TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

CHAPTER 43—RANK AND COMMAND

Sec. 741. Rank: commissioned officers of the armed forces.

742. Rank: warrant officers.

743. Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force; Commandant of the Marine Corps.

744. Physician to White House: assignment; grade.

745. Repealed.


747. Command: when different commands of Army, Navy, Air Force, and Marine Corps of the same grade or of equivalent grades who have the same date of rank is determined by regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.

748. Command: commissioned officers in same or equivalent grades who have the same date of rank.

749. Command: commissioned officers of the armed forces.

750. Command: retired officers.

AMENDMENTS


For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of this title.

CROSS REFERENCES

Particular provisions relating to rank and command—

Air Force, see section 8572 et seq. of this title.

Army, see section 3572 et seq. of this title.

Navy and Marine Corps, see sections 5508, 5942 et seq. of this title.

§ 741. Rank: commissioned officers of the armed forces

(a) Among the grades listed below, the grades of general and admiral are equivalent and are senior to other grades and the grades of second lieutenant and ensign are equivalent and are junior to other grades. Intermediate grades rank in the order listed as follows:

<table>
<thead>
<tr>
<th>Army, Air Force, and Marine Corps</th>
<th>Navy and Coast Guard</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>Admiral</td>
</tr>
<tr>
<td>Lieutenant general</td>
<td>Vice admiral</td>
</tr>
<tr>
<td>Major general</td>
<td>Rear admiral</td>
</tr>
<tr>
<td>Brigadier general</td>
<td>Rear admiral (lower half)</td>
</tr>
<tr>
<td>Colonel</td>
<td>Captain</td>
</tr>
<tr>
<td>Lieutenant colonel</td>
<td>Commander</td>
</tr>
<tr>
<td>Major</td>
<td>Lieutenant commander</td>
</tr>
<tr>
<td>Captain</td>
<td>Lieutenant</td>
</tr>
</tbody>
</table>

(b) Rank among officers of the same grade or of equivalent grades is determined by comparing dates of rank. An officer whose date of rank is earlier than the date of rank of another officer of the same or equivalent grade is senior to that officer.

(c) Rank among officers of the Army, Navy, Air Force, and Marine Corps of the same grade or of equivalent grades who have the same date of rank is determined by regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.

(d)(1) The date of rank of an officer of the Army, Navy, Air Force, or Marine Corps who holds a grade as the result of an original appointment shall be determined by the Secretary of the military department concerned at the time of such appointment. The date of rank of an officer of the Army, Navy, Air Force, or Marine Corps who holds a grade as the result of an original appointment and who at the time of such appointment was awarded service credit for prior commissioned service or constructive credit for advanced education or training, or special experience shall be determined so as to reflect such prior commissioned service or constructive service. Determinations by the Secretary concerned under this paragraph shall be made under regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.

(2) Except as otherwise provided by law, the date of rank of an officer who holds a grade as the result of a promotion is the date of his appointment to that grade.

(3) Under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, the date of rank of a reserve commissioned officer (other than a warrant officer) of the Army, Navy, Air Force, or Marine Corps who is to be placed on the active-duty list and who has not been on continuous active duty since his original appointment as a reserve commissioned officer in a grade above chief warrant officer, W–5, or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list may, effective on the date on which he is placed on the active-duty list or reserve active-status list, be changed by the Secretary concerned to a later date to reflect such officer’s qualifications and experience. The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer’s last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title.


**HISTORICAL AND REVISION NOTES**

<table>
<thead>
<tr>
<th>Revised section</th>
<th>Source (U.S. Code)</th>
<th>Source (Statutes at Large)</th>
</tr>
</thead>
<tbody>
<tr>
<td>741(a) .........</td>
<td>10:517 (1st and 2d sentences, less applicability to rank within grade).</td>
<td>Aug. 7, 1947, ch. 512, §341(j), 61 Stat. 503; R.S. 1603 (less applicability to establishment of commissioned grades).</td>
</tr>
<tr>
<td></td>
<td>34:651 (less applicability to establishment of commissioned grades).</td>
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</tr>
<tr>
<td>741(b) ........</td>
<td>10:517 (1st and 2d sentences, less applicability to rank within grade).</td>
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</tr>
<tr>
<td></td>
<td>34:651 (less applicability to establishment of commissioned grades).</td>
<td></td>
</tr>
<tr>
<td>741(c) ........</td>
<td>10:517 (1st and 2d sentences).</td>
<td>Aug. 7, 1947, ch. 512, §341(j), 61 Stat. 503; R.S. 1603 (less applicability to establishment of commissioned grades).</td>
</tr>
<tr>
<td></td>
<td>34:651 (less applicability to establishment of commissioned grades).</td>
<td></td>
</tr>
</tbody>
</table>

In subsection (a), the word “Regular”, pertaining to major generals and brigadier generals, in 10:517 and 34:241a, is omitted, since the last sentence of 10:517 and 34:241a establish the rank of nonregular officers of the Army and the Air Force, with respect to officers of the Regular Army and the Regular Air Force. The effect of establishing their rank with respect to regular officers, when read in connection with the provisions prescribing the rank of officers of the regular components with officers of the other services, under 10:517 (last sentence), 34:241a (less last sentence), and 34:241, is therefore to establish the rank of nonregular officers with respect to officers of the other listed services. This allows a consolidation of 10:517 (last sentence, as applicable to rank), 34:241, and 34:241a (less last sentence, as applicable to rank), together with 34:651, into a table of rank among officers of the Army, Navy, Air Force, and Marine Corps. The words “lineal rank only being considered” in 34:241, are covered by setting forth the grades in tabular form. The words “whether on the active or retired list” in 34:241, are omitted, since retired officers of the Navy continue to be officers of the Navy. The words “Lieutenant (junior grade)” in right column of table opposite Brigadier general.

**AMENDMENTS**


1994—Subsec. (d)(3). Pub. L. 103–337, §1626(3), inserted at end “The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer’s last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title.”

Pub. L. 103–337, §1626(2), inserted “or reserve active-status list” after “he is placed on the active-duty list”.

Pub. L. 103–337, §1626(1), as amended by Pub. L. 104–106, inserted “‘or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list may, effective on the date on which he is placed on the active-duty list’” after “warrant officer, W–5.”


1984—Subsec. (a). Pub. L. 98–557 struck out “(Navy) and Rear admiral (upper half) (Coast Guard)” after “Rear admiral” and “(Navy) and Rear admiral (lower half) (Coast Guard)” after “Commodore” in table.

1982—Subsec. (c). Pub. L. 97–286 substituted “the” for “the the” after “uniformly among”.


Pub. L. 97–22, §4(h)(1), inserted reference to the Coast Guard in column heading and inserted references to Rear admiral (upper half) (Coast Guard) and Rear admiral (lower half) (Coast Guard). Subsec. (c), Pub. L. 97–286 substituted “the” for “other than a warrant officer”.


**EFFECTIVE DATE OF 1996 AMENDMENT**


**EFFECTIVE DATE OF 1994 AMENDMENT**

Amendment by Pub. L. 103–337 effective Oct. 1, 1994, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

**EFFECTIVE DATE OF 1991 AMENDMENT**


**EFFECTIVE DATE OF 1981 AMENDMENT**


**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the
§ 742. Rank: warrant officers

(a) Among warrant officer grades, warrant officer grades of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

(b) Rank among warrant officers of the same grade, and date of rank of warrant officers, is determined in the same manner as prescribed in section 741 of this title for officers in grades above warrant officer grades.


Prior Provisions


Effective Date

Section effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

Cross References

Grades of warrant officers, see section 571 of this title.

Rank of warrant officers—

Air Force, see section 8575 of this title.

Army, see section 3575 of this title.

§ 743. Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force; Commandant of the Marine Corps

The Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps rank among themselves according to dates of appointment to those offices, and rank above all other officers on the active-duty list of the Army, Navy, Air Force, and Marine Corps, except the Chairman and the Vice Chairman of the Joint Chiefs of Staff.


Historical and Revision Notes

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

743 .......... 5:626c(b).


5:626c(b) (1st sentence) is omitted as superseded by sections 8031(a)(1) and 8034(a) of this title. 5:626c(b) (1st sentence) is omitted as superseded by section 8034(d) of this title. 5:626c(b) (3d and 4th sentences) is omitted as executed. 5:626c(b) (5th sentence) is omitted as covered by section 8034(b) of this title. 5:626c(b) (proviso of last sentence) is omitted as executed, since the incumbents to whom it is applied no longer hold the offices mentioned. The exception as to the Chairman of the Joint Chiefs of Staff is included because of section 142(c) of this title. The words ‘and the Marine Corps’ are inserted, since under section 5081 of this title the Chief of Naval Operations takes precedence over all other officers of the naval service.

Amendments


1980—Pub. L. 96–513 substituted ‘‘active-duty list’’ for ‘‘active list’’.

Effective Date of 1987 Amendment

Section 1314(e)(1) of Pub. L. 100–180 provided that: ‘‘The amendments made by subsection (a) [amending this section, sections 2431 to 2434 of this title, and provisions set out as notes under sections 111 and 3033 of this title] shall apply as if included in the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433).’’

Effective Date of 1980 Amendment


Cross References

Chief of Naval Operations, see section 5033 of this title.

Chief of Staff of the Air Force, see section 8033 of this title.

Chief of Staff of the Army, see section 3033 of this title.

Commandant of the Marine Corps, see section 5043 of this title.

Rank of Chairman of Joint Chiefs of Staff, see section 152 of this title.

§ 744. Physician to White House: assignment; grade

An officer of the Medical Corps of the Army, or a medical officer of the Air Force, who is below the grade of colonel and who is assigned to duty as physician to the White House has the rank, pay, and allowances of colonel while so serving. An officer of the Medical Corps of the Navy who is below the grade of captain and who is assigned to that duty has the rank, pay, and allowances of captain while so serving.

(Aug. 10, 1956, ch. 1041, 70A Stat. 34.)

Historical and Revision Notes

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


The word ‘‘temporary’’, in 10:515 and 34:251a, is omitted as surplusage.
§ 771a. Unauthorized wearing prohibited

Except as otherwise provided by law, no person except a member of the Army, Navy, Air Force, or Marine Corps, as the case may be, may wear—

(1) the uniform, or a distinctive part of the uniform, of the Army, Navy, Air Force, or Marine Corps; or

(2) a uniform any part of which is similar to a distinctive part of the uniform of the Army, Navy, Air Force, or Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 34.)

HISTORICAL AND REVISION NOTES

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

The words “Except as otherwise provided by law” are inserted to give effect to exceptions in other revised sections of this title and to provisions of other laws giving such organizations as the Coast and Geodetic Survey and the Public Health Service permission to wear military uniforms under certain conditions.

Cross References
Public Health Service, wearing of uniforms, see section 238g of Title 42, The Public Health and Welfare.

Punishment for unauthorized wearing, see section 702 of Title 18, Crimes and Criminal Procedure.

§ 771a. Disposition on discharge

(a) Except as provided in subsections (b) and (c), when an enlisted member of an armed force is discharged, the exterior articles of uniform in his possession that were issued to him, other than those that he may wear from the place of discharge to his home under section 772(d) of this title, shall be retained for military use.

(b) When an enlisted member of an armed force is discharged for bad conduct, undesirability, unsuitability, inaptitude, or otherwise than honorably—