

**(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:

(i) The United States Military Academy, West Point, New York.

(ii) The United States Naval Academy, Annapolis, Maryland.

(iii) The United States Air Force Academy, Colorado Springs, Colorado.

(iv) The United States Coast Guard Academy, New London, Connecticut.

(v) The United States Merchant Marine Academy, Kings Point, New York.

**(B) State maritime academy**

The term “State maritime academy” has the meaning given the term in section 51102 of title 46.

**(b) Reappointment**

**(1) In general**

Except as provided in paragraph (2), an individual who previously served in the commissioned officer corps of the Administration may be appointed by the Secretary to the grade the individual held prior to separation.

**(2) Reappointments to higher grades**

An appointment under paragraph (1) to a position of importance and responsibility designated under section 3028 of this title may only be made by the President.

**(c) Qualifications**

An appointment under subsection (a) or (b) may not be given to an individual until the individual’s mental, moral, physical, and professional fitness to perform the duties of an officer has been established under such regulations as the Secretary shall prescribe.

**(d) Order of precedence**

Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. The order of precedence of appointees whose dates of commission are the same shall be determined by the Secretary.

**(e) Inter-service transfers**

For inter-service transfers (as described in Department of Defense Directive 1300.4 (dated December 27, 2006)) the Secretary shall—

(1) coordinate with the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating to promote and streamline inter-service transfers;

(2) give preference to such inter-service transfers for recruitment purposes as determined appropriate by the Secretary; and

(3) reappoint such inter-service transfers to the equivalent grade in the commissioned officer corps of the Administration.

(Pub. L. 107-372, title II, §221, Dec. 19, 2002, 116 Stat. 3084; Pub. L. 116-259, title III, §301(a), Dec. 23, 2020, 134 Stat. 1169.)

**Editorial Notes**

**PRIOR PROVISIONS**

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

**AMENDMENTS**

2020—Pub. L. 116-259 substituted “Original appointments and reappointments” for “Original appoint-

ments” in section catchline and amended text generally. Prior to amendment, text related to original appointments in the grades of ensign, lieutenant (junior grade), and lieutenant.

**§ 3022. Personnel boards**

**(a) Convening**

Not less frequently than once each year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board.

**(b) Membership**

**(1) In general**

A board convened under subsection (a) shall consist of five or more officers who are serving in or above the permanent grade of the officers under consideration by the board.

**(2) Retired officers**

Officers on the retired list may be recalled to serve on such personnel boards as the Secretary considers necessary.

**(3) No membership on two successive boards**

No officer may be a member of two successive personnel boards convened to consider officers of the same grade for promotion or separation.

**(c) Duties**

Each personnel board shall—

(1) recommend to the Secretary such changes as may be necessary to correct any erroneous position on the lineal list that was caused by administrative error; and

(2) make selections and recommendations to the Secretary and the President for the appointment, promotion, involuntary separation, continuation, and involuntary retirement of officers in the commissioned officer corps of the Administration as prescribed in this chapter.

**(d) Action on recommendations not acceptable**

If any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as the Secretary or the President considers appropriate.

**(e) Authority for officers to opt out of promotion consideration**

**(1) In general**

The Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps may provide that an officer, upon the officer’s request and with the approval of the Director, be excluded from consideration for promotion by a personnel board convened under this section.

**(2) Approval**

The Director shall approve a request made by an officer under paragraph (1) only if—

(A) the basis for the request is to allow the officer to complete a broadening assignment, advanced education, another assignment of significant value to the Administration, a career progression requirement delayed by the assignment or education, or a qualifying personal or professional circumstance, as determined by the Director;