

Stat. 4108; Pub. L. 116-259, title I, §102(a), Dec. 23, 2020, 134 Stat. 1155.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853a of this title prior to repeal by Pub. L. 107-372.

AMENDMENTS

2020—Pub. L. 116-259 amended section generally. Prior to amendment, section related to number of authorized commissioned officers effective Oct. 1, 2009.

2008—Pub. L. 110-386 amended section generally. Prior to amendment, section read as follows: “There are authorized to be on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration—

- “(1) 270 officers for fiscal year 2003;
- “(2) 285 officers for fiscal year 2004; and
- “(3) 299 officers for fiscal year 2005.”

§ 3006. Obligated service requirement

(a) In general

(1) Regulations

The Secretary shall prescribe the obligated service requirements for appointments, training, promotions, separations, continuations, and retirements of officers not otherwise covered by law.

(2) Written agreements

The Secretary and officers shall enter into written agreements that describe the officers' obligated service requirements prescribed under paragraph (1) in return for such appointments, training, promotions, separations, continuations, and retirements as the Secretary considers appropriate.

(b) Repayment for failure to satisfy requirements

(1) In general

The Secretary may require an officer who fails to meet the service requirements prescribed under subsection (a)(1) to reimburse the Secretary in an amount that bears the same ratio to the total costs of the training provided to that officer by the Secretary as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve.

(2) Obligation as debt to United States

An obligation to reimburse the Secretary under paragraph (1) is, for all purposes, a debt owed to the United States.

(3) Discharge in bankruptcy

A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (a)(2) does not discharge the individual signing the agreement from a debt arising under such agreement.

(c) Waiver or suspension of compliance

The Secretary may waive the service obligation of an officer who—

- (1) becomes unqualified to serve on active duty in the commissioned officer corps of the Administration because of a circumstance not within the control of that officer; or

(2) is—

(A) not physically qualified for appointment; and

(B) determined to be unqualified for service in the commissioned officer corps of the Administration because of a physical or medical condition that was not the result of the officer's own misconduct or grossly negligent conduct.

(Pub. L. 107-372, title II, §216, as added Pub. L. 116-259, title I, §103(a), Dec. 23, 2020, 134 Stat. 1155.)

§ 3007. Training and physical fitness

(a) Training

The Secretary may take such measures as may be necessary to ensure that officers are prepared to carry out their duties in the commissioned officer corps of the Administration and proficient in the skills necessary to carry out such duties. Such measures may include the following:

(1) Carrying out training programs and correspondence courses, including establishing and operating a basic officer training program to provide initial indoctrination and maritime vocational training for officer candidates as well as refresher training, mid-career training, aviation training, and such other training as the Secretary considers necessary for officer development and proficiency.

(2) Providing officers and officer candidates with educational materials.

(3) Acquiring such equipment as may be necessary for training and instructional purposes.

(b) Physical fitness

The Secretary shall ensure that officers maintain a high physical state of readiness by establishing standards of physical fitness for officers that are substantially equivalent to those prescribed for officers in the Coast Guard.

(Pub. L. 107-372, title II, §217, as added Pub. L. 116-259, title I, §104(a), Dec. 23, 2020, 134 Stat. 1156.)

§ 3008. Aviation accession training programs

(a) Definitions

In this section:

(1) Administrator

The term “Administrator” means the Under Secretary of Commerce for Oceans and Atmosphere and the Administrator of the National Oceanic and Atmospheric Administration.

(2) Member of the program

The term “member of the program” means a student who is enrolled in the program.

(3) Program

The term “program” means an aviation accession training program of the commissioned officer corps of the Administration established pursuant to subsection (b).

(b) Aviation accession training programs

(1) Establishment authorized

The Administrator, under regulations prescribed by the Secretary, shall establish and

maintain one or more aviation accession training programs for the commissioned officer corps of the Administration at institutions described in paragraph (2).

(2) Institutions described

An institution described in this paragraph is an educational institution—

(A) that requests to enter into an agreement with the Administrator providing for the establishment of the program at the institution;

(B) that has, as a part of its curriculum, a four-year baccalaureate program of professional flight and piloting instruction that is accredited by the Aviation Accreditation Board International;

(C) that is located in a geographic area that—

(i) experiences a wide variation in climate-related activity, including frequent high winds, convective activity (including tornadoes), periods of low visibility, heat, and snow and ice episodes, to provide opportunities for pilots to demonstrate skill in all weather conditions compatible with future encounters during their service in the commissioned officer corps of the Administration; and

(ii) has a climate that can accommodate both primary and advanced flight training activity at least 75 percent of the year; and

(D) at which the Administrator determines that—

(i) there will be at least one student enrolled in the program; and

(ii) the provisions of this section are otherwise satisfied.

(3) Limitations in connection with particular institutions

The program may not be established or maintained at an institution unless—

(A) the senior commissioned officer or employee of the commissioned officer corps of the Administration who is assigned as an advisor to the program at that institution is given the academic rank of adjunct professor; and

(B) the institution fulfills the terms of its agreement with the Administrator.

(4) Membership in connection with status as student

At institutions at which the program is established, the membership of students in the program shall be elective, as provided by State law or the authorities of the institution concerned.

(c) Membership

(1) Eligibility

To be eligible for membership in the program, an individual must—

(A) be a student at an institution at which the program is established;

(B) be a citizen of the United States;

(C) contract in writing, with the consent of a parent or guardian if a minor, with the Administrator, to—

(i) accept an appointment, if offered, as a commissioned officer in the commissioned officer corps of the Administration; and

(ii) serve in the commissioned officer corps of the Administration for not fewer than four years;

(D) enroll in—

(i) a four-year baccalaureate program of professional flight and piloting instruction; and

(ii) other training or education, including basic officer training, which is prescribed by the Administrator as meeting the preliminary requirement for admission to the commissioned officer corps of the Administration; and

(E) execute a certificate or take an oath relating to morality and conduct in such form as the Administrator prescribes.

(2) Completion of program

A member of the program may be appointed as a regular officer in the commissioned officer corps of the Administration if the member meets all requirements for appointment as such an officer.

(d) Financial assistance for qualified members

(1) Expenses of course of instruction

(A) In general

In the case of a member of the program who meets such qualifications as the Administrator establishes for purposes of this subsection, the Administrator may pay the expenses of the member in connection with pursuit of a course of professional flight and piloting instruction under the program, including tuition, fees, educational materials such as books, training, certifications, travel, and laboratory expenses.

(B) Assistance after fourth academic year

In the case of a member of the program described in subparagraph (A) who is enrolled in a course described in that subparagraph that has been approved by the Administrator and requires more than four academic years for completion, including elective requirements of the program, assistance under this subsection may also be provided during a fifth academic year or during a combination of a part of a fifth academic year and summer sessions.

(2) Room and board

In the case of a member eligible to receive assistance under paragraph (1), the Administrator may, in lieu of payment of all or part of such assistance, pay the room and board expenses of the member, and other educational expenses, of the educational institution concerned.

(3) Failure to complete program or accept commission

A member of the program who receives assistance under this subsection and who does not complete the course of instruction, or who completes the course but declines to accept a commission in the commissioned officer corps of the Administration when offered, shall be subject to the repayment provisions of subsection (e).

(e) Repayment of unearned portion of financial assistance when conditions of payment not met

(1) In general

A member of the program who receives or benefits from assistance under subsection (d), and whose receipt of or benefit from such assistance is subject to the condition that the member fully satisfy the requirements of subsection (c), shall repay to the United States an amount equal to the assistance received or benefitted from if the member fails to fully satisfy such requirements and may not receive or benefit from any unpaid amounts of such assistance after the member fails to satisfy such requirements, unless the Administrator determines that the imposition of the repayment requirement and the termination of payment of unpaid amounts of such assistance with regard to the member would be—

(A) contrary to a personnel policy or management objective;

(B) against equity and good conscience; or

(C) contrary to the best interests of the United States.

(2) Regulations

The Administrator may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to repayment may be granted. The Administrator may specify in the regulations the conditions under which financial assistance to be paid to a member of the program will not be made if the member no longer satisfies the requirements in subsection (c) or qualifications in subsection (d) for such assistance.

(3) Obligation as debt to United States

An obligation to repay the United States under this subsection is, for all purposes, a debt owed to the United States.

(Pub. L. 107-372, title II, §218, as added Pub. L. 116-259, title I, §105(a), Dec. 23, 2020, 134 Stat. 1157.)

§ 3009. Use of recruiting materials for public relations

The Secretary may use for public relations purposes of the Department of Commerce any advertising materials developed for use for recruitment and retention of personnel for the commissioned officer corps of the Administration. Any such use shall be under such conditions and subject to such restrictions as the Secretary shall prescribe.

(Pub. L. 107-372, title II, §219, as added Pub. L. 116-259, title I, §106(a), Dec. 23, 2020, 134 Stat. 1159.)

SUBCHAPTER II—APPOINTMENT AND PROMOTION OF OFFICERS

§ 3021. Original appointments and reappointments

(a) Original appointments

(1) Grades

(A) In general

Except as provided in subparagraph (B), an original appointment of an officer may be made in such grades as may be appropriate for—

(i) the qualification, experience, and length of service of the appointee; and

(ii) the commissioned officer corps of the Administration.

(B) Appointment of officer candidates

(i) Limitation on grade

An original appointment of an officer candidate, upon graduation from the basic officer training program of the commissioned officer corps of the Administration, may not be made in any other grade than ensign.

(ii) Rank

Officer candidates receiving appointments as ensigns upon graduation from the basic officer training program shall take rank according to their proficiency as shown by the order of their merit at date of graduation.

(2) Source of appointments

An original appointment may be made from among the following:

(A) Graduates of the basic officer training program of the commissioned officer corps of the Administration.

(B) Subject to the approval of the Secretary of Defense, graduates of the military service academies of the United States who otherwise meet the academic standards for enrollment in the training program described in subparagraph (A).

(C) Graduates of the State maritime academies who—

(i) otherwise meet the academic standards for enrollment in the training program described in subparagraph (A);

(ii) completed at least three years of regimented training while at a State maritime academy; and

(iii) obtained an unlimited tonnage or unlimited horsepower Merchant Mariner Credential from the United States Coast Guard.

(D) Licensed officers of the United States merchant marine who have served two or more years aboard a vessel of the United States in the capacity of a licensed officer, who otherwise meet the academic standards for enrollment in the training program described in subparagraph (A).

(3) Definitions

In this subsection:

(A) Military service academies of the United States

The term “military service academies of the United States” means the following: