

(b) A person is not entitled to be reenlisted under this section if—

(1) the person was discharged or released from active duty as an officer on the basis of a determination of—

- (A) misconduct;
- (B) moral or professional dereliction;
- (C) duty performance below prescribed standards for the grade held; or
- (D) retention being inconsistent with the interests of national security; or

(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the commission held by that person during the active duty from which the person was released or discharged.

(Aug. 10, 1956, ch. 1041, 70A Stat. 179; Pub. L. 85-603, §1(1), Aug. 8, 1958, 72 Stat. 526; Pub. L. 102-484, div. A, title V, §520(a), Oct. 23, 1992, 106 Stat. 2408; Pub. L. 110-181, div. A, title V, §506(a), Jan. 28, 2008, 122 Stat. 96.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3258 .....	10:631a (less last proviso).	July 14, 1939, ch. 267, §1 (less last proviso); re-stated May 29, 1954, ch. 249, §19(b) (less last proviso), 68 Stat. 166.

The words “former” and “as an enlisted member” are inserted for clarity. The words “credit for service” are substituted for the words “of service”. The words “in his grade” are substituted for the words “in the appropriate enlisted grade”. The words “he applies” are substituted for the words “application \* \* \* shall be made”. The words “Hereafter” and “while on active duty” are omitted as surplusage.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181, §506(a)(1), substituted “an officer” for “a Reserve officer” and “an appointment” for “a temporary appointment”.

Subsec. (b)(1). Pub. L. 110-181, §506(a)(2)(A), substituted “an officer” for “a Reserve officer” in introductory provisions.

Subsec. (b)(2). Pub. L. 110-181, §506(a)(2)(B), substituted “the commission” for “the Reserve commission”.

1992—Pub. L. 102-484 designated existing provisions as subsec. (a), added subsec. (b), and struck out at end of subsec. (a) “However, if his service as an officer terminated by a general discharge, he may, under regulations to be prescribed by the Secretary of the Army, be so reenlisted.”

1958—Pub. L. 85-603 limited entitlement to be reenlisted in enlisted grade to those officers whose service terminated by an honorable discharge and those relieved from active duty for a purpose other than to await appellate review of a sentence that includes dismissal or dishonorable discharge, and provided that persons whose service terminated by a general discharge, may, under regulations to be prescribed by the Secretary of the Army, be so reenlisted.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title V, §520(c), Oct. 23, 1992, 106 Stat. 2409, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 8258 of this title] shall apply to persons discharged or released from active duty as commissioned officers in the Army Reserve or the Air Force Reserve, respectively, after the date of the enactment of this Act [Oct. 23, 1992].”

#### [§§ 3259 to 3261. Repealed. Pub. L. 103-337, div. A, title XVI, §1662(b)(3), Oct. 5, 1994, 108 Stat. 2990]

Section 3259, acts Aug. 10, 1956, ch. 1041, 70A Stat. 179; Sept. 29, 1988, Pub. L. 100-456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to transfers in grade of enlisted members of Army National Guard of United States to Army Reserve. See section 12105 of this title.

Section 3260, act Aug. 10, 1956, ch. 1041, 70A Stat. 179, provided that enlisted members of Army National Guard of United States are transferred to Army Reserve upon withdrawal as members of Army National Guard. See section 12106 of this title.

Section 3261, acts Aug. 10, 1956, ch. 1041, 70A Stat. 179; Sept. 2, 1958, Pub. L. 85-861, §33(a)(20), 72 Stat. 1565; Oct. 4, 1961, Pub. L. 87-378, §3, 75 Stat. 808, related to enlistment in Army National Guard of United States. See section 12107 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal 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.

#### § 3262. Army: percentage of high-school graduates

Notwithstanding section 520(b) of this title, of the males with no prior military service who are enlisted or inducted into the Army during any fiscal year, the number who are not high-school graduates may not exceed, as of the end of the fiscal year, 35 percent of all such persons.

(Added Pub. L. 99-661, div. A, title IV, §402(a), Nov. 14, 1986, 100 Stat. 3859; amended Pub. L. 100-370, §1(a)(2), July 19, 1988, 102 Stat. 840.)

#### HISTORICAL AND REVISION NOTES

1988 ACT

Amendment of section is based on Pub. L. 93-307, title IV, §401, June 8, 1974, 88 Stat. 234, as amended by Pub. L. 93-365, title VII, §705, Aug. 5, 1974, 88 Stat. 406.

#### PRIOR PROVISIONS

A prior section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 180; Sept. 2, 1958, Pub. L. 85-861, §1(71), 72 Stat. 1464, provided for extension of enlistment of members of the Army needing medical care or hospitalization, prior to repeal by Pub. L. 90-235, §2(a)(2)(B), Jan. 2, 1968, 81 Stat. 756.

#### AMENDMENTS

1988—Pub. L. 100-370 substituted “Notwithstanding section 520(b) of this title, of” for “Of”.

#### [§ 3263. Repealed. Pub. L. 90-235, §2(a)(2)(B), Jan. 2, 1968, 81 Stat. 756]

Section, Pub. L. 85-861, §1(71)(B), Sept. 2, 1958, 72 Stat. 1465; Pub. L. 87-649, §14c(4), Sept. 7, 1962, 76 Stat. 501, provided for voluntary extension of enlistments in the Army.

#### [§ 3264. Repealed. Pub. L. 107-314, div. A, title V, §531(c), Dec. 2, 2002, 116 Stat. 2544]

Section, added Pub. L. 107-107, div. A, title V, §541(a)(1), Dec. 28, 2001, 115 Stat. 1109, related to an 18-month enlistment pilot program to increase participation of prior service persons in Selected Reserve and to provide assistance in building pool of participants in Individual Ready Reserve.

### CHAPTER 335—APPOINTMENTS IN THE REGULAR ARMY

Sec.  
3281. Commissioned officer grades.