

§ 12642. Standards and qualifications: result of failure to comply with

(a) To be retained in an active status, a reserve commissioned officer must, in any applicable yearly period, attain the number of points under section 12732(a)(2) of this title prescribed by the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, and must conform to such other standards and qualifications as the Secretary concerned may prescribe. The Secretary may not prescribe a minimum of more than 50 points under this subsection.

(b) Subject to section 12645 of this title, a reserve commissioned officer who fails to attain the number of points, or to conform to the standards and qualifications, prescribed in subsection (a) shall—

(1) be transferred to the Retired Reserve if he is qualified and applies therefor;

(2) if he is not qualified or does not apply for transfer to the Retired Reserve, be transferred to an inactive status, if he is qualified therefor; or

(3) if he is not transferred to the Retired Reserve or an inactive status, be discharged from his reserve appointment.

(c) This section does not apply to commissioned warrant officers or to adjutants general or assistant adjutants general of States, Puerto Rico, and the District of Columbia.

(Added Pub. L. 85-861, §1(22)(A), Sept. 2, 1958, 72 Stat. 1443, §1002; amended Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12642 and amended Pub. L. 103-337, div. A, title XVI, §§1662(h)(2), 1675(d)(1), Oct. 5, 1994, 108 Stat. 2996, 3018; Pub. L. 109-163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1002(a)	50:1192(b) (1st sentence, less 11th through 29th words).	Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §202(b)), 102(4), 202(b), 68 Stat. 1149, 1150.
1002(b)	50:1181(4). 50:1192(b) (less 1st sentence).	
1002(c)	50:1181(1) (as applicable to 50:1192(b)). 50:1192(b) (11th through 29th words of 1st sentence).	

In subsection (a), the word “minimum” is omitted as surplusage. The last sentence is substituted for the words “(not to exceed fifty)”.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-163 struck out “and Territories” after “States”.

1994—Pub. L. 103-337, §1662(h)(2), renumbered section 1002 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1675(d)(1)(A), substituted “12732(a)(2)” for “1332(a)(2)”.

Subsec. (b). Pub. L. 103-337, §1675(d)(1)(B), substituted “12645” for “1005”.

1988—Subsec. (c). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

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.

§ 12643. Boards for appointment, promotion, and certain other purposes: composition

(a) Except as provided in section 612(a)(3) of this title and except for boards that may be convened to select Reserves for appointment in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include at least one member of the Reserves, with the exact number of Reserves determined by the Secretary concerned in his discretion.

(b) Each member of a board convened for the selection for promotion, or for the demotion or discharge, of Reserves must be senior in rank to the persons under consideration by that board. However, a member serving in a legal advisory capacity may be junior in rank to any person, other than a judge advocate or law specialist, being considered by that board; and a member serving in a medical advisory capacity may be junior in rank to any person, other than a medical officer, being considered by that board.

(Aug. 10, 1956, ch. 1041, 70A Stat. 11, §266; Pub. L. 96-513, title V, §501(4), Dec. 12, 1980, 94 Stat. 2907; Pub. L. 97-22, §2(c), July 10, 1981, 95 Stat. 124; renumbered §12643, Pub. L. 103-337, div. A, title XVI, §1662(h)(2), Oct. 5, 1994, 108 Stat. 2996.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
266(a)	50:1005(a).	July 9, 1952, ch. 608, §254, 66 Stat. 496.
266(b)	50:1005(b).	

In subsection (a), the words “under * * * prescribed” are substituted for the words “in accordance * * * established”.

In subsection (b), the words “in rank” and “by that board” are inserted for clarity.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 266 of this title as this section.

1981—Subsec. (a). Pub. L. 97-22 substituted “Except as provided in section 612(a)(3) of this title and except for Boards that may be convened to select Reserves for appointment in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include at least one member of the Reserves, with the exact number of Reserves determined by the Secretary concerned in his discretion” for “Except as provided in section 612(a)(3) of this title, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include an appropriate number of Reserves, as prescribed by the Secretary concerned under standards and policies prescribed by the Secretary of Defense”.

1980—Subsec. (a). Pub. L. 96-513 substituted “Except as provided in section 612(a)(3) of this title, each” for “Each”.

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.

§ 12644. Members physically not qualified for active duty: discharge or transfer to retired status

Except as otherwise provided by law, the Secretary concerned may provide for the honorable discharge or the transfer to a retired status of members of the reserve components under his jurisdiction who are found to be not physically qualified for active duty. However, no member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred under this subsection without the consent of the governor or other appropriate authority of the jurisdiction concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 79, §1004; Pub. L. 86-603, §1(1), July 7, 1960, 74 Stat. 357; Pub. L. 103-160, div. A, title V, §519, Nov. 30, 1993, 107 Stat. 1651; renumbered §12644 and amended Pub. L. 103-337, div. A, title XVI, §§1661(a)(4), 1662(h)(2), (4)(B), Oct. 5, 1994, 108 Stat. 2980, 2996, 2997.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1004(a)	50:949.	July 9, 1952, ch. 608,
1004(b)	50:950 (last sentence).	§§225, 226, 66 Stat. 488.
1004(c)	50:950 (less last sentence).	

In subsection (a), the words “Each * * * who is not on active duty” are substituted for the words “when not on active duty all”. The words “examined as to his physical fitness” are substituted for the words “given physical examinations”. The words “be required to” are omitted as surplusage. The words “execute and” are inserted for clarity.

In subsection (c), the words “under his jurisdiction” are inserted for clarity.

AMENDMENTS

1994—Pub. L. 103-337, §1662(h)(2), (4)(B), renumbered section 1004 of this title as this section and substituted “Members physically not qualified for active duty: discharge or transfer to retired status” for “Physical examination” as section catchline.

Pub. L. 103-337, §1661(a)(4), struck out “(c)” before “Except as otherwise provided” and struck out subsecs. (a) and (b) which read as follows:

“(a) Each member of the Ready Reserve who is not on active duty shall—

“(1) be examined as to his physical fitness every five years, or more often as the Secretary concerned considers necessary; and

“(2) execute and submit annually a certificate of physical condition.

Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually a certificate of physical condition.

“(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty.”

1993—Subsec. (a)(1). Pub. L. 103-160 substituted “five years” for “four years”.

1960—Subsec. (a). Pub. L. 86-603 limited the requirement for a physical examination every four years, and for the annual execution of a certificate of physical condition, to the Ready Reserve, and also required each Reserve in an active status, or on an inactive status list, who is not on active duty to execute and submit annually a certificate of physical condition.

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.

§ 12645. Commissioned officers: retention until completion of required service

(a) Except as provided in subsection (b), a reserve commissioned officer who has not completed the period of service required of him by section 651 of this title or any other provision of law may not be discharged or transferred from an active status under chapter 573, 1407, 1409, or 1411 of this title or chapter 21 of title 14. Unless, under regulations prescribed by the Secretary concerned, he is promoted to a higher reserve grade, he shall be retained in an active status in his reserve grade for the rest of his period of required service and shall be an additional number to the authorized strength of his grade.

(b) Subsection (a) does not prevent the discharge or transfer from an active status of—

(1) a commissioned warrant officer;

(2) an officer on the active-duty list or a reserve active-status list who is found not qualified for promotion to the grade of first lieutenant, in the case of an officer of the Army, Air Force, or Marine Corps, or lieutenant (junior grade), in the case of an officer of the Navy;

(3) an officer on the active-duty list or reserve active-status list who has failed of selection for promotion for the second time to the grade of captain, in the case of an officer of the Army, Air Force, or Marine Corps, or to the grade of lieutenant, in the case of an officer of the Navy; or

(4) an officer whose discharge or transfer from an active status is required by law.

(Added Pub. L. 85-861, §1(22)(B), Sept. 2, 1958, 72 Stat. 1444, §1005; amended Pub. L. 93-586, §2, Jan. 2, 1975, 88 Stat. 1920; Pub. L. 98-525, title V, §528(a), Oct. 19, 1984, 98 Stat. 2525; renumbered §12645 and amended Pub. L. 103-337, div. A, title XVI, §§1627, 1662(h)(2), 1675(d)(2), Oct. 5, 1994, 108 Stat. 2962, 2996, 3018; Pub. L. 104-106, div. A, title XV, §1501(a)(4), Feb. 10, 1996, 110 Stat. 495; Pub. L. 104-201, div. A, title V, §544(b), Sept. 23, 1996, 110 Stat. 2523.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1005	50:1181(1) (as applicable to 50:1194). 50:1194.	Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §204), 204, 68 Stat. 1149, 1151.

The word “subsequently” is omitted as surplusage.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104-201 inserted “or a reserve active-status list” after “active-duty list”.

Subsec. (b)(3), (4). Pub. L. 104-106 made technical correction to directory language of Pub. L. 103-337, §1627. See 1994 Amendment note below.

1994—Pub. L. 103-337, §1662(h)(2), renumbered section 1005 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1675(d)(2), substituted “573, 1407, 1409, or 1411” for “337, 361, 363, 573, 837, 861, or 863”.

Subsec. (b)(3), (4). Pub. L. 103-337, §1627, as amended by Pub. L. 104-106, added pars. (3) and (4).

1984—Pub. L. 98-525 substituted “(a) Except as provided in subsection (b), a reserve commissioned officer” for “A reserve commissioned officer, other than a com-