

–CITE–

10 USC CHAPTER 305 – THE ARMY STAFF 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

.

–HEAD–

CHAPTER 305 – THE ARMY STAFF

–MISC1–

Sec.

3031. The Army Staff: function; composition.

3032. The Army Staff: general duties.

3033. Chief of Staff.

3034. Vice Chief of Staff.

3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.

3036. Chiefs of branches: appointment; duties.

3037. Judge Advocate General, Assistant Judge Advocate General, and
general officers of Judge Advocate General's Corps: appointment;
duties.

3038. Office of Army Reserve: appointment of Chief.

3039. Deputy and assistant chiefs of branches.

(3040. Repealed.)

AMENDMENTS

1994 – Pub. L. 103–337, div. A, title IX, Sec. 904(b)(2), Oct.

5, 1994, 108 Stat. 2827, struck out item 3040 "Chief of National Guard Bureau: appointment; acting chief".

1986 – Pub. L. 99–433, title V, Sec. 502(g)(2), Oct. 1, 1986, 100 Stat. 1042, amended analysis generally, substituting items 3031 to 3040 for former items 3031 to 3040.

1980 – Pub. L. 96–513, title V, Sec. 512(2), Dec. 12, 1980, 94 Stat. 2929, substituted "Deputy Chiefs" for "Deputy Chief" in item 2035, and substituted "appointment" for "appointments" in item 3036.

1966 – Pub. L. 89–718, Sec. 25(b), Nov. 2, 1966, 80 Stat. 1119, struck out item 3038 "Chief of Engineers: additional duties".

–CITE–

10 USC Sec. 3031 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

–HEAD–

Sec. 3031. The Army Staff: function; composition

–STATUTE–

(a) There is in the executive part of the Department of the Army an Army Staff. The function of the Army Staff is to assist the Secretary of the Army in carrying out his responsibilities.

(b) The Army Staff is composed of the following:

- (1) The Chief of Staff.
 - (2) The Vice Chief of Staff.
 - (3) The Deputy Chiefs of Staff.
 - (4) The Assistant Chiefs of Staff.
 - (5) The Chief of Engineers.
 - (6) The Surgeon General of the Army.
 - (7) The Judge Advocate General of the Army.
 - (8) The Chief of Chaplains of the Army.
 - (9) The Chief of Army Reserve.
 - (10) Other members of the Army assigned or detailed to the Army Staff.
 - (11) Civilian employees of the Department of the Army assigned or detailed to the Army Staff.
- (c) Except as otherwise specifically prescribed by law, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

–SOURCE–

(Aug. 10, 1956, ch. 1041, 70A Stat. 150; Pub. L. 93–547, Dec. 26, 1974, 88 Stat. 1742; Pub. L. 93–608, Sec. 1(6), Jan. 2, 1975, 88 Stat. 1968; Pub. L. 98–525, title V, Sec. 515, Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–433, title V, Sec. 502(a), Oct. 1, 1986, 100 Stat. 1039.)

–MISC1–

Historical and Revision Notes

Revised section Source (U.S. Code) Source (Statutes at

Large)

3031(a) 3031(b) 10:21a(a). June 28, 1950, ch.

10:21a(b). 383, Sec. 201, 64

Stat. 265.

3031(c) 10:21a(c).

3031(d) 10:21a(d).

In subsection (a), the words "an Army Staff consisting of – " are substituted for the words "a staff, which shall be known as the Army Staff, and which shall consist of – ". The words "under regulations prescribed by the Secretary of the Army" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

In subsection (c), the third sentence is substituted for 10:21a(c) (1st 13 words and 1st proviso). The words "officers and employees * * * or under the jurisdiction of" are omitted as surplusage.

In subsections (c) and (d), the word "hereafter" is omitted, since all wars and emergencies declared by Congress before June 24, 1950, have been terminated.

In subsection (d), the second sentence is substituted for 10:21a(d) (last 31 words of 1st sentence). The third sentence is substituted for 10:21a(d) (2d sentence). 10:21a(d) (1st 13 words of last sentence) is omitted as executed. The words "This subsection

does not apply" are substituted for the words "and shall be in applicable".

AMENDMENTS

1986 – Pub. L. 99–433 amended section generally, substituting "The Army Staff: function; composition" for "Composition: assignment and detail of members of Army and civilians" in section catchline and substituting in text provisions relating to establishment and composition of the Army Staff and authorizing the Secretary to prescribe the organization, duties, and titles of the Army Staff for provisions relating to establishment and composition of the Army Staff, authorizing the Secretary to prescribe the organization, duties, and titles of the Army Staff and authorizing part of the Army Staff to be designated as the Army General Staff, and limiting the number of officers who may be assigned or detailed to permanent duty in the executive part of the Department of the Army and on or with the Army General Staff.

1984 – Subsec. (d). Pub. L. 98–525 struck out subsec. (d) which provided that no commissioned officer who was assigned or detailed to duty in the executive part of the Department of the Army could serve for a tour of duty of more than four years, but that the Secretary could extend such a tour of duty if he made a special finding that the extension was necessary in the public interest, that no officer could be assigned or detailed to duty in the executive part of the Department of the Army within two years after relief from that duty, except upon a special finding by the Secretary that the assignment or detail was necessary in the public

interest, and that the subsection did not apply in time of war, or of national emergency declared by Congress.

1975 – Subsec. (c). Pub. L. 93–608 struck out requirement of quarterly report to Congress on the number of officers in the executive part of the Department of the Army and the number of commissioned officers on or with the Army General Staff and the justification therefor.

1974 – Subsec. (a)(3). Pub. L. 93–547 increased the number of Deputy Chiefs of Staff from three to four.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 515 of Pub. L. 98–525 provided that the amendment made by that section is effective Oct. 1, 1984.

–CITE–

10 USC Sec. 3032 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

–HEAD–

Sec. 3032. The Army Staff: general duties

–STATUTE–

(a) The Army Staff shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Army and to the Chief of Staff of the Army.

(b) Under the authority, direction, and control of the Secretary

of the Army, the Army Staff shall –

(1) subject to subsections (c) and (d) of section 3014 of this title, prepare for such employment of the Army, and for such recruiting, organizing, supplying, equipping (including those aspects of research and development assigned by the Secretary of the Army), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Army, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;

(2) investigate and report upon the efficiency of the Army and its preparation to support military operations by combatant commands;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Army; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

–SOURCE–

(Aug. 10, 1956, ch. 1041, 70A Stat. 161; Pub. L. 85–599, Sec. 4(g), Aug. 6, 1958, 72 Stat. 517; Pub. L. 99–433, title V, Sec. 502(b), Oct. 1, 1986, 100 Stat. 1040.)

–MISC1–

Historical and Revision Notes

Revised section Source (U.S. Code) Source (Statutes at

Large)

3032(a) 3032(b) 10:21e(a). June 28, 1950, ch.

10:21e(b). 383, Sec. 205, 64

Stat. 266.

In subsection (a), the word "furnish" is substituted for the word "render".

In subsection (b)(1), the words "power, duty, or function of" are substituted for the words "power vested in, duty imposed upon, or function assigned to".

In subsection (b)(2), the words "all questions affecting" and "state of" are omitted as surplusage.

AMENDMENTS

1986 – Pub. L. 99–433, Sec. 502(b)(3), substituted "The Army Staff: general duties" for "General duties" in section catchline.

Subsec. (a). Pub. L. 99–433, Sec. 502(b)(1), inserted "and to the Chief of Staff of the Army".

Subsec. (b). Pub. L. 99–433, Sec. 502(b)(2), substituted "authority, direction, and control of the Secretary of the Army" for "direction and control of the Secretary" in introductory provisions, inserted "subject to subsections (c) and (d) of section 3014 of this title," and substituted "(including those aspects of research and development assigned by the Secretary of

the Army), training, servicing, mobilizing, demobilizing, administering, and maintaining" for ", training, serving, mobilizing, and demobilizing" in cl. (1), substituted "to support military operations by combatant commands" for "for military operations" in cl. (2), and amended cl. (4) generally. Prior to amendment, cl. (4) read as follows: "act as agent of the Secretary and the Chief of Staff in coordinating the action of all organizations of the Department of the Army; and".

1958 – Subsec. (b)(1). Pub. L. 85–599 substituted "prepare for such employment of the Army" for "prepare such plans for the national security, for employment of the Army for that purpose, both separately and in conjunction with the naval and air forces".

–CITE–

10 USC Sec. 3033 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

–HEAD–

Sec. 3033. Chief of Staff

–STATUTE–

(a)(1) There is a Chief of Staff of the Army, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Army. He serves at the pleasure of the President. In time of war or during a

national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as Chief of Staff only if –

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general officer.

(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

(c) Except as otherwise prescribed by law and subject to section 3013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Army and is directly responsible to the Secretary.

(d) Subject to the authority, direction, and control of the Secretary of the Army, the Chief of Staff shall –

(1) preside over the Army Staff;

(2) transmit the plans and recommendations of the Army Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in

carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Army as the Secretary determines;

(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Army.

(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Chief of Staff in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Army.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Army fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

–SOURCE–

(Aug. 10, 1956, ch. 1041, 70A Stat. 162, Sec. 3034; Pub. L. 85–599, Sec. 4(a), Aug. 6, 1958, 72 Stat. 516; Pub. L. 87–651, title I,

Sec. 114, Sept. 7, 1962, 76 Stat. 513; Pub. L. 90–22, title IV,
Sec. 401, June 5, 1967, 81 Stat. 53; Pub. L. 96–513, title V, Sec.
502(2), Dec. 12, 1980, 94 Stat. 2909; Pub. L. 97–22, Sec. 10(b)(4),
July 10, 1981, 95 Stat. 137; renumbered Sec. 3033 and amended Pub.
L. 99–433, title V, Sec. 502(c), Oct. 1, 1986, 100 Stat. 1040; Pub.
L. 100–456, div. A, title V, Sec. 519(a)(3), Sept. 29, 1988, 102
Stat. 1972.)

–MISC1–

Historical and Revision Notes

1956 Act

Revised section Source (U.S. Code) Source (Statutes at
Large)

3034(a) 3034(b) 10:21b (1st June 28, 1950, ch.
sentence). 10:21b 383, Sec. 202, 204,
(less 1st 64 Stat. 266.
sentence).

3034(c) 3034(d) 10:21d(a) (1st 9 June 3, 1916, ch.
words). 10:21d(b) 134, Sec. 5 (last
(2d sentence). par.), added June
10:21d(c). 15, 1933, ch. 87,
10:21d(a) (less 1st Sec. 2 (last par.),
9 words). 10:21d(b) 48 Stat. 154.
(less 2d sentence).
10:38 (last par.).

In subsection (a), the words "not for" are substituted for the words "no person shall serve as Chief of Staff for a term of".

In subsection (b), the words "so serving" are substituted for the words "holding office as such". The words "regular or reserve" are substituted for the word "permanent", since there are no other "permanent" grades. The words "in the Army" are omitted as surplusage. The words "and shall take rank as prescribed by law" are omitted as covered by section 743 of this title. The words "He shall receive the compensation prescribed by law" are omitted as covered by the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.).

In subsection (c), the provisions of 10:21d relating to the direction of the Secretary of the Army over the Chief of Staff are combined. The words "and of subsection (c) of this section" and "state of" are omitted as surplusage.

In subsection (d), 10:38 (last par.) is omitted as covered by 10:21d(a). The words "by sections 1a-1g, 19, 21a-21h, 61-1, 81-1, 231a and 316-1 of this title and section 181-3 to 181-5 of Title 5" are omitted as covered by the words "other provisions of law".

1962 ACT

The changes correct references to section 202(j) of the National Security Act of 1947, which is now set out as section 124 of title 10.

PRIOR PROVISIONS

A prior section 3033 was renumbered section 10302 of this title.

AMENDMENTS

1988 – Subsec. (a)(2)(B). Pub. L. 100–456 substituted "full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)" for "joint duty assignment".

1986 – Pub. L. 99–433 renumbered section 3034 of this title as this section, substituted "Chief of Staff" for "Chief of Staff: appointment; duties" in section catchline, and amended text generally. Prior to amendment, text read as follows:

"(a) The Chief of Staff shall be appointed by the President, by and with the advice and consent of the Senate, for a period of four years, from the general officers of the Army. He serves during the pleasure of the President. In time of war or national emergency, declared by the Congress after December 31, 1968, he may be reappointed for a term of not more than four years.

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade.

"(c) Except as otherwise prescribed by law and subject to section 3012(c) and (d) of this title, the Chief of Staff performs his duties under the direction of the Secretary of the Army, and is directly responsible to the Secretary for the efficiency of the Army, its preparedness for military operations, and plans therefor.

"(d) The Chief of Staff shall –

"(1) preside over the Army Staff;

"(2) send the plans and recommendations of the Army Staff to the Secretary, and advise him with regard thereto;

"(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision over such of the members and organizations of the Army as the Secretary of the Army determines. Such supervision shall be exercised in a manner consistent with the full operational command vested in unified or specified combatant commanders under section 124 of this title;

"(5) perform the duties described for him by sections 141 and 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President."

1981 – Subsec. (b). Pub. L. 97–22 struck out a comma after "regular or reserve grade".

1980 – Subsec. (b). Pub. L. 96–513 struck out provision under which the Chief of Staff is counted as one of the officers authorized to serve in a grade above lieutenant general under section 3066 of this title.

1967 – Subsec. (a). Pub. L. 90–22 changed requirement that Chief of Staff be reappointed only with advice and consent of Senate by providing for his reappointment for a term of not more than four years by President without such advice and consent in a time of war or national emergency as declared by Congress.

1962 – Subsec. (d)(4). Pub. L. 87–651 substituted "under section 124 of this title" for "pursuant to section 202(j) of the National Security Act of 1947, as amended".

1958 – Subsec. (d)(4). Pub. L. 85–599 required Chief of Staff to exercise supervision only as Secretary of the Army determines and in a manner consistent with full operational command vested in unified or specified combatant commanders.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 10(b) of Pub. L. 97–22 provided that the amendment made by that section is effective Sept. 15, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 405 of title IV of Pub. L. 90–22 provided that: "The amendments made by this title (amending sections 3034 (now 3033), 5081, 5201, and 8034 (now 8033) of this title) shall take effect as of January 1, 1969."

WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF

Pub. L. 99–433, title V, Sec. 532(c), Oct. 1, 1986, 100 Stat.

1063, as amended by Pub. L. 100–26, Sec. 11(b), Apr. 21, 1987, 101

Stat. 289; Pub. L. 100–180, div. A, title XIII, Sec. 1314(a)(3),

Dec. 4, 1987, 101 Stat. 1175, provided that the President may

waive, on a case-by-case basis, requirements for appointment as

Service Chief provided for in sections 3033(a)(2), 5033(a)(2),

5043(a)(2), and 8033(a)(2) of this title, for a period of four

years after Oct. 1, 1986.

–CITE–

~~–EXPCITE–~~

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

~~–HEAD–~~

Sec. 3034. Vice Chief of Staff

~~–STATUTE–~~

(a) There is a Vice Chief of Staff of the Army, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Army.

(b) The Vice Chief of Staff of the Army, while so serving, has the grade of general without vacating his permanent grade.

(c) The Vice Chief of Staff has such authority and duties with respect to the Department of the Army as the Chief of Staff, with the approval of the Secretary of the Army, may delegate to or prescribe for him. Orders issued by the Vice Chief of Staff in performing such duties have the same effect as those issued by the Chief of Staff.

(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff –

(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of

Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Army in the Army Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first.

–SOURCE–

(Aug. 10, 1956, ch. 1041, 70A Stat. 162, Sec. 3035; Pub. L. 85–599, Sec. 6(a), Aug. 6, 1958, 72 Stat. 519; renumbered Sec. 3034 and amended Pub. L. 99–433, title V, Sec. 502(d), Oct. 1, 1986, 100 Stat. 1041.)

–MISC1–

Historical and Revision Notes

Revised section Source (U.S. Code) Source (Statutes at Large)

3035(a) 3035(b) 10:21c (1st June 28, 1950, ch. sentence). 10:21c 383, Sec. 203, 64 (less 1st Stat. 266. sentence).

In subsection (a), the words "of the Army" are omitted as surplusage.

In subsection (b), the words "If the Chief of Staff is absent or disabled or if that office is vacant" are substituted for 10:21c (1st 18 words of last sentence). The words "the officer who is highest on the following list and" are inserted for clarity. The words "until his successor is appointed" are omitted as surplusage.

PRIOR PROVISIONS

A prior section 3034 was renumbered section 3033 of this title.

AMENDMENTS

1986 – Pub. L. 99–433, Sec. 502(d), renumbered section 3035 of this title as this section.

Pub. L. 99–433, Sec. 502(d)(3), substituted "Vice Chief of Staff" for "Vice Chief of Staff, Deputy Chiefs of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff" in section catchline.

Subsecs. (a), (b). Pub. L. 99–433, Sec. 502(d)(1), amended subsecs. (a) and (b) generally. Prior to amendment, subsecs. (a) and (b) read as follows:

"(a) The Vice Chief of Staff, the Deputy Chiefs of Staff, and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

"(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

"(1) The Vice Chief of Staff.

"(2) The Deputy Chiefs of Staff in order of seniority."

Subsec. (d). Pub. L. 99-433, Sec. 502(d)(2), added subsec. (d).

1958 – Subsec. (c). Pub. L. 85-599 added subsec. (c).

–CITE–

10 USC Sec. 3035 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

–HEAD–

Sec. 3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

–STATUTE–

(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

(b) The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that –

(1) there may not be more than five Deputy Chiefs of Staff; and

(2) there may not be more than three Assistant Chiefs of Staff.

–SOURCE–

(Added Pub. L. 99-433, title V, Sec. 502(e), Oct. 1, 1986, 100 Stat. 1042.)

–MISC1–

PRIOR PROVISIONS

A prior section 3035 was renumbered section 3034 of this title.

–CITE–

10 USC Sec. 3036 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

–HEAD–

Sec. 3036. Chiefs of branches: appointment; duties

–STATUTE–

(a) There are in the Army the following officers:

(1) Chief of Engineers.

(2) Surgeon General.

(3) Judge Advocate General.

(4) Chief of Chaplains.

(b) Each officer named in subsection (a), except the Judge

Advocate General, shall be appointed by the President, by and with the advice and consent of the Senate, from officers above the grade of major who –

(1) have shown by extensive duty in the branch concerned, or by similar duty, that they are qualified for the appointment; and

(2) have been recommended by a board under subsection (e).

Each officer covered by the preceding sentence, except the Surgeon General, shall be appointed in the regular grade of major general.

The Surgeon General may be appointed from officers in any corps of the Army Medical Department and, while so serving, has the grade of

lieutenant general. The Judge Advocate General shall be appointed as prescribed in section 3037 of this title.

(c) An officer appointed under subsection (b) normally holds office for four years. However, the President may terminate or extend the appointment at any time.

(d)(1) Each officer named in subsection (a) shall perform duties prescribed by the Secretary of the Army and by law.

(2) Under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if –

(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

(B) the services are provided on a reimbursable basis.

(3) In this subsection, the term "State" includes the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, territories and possessions of the United States, and Indian tribes.

(e) For each office to be filled under subsection (b), the Secretary shall select a board of five general officers, including

the incumbent, if any, of the office, and at least two officers, if available, in a grade above major general who have had extensive service in the branch concerned. The Secretary shall give the board a list of the officers to be considered and shall specify the number of officers, not less than three, to be recommended. The list shall include –

- (1) the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is colonel;
- (2) the name of each officer whose regular grade is above colonel, who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment;
- (3) to the extent that the Secretary determines advisable, the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is lieutenant colonel, in the order in which their names appear on the applicable promotion lists; and
- (4) to the extent that the Secretary considers advisable, the name of each regular or reserve officer on active duty in a grade above lieutenant colonel who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment.

From these officers, the board shall recommend by name the number prescribed by the Secretary, and the President may appoint any officer so recommended. If the President declines to appoint any of the recommended officers, or if the officer nominated cannot be

appointed because of advice by the Senate, the Secretary shall convene a board to recommend additional officers. An officer who is recommended but not appointed shall be considered not to have been recommended. This does not affect his eligibility for selection and recommendations for the grade of brigadier general or major general under section 3306 or 3307 of this title.

–SOURCE–

(Aug. 10, 1956, ch. 1041, 70A Stat. 163; Pub. L. 89–288, Sec. 1, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 89–718, Sec. 24, Nov. 2, 1966, 80 Stat. 1119; Pub. L. 97–295, Sec. 1(38), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 99–662, title IX, Sec. 922, Nov. 17, 1986, 100 Stat. 4194; Pub. L. 100–26, Sec. 7(a)(10), Apr. 21, 1987, 101 Stat. 278; Pub. L. 102–580, title II, Sec. 211, Oct. 31, 1992, 106 Stat. 4831; Pub. L. 104–106, div. A, title V, Sec. 506(a), Feb. 10, 1996, 110 Stat. 296; Pub. L. 104–201, div. A, title X, Sec. 1074(a)(18), Sept. 23, 1996, 110 Stat. 2660.)

–MISC1–

Historical and Revision Notes

1956 Act

Revised section Source (U.S. Code) Source (Statutes at Large)

3036(a) 3036(b) 10:21f(a). June 28, 1950, ch.

3036(c) 3036(d) 10:21f(b). 10:181 383, Sec. 206, 64

(1st 17 words). Stat. 267. June 3,

10:559g(a) (less 3d 1916, ch. 134, Sec.

and 5th sentences). 11 (1st 17 words);

10:559g(a) (3d restated June 4,

sentence). 1920, ch. 227,

10:21f(c). subch. I, Sec. 11

(1st 17 words), 41

Stat. 768.

3036(e) 10:559g(b). Aug. 7, 1947, ch.

512, Sec. 513(a)

(less 5th

sentence), (b), 61

Stat. 901.

In subsection (b), all references to the appointment of assistant chiefs are omitted as covered by sections 3037 and 3040 of this title. All references to the grade of brigadier general are omitted, since 10:21f(b) specifies the grade of major general for the offices. 10:559g(a) (4th sentence) is omitted as surplusage, since the appointment is to a permanent grade. 10:559g(a) (6th and 7th sentences) is omitted as executed. 10:559g(a) (last sentence) is omitted, since the revised section applies only to the officers named in subsection (a). The words "except the Judge Advocate General" are inserted for clarity. The eight words before clause (1), and clauses (1) and (2), are substituted for the words "as prescribed in section 559g of this title", in 10:21f(b), and 10:559g(a) (1st sentence). The second sentence is substituted for

10:559g(a) (2d sentence) and 10:21f(b) (1st 15 words). The words "selected and", in 10:21f(b), are omitted as surplusage. The words "arms, or services", in 10:559g(a) are omitted as obsolete, since sections 3063 and 3064 of this title designate the former arms and services as "branches".

In subsection (c), the words "normally holds office" are substituted for the words "shall normally continue in that assignment for a tour of duty". The words "appointment" and "office" are substituted for the words "assignment" and "tour of duty" whenever they are used in that sense.

In subsection (e), the introductory clause is substituted for 10:559g(b) (words before colon of 1st sentence). The words "in a grade above major general" are substituted for the words "of a rank above that of the position for which selections are to be made", since all the positions are in the grade of major general. The word "select" is substituted for the word "appoint", since the filling of the offices is not appointment to an office in the constitutional sense. The word "extensive" is substituted for the word "extended", except where it refers to "extended" active duty, in which case the word "extended" is omitted as surplusage. The words "the name of" are inserted for clarity.

The words "appointed in, or assigned to" are substituted for the words "of the", and "in the", before the words "that branch", to conform to sections 3063 and 3064 of this title. The word "regular" is substituted for the word "permanent". The words "each regular or reserve officer" are substituted for the words

"of officers of any component of the Army of the United States".

The words "these officers" are substituted for the words "among those recommended by such board". The words "This does not affect" are substituted for the words "but this shall in no way prejudice". The words "to be filled", "by it", "other", "which number shall", "to be considered", "and may in addition thereto and", and "in the position concerned" are omitted as surplusage.

1982 Act

Revised section Source (U.S. Code) Source (Statutes at Large)

3036(d) (1st 10:3036(d). sentence)

3036(d) (last 10:3036 (note). Oct. 27, 1965, Pub. sentence) L. 89–298, Sec. 219, 79 Stat. 1089.

The first sentence is restated to clarify that the Secretary concerned is the Secretary of the Army. The word "services" is substituted for "work or services" because it is inclusive. The word "instrumentality" is added for clarity.

AMENDMENTS

1996 – Subsec. (b). Pub. L. 104–106 inserted "may be appointed from officers in any corps of the Army Medical Department and"

after "The Surgeon General" in concluding provisions.

Subsec. (d)(3). Pub. L. 104–201 substituted "In this subsection" for "For purposes of this subsection".

1992 – Subsec. (d)(3). Pub. L. 102–580 added par. (3).

1987 – Subsec. (d). Pub. L. 100–26 designated existing first sentence requiring each officer named in subsec. (a) to perform prescribed duties as par. (1), designated existing second sentence permitting the Chief of Engineers to accept orders to provide services to another department, agency, or governmental instrumentality as par. (2), and substituted "United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if –

"(A) the work to be undertaken on behalf of non–Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

"(B) the services are provided on a reimbursable basis." for "United States and, on a reimbursable basis, to a State or political subdivision thereof. Services provided to a State or political subdivision thereof shall be undertaken only on condition that –

"(1) the work to be undertaken on behalf of non–Federal interests involves Federal assistance; and

"(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers.(.) any part of those services by contract."

1986 – Subsec. (d). Pub. L. 99–662 substituted "and, on a reimbursable basis, to a State or political subdivision thereof.

Services provided to a State or political subdivision thereof shall be undertaken only on condition that –

"(1) the work to be undertaken on behalf of non–Federal interests involves Federal assistance; and

"(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers."

for "and may provide", which resulted in the creation of an incomplete sentence.

1982 – Subsec. (d). Pub. L. 97–295 substituted "Secretary of the Army" for "Secretary" and inserted provision that, under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States and may provide any part of those services by contract.

1966 – Subsec. (a). Pub. L. 89–718 struck out cls. (2) to (8) naming the Chief Signal Officer, Adjutant General, Quartermaster General, Chief of Finance, Chief of Ordnance, Chief Chemical Officer, and Chief of Transportation respectively, and redesignated cls. (9) to (11) as (2) to (4), respectively.

1965 – Subsec. (b). Pub. L. 89–288 provided Surgeon General,
while so serving, with grade of lieutenant general.

CHIEF OF ENGINEERS; WORK OR SERVICES FOR OTHER FEDERAL DEPARTMENTS
AND AGENCIES

Pub. L. 89–298, title II, Sec. 219, Oct. 27, 1965, 79 Stat. 1089,
which provided that the Chief of Engineers, under the supervision
of the Secretary of the Army, was authorized to accept orders from
other Federal departments and agencies for work or services and to
perform all or any part of such work or services by contract, was
repealed and restated in subsec. (d) of this section by Pub. L.

97–295, Sec. 1(38), 6(b), Oct. 12, 1982, 96 Stat. 1296, 1314.

DEPARTMENT OF DEFENSE REORGANIZATION ORDER
JANUARY 10, 1962

REORGANIZATION OF THE DEPARTMENT OF THE ARMY

By virtue of the authority vested in me by section 202(c) of the
National Security Act of 1947, as amended (72 Stat. 514; 5 U.S.C.
171a(c)), and as Secretary of Defense, it is hereby ordered as
follows:

Section 1. Abolition of officers and transfer of functions. The
following officers named in section 3036, Title 10, United States
Code, are hereby abolished and their functions transferred to the
Secretary of the Army:

- (a) Chief Signal Officer;
- (b) Adjutant General;
- (c) Quartermaster General;
- (d) Chief of Finance;

(e) Chief of Ordnance;

(f) Chief Chemical Officer, and

(g) Chief of Transportation.

Sec. 2. Transfer of functions from Chief of Engineers. The functions vested in the Chief of Engineers by sections 3038 and 3533, Title 10, United States Code, are hereby transferred to the Secretary of the Army.

Sec. 3. Performance of transferred functions. The Secretary of the Army may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any office, agency, or employee of the Department of the Army of any function transferred to the Secretary by the provisions of this order.

Sec. 4. Transitional provisions. In order to assist in the orderly transfer of functions and to promote continuity of operation, the Secretary of the Army may, if he considers it necessary, delay beyond the effective date of this order the abolition of any office or transfer of any function.

Sec. 5. Effective date. The provisions of this order shall take effect on the date determined under section 202(c) of the National Security Act of 1947, as amended (72 Stat. 514; 5 U.S.C. 171a(c)), or the 16th day of February 1962, whichever is later.

J. C. Lambert,

Major General, U.S. Army,

The Adjutant General.

—SECRET—

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3039, 12009 of this title.

–CITE–

10 USC Sec. 3037 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

–HEAD–

Sec. 3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties

–STATUTE–

(a) The President, by and with the advice and consent of the Senate, shall appoint the Judge Advocate General, the Assistant Judge Advocate General, and general officers of the Judge Advocate General's Corps, from officers of the Judge Advocate General's Corps, who are recommended by the Secretary of the Army. An officer appointed as the Judge Advocate General or Assistant Judge Advocate General normally holds office for four years. However, the President may terminate or extend the appointment at any time. If an officer who is so appointed holds a lower regular grade, he shall be appointed in the regular grade of major general.

(b) The Judge Advocate General 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 or Territory, 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 Army and of all officers and agencies of the Department of the Army;

(2) shall direct the members of the Judge Advocate General's Corps in the performance of their duties; and

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

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

–SOURCE–

(Aug. 10, 1956, ch. 1041, 70A Stat. 164; Pub. L. 85–861, Sec. 33(a)(18), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 103–337, div. A, title V, Sec. 504(a), Oct. 5, 1994, 108 Stat. 2750.)

–MISC1–

Historical and Revision Notes

1956 Act

Revised section Source (U.S. Code) Source (Statutes at Large)

3037(a) 3037(b) 10:21h(c). 10:61a. June 28, 1950, ch.

3037(c) 50:741. 10:62. 383, Sec. 208(c),

10:62a. 10:63. 64 Stat. 267. June

24, 1948, ch. 625,

Sec. 248, 249, 62

Stat. 643. May 5,

1950, ch. 169, Sec.

13, 64 Stat. 147.

R.S. 1199.

June 23, 1874, ch.

458, Sec. 2, 18

Stat. 244.

R.S. 1201.

In subsection (a), the words "Notwithstanding any other provision of law" and "for such positions" are omitted as surplusage. The last sentence is substituted for 10:61a (last sentence). 10:21h(c) is omitted as covered by 10:61a.

In subsection (b), the words "Hereafter" and "exclusive of the present incumbents" are omitted as surplusage.

In subsection (c), the words "In addition to duties elsewhere

prescribed for him by law", in 10:62, are omitted as surplusage.

The words "and perform such other duties as may be prescribed by the Secretary of the Army", in 10:62, are omitted as superseded by sections 3012(e) and 3036(d) of this title. Clause (2) is substituted for 10:62a (words after semicolon) and 63. The Act of June 23, 1874, ch. 458, Sec. 2 (words before semicolon of 1st sentence, and last sentence), 18 Stat. 244, are not contained in 10:62. They are also omitted from the revised section as superseded by sections 3037(a) and 3211 of this title.

1958 ACT

The change corrects an inadvertence. The source statute for section 3036(c) of title 10 (the third sentence of sec. 513(a) of the Officer Personnel Act of 1947, 61 Stat. 901), providing for a 4-year term of office, applied also to the Judge Advocate General and the Assistant Judge Advocate General. As restated in section 3036(c), it now applies only to the officers named in section 3036(b), which excludes the two officers named. For this reason, the effect of the source statute with respect to those officers is added to section 3037(a), relating to their appointment.

AMENDMENTS

1994 – Subsec. (d). Pub. L. 103–337 added subsec. (d).

1958 – Subsec. (a). Pub. L. 85–861 provided that the Judge Advocate General or Assistant Judge Advocate General shall normally hold office for four years, and empowered the President to terminate or extend the appointment at any time.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of this title.

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3036, 3039 of this title.

–CITE–

10 USC Sec. 3038 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

–HEAD–

Sec. 3038. Office of Army Reserve: appointment of Chief

–STATUTE–

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

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

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

(A) is recommended by the Secretary of the Army; 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 Army
Reserve shall be counted for purposes of the grade limitations
under sections 525 and 526 of this title.

(4) Until December 31, 2004, the Secretary of Defense may waive
subparagraph (B) of paragraph (2) with respect to the appointment
of an officer as Chief of Army Reserve if the Secretary of the Army
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; Grade. – (1) The Chief of Army Reserve
is appointed for a period of four years, but may be removed for
cause at any time. An officer serving as Chief of Army Reserve may
be reappointed for one additional four-year period.

(2) The Chief of Army Reserve, while so serving, holds the grade
of lieutenant general.

(d) Budget. – The Chief of Army Reserve is the official within
the executive part of the Department of the Army who, subject to
the authority, direction, and control of the Secretary of the Army
and the Chief of Staff, is responsible for justification and

execution of the personnel, operation and maintenance, and construction budgets for the Army Reserve. As such, the Chief of Army Reserve is the director and functional manager of appropriations made for the Army Reserve in those areas.

(e) Full Time Support Program. – The Chief of Army Reserve manages, with respect to the Army Reserve, the personnel program of the Department of Defense known as the Full Time Support Program.

(f) Annual Report. – (1) The Chief of Army Reserve shall submit to the Secretary of Defense, through the Secretary of the Army, an annual report on the state of the Army Reserve and the ability of the Army Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Staff of the Army and may be submitted in classified and unclassified versions.

(2) The Secretary of Defense shall transmit the annual report of the Chief of Army Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.

–SOURCE–

(Added Pub. L. 90–168, Sec. 2(16), Dec. 1, 1967, 81 Stat. 523, Sec. 3019; renumbered Sec. 3038 and amended Pub. L. 99–433, title V, Sec. 501(a)(4), 502(g)(1), Oct. 1, 1986, 100 Stat. 1034, 1042; Pub. L. 103–337, div. A, title XVI, Sec. 1672(c)(1), Oct. 5, 1994, 108 Stat. 3015; Pub. L. 104–201, div. A, title XII, Sec. 1212(a), Sept. 23, 1996, 110 Stat. 2691; Pub. L. 106–65, div. A, title V,

Sec. 554(b), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106–398, Sec. 1 ((div. A), title V, Sec. 507(a)), Oct. 30, 2000, 114 Stat. 1654, 1654A–102; Pub. L. 107–314, div. A, title V, Sec. 501(a), Dec. 2, 2002, 116 Stat. 2529.)

–MISC1–

PRIOR PROVISIONS

A prior section 3038, act Aug. 10, 1956, ch. 1041, 70A Stat. 164, charged Chief of Engineers with responsibility for Army construction, real estate acquisition and management, and the operation of water, gas, electric, and sewer utilities, prior to repeal by Pub. L. 89–718, Sec. 25(a), Nov. 2, 1966, 80 Stat. 1119.

AMENDMENTS

2002 – Subsec. (b)(4). Pub. L. 107–314 substituted "December 31, 2004" for "October 1, 2003" in introductory provisions.

2000 – Subsec. (b). Pub. L. 106–398 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The President, by and with the advice and consent of the Senate, shall appoint the Chief of Army Reserve from officers of the Army Reserve not on active duty, or on active duty under section 10211 of this title, who –

"(1) have had at least 10 years of commissioned service in the Army Reserve;

"(2) are in grade of brigadier general and above; and

"(3) have been recommended by the Secretary of the Army."

Subsec. (c). Pub. L. 106–398 amended subsec. (c) generally.

Prior to amendment, subsec. (c) read as follows: "The Chief of

Army Reserve holds office for four years but may be removed for cause at any time. He is eligible to succeed himself. If he holds a lower reserve grade, he shall be appointed in the grade of major general for service in the Army Reserve. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general."

1999 – Subsec. (c). Pub. L. 106–65 inserted at end "However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general."

1996 – Subsecs. (d) to (f). Pub. L. 104–201 added subsecs. (d) to (f).

1994 – Subsec. (b). Pub. L. 103–337 substituted "10211" for "265".

1986 – Pub. L. 99–433, Sec. 501(a)(4), renumbered section 3019 of this title as this section.

Subsec. (c). Pub. L. 99–433, Sec. 502(g)(1), substituted "service" for "services".

EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Pub. L. 106–65, div. A, title V, Sec. 554(g), (h), Oct. 5, 1999, 113 Stat. 617, provided that:

"(g) Effective Date. – The amendments made by this section (enacting section 12505 of this title and amending this section and sections 5143, 5144, 8038, and 10506 of this title) shall take effect 60 days after the date of the enactment of this Act (Oct. 5, 1999).

"(h) Applicability to Incumbents. – (1) If an officer who is a

covered position incumbent is appointed under the amendments made by this section to the grade of lieutenant general or vice admiral, the term of service of that officer in that covered position shall not be extended by reason of such appointment.

"(2) For purposes of this subsection:

"(A) The term 'covered position incumbent' means a reserve component officer who on the effective date specified in subsection (g) is serving in a covered position.

"(B) The term 'covered position' means a position specified in section 12505 of title 10, United States Code, as added by subsection (a)."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE

Section effective on first day of first calendar month following date of enactment of Pub. L. 90–168, which was approved Dec. 1, 1967, see section 7 of Pub. L. 90–168, set out as an Effective Date of 1967 Amendment note under section 138 of this title.

–SECFREF–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 641 of this title.

–CITE–

10 USC Sec. 3039 01/06/03

–EXPCITE–

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

–HEAD–

Sec. 3039. Deputy and assistant chiefs of branches

–STATUTE–

(a) Each officer named in section 3036 of this title shall have, in addition to the assistants prescribed by subsections (b) and (c) and by section 3037 of this title, such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary similar to that prescribed in section 3036 of this title.

(b) There is an Assistant Surgeon General appointed from the officers of the Dental Corps, as prescribed in section 3036 of this title. The Assistant Surgeon General is Chief of the Dental Corps and is responsible for making recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and the dental health of the Army. An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.

(c) There are two assistants to the Chief of Engineers appointed as prescribed in section 3036 of this title. An appointee who holds a lower regular grade shall be appointed in the regular grade

of brigadier general.

–SOURCE–

(Aug. 10, 1956, ch. 1041, 70A Stat. 165, Sec. 3040; Pub. L. 95–485, title VIII, Sec. 805(a), Oct. 20, 1978, 92 Stat. 1621; renumbered Sec. 3039 and amended Pub. L. 99–433, title V, Sec. 502(f)(2), Oct. 1, 1986, 100 Stat. 1042.)

–MISC1–

Historical and Revision Notes

Revised section Source (U.S. Code) Source (Statutes at Large)

3040(a) 3040(b) 10:21h(a). June 28, 1950, ch.

3040(c) 10:21h(b). 10:181 383, Sec. 208 (less (18th through 25th (c)), 64 Stat. 268.

words). 10:181a June 3, 1916, ch.

(14th through 30th 134, Sec. 11 (18th

words). through 25th

words); restated

June 4, 1920, ch.

227, subch. I, Sec.

11 (18th through

25th words), 41

Stat. 768.

June 26, 1936, ch.

839 (16th through

31st words), 49

Stat. 1974.

In subsection (a), the words "in addition to the assistants prescribed by subsections (b) and (c) and section 3037 of this title" are substituted for the words "Except as prescribed in subsections (b) and (c) of this section". The words "selected and", "which procedure shall be", and 10:21h(a) (last 21 words) are omitted as surplusage.

In subsection (b), the words "appointed from the officers of the Dental Corps" are substituted for the words "who shall be an officer of the Dental Corps, and who shall be selected and appointed". The last sentence is substituted for the words "with the rank of major general".

Subsection (c) is based on section 11 of the National Defense Act, as amended by the Act of June 26, 1936, ch. 839, 49 Stat. 1974 (10:181 and 181a), which provides for two assistants to the Chief of Engineers with the rank of brigadier general, and as impliedly amended by section 513(a) and 513(b) of the Officer Personnel Act of 1947 (10:559g), which provides the method of selection of assistant chiefs of branches, and prescribes that assistant chiefs be promoted to the grade held as such in the Regular Army if they hold a lower grade in the Regular Army. Section 404(f) of the Army Organization Act of 1950, 64 Stat. 274, exempts these two positions from the operation of section 208(a) of that act (10:21h(a)).

PRIOR PROVISIONS

A prior section 3039, act Aug. 10, 1956, ch. 1041, 70A Stat. 164, related to Inspector General and Provost Marshal General, prior to repeal by Pub. L. 99-433, Sec. 502(f)(1). See section 3020 of this title.

AMENDMENTS

1986 – Pub. L. 99-433 renumbered section 3040 of this title as this section and substituted "section 3036" for "sections 3036 and 3039" in subsec. (a).

1978 – Subsec. (b). Pub. L. 95-485 inserted provision establishing the Assistant Surgeon General as Chief of the Dental Corps and making him responsible for recommendations to the Surgeon General and through the Surgeon General to the Chief of Staff on all matters concerning dentistry and dental health of the Army.

~~–SECRET–~~

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3081 of this title.

~~–CITE–~~

10 USC Sec. 3040 01/06/03

~~–EXPCITE–~~

TITLE 10 – ARMED FORCES

Subtitle B – Army

PART I – ORGANIZATION

CHAPTER 305 – THE ARMY STAFF

~~–HEAD–~~

(Sec. 3040. Repealed. Pub. L. 103-337, div. A, title IX, Sec.

904(b)(1), Oct. 5, 1994, 108 Stat. 2827)

–MISC1–

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 159, Sec. 3015;
Aug. 6, 1958, Pub. L. 85–599, Sec. 12, 72 Stat. 521; renumbered
Sec. 3040, Oct. 1, 1986, Pub. L. 99–433, title V, Sec. 501(a)(1),
100 Stat. 1034; Sept. 29, 1988, Pub. L. 100–456, div. A, title
XII, Sec. 1234(a)(1), 102 Stat. 2059, related to National Guard
Bureau, Chief of Bureau, appointment and acting Chief. See sections
10501, 10502, and 10505 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective at end of 90–day period beginning on Oct. 5,
1994, see section 904(d) of Pub. L. 103–337, set out as an
Effective Date note under section 10501 of this title.

–CITE–