

same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer's running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1008, §726; renumbered §3737 and amended Pub. L. 115-282, title I, §§118(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4233, 4240.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 782 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

AMENDMENTS

2018—Pub. L. 115-282, §118(b), renumbered section 726 of this title as this section.

Subsec. (a). Pub. L. 115-282, §123(b)(2), substituted “section 2150” for “section 289”.

§ 3738. Constructive credit upon initial appointment

Under regulations prescribed by the Secretary, an individual, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that individual's experience, education, or other qualifications. For the purpose of this subchapter only, an individual appointed for the purpose of assignment or designation as a judge advocate in the Reserve shall be credited with a minimum of one year service in an active status. An individual holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1009, §727; amended Pub. L. 108-293, title II, §208, Aug. 9, 2004, 118 Stat. 1035; Pub. L. 109-241, title II, §218(b)(1), July 11, 2006, 120 Stat. 526; renumbered §3738, Pub. L. 115-282, title I, §118(b), Dec. 4, 2018, 132 Stat. 4233; Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8505(a)(53), Jan. 1, 2021, 134 Stat. 4750.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 773 of this title prior to the complete revision of former chapter 21 of this title by Pub. L. 96-322.

AMENDMENTS

2021—Pub. L. 116-283 substituted “an individual” for “a person” in two places, and substituted “individual's” for “person's” and “An individual” for “A person”.

2018—Pub. L. 115-282 renumbered section 727 of this title as this section.

2006—Pub. L. 109-241 substituted “judge advocate” for “law specialist”.

2004—Pub. L. 108-293 substituted “one year” for “three years” in second sentence.

§ 3738a. Direct commissioning authority for individuals with critical skills

An individual with critical skills that the Commandant considers necessary for the Coast Guard to complete its missions who is not currently serving as an officer in the Coast Guard may be commissioned into the Coast Guard at a grade up to and including commander.

(Added Pub. L. 116-283, div. G, title LVXXXII [LXXXII], §8205(a), Jan. 1, 2021, 134 Stat. 4648.)

§ 3739. Promotion of Reserve officers on active duty

(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 21 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra

number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release from active duty the officer shall be included in the grade distribution authorized by this subchapter.

(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 21 of this title.

(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter 21 of this title, shall be promoted to that grade as though selected under this subchapter.

(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 21 of this title shall count for all purposes.

(Added Pub. L. 96-322, §1, Aug. 4, 1980, 94 Stat. 1009, §728; renumbered §3739 and amended Pub. L. 115-282, title I, §§118(b), 123(c)(2)(B), Dec. 4, 2018, 132 Stat. 4233, 4241.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 791 of this title prior to the complete revision of former chapter 21 of this chapter by Pub. L. 96-322.

AMENDMENTS

2018—Pub. L. 115-282, §123(c)(2)(B), substituted “chapter 21” for “chapter 11” wherever appearing.

Pub. L. 115-282, §118(b), renumbered section 728 of this title as this section.

§ 3740. Promotion; recommendations of selection boards

(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

(d)(1) Before convening a selection board to recommend Reserve officers for promotion, the Secretary shall establish a promotion zone for officers serving in each grade to be considered by the board. The Secretary shall determine the number of officers in the promotion zone for officers serving in any grade from among officers who are eligible for promotion in that grade.

(2)(A) Before convening a selection board to recommend Reserve officers for promotion to a grade (other than the grade of lieutenant (junior grade)), the Secretary shall determine the maximum

number of officers in that grade that the board may recommend for promotion.

(B) The Secretary shall make the determination under subparagraph (A) of the maximum number that may be recommended with a view to having in an active status a sufficient number of Reserve officers in each grade to meet the needs of the Coast Guard for Reserve officers in an active status.

(C) In order to make the determination under subparagraph (B), the Secretary shall determine the following:

(i) The number of positions needed to accomplish mission objectives that require officers in the grade to which the board will recommend officers for promotion.

(ii) The estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted.

(iii) The number of officers authorized by the Secretary to serve in an active status in the grade under consideration.

(iv) Any statutory limitation on the number of officers in any grade authorized to be in an active status.

(3)(A) The Secretary may, when the needs of the Coast Guard require, authorize the consideration of officers in a grade above lieutenant (junior grade) for promotion to the next higher grade from below the promotion zone.

(B) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion, except that the Secretary may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary determines that the needs of the Coast Guard so require. If the maximum number determined under this subparagraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

(C) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under paragraph (2).

(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grades of rear admiral (lower half) and rear admiral apply to a Reserve officer, except that to be eligible for consideration for promotion to the grade of rear admiral (lower half) an officer shall have completed at least ten years commissioned service, of which the last five years shall have been served in the Coast Guard Reserve.

(f) The provisions of section 2117 of this title apply to boards convened under this section. The Secretary shall determine the procedure to be used by a selection board.

(g) The report of a selection board shall be submitted to the Secretary for review and transmission to the President for approval. When an officer recommended by a board for promotion is