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# Military Officer Personnel Management: Key Concepts and Statutory Provisions

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# Summary

Congress and the executive branch are currently considering changes to the officer personnel management system. Some of these proposed changes would require changes to the laws, including provision enacted by the Defense Officer Personnel Management Act (DOPMA) and the Goldwater-Nichols Act (GNA).

Contemporary debates over officer personnel management policy often revolve around the fundamental questions of "what type of officers do we need to win the next war?" and "what skills does the officer corps need to enable the military services to perform their missions?" These questions are implicitly oriented towards future events. Their answers are therefore somewhat speculative. Still, contemporary trends and military history can provide valuable insight. Additionally, a set of broader questions can help focus the analysis:

- What will be the key security interests and priorities of the United States in the future?
- What conflicts will likely arise in the pursuit of these interests?
- What opponents will we face in these conflicts? How will they fight?
- What military strategy will the United States employ to secure its interests? How will we fight?
- What knowledge, skills, and abilities must the officer corps possess to effectively carry out these roles and missions? How do we attract and retain individuals with the necessary potential for service as officers?
- How should the officer corps be prepared so it can effectively adapt to unforeseen crises and contingencies?
- Given limited resources, what are the most critical areas for improvement?
- Where should the nation accept risk?

Policymakers often have divergent answers to these questions and thus come to different conclusions about the most appropriate officer personnel management policies. Examples of diverging views can be found in debates on the criteria for accepting or rejecting people for military service; required training and education over the course of a career; assignments to be emphasized; distribution of officers by grade; retention of experienced and talented individuals; and the criteria for selecting individuals for promotion and for separation.

In the exercise of its constitutional authority over the armed forces, Congress has enacted an array of laws governing military officer personnel management and periodically changes these laws as it deems appropriate. This report provides an overview of selected concepts and statutory provisions that shape and define officer appointments, assignments, grade structure, promotions, and separations. It also provides a set of questions that policymakers may wish to consider when discussing proposed changes to current law.

# Contents

Introduction ..... 1
Terminology ..... 1
Original Appointments ..... 2
Statutory Authority ..... 2
Overview ..... 2
Considerations ..... 5
Assignment ..... 6
Statutory Authority ..... 6
Overview ..... 6
Considerations ..... 7
Promotion ..... 8
Statutory Authority ..... 8
Overview ..... 8
Grade Limitations ..... 8
Promotion Timing ..... 10
Promotion Opportunity ..... 10
Best Qualified Selected for Promotion ..... 11
"Up or Out" and Selective Continuation ..... 12
Considerations ..... 12
Separation ..... 13
Statutory Authority ..... 13
Overview ..... 13
Voluntary Separation or Retirement ..... 13
Mandatory Separation or Retirement ..... 14
Considerations ..... 16

## Tables

Table 1. Grade, Insignia and Paygrade of Officers ..... 2
Table 2. Selected Disqualifications for Appointment ..... 4
Table 3. Current U.S. Armed Forces Officer Corps by Paygrade ..... 8
Table 4. Historical U.S. Armed Forces Officers Corps Ratio, 1965-2015 ..... 9
Table 5. Promotion Timing and Promotion Opportunity ..... 11
Table 6. Mandatory Separation Authorities for Officers ..... 14

## Contacts

Author Information ..... 17

# Introduction

In the past several years, senior policymakers in both Congress and the executive branch have proposed various changes to the way in which officers in the armed forces are managed, most notably with respect to assignment and promotion.[1] Supporters of these proposals typically deem them to be essential to building a force that can meet the challenges of emerging strategic threats, such as cyberwarfare, and to compete with the private sector for talented individuals. Some of these proposed changes would require changes to law, including provisions enacted by the Defense Officer Personnel Management Act (DOPMA)[2] and the Goldwater-Nichols Act (GNA).[3] This report provides an overview of selected concepts and statutory provisions that define and shape important aspects of active duty[4] officer personnel management along with a set of questions that policymakers may wish to consider when discussing proposed changes to current law. The topics discussed below are often inter-related, such that adjusting the parameters of one can affect the operation of others. For example, reducing the number of authorized positions at a higher grade would likely result in slower promotion timing, decreased promotion opportunity, and greater number of mandatory separations under the "up or out" provisions or individuals deciding to leave military service due to perceived lack of upward mobility.

# Terminology

Throughout this report, reference will be made to the grade or paygrade of an officer. **Table 1** below provides a summary of the various grades[5] in the Army, Navy, Air Force, and Marine Corps.[6]

[1] See for example, the Department of Defense's "Force of the Future" initiative available at http://www.defense.gov/News/Special-Reports/0315_Force-of-the-Future; and the Senate Armed Services Committee hearing in December 2015 on "Department of Defense Personnel Reform and Strengthening the All Volunteer Force" available at http://www.armed-services.senate.gov/imo/media/doc/15-90%20-12-2-15.pdf.

[2] P.L. 96-513.

[3] P.L. 99-433.

[4] Reserve component personnel who are not on the active-duty list are not covered in this report. They are governed in most cases by a different set of statutes, most notably Chapters 1201, 1205, 1209, 1219, 1221, 1223, 1401, 1403, 1405, 1407, 1409 and 1411 of Title 10.

[5] By statute (10 U.S.C. 741), the different levels within the officer corps are referred to as "grades," while "rank" refers to the comparative seniority among officers in different grades (e.g., a Lieutenant Colonel has higher rank than a Major) or in the same grade (e.g., an individual who has been a Major for three years has higher rank than an individual who has been a Major for two years). In common usage, the term rank is often used to refer to grade (e.g., someone might say that an officer holds the rank of Major). This report follows the statutory usage of the terms.

[6] The Coast Guard grade terminology is the same as the Navy. However, as the Coast Guard normally operates under the authority of the Secretary of Homeland Security, and is governed by a different set of laws, it is omitted from this report. For statutes related to personnel policy for Coast Guard officers, see Chapter 11 of Title 14.

**Table 1. Grade, Insignia and Paygrade of Officers**

| Grade (Army, Air Force, Marine Corps) | Grade (Navy) | Insignia | Paygrade |
|---|---|---|---|
| Second Lieutenant | Ensign | Gold Bar | O-1 |
| First Lieutenant | Lieutenant, Junior Grade | Silver Bar | O-2 |
| Captain | Lieutenant | Two Silver Bars | O-3 |
| Major | Lieutenant Commander | Gold Oak Leaf | O-4 |
| Lieutenant Colonel | Commander | Silver Oak Leaf | O-5 |
| Colonel | Captain | Silver Eagle | O-6 |
| Brigadier General | Rear Admiral (Lower Half) | One Silver Star | O-7 |
| Major General | Rear Admiral | Two Silver Stars | O-8 |
| Lieutenant General | Vice Admiral | Three Silver Stars | O-9 |
| General | Admiral | Four Silver Stars | O-10 |

**Source:** Grades from 10 U.S.C. 741; paygrades from 37 U.S.C. 201; insignias from Department of Defense, available here: http://www.defense.gov/About-DoD/Insignias/Officers.

As the Navy terms for its grades differ from the other services, this report will typically use paygrade or, if using grade, both terms separated by a slash. For example, the paygrade for an entry-level officer in all services is O-1, while the grade for such officers is ensign in the Navy and second lieutenant in the Army, Air Force, and Marine Corps. Thus, officers in this grade will be referred to in this report as either "O-1" or "second lieutenant/ensign."

# Original Appointments

## Statutory Authority

Title 10 United States Code, Sections 531-541.

## Overview

To join the military as an officer, an individual applies for an original appointment. For original appointments in grades of Captain or Lieutenant (Navy) and below, the appointment is made by the President alone. For original appointments made in the grades of Major/Lieutenant Commander through Colonel/Captain, the appointments are made by the President with the advice and consent of the Senate.

When such an appointment is made, the individual receives a commission, a document which designates the individual as an officer of the federal government. There are four main commissioning categories: the service academies, the Reserve Officer Training Corps (ROTC), Officer Candidate School (OCS), and various direct commissioning programs.

Although 10 U.S.C. 531 authorizes original appointments in grades up to Colonel/Captain, in practice original appointments are typically made in the grades of Second Lieutenant/Ensign. Original appointments to higher grades, known as lateral entry, are typically limited to professions where the military is primarily interested in the civilian skills of the individual. Some

common examples include medical and dental officers, lawyers, and chaplains. In 2010, the Army announced a program to fill critical shortages by directly commissioning, as Captains, individuals with certain civilian skills. The specific areas of expertise included engineering, finance, intelligence, information operations, space operations, acquisition, civil affairs, and psychological operations.[7]

Prospective active duty officers must meet the requirements of 10 U.S.C. 532 for original appointments as "regular" commissioned officers. The requirements are:

- Must be a citizen of the United States;
- Must be able to complete 20 years of active commissioned service before age 62;
- Must be of good moral character;
- Must be physically qualified for active service; and
- Must have such other special qualifications as the Secretary of the military department concerned may prescribe by regulation.

The statute does not define "good moral character" or "physically qualified for active service," but the Department of Defense provides more specific guidance in its internal regulations.[8] Additionally, each of the military services has supplementary regulations concerning qualifications for appointment. Some examples of medical conditions that DOD considers disqualifying for an officer applicant are listed in **Table 2**.

Periodically, policymakers have looked at whether these accession requirements, particularly the physical qualifications, are too strict or too lenient. Typical areas of debate include the acceptable parameters for body fat, current use or past use of certain medications, past use of illegal drugs, and ability to perform certain physical tasks. One perspective holds that physical qualifications should be lower for those in more technical or supporting specialties (e.g., cyber, finance, human resources) than those in direct combat roles (e.g., infantry, special operations). Others argue that military officers, regardless of specialty, have inherent duties—such as leading subordinates, directing the use of weapons systems when needed, and deploying to austere locations—that require a common baseline of physical and psychological fitness.

Increasing the opportunities for lateral entry into the officer corps has also been a topic of considerable discussion. For example, retired General Stanley McChrystal has advocated lateral entry for business executives as general officers, stating "I've dealt with a lot of chief executive officers who could walk in and be general officers in the military tomorrow. All we'd have to do is get them a uniform and a rank." [9] Critics of lateral entry, particularly for direct warfighting occupations, argue that in-depth knowledge of military systems, tactics, and decision-making processes is critical for successful leadership of military units and effective employment of military capabilities.

[7] Army Military Personnel Message Number 10-284, Direct Appointment to Captain Program, November 1, 2010.

[8] See Department of Defense Instruction (DODI) 1304.26, "Qualification Standards for Enlistment, Appointment, and Induction," DODI 1308.3, "DoD Physical Fitness and Body Fat Programs Procedures," and DODI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services."

[9] Lillian Cunningham, "Stanley McChrystal on How to Shake Up the Military," Washington Post, May 15, 2015, https://www.washingtonpost.com/news/on-leadership/wp/2015/05/15/gen-stanley-mcchrystal-on-shaking-up-the-military/.

**Table 2. Selected Disqualifications for Appointment**

From Department of Defense Instructions 1308.3 and 6130.03

| Subject | Disqualifying Condition |
|---|---|
| Body Fat | "...gender-appropriate body fat standards shall not be more stringent than 18 percent for men and 26 percent for women, and shall not be more liberal than 26 percent for men and 36 percent for women..." |
| Vision | "a. Current distant visual acuity of any degree that does not correct with spectacle lenses to at least one of the following (367):<br>(1) 20/40 in one eye and 20/70 in the other eye (369.75).<br>(2) 20/30 in one eye and 20/100 in the other eye (369.75).<br>(3) 20/20 in one eye and 20/400 in the other eye (369.73).<br>b. Current near visual acuity of any degree that does not correct to 20/40 in the better eye (367.1-367.32).<br>c. Current refractive error (hyperopia (367.0), myopia (367.1), astigmatism (367.2x)), in excess of -8.00 or +8.00 diopters spherical equivalent or astigmatism in excess of 3.00 diopters.<br>d. Any condition requiring contact lenses for adequate correction of vision, such as corneal scars and opacities (370.0x) and irregular astigmatism (367.22).<br>e. Color vision (368.5x) requirements shall be set by the individual Services." |
| Asthma | "d. Airway hyper responsiveness including asthma (493.xx), reactive airway disease, exercise-induced bronchospasm (519.11) or asthmatic bronchitis (493.90), reliably diagnosed and symptomatic after the 13th birthday.<br>(1) Reliable diagnostic criteria may include any of the following elements: substantiated history of cough, wheeze, chest tightness, and/or dyspnea which persists or recurs over a prolonged period of time, generally more than 12 months.<br>(2) Individuals DO MEET the standard if within the past 3 years they meet ALL of the criteria in subparagraphs 11.d.(2)(a)-(d).<br>(a) No use of controller or rescue medications (including, but not limited to inhaled corticosteroids, leukotriene receptor antagonists, or short-acting beta agonists).<br>(b) No exacerbations requiring acute medical treatment.<br>(c) No use of oral steroids.<br>(d) A current normal spirometry (within the past 90 days), performed in accordance with American Thoracic Society (ATS) guidelines and as defined by current National Heart, Lung, and Blood Institute (NHLBI) standards." |
| Anxiety | "History of anxiety disorders (300.01), anxiety disorder not otherwise specified (300.00), panic disorder (300.2), agoraphobia (300.21, 300.22), social phobia (300.23), simple phobias (300.29), other acute reactions to stress (308) UNLESS:<br>(1) The applicant did not require any treatment in an inpatient or residential facility.<br>(2) Outpatient care was not required for longer than 12 months (cumulative) by a physician or other mental health professional (to include V65.40).<br>(3) The applicant has not required treatment (including medication) for the past 24 continuous months.<br>(4) The applicant has been stable without loss of time from normal pursuits for repeated periods even if of brief duration; and without symptoms or behavior of a repeated nature that impaired social, school, or work efficiency for the past 24 continuous months." |

| Subject | Disqualifying Condition |
|---|---|
| Attention Deficit Hyperactivity Disorder (ADHD) | "a. Attention Deficit Hyperactivity Disorder (ADHD) (314) UNLESS the following criteria are met:<br>(1) The applicant has not required an Individualized Education Program or work accommodations since the age of 14.<br>(2) There is no history of comorbid mental disorders.<br>(3) The applicant has never taken more than a single daily dosage of medication or has not been prescribed medication for this condition for more than 24 cumulative months after the age of 14.<br>(4) During periods off of medication after the age of 14, the applicant has been able to maintain at least a 2.0 grade point average without accommodations.<br>(5) Documentation from the applicant's prescribing provider that continued medication is not required for acceptable occupational or work performance.<br>(6) Applicant is required to enter service and pass Service-specific training periods with no prescribed medication for ADHD." |
| Diabetes | "Diabetes mellitus (250) disorders, including:<br>(1) Current or history of diabetes mellitus (250).<br>(2) Current or history of pre-diabetes mellitus defined as fasting plasma glucose 110-125 milligrams per deciliter (mg/dL) and glycosylated hemoglobin greater than 5.7 percent.<br>(3) History of gestational diabetes mellitus.<br>(4) Current persistent glycosuria, when associated with impaired glucose tolerance (250) or renal tubular defects (271.4)." |

**Source:** Body fat from DODI 1308.3, "DoD Physical Fitness and Body Fat Programs Procedures," November 5, 2002; all others from DODI 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Services," April 28, 2010, incorporating Change 1, September 13, 2011.

**Notes:** Standards apply for enlistment and appointment as a warrant officer as well as appointment as a commissioned officer. The numbers in parentheses in the second column are codes from the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM), American Medical Association, Current Procedural Terminology (CPT), Fourth Edition, 2010 Revision and the 2010 Healthcare Common Procedure Coding System (HCPCS) Level II Codes from Centers for Medicare and Medicaid Services (CMS).

## Considerations

- What are the inherent duties of military officers in expected operational environments; what do these imply regarding qualification standards for military officers?
- To what extent can lateral entry be used to address critical skill shortages without decreasing military effectiveness? Is lateral entry a viable option for direct warfighting specialties?
- Should physical qualification criteria vary based on the officer's specialty?[10] If so, how much variation is acceptable, and in what areas?
- Could some of the physical qualifications for appointment be revised without harming military effectiveness? For example, with respect to body fat, could the permissible level immediately prior to appointment be increased, with the expectation or requirement that the officer meet a stricter standard at some point

[10] A related, but distinct, debate concerns "gender-neutral occupational performance standards." For more on this topic, see CRS Report R42075, *Women in Combat: Issues for Congress*, by Kristy N. Kamarck.

thereafter? Could they body fat standards be replaced by other measures of physical fitness?

- Should there be a greater acceptance of ongoing use of medication for certain chronic conditions? For example, might the regular or sporadic use of an asthma inhaler be acceptable?

# Assignment

## Statutory Authority

Generally, 10 U.S.C. 3013, 5013, 8013; for joint assignments, 10 U.S.C. 663.

## Overview

In general, the military services have broad authority to assign personnel as they deem appropriate. This authority derives from the broad authority of the service secretaries to "assign, detail, and prescribe the duties" of their servicemembers and civilian personnel.[11] Typically, an officer's assignments follow a fairly structured progression, starting with initial training in a specific career field, and followed by a series of progressively more responsible duty assignments in that field. There may also be opportunities to work outside one's career field. At certain points in an officer's career, he or she is required to attend professional military education schools which further develop technical and leadership skills.

However, there is a major statutory provision that controls the assignments of certain officers with joint training and experience. The Goldwater-Nichols Department of Defense Reorganization Act of 1986[12] (GNA) included provisions to improve integration between the military services, a concept known as "jointness." Among other things, GNA established a corps of "joint qualified officers." Joint qualified officers are those officers who are particularly trained in, and oriented toward, "joint matters."[13]

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[11] See 10 U.S.C. 3013(g), 10 U.S.C. 5013(g), and 10 U.S.C. 8013(g).

[12] P.L. 99-433, October 1, 1986. See also CRS Report R44474, *Goldwater-Nichols at 30: Defense Reform and Issues for Congress*, by Kathleen J. McInnis.

[13] 10 U.S.C. 661. 10 U.S.C. 668 defines "joint matters" as follows:

(a) Joint matters.

(1) In this chapter, the term "joint matters" means matters related to the achievement of unified action by integrated military forces in operations conducted across domains such as land, sea, or air, in space, or in the information environment, including matters relating to--

(A) national military strategy;

(B) strategic planning and contingency planning;

(C) command and control of operations under unified command;

(D) national security planning with other departments and agencies of the United States; or

(E) combined operations with military forces of allied nations.

(2) In the context of joint matters, the term "integrated military forces" refers to military forces that are involved in the planning or execution (or both) of operations involving participants from--

(A) more than one military department; or

(B) a military department and one or more of the following:

(i) Other departments and agencies of the United States.

Section 663 of Title 10 requires the Secretary of Defense to ensure that joint qualified officers who graduate from certain schools within the National Defense University—the National War College, the Industrial College of the Armed Forces [the Dwight D. Eisenhower School for National Security and Resource Strategy], and the Joint Forces Staff College—be assigned to a "joint duty assignment"[14] as their next assignment after graduation. This requirement can be waived by the Secretary of Defense on a case-by-case basis. The Secretary of Defense must also ensure that at least 50% of the other officers (non-joint qualified) who graduate from these three schools be assigned to a joint duty assignment as their first or second assignment after graduation. By law, these assignments are at least three years for officers in the ranks of Colonel/Captain and below, although the Secretary of Defense can waive this.[15]

Some argue that this requirement is essential to integrating the efforts of the military services, as it channels the most capable and ambitious officers into joint assignments, where they gain greater knowledge of other services' capabilities and the skills necessary to plan for and conduct joint operations. Others argue that this system is too rigid and that a broader array of assignments should qualify as joint.

## Considerations

- Is there evidence that current assignment policies have not adequately prepared officers to meet expectations? Will the assignments adequately prepare them for expected operational environments of the future? Does the situation require changes in statute or changes in DOD or service policy?
- What is the proper balance between assignments which (1) hone technical expertise, (2) provide for broadened perspectives, and (3) develop organizational leadership skills? How does this balance change over the course of an officer's career?
- Are military careers long enough to develop the skills needed for expected operational environments of the future? Are the substantial investments in officer education and training adequately linked to the value of subsequent assignments?
- On balance, does the benefit of joint duty assignments outweigh the opportunity costs of less skill development in other areas? Does current law and policy meet the needs of both the joint community and the services?
- Should the number of joint duty officers and the requirements for joint duty assignments be revised?
- Are there other areas besides joint duty that might be considered essential to the professional development of mid-grade and senior officers? For example, might duty with a reserve component be considered a required developmental assignment, either for all officers or for a segment of the officer corps?

(ii) The military forces or agencies of other countries.

(iii) Non-governmental persons or entities.

[14] Joint duty assignments are ones in which the officer can gain "significant experience in joint matters" but generally excludes assignments related to joint education and training. See 10 U.S.C. 668(b).

[15] 10 U.S.C. 664. Joint duty assignments are at least two years for officers above the rank of Colonel/Captain.

# Promotion

## Statutory Authority

Title 10, Chapter 36 governs promotions; Title 10, Chapter 32 governs grade limitations; Title 10, Chapter 38 governs joint officer management.

## Overview

The officer promotion system is designed to be a competitive system that selects the best qualified for service at the next higher grade. Promotions take place within a grade-limited structure which caps the number of positions for each grade above captain/lieutenant. Officers are considered for promotion at specific times in their career and, due to fewer positions at the higher grades, there is a decreasing likelihood of promotion the further one progresses. Those officers who twice fail to be promoted to the next higher grade are normally separated, a statutory requirement known as "up or out." These concepts of the officer promotion system are explained in more detail below.

### Grade Limitations

While there are no direct grade limits in the number of positions for paygrades O-1 to O-3, there are such limits for all higher paygrades. That is, there are progressively fewer authorized positions in each subsequent paygrade after O-3. This results in a roughly pyramidal shape to the officer corps beyond O-3. See **Table 3** for a summary of current officer strength levels by grade.

**Table 3. Current U.S. Armed Forces Officer Corps by Paygrade**

All Services Combined, as of February 29, 2016

| Paygrade | Total Number of Officers | Percentage of Total Officer Corps | Percentage of Total Force |
|---|---|---|---|
| O-1 | 21,996 | 9.7% | 1.7% |
| O-2 | 30,462 | 13.4% | 2.3% |
| O-3 | 74,560 | 32.7% | 5.7% |
| O-4 | 42,729 | 18.8% | 3.3% |
| O-5 | 27,129 | 11.9% | 2.1% |
| O-6 | 11,161 | 4.9% | 0.9% |
| O-7 | 411 | 0.18% | 0.03% |
| O-8 | 299 | 0.13% | 0.02% |
| O-9 | 139 | 0.06% | 0.01% |
| O-10 | 37 | 0.02% | 0.003% |

**Source:** Defense Manpower Data Center, Active Duty Military Personnel by Rank/Grade, February 29, 2016, available here: https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp.

**Notes:** Total officer corps strength used for denominator of column 3 is 227,754 (includes 18,831 warrant officers). Total force strength used for denominator of column 4 is 1,306,860 (includes officers, warrant officers, enlisted, and academy cadets/midshipmen).

This largely pyramidal structure exists in all military organizations, but the ratio of mid-grade and senior officers to the total officer corps can vary considerably between military organizations, both in comparison to other services and foreign nations, or within the same organization over time. There has been some contention over the appropriate ratio of officers to enlisted personnel for U.S. military organizations, where the proportion of officers has been gradually rising.[16] One perspective on this trend is that it is related to the growth of joint organizations and the increased U.S. emphasis on coalition operations, which have created greater demand for officers to fill key staff roles. Another view is that the advanced technologies employed by the armed forces and the complexity of contemporary military operations require an officer corps composed of highly talented and technically knowledgeable individuals. Attracting and retaining such individuals, some argue, requires that there be more opportunity to rise to the higher levels of the officer corps; hence a higher ratio of mid-grade and senior officers to the total officer corps is necessary. On the other hand, some are wary of what they refer to as "grade creep," particularly given the additional costs associated with it. Another concern about higher ratios of officers in the force—particularly senior officers—revolves around whether it promotes a more bureaucratic approach to military decision-making. **Table 4** summarizes the changing proportion of officers within the U.S. Armed Forces over the past 50 years.

Chapter 32 of Title 10 provides the statutory framework for the maximum number of officers that can serve in each grade above captain/lieutenant. Within that chapter, 10 U.S.C. 523 provides a grade limitation table for officers in grades O-4 to O-6, setting limits based on the total size of a service's officer corps. For example, if the Air Force has 65,000 commissioned officers, 10 U.S.C. 523 limits the number of Air Force majors to 14,073 (21.65%), Air Force lieutenant colonels to 9,417 (14.49%), and Air Force colonels to 3,211 (4.94%). If the total size of the service's officer corps lies between two reference points in the table, the law requires "mathematical interpolation between the respective numbers"[17] to provide the grade limit. Certain officers do not count against these limits, most notably medical and dental officers.

Sections 525 and 526 of Title 10 provide grade limitations for officers in paygrades O-7 to O-10, both for service-specific positions and for "joint duty assignments." The grade limitations for these officers are numerical limits (e.g., 7 officers can be appointed to the grade of General in the Army, excluding certain joint and other designated positions).

**Table 4. Historical U.S. Armed Forces Officers Corps Ratio, 1965-2015**

(As of September 30th of each year)

| Year | Officers | Total Force (Officer and Enlisted) | Ratio of Officers to Total Force |
|---|---|---|---|
| 1965 | 338,822 | 2,655,389 | 12.76% |
| 1970 | 402,226 | 3,066,294 | 13.12% |
| 1975 | 292,424 | 2,128,120 | 13.74% |
| 1980 | 277,622 | 2,050,627 | 13.54% |
| 1985 | 308,919 | 2,151,032 | 14.36% |
| 1990 | 296,591 | 2,043,705 | 14.51% |

[16] For information on how these ratios have varied within the U.S. Armed Forces over time, see CRS Report R44389, *General and Flag Officers in the U.S. Armed Forces: Background and Considerations for Congress*, by Lawrence Kapp.

[17] 10 U.S.C. 523(a)(3).

| Year | Officers | Total Force (Officer and Enlisted) | Ratio of Officers to Total Force |
|---|---|---|---|
| 1995 | 237,602 | 1,518,224 | 15.65% |
| 2000 | 217,178 | 1,384,338 | 15.69% |
| 2005 | 226,619 | 1,389,394 | 16.31% |
| 2010 | 234,000 | 1,430,985 | 16.35% |
| 2015 | 230,468 | 1,313,940 | 17.54% |

**Source:** CRS compilation of data produced by the Defense Manpower Data Center.

**Notes:** Total officer corps strength includes warrant officers. Total force strength includes officers, warrant officers, enlisted, and academy cadets/midshipmen.

## Promotion Timing

Promotion timing refers to the window of time in which an officer is considered for promotion to the next higher grade. The statutory minimums for "time in grade" before eligibility for promotion are detailed in 10 U.S.C. 619 (summarized in **Table 5**). For example, a second lieutenant/ensign must serve at least 18 months in that grade before being considered for promotion to first lieutenant/lieutenant junior grade, while a major/lieutenant commander must serve at least three years in that grade before being considered for promotion to lieutenant colonel/commander. As a practical matter, an officer's time in grade will typically be greater than the minimum specified in law, which is in keeping with the expected promotion timing guidelines described in the committee reports which accompanied the Defense Officer Personnel Management Act. These expectations are included under the heading "Expected Years of Service at Promotion" in **Table 5**.

## Promotion Opportunity

Promotion opportunity refers to the percentage of officers in a given cohort who will normally be promoted to the next higher rank. For example, the expectation when DOPMA was passed was that about 80% of captains/lieutenants in a given cohort would be promoted to major/lieutenant commander.[18] This percentage could vary in response to force structure demands. For example, it could increase if a service was expanding—say, during wartime—or decrease if it was undergoing a drawdown. Promotion opportunity is not specified in law, but guidelines were included in the House committee report which accompanied DOPMA. The expectations for promotion opportunity are included in **Table 5**, along with the projected impact of death, disability, and promotion opportunity constraints on a given cohort of officers over the course of their career. Note that these cumulative promotion projections do not account for voluntary separations and retirements, so the actual proportion of an entry cohort which achieves a given rank may be lower than the figure provided.

[18] H. Rpt. 96-1462, November 13, 1980, p. 18.

**Table 5. Promotion Timing and Promotion Opportunity**

| | | Promotion Timing | | | | |
|---|---|---|---|---|---|---|
| **Grade Promoted From** | **Grade Promoted To** | **Statutory Minimum Time in Lower Grade Before Promotion** | **DOPMA Expectation for Actual Time in Grade at Promotion** | **DOPMA Expectation for Cumulative Years of Service at Promotion** | **DOPMA Expectation for Promotion Opportunity** | **DOMPA Projection of Entry Cohort to Achieve this Grade (see note)** |
| O-1 | O-2 | 18 months | 18 months | 2 years | 100% if fully qualified | 96% |
| O-2 | O-3 | 2 years | 2 | 4 years | 95% | 87% |
| O-3 | O-4 | 3 years | 6 | 9-11 years | 80% | 65% |
| O-4 | O-5 | 3 years | 6 | 15-17 years | 70% | 41% |
| O-5 | O-6 | 3 years | 6 | 21-23 years | 50% | 18% |
| O-6 | O-7 | 1 year | N/A | N/A | N/A | 1.6% |
| O-7 | O-8 | 1 year | N/A | N/A | N/A | N/A |

**Source:** Minimum time in lower grade before promotion specified in 10 U.S.C. 619; DOPMA expectations and projections taken from H. Rpt. 96-1462, November 13, 1980, p. 18.

**Notes:** The DOPMA projection of the entry cohort to achieve a given grade is based only on estimates of death, disability, and the specified promotion opportunity limits; it does not consider voluntary separation or retirement.

## Best Qualified Selected for Promotion

Officers are promoted from O-1 to O-2 if they are "fully qualified," which means they meet all the minimum requirements for promotion.[19] Those who are not fully qualified are not selected for promotion. For promotion to O-3 and above, promotions are made on a best qualified basis. Under the best qualified system, one must be fully qualified to be selected for promotion, but being fully qualified is not necessarily sufficient for promotion. Instead, all the fully qualified officers are ranked by the selection board in order from most qualified to least qualified. Those who are ranked most highly are recommended for promotion until all promotion authorizations are filled. The remaining officers, though fully qualified (and sometimes well qualified) are not recommended for promotion. This is an intentional feature of DOPMA. As stated in the House Armed Services Committee report which accompanied the bill:

> The simple fact is that if the system is working right, it will, of necessity, result in passover for promotion of officers who are fully qualified to serve in the next-higher grade. This is because the function of the up-or-out system [discussed below] is to provide at each grade more officers who are qualified to serve in the next grade than the billets require. Thus the services will have selectivity and can pick the best from a selection of fully qualified officers.[20]

[19] For example, time in grade and educational requirements.

[20] H. Rpt. 96-1462, p. 19.

### "Up or Out" and Selective Continuation

For over 70 years, military officers have been subject to a statutory "up or out" requirement. Officers in paygrade O-1 must be discharged within 18 months of being found not qualified for promotion.[21] Officers in paygrade O-2 through O-4 who have "failed of selection for promotion to the next higher grade for the second time"[22] are normally separated from military service. Those within two years of retirement eligibility are permitted to remain on active duty until retirement and others may be selectively continued, as described below. Officers in paygrades O-5 and above are subject to mandatory retirement if they are not promoted before reaching a specified number of years of commissioned service.

The House Armed Services Committee considered this to be the "fundamental concept for the management of officer personnel" within DOPMA:

> As can be seen from the foregoing, the revised grade table, together with the selective continuation procedures and mandatory retirement and separation points in the bill, contemplates the continuation of the up-or-out system as the fundamental concept for the management of officer personnel. There is nothing new in this concept. It has been in effect for nearly 35 years and on the whole has served the country well. The system has given the armed forces what they never before had in peacetime—a youthful, vigorous, *fully* combat-ready officer corps.[23]

Selective continuation allows the services to allow certain officers to continue serving on active duty, even though they would normally be separated due to the requirements of "up or out". On a selective basis, officers in paygrades O-3 and O-4 who twice fail for promotion may be continued on active duty, if the service needs them and they are selected by a continuation board. Selectively continued O-3 officers may be allowed to stay on active duty until they complete 20 years of service, while selectively continued O-4s may be continued until they complete 24 years of service. Officers in paygrades O-5 and above may also be selectively continued rather than being subject to mandatory retirement for total years of commissioned service.[24]

## Considerations

- Are there aspects of contemporary warfare which require revisions to the current grade structure of the armed forces?
- Should the grade limits be raised to allow for greater promotion opportunity and career progression for military officers, or certain categories of military officers? Or, conversely, are there more mid-grade and senior officers than are necessary?
- Should there be additional categories of officers exempt from the grade limits, as medical and dental officers are now?
- Could a guarantee of continuation be provided to officers in advance, to provide more flexibility in career progression without fear of being passed over?
- Do the anticipated personnel requirements of the future require military personnel, or can federal civilians or contractors fill some or most of these positions?

[21] See 10 U.S.C. 627, 630-632.

[22] 10 U.S.C. 631(a), 632(a).

[23] H. Rpt. 96-1462, p. 19.

[24] 10 U.S.C. 637.

# Separation

## Statutory Authority

For voluntary separation: Title 10, Chapters 367 (Army), 571 (Navy and Marine Corps), and 867 (Air Force)

For involuntary separation: See **Table 6**

## Overview

Separation refers to various actions which release the individual from active military service, and includes an officer's resignation, discharge, and retirement. Broadly speaking, separations are categorized as voluntary or mandatory, depending on whether they are initiated at the request of the officer or are imposed by the service in accordance with the statutory requirements.

### Voluntary Separation or Retirement

Officers are generally free to resign from the armed forces at any time after completion of their required service obligation,[25] which is typically eight years, although some of this time can be served in a reserve component. Upon completion of 20 years of active service, officers are eligible for voluntary retirement. Under Title 10, there are several voluntary retirement authorities for officers, but the most commonly used are 10 U.S.C. 3911, 6323, and 8911 which specify that the President may retire an officer who has completed 20 years of active service, of which at least 10 were as a commissioned officer (the Secretary of Defense can authorize the service secretaries to reduce the years as a commissioned officer to 8 for retirements between January 7, 2011 and September 30, 2018). Although the statutory language is permissive—the President *may* approve such retirements, but is not required to—as a matter of practice such requests are routinely granted. Additionally, during the period of December 31, 2011 to December 31, 2018, the service secretaries may reduce the minimum length of service for voluntary retirement under these provisions from 20 to 15 years.[26]

There has been criticism of the general practice of allowing servicemembers to retire after 20 years of service on the grounds that it encourages individuals to leave the service at a time when their experience could be of great value to the services.[27] Others note that this practice helps

[25] 10 U.S.C. 651; see also DODI 1304.25, Fulfilling the Military Service Obligation, October 31, 2013.

[26] This authority, known as Temporary Early Retirement Authority (TERA) is to assist with force management during a drawdown of active forces. See 10 U.S.C. 1293 note.

[27] The incentive for experienced personnel to leave military service at the 20 year mark has been a common critique of the military retirement system for decades. For example, in 1984, two years before Congress passed the Military Retirement Reform Act of 1986 (P.L. 99-348) which implemented the "Redux" retirement formula, the Congressional Budget Office noted: "...it is clear that the structure of the military retirement system makes it harder for the military services to keep members beyond 20 years of service...the personnel affected by the separation incentive are the most highly skilled and senior officers and non-commissioned officers, and therefore are likely to be important far beyond their numbers" and "...all nine of the major studies of the military retirement system in the past 15 years—including five done by the Department of Defense—have recommended changes in the military retirement system that would tend to increase incentives for longer careers." Congressional Budget Office, Modifying Military Retirement: Alternative Approaches, April 1984, 19-21, available here: https://www.cbo.gov/sites/default/files/98th-congress-1983-1984/reports/84doc16c.pdf The Military Retirement Reform Act of 1986 (P.L. 99-348,"Redux"), passed two years later, reduced retired pay for those who served fewer than 30 years, although this was later made optional. More recently, the Military Compensation and Retirement Modernization Commission noted: "...the current one-size-fits-all

maintain a youthful and vigorous military, and that the structure and budget of the armed forces is not designed to sustain an abundance of relatively senior officers (typically, at twenty years of service, such officers are lieutenant colonels/commanders).

## Mandatory Separation or Retirement

There are a number of statutory mechanisms that mandate the separation of military officers under certain conditions. As discussed above, several of them stem from failure to advance to the next higher grade. Others occur upon reaching a specific age, in the event of serious disability, for substandard performance, and for force shaping purposes. These provisions are below summarized in **Table 6**.

**Table 6. Mandatory Separation Authorities for Officers**

| Type | Statutory Authority | Applicable To | Separation Criteria |
|---|---|---|---|
| Not Qualified for Promotion to First Lieutenant/Lieutenant (Junior Grade) | 10 U.S.C. 630 | Second Lieutenants/Ensigns with less than six years of active commissioned service | Officers who are found not qualified for promotion to the rank of First Lieutenant/Lieutenant (Junior Grade) shall be discharged no later than 18months after being found not qualified for promotion, unless the officer has been promoted in the interim. |
| Twice Non-Selected for Promotion | 10 U.S.C. 631-632 | Officers in grades First Lieutenant/Lieutenant (Junior Grade) through Major/Lieutenant Commander | Officers who have failed for selection to next higher grade two times shall be discharged or retired, if eligible. Those within two years of qualifying for voluntary retirement will be retained until eligibility, and then retired. |

retirement system does not address fundamental differences in the skill sets, training requirements, and career paths of various professions. For example, doctors, linguists, and cyber personnel have skills that are expensive to acquire and improve over time. The Force may benefit from a flexible retirement system that incentivizes them to remain in service longer than other occupational specialties." Military Compensation and Retirement Modernization Commission, Final Report, January 29, 2015, 15: http://www.mcrmc.gov/public/docs/report/mcrmc-finalreport-29jan15-lo.pdf.

| Type | Statutory Authority | Applicable To | Separation Criteria |
|---|---|---|---|
| Years of Service | 10 U.S.C. 633-636 | Officers in grades Lieutenant Colonel/Commander and higher | Officers with the following grades and years of commissioned service, and not on a list of officers recommended for promotion, shall be retired on the first day of the month after the month in which he or she completes the following years of commissioned service:<br>• Lieutenant Colonel/Commander: 28 years<br>• Colonel/Captain: 30 years<br>• Brigadier General/Rear Admiral (Lower Half): 30 years, or 5 years after date of promotion to current grade, whichever is later.<br>• Major General/Rear Admiral (Upper Half): 35 years, or 5 years after date of promotion to current grade, whichever is later.<br>• Lieutenant General/Vice Admiral: 38 years, or 5 years after date of promotion to current grade, whichever is later.<br>• General/Admiral: 40 years, or 5 years after date of promotion to current grade, whichever is later.<br>Statute does not apply to Marine Corps lieutenant colonels and colonels or Navy commanders and captains who are limited duty officers or who are permanent professors at the U.S. Naval Academy. |
| Age | 10 U.S.C. 1251-1253 | All officers, with some exceptions | Officers with the following combinations of grade and age shall be retired on the first day of the month after the month in which he or she reaches the specified age:<br>• Colonels/Captains and below: age 62<br>• Brigadier General/Rear Admiral (Lower Half): age 64<br>• Major General/Rear Admiral (Upper Half): age 64<br>• Lieutenant General/Vice Admiral: age 64, the Secretary of Defense can defer this to age 66 and the President to age 68<br>• General/Admiral: age 64, the Secretary of Defense can defer this to age 66 and the President to age 68<br>Permanent professors at the service academies have a mandatory retirement age of 64. Service secretaries can defer the retirement age of chaplains and certain health professionals to 68, or longer on a case-by-case basis. |

| Type | Statutory Authority | Applicable To | Separation Criteria |
|---|---|---|---|
| Selective Early Retirement and Early Discharge | 10 U.S.C. 638 and 638a | Specified categories of officers. Categories defined by a combination of factors which include grade, time in grade, failure to be selected for promotion one or more times, eligibility for voluntary retirement and/or proximity to voluntary retirement eligibility. | A board may consider various categories of officers for separation. Depending on the category considered, the board may recommend selected officers be retired (if eligible), kept on active duty until eligible for retirement and then be retired, or discharged. |
| Force shaping | 10 U.S.C. 647 | Officers who have completed not more than six years of commissioned service or the minimum service obligation (whichever is greater) | For the purpose of restructuring active-component armed forces, the service secretary may discharge such officers or transfer them to a reserve component |
| Substandard performance | 10 U.S.C. 1181-1187 | All officers | Boards of inquiry may recommend to service secretary that an officer be removed from active duty due to substandard performance, misconduct, dereliction, or for national security reasons. |
| Disability | 10 U.S.C. 1201-1222 | All officers | Officers determined to be "unfit to perform the duties of the member's office, grade, rank or rating because of physical disability incurred while entitled to basic pay," and in certain other circumstances, may be retired or separated from the armed forces. |
| Dropped from the rolls | 10 U.S.C. 1161 | All officers | The President may drop an officer from the rolls who has been absent without leave for at least 3 months, sentenced by court martial to confinement for more than 6 months, or who has been sentenced to confinement in a federal or state penitentiary or correctional institution. |

**Source:** Title 10, United States Code.

## Considerations

- Should the routine approval of voluntary retirement requests at 20 years of service be reconsidered? If so, should the voluntary retirement age be increased uniformly, or only for certain categories of officers (for example, those in less physically demanding career fields)?
- If longer careers are contemplated, should the grade structure and promotion system be changed to adapt to this new career pattern? Should there be greater flexibility to move from more physically demanding specialties to less demanding ones in order to facilitate continuation of service?

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