Judge Advocate General, while so serving, shall hold a grade not lower than major general.” for “An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.”

Subsec. (b). Pub. L. 109-163, § 1057(a)(2), struck out “or Territory” after “a State”.

2004—Subsec. (a). Pub. L. 108-375, § 574(c)(1), struck out “, but may be sooner terminated or extended by the President” after “four years”.

Subsec. (c). Pub. L. 108-375, § 574(c)(2)(A), struck out “shall” after “General” in introductory provisions.

Subsec. (c)(1) to (3). Pub. L. 108-375, § 574(c)(2)(B)-(D), added pars. (1) and (2), redesignated former par. (1) as (3), inserted “shall” before “receive”, substituted period for “; and” at end, and struck out former par. (2) which read as follows: “perform such other legal duties as may be directed by the Secretary of the Air Force.”

Subsec. (d)(1). Pub. L. 108-375, § 574(c)(3), struck out “, but may be sooner terminated or extended by the President” after “four years”.

Subsec. (f). Pub. L. 108-375, § 574(c)(4), added subsec. (f).

1996—Subsec. (d)(1). Pub. L. 104-106 substituted “four years” for “two years” and “An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.” for “An officer appointed as Deputy Judge Advocate General shall be appointed in a regular grade to be determined by the Secretary of Defense.”

1994—Subsec. (e). Pub. L. 103-337 added subsec. (e).

1986—Pub. L. 99-433 renumbered section 8072 of this title as this section.

1980—Pub. L. 96-343, § 12(b)(1), substituted “General, Deputy Judge Advocate General:” for “General:” in section catchline.

Subsec. (d). Pub. L. 96-343, § 12(a), added subsec. (d).

Statutory Notes and Related Subsidiaries

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 1996 AMENDMENT

Pub. L. 104-106, div. A, title V, § 507(b), Feb. 10, 1996, 110 Stat. 296, provided that: “The amendments made by

subsection (a) [amending this section] apply to any appointment to the position of Deputy Judge Advocate General of the Air Force that is made after the date of the enactment of this Act [Feb. 10, 1996].”

SERVICE OF INCUMBENTS IN CERTAIN POSITIONS WITHOUT REAPPOINTMENT

For continued service of Judge Advocate General of the Air Force under subsec. (a) of this section or Deputy Judge Advocate General of the Air Force under subsec. (d) of this section after Jan. 1, 2021, without further appointment, notwithstanding amendment by section 923(b)(7) of Pub. L. 116-283, see section 923(f) of Pub. L. 116-283, set out as a note under section 9020 of this title.

§ 9038. Office of Air Force Reserve: appointment of Chief

(a) There is in the executive part of the Department of the Air Force an Office of Air Force Reserve which is headed by a chief who is the adviser to the Chief of Staff on Air Force Reserve matters.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Air Force Reserve from general officers of the Air Force Reserve who have had at least 10 years of commissioned service in the Air Force.

(2) The Secretary of Defense may not recommend an officer to the President for appointment as Chief of Air Force Reserve unless the officer—

(A) is recommended by the Secretary of the Air Force; and

(B) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(3) An officer on active duty for service as the Chief of Air Force Reserve shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(4) Until December 31, 2006, the Secretary of Defense may waive subparagraph (B) of paragraph (2) with respect to the appointment of an officer as Chief of Air Force Reserve if the Secretary of the Air Force requests the waiver and, in the judgment of the Secretary of Defense—

(A) the officer is qualified for service in the position; and

(B) the waiver is necessary for the good of the service.

Any such waiver shall be made on a case-by-case basis.

(c) TERM; REAPPOINTMENT.—The Chief of Air Force Reserve is appointed for a period of four years, but may be removed for cause at any time. An officer serving as Chief of Air Force Reserve may be reappointed for one additional four-year period.

(d) BUDGET.—The Chief of Air Force Reserve is the official within the executive part of the Department of the Air Force who, subject to the authority, direction, and control of the Secretary of the Air Force and the Chief of Staff, is responsible for preparation, justification, and execution of the personnel, operation and maintenance, and construction budgets for the Air Force Reserve. As such, the Chief of Air Force