

the assignment or education, or a qualifying personal or professional circumstance, as determined by the Director;

(B) the Director determines the exclusion from consideration is in the best interest of the Administration; and

(C) the officer has not previously failed selection for promotion to the grade for which the officer requests the exclusion from consideration.

(Pub. L. 107-372, title II, §222, Dec. 19, 2002, 116 Stat. 3085; Pub. L. 116-259, title III, §302, Dec. 23, 2020, 134 Stat. 1171.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2), was in the original “this title”, meaning title II of Pub. L. 107-372, Dec. 19, 2002, 116 Stat. 3082, which is classified principally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 3001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853r 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 convening, duties and recommendations of personnel boards.

§ 3023. Separation of ensigns found not fully qualified

If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer’s commission shall be revoked and the officer shall be separated from the commissioned service.

(Pub. L. 107-372, title II, §223, Dec. 19, 2002, 116 Stat. 3085; Pub. L. 117-263, div. K, title CXVII, §11703(a), Dec. 23, 2022, 136 Stat. 4156.)

Editorial Notes

PRIOR PROVISIONS

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

AMENDMENTS

2022—Pub. L. 117-263 amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating, respectively, to promotion of ensigns to grade of lieutenant (junior grade) and separation of ensigns found not fully qualified.

Executive Documents

DELEGATION OF FUNCTIONS

As amended by Pub. L. 117-263, text of section is identical to that of former subsec. (b) of this section. For delegation of functions of President under former subsec. (b) of this section to Secretary of Commerce, see section 1(a) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.

§ 3024. Promotion by selection to permanent grades above lieutenant (junior grade)

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior

grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

(Pub. L. 107-372, title II, §224, Dec. 19, 2002, 116 Stat. 3085.)

Editorial Notes

PRIOR PROVISIONS

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

§ 3025. Length of service for promotion purposes

(a) General rule

Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

(b) Exception

Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer’s new position on the lineal list.

(Pub. L. 107-372, title II, §225, Dec. 19, 2002, 116 Stat. 3085.)

Editorial Notes

PRIOR PROVISIONS

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

§ 3026. Appointments and promotions to permanent grades

Appointments in and promotions to all permanent grades shall be made by the President.

(Pub. L. 107-372, title II, §226, Dec. 19, 2002, 116 Stat. 3085; Pub. L. 112-166, §2(gg)(1), Aug. 10, 2012, 126 Stat. 1290.)

Editorial Notes

PRIOR PROVISIONS

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

AMENDMENTS

2012—Pub. L. 112-166 struck out “, by and with the advice and consent of the Senate” before period at end.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

§ 3027. General qualification of officers for promotion to higher permanent grade

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary.

(Pub. L. 107-372, title II, §227, Dec. 19, 2002, 116 Stat. 3085.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 854 of this title prior to repeal by Pub. L. 107-372.

§ 3028. Positions of importance and responsibility

(a) Designation of positions

The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.

(b) Assignment of officers to designated positions

The Secretary may assign officers to positions designated under subsection (a).

(c) Director of NOAA Corps and Office of Marine and Aviation Operations

The President shall designate one position as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. The President shall fill that position by appointing, by and with the advice and consent of the Senate, an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of Director of the Office of Marine and Aviation Operations.

(d) Grade

(1) Temporary appointment to grade designated for position

An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President.

(2) Reversion to permanent grade

An officer who has served in a grade above captain, upon termination of the officer's assignment to the position for which that appointment was made, shall, unless appointed or assigned to another position for which a higher grade is designated or immediately beginning a period of terminal leave, revert to the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

(e) Limit on number of officers appointed

The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed five, with only one serving in the grade of vice admiral.

(f) Pay and allowances

An officer appointed to a grade under this section, while serving in that grade or in a period

of annual leave used at the end of the appointment, shall have the pay and allowances of the grade to which appointed.

(g) Effect of appointment

An appointment of an officer under this section—

- (1) does not vacate the permanent grade held by the officer; and
- (2) creates a vacancy on the active list.

(Pub. L. 107-372, title II, §228, Dec. 19, 2002, 116 Stat. 3086; Pub. L. 112-166, §2(gg)(2), Aug. 10, 2012, 126 Stat. 1290; Pub. L. 116-259, title III, §303, Dec. 23, 2020, 134 Stat. 1171.)

Editorial Notes

PRIOR PROVISIONS

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

AMENDMENTS

2020—Subsec. (c). Pub. L. 116-259, §303(1), substituted “The President shall designate one position” for “The Secretary shall designate one position under this section” in first sentence, and “The President shall fill that position by appointing, by and with the advice and consent of the Senate,” for “That position shall be filled by” in second sentence.

Subsec. (d)(2). Pub. L. 116-259, §303(2), inserted “or immediately beginning a period of terminal leave” after “for which a higher grade is designated”.

Subsec. (e). Pub. L. 116-259, §303(3), amended subsec. (e) generally. Prior to amendment, text read as follows:

“(1) OVERALL LIMIT.—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed four.

“(2) LIMIT BY GRADE.—The number of officers serving on active duty under appointments under this section may not exceed—

“(A) one in the grade of vice admiral;

“(B) two in the grade of rear admiral; and

“(C) two in the grade of rear admiral (lower half).”

Subsec. (f). Pub. L. 116-259, §303(4), inserted “or in a period of annual leave used at the end of the appointment” after “serving in that grade”.

2012—Subsec. (d)(1). Pub. L. 112-166 struck out “, by and with the advice and consent of the Senate” before period at end.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

APPOINTMENT OF COMMISSIONED OFFICERS

Pub. L. 98-498, title III, §320(c)(2), Oct. 19, 1984, 98 Stat. 2309, provided that: “After the date of the enactment of this Act [Oct. 19, 1984], no appointment of a commissioned officer may be made under section 2(d) or 2(f) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.).”

§ 3029. Temporary appointments

(a) Appointments by President

Temporary appointments in the grade of ensign, lieutenant junior grade, or lieutenant may be made by the President.

(b) Termination

A temporary appointment to a position under subsection (a) shall terminate upon approval of