

1998—Par. (3). Pub. L. 105-339, in concluding provisions, substituted “or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;” for “the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;”.

1997—Par. (1)(B). Pub. L. 105-85, §1102(c), substituted “October 15, 1976,” for “the date of enactment of the Veterans’ Education and Employment Assistance Act of 1976,” and “12103(d) of title 10” for “511(d) of title 10”.

Par. (1)(C). Pub. L. 105-85, §1102(a)(1), added subpar. (C).

Par. (3)(B). Pub. L. 105-85, §1102(a)(2), inserted “or (C)” after “paragraph (1)(B)”.

1991—Par. (2). Pub. L. 102-54 substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

1988—Par. (3). Pub. L. 100-325 inserted reference to Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service in concluding provisions.

1981—Par. (3). Pub. L. 97-89 inserted reference to Defense Intelligence Senior Executive Service and Senior Cryptologic Executive Service in concluding provisions.

1980—Par. (3). Pub. L. 96-191 inserted reference to General Accounting Office in concluding provisions.

1979—Par. (3). Pub. L. 96-54, §2(a)(8), inserted provision excepting applicants for, or members of, Senior Executive Service.

Par. (5). Pub. L. 96-54, §2(a)(9)(A), struck out provision excepting applicants for, or members of, Senior Executive Service.

1978—Par. (2). Pub. L. 95-454, §307(a)(1), struck out “and” at end.

Par. (3). Pub. L. 95-454, §307(a)(2), (3), inserted “, except as provided in paragraph (4) of this section” after “means”, and substituted a semicolon for the period at end.

Pars. (4), (5). Pub. L. 95-454, §307(a)(4), added pars. (4) and (5) relating to retired members of the armed forces.

Par. (5). Pub. L. 95-454, §401(d), inserted “; but does not include applicants for, or members of, the Senior Executive Service” before the period at end.

1976—Par. (1)(B). Pub. L. 94-502 substituted “any part of which occurred after January 31, 1955, and before the date of enactment of the Veterans’ Education and Employment Assistance Act of 1976,” for “after January 31, 1955.”

1971—Par. (3)(D). Pub. L. 92-187 inserted “or widower” after “unmarried widow”.

Par. (3)(E). Pub. L. 92-187 inserted “or husband” after “the wife”.

1968—Par. (3)(D). Pub. L. 90-623 inserted “as defined by paragraph (1)(A) of this section” after “veteran”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-317, §10, Aug. 29, 2008, 122 Stat. 3530, provided that:

“(a) **RETROACTIVE EFFECTIVE DATE.**—Except as provided in subsection (b) and section 9 [amending section 685 of Title 26, Internal Revenue Code, and enacting provisions set out as a note under section 685 of Title 26], this Act [amending this section, section 8521 of this title, sections 1145, 1146, and 1174 of Title 10, Armed Forces, section 685 of Title 26, section 303a of Title 37, Pay and Allowances of the Uniformed Services, and sections 3011, 3012, 3702, and 4211 of Title 38, Veterans’ Benefits, and enacting provisions set out as notes under section 101 of Title 10 and section 685 of Title 26] and the amendments made by this Act shall apply with respect to any sole survivorship discharge granted after September 11, 2001.

“(b) **DATE OF ENACTMENT EFFECTIVE DATE FOR CERTAIN AMENDMENTS.**—The amendments made by sections 4, 7, and 8 [amending this section and section 8521 of this title and section 1145 of Title 10] shall apply with respect to any sole survivorship discharge granted after the date of the enactment of this Act [Aug. 29, 2008].

“(c) **SOLE SURVIVORSHIP DISCHARGE DEFINED.**—In this section, the term ‘sole survivorship discharge’ means

the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

“(1) the father or mother or one or more siblings—  
“(A) served in the Armed Forces; and

“(B) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

“(2) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-89 effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as an Effective Date note under section 1621 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-191 effective Oct. 1, 1980, see section 10(a) of Pub. L. 96-191.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 2(a)(8) of Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

Section 2(a)(9)(B) of Pub. L. 96-54 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect October 1, 1980”.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Section 307(a) of Pub. L. 95-454 provided that the amendment made by that section is effective Oct. 1, 1980.

Amendment by section 401(d) of Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 effective Sept. 11, 1967, for all purposes, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

#### SAVINGS PROVISION

Pub. L. 109-163, div. A, title XI, §1112(b), Jan. 6, 2006, 119 Stat. 3451, provided that: “Nothing in the amendment made by subsection (a) [amending this section] may be construed to affect a determination made before the date of enactment of this Act [Jan. 6, 2006] that an individual is a preference eligible (as defined in section 2108(3) of title 5, United States Code).”

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 2108a. Treatment of certain individuals as veterans, disabled veterans, and preference eligibles

#### (a) VETERAN.—

(1) **IN GENERAL.**—Except as provided under paragraph (3),<sup>1</sup> an individual shall be treated

<sup>1</sup> So in original. Subsec. does not contain a par. (3).

as a veteran defined under section 2108(1) for purposes of making an appointment in the competitive service, if the individual—

(A) meets the definition of a veteran under section 2108(1), except for the requirement that the individual has been discharged or released from active duty in the armed forces under honorable conditions; and

(B) submits a certification described under paragraph (2) to the Federal officer making the appointment.

(2) CERTIFICATION.—A certification referred to under paragraph (1) is a certification that the individual is expected to be discharged or released from active duty in the armed forces under honorable conditions not later than 120 days after the date of the submission of the certification.

(b) DISABLED VETERAN.—

(1) IN GENERAL.—Except as provided under paragraph (3),<sup>1</sup> an individual shall be treated as a disabled veteran defined under section 2108(2) for purposes of making an appointment in the competitive service, if the individual—

(A) meets the definition of a disabled veteran under section 2108(2), except for the requirement that the individual has been separated from active duty in the armed forces under honorable conditions; and

(B) submits a certification described under paragraph (2) to the Federal officer making the appointment.

(2) CERTIFICATION.—A certification referred to under paragraph (1) is a certification that the individual is expected to be separated from active duty in the armed forces under honorable conditions not later than 120 days after the date of the submission of the certification.

(c) PREFERENCE ELIGIBLE.—Subsections (a) and (b) shall apply with respect to determining whether an individual is a preference eligible under section 2108(3) for purposes of making an appointment in the competitive service.

(Added Pub. L. 112-56, title II, §235(a)(1), Nov. 21, 2011, 125 Stat. 722.)

### § 2109. Air traffic controller; Secretary

For the purpose of this title—

(1) “air traffic controller” or “controller” means a civilian employee of the Department of Transportation or the Department of Defense who, in an air traffic control facility or flight service station facility—

(A) is actively engaged—

(i) in the separation and control of air traffic; or

(ii) in providing preflight, inflight, or airport advisory service to aircraft operators; or

(B) is the immediate supervisor of any employee described in subparagraph (A); and

(2) “Secretary”, when used in connection with “air traffic controller” or “controller”, means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.

(Added Pub. L. 92-297, §1(a), May 16, 1972, 86 Stat. 141; amended Pub. L. 96-347, §1(a), Sept. 12, 1980, 94 Stat. 1150; Pub. L. 99-335, title II, §207(b), June 6, 1986, 100 Stat. 594.)

#### AMENDMENTS

1986—Par. (1). Pub. L. 99-335 amended par. (1) generally including within term “air traffic controller” or “controller” references to a flight service station facility and to employment providing preflight, inflight, or airport advisory service to aircraft operators and striking out provision that regulations prescribed by the Secretary be used in determining who is an air traffic controller.

1980—Pub. L. 96-347 substituted “controller; Secretary” for “controller” in section catchline, and in text included employees of the Department of Defense within the meaning of air traffic controller or controller and defined “Secretary” to mean Secretary of Transportation with respect to controllers in the Department of Transportation and Secretary of Defense with respect to controllers in the Department of Defense.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99-335, set out as an Effective Date note under section 8401 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 3 of Pub. L. 96-347 provided that: “This Act [amending this section and sections 3307, 3381 to 3385, and 8335 of this title and enacting provisions set out as a note under section 8335 of this title] shall take effect on the later of—

“(1) October 1, 1980, or

“(2) the ninetieth day after the date of the enactment of this Act [Sept. 12, 1980].”

#### EFFECTIVE DATE

Section effective on 90th day after May 16, 1972, see, section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

## CHAPTER 23—MERIT SYSTEM PRINCIPLES

Sec.	
2301.	Merit system principles.
2302.	Prohibited personnel practices.
2303.	Prohibited personnel practices in the Federal Bureau of Investigation.
2304.	Responsibility of the Government Accountability Office.
2305.	Coordination with certain other provisions of law.

#### AMENDMENTS

2004—Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814, substituted “Government Accountability Office” for “General Accounting Office” in item 2304.

### § 2301. Merit system principles

(a) This section shall apply to—

(1) an Executive agency; and

(2) the Government Printing Office.

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.