

§ 973. Duties: officers on active duty; performance of civil functions restricted

(a) No officer of an armed force on active duty may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b)(1) This subsection applies—

(A) to a regular officer of an armed force on the active-duty list (and a regular officer of the Coast Guard on the active duty promotion list);

(B) to a retired regular officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days; and

(C) to a reserve officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days.

(2)(A) Except as otherwise authorized by law, an officer to whom this subsection applies may not hold, or exercise the functions of, a civil office in the Government of the United States—

(i) that is an elective office;

(ii) that requires an appointment by the President by and with the advice and consent of the Senate; or

(iii) that is a position in the Executive Schedule under sections 5312 through 5317 of title 5.

(B) An officer to whom this subsection applies may hold or exercise the functions of a civil office in the Government of the United States that is not described in subparagraph (A) when assigned or detailed to that office or to perform those functions.

(3) Except as otherwise authorized by law, an officer to whom this subsection applies by reason of subparagraph (A) of paragraph (1) may not hold or exercise, by election or appointment, the functions of a civil office in the government of a State (or of any political subdivision of a State).

(4)(A) An officer to whom this subsection applies by reason of subparagraph (B) or (C) of paragraph (1) may not hold, by election or appointment, a civil office in the government of a State (or of any political subdivision of a State) if the holding of such office while this subsection so applies to the officer—

(i) is prohibited under the laws of that State; or

(ii) as determined by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, interferes with the performance of the officer's duties as an officer of the armed forces.

(B) Except as otherwise authorized by law, while an officer referred to in subparagraph (A) is serving on active duty, the officer may not exercise the functions of a civil office held by the officer as described in that subparagraph.

(5) Nothing in this subsection shall be construed to invalidate any action undertaken by an officer in furtherance of assigned official duties.

(6) In this subsection, the term "State" includes the District of Columbia and a territory,

possession, or commonwealth of the United States.

(c) An officer to whom subsection (b) applies may seek and hold nonpartisan civil office on an independent school board that is located exclusively on a military reservation.

(d) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating in the Navy, shall prescribe regulations to implement this section.

(Added Pub. L. 90-235, §4(a)(5)(A), Jan. 2, 1968, 81 Stat. 759; amended Pub. L. 96-513, title I, §116, Dec. 12, 1980, 94 Stat. 2878; Pub. L. 98-94, title X, §1002(a), Sept. 24, 1983, 97 Stat. 655; Pub. L. 101-510, div. A, title V, §556, Nov. 5, 1990, 104 Stat. 1570; Pub. L. 106-65, div. A, title V, §506, Oct. 5, 1999, 113 Stat. 591; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-136, div. A, title V, §545, Nov. 24, 2003, 117 Stat. 1479.)

AMENDMENTS

2003—Subsec. (b)(3). Pub. L. 108-136, §545(2), inserted "by reason of subparagraph (A) of paragraph (1)" after "applies" and substituted "(or of any political subdivision of a State)" for ", the District of Columbia, or a territory, possession, or commonwealth of the United States (or of any political subdivision of any such government)".

Subsec. (b)(4), (5). Pub. L. 108-136, §545(1), (3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(6). Pub. L. 108-136, §545(4), added par. (6).

2002—Subsec. (d). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

1999—Subsec. (b)(1)(B), (C). Pub. L. 106-65 substituted "270 days" for "180 days".

1990—Subsecs. (c), (d). Pub. L. 101-510 added subsec. (c) and redesignated former subsec. (c) as (d).

1983—Subsec. (b). Pub. L. 98-94 amended subsec. (b) generally. Prior to amendment subsec. (b) provided that, except as otherwise provided by law, no regular officer of an armed force on active duty could hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State, and that acceptance of such a civil office or the exercise of its functions by such an officer terminated his military appointment.

Subsec. (c). Pub. L. 98-94 added subsec. (c).

1980—Pub. L. 96-513, §116(c), substituted "officers on active duty" for "regular officers" in section catchline.

Subsec. (a). Pub. L. 96-513, §116(a), substituted "of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

Subsec. (b). Pub. L. 96-513, §116(b), substituted "regular officer of an armed force on active duty" for "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

CONSTRUCTION AND APPLICABILITY OF SECTION 973(b)

Pub. L. 98-94, title X, §1002(b), (c), Sept. 24, 1983, 97 Stat. 655, 656, provided that:

“(b) Nothing in section 973(b) of title 10, United States Code, as in effect before the date of the enactment of this Act [Sept. 24, 1983], shall be construed—

“(1) to invalidate any action undertaken by an officer of an Armed Force in furtherance of assigned official duties; or

“(2) to have terminated the military appointment of an officer of an Armed Force by reason of the acceptance of a civil office, or the exercise of its functions, by that officer in furtherance of assigned official duties.

“(c) Nothing in section 973(b)(3) of title 10, United States Code, as added by subsection (a), shall preclude a Reserve office to whom such section applies from holding or exercising the functions of an office described in such section for the term to which the Reserve officer was elected or appointed if, before the date of the enactment of this Act [Sept. 24, 1983], the Reserve officer accepted appointment or election to that office in accordance with the laws and regulations in effect at the time of such appointment or election.”

§ 974. Military musical units and musicians: performance policies; restriction on performance in competition with local civilian musicians

(a) MILITARY MUSICIANS PERFORMING IN AN OFFICIAL CAPACITY.—(1) A military musical unit, and a member of the armed forces who is a member of such a unit performing in an official capacity, may not engage in the performance of music in competition with local civilian musicians.

(2) For purposes of paragraph (1), the following shall, except as provided in paragraph (3), be included among the performances that are considered to be a performance of music in competition with local civilian musicians:

(A) A performance that is more than incidental to an event that—

(i) is not supported, in whole or in part, by United States Government funds; and
(ii) is not free to the public.

(B) A performance of background, dinner, dance, or other social music at an event that—

(i) is not supported, in whole or in part, by United States Government funds; and
(ii) is held at a location not on a military installation.

(3) For purposes of paragraph (1), the following shall not be considered to be a performance of music in competition with local civilian musicians:

(A) A performance (including background, dinner, dance, or other social music) at an official United States Government event that is supported, in whole or in part, by United States Government funds.

(B) A performance at a concert, parade, or other event, that—

(i) is a patriotic event or a celebration of a national holiday; and
(ii) is free to the public.

(C) A performance that is incidental to an event that—

(i) is not supported, in whole or in part, by United States Government funds; or
(ii) is not free to the public.

(D) A performance (including background, dinner, dance, or other social music) at—

(i) an event that is sponsored by a military welfare society, as defined in section 2566 of this title;

(ii) an event that is a traditional military event intended to foster the morale and welfare of members of the armed forces and their families; or

(iii) an event that is specifically for the benefit or recognition of members of the armed forces, their family members, veterans, civilian employees of the Department of Defense, or former civilian employees of the Department of Defense, to the extent provided in regulations prescribed by the Secretary of Defense.

(E) A performance (including background, dinner, dance, or other social music)—

(i) to uphold the standing and prestige of the United States with dignitaries and distinguished or prominent persons or groups of the United States or another nation; or

(ii) in support of fostering and sustaining a cooperative relationship with another nation.

(b) PROHIBITION OF MILITARY MUSICIANS ACCEPTING ADDITIONAL REMUNERATION FOR OFFICIAL PERFORMANCES.—A military musical unit, and a member of the armed forces who is a member of such a unit performing in an official capacity, may not receive remuneration for an official performance, other than applicable military pay and allowances.

(c) RECORDINGS.—(1) When authorized under regulations prescribed by the Secretary of Defense for purposes of this section, a military musical unit may produce recordings for distribution to the public, at a cost not to exceed expenses of production and distribution.

(2) Amounts received in payment for a recording distributed to the public under this subsection shall be credited to the appropriation or account providing the funds for the production of the recording. Any amount so credited shall be merged with amounts in the appropriation or account to which credited, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such appropriation or account.

(d) PRIVATE DONATIONS.—(1) The Secretary concerned may accept contributions of money, personal property, or services on the condition that such money, property, or services be used for the benefit of a military musical unit under the jurisdiction of the Secretary.

(2) Any contribution of money under paragraph (1) shall be credited to the appropriation or account providing the funds for such military musical unit. Any amount so credited shall be merged with amounts in the appropriation or account to which credited, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such appropriation or account.

(3) Not later than January 30 of each year, the Secretary concerned shall submit to Congress a report on any contributions of money, personal property, and services accepted under paragraph (1) during the fiscal year preceding the fiscal year during which the report is submitted.

(e) PERFORMANCES AT FOREIGN LOCATIONS.—Subsection (a) does not apply to a performance outside the United States, its commonwealths, or its possessions.