

thorized the President, in time of war or national emergency, to appoint any qualified person, including a person who is not a Regular or Reserve, in any temporary grade, provided for vacation of the appointment, and permitted, for purposes of determining grade, position on a promotion list, seniority in temporary grade, and eligibility for promotion, an officer of the Medical Corps or Dental Corps who is appointed in a temporary grade to be credited, when he enters active duty, with constructive service authorized by section 3294(b) of this title. See section 603 of this title.

Section 3445, acts Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85-861, §1(81)(B), 72 Stat. 1480, provided that in addition to the temporary appointments authorized, in time of war or national emergency, a regular officer or a reserve warrant officer may be appointed in any temporary grade higher than his regular or reserve grade, without vacating that grade, or a person who holds no commissioned grade in the Regular Army be appointed in any temporary commissioned grade. See section 603 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

§ 3446. Retention on active duty

The President may retain on active duty a disabled officer until—

(1) the physical condition of the officer is such that the officer will not be further benefited by retention in a military hospital or a medical facility of the Department of Veterans Affairs; or

(2) the officer is processed for physical disability benefits provided by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 196; Pub. L. 85-861, §1(81)(C), Sept. 2, 1958, 72 Stat. 1480; Pub. L. 101-189, div. A, title XVI, §1621(a)(10), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 102-25, title VII, §701(j)(6), Apr. 6, 1991, 105 Stat. 116.)

HISTORICAL AND REVISION NOTES 1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3446	10:499.	June 19, 1948, ch. 511, 62 Stat. 489.

The word “shall” is substituted for the words “authorized and directed”. The words “on active duty” are substituted for the words “in service”. The words “warrant officers, and flight officers” are omitted, since the definition of “officer” in section 101(14) of this title covers commissioned, warrant, and flight officers. The words “who has only a temporary appointment” are substituted for the words “of the Army * * * of the United States”. The words “his physical condition is such that he” are substituted for the words “their treatment for physical reconstruction has reached a point where they”. The words “in the Army” are substituted for the words “in the military service”.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3446	10 App.:499.	June 15, 1956, ch. 388, 70 Stat. 282.

The words “commissioned officers and warrant” are omitted as covered by the definition of the word “officer” in section 101(14) of this title. The words “condition is such that” are substituted for the words “reconstruction has reached a point where”.

AMENDMENTS

1991—Par. (2). Pub. L. 102-25 struck out “as” before “provided by law”.

1989—Pub. L. 101-189 amended section generally. Prior to amendment, section read as follows: “Notwithstanding any other provision of law, the President may retain on active duty a disabled officer until his physical condition is such that he will not be further benefited by retention in a military or Veterans’ Administration hospital or until he is processed for physical disability benefits provided by law.”

1958—Pub. L. 85-861 substituted “may retain on active duty a disabled officer” for “shall retain on active duty any disabled officer who has only a temporary appointment”, and “military or Veterans’ Administration hospital or until he is processed for physical disability benefits provided by law” for “military hospital or in the Army”.

[§§ 3447 to 3449. Repealed. Pub. L. 96-513, title II, § 207, 208, Dec. 12, 1980, 94 Stat. 2884]

Section 3447, acts Aug. 10, 1956, ch. 1041, 70A Stat. 196; Sept. 2, 1958, Pub. L. 85-861, §1(81)(D), 72 Stat. 1480; Sept. 28, 1971, Pub. L. 92-129, title VI, §602, 85 Stat. 361, provided that temporary appointment of a person be made without reference to any other appointment that he may hold in the Army, temporary appointments of commissioned officers in the Regular Army be made by the President alone in grades below lieutenant colonel and by the President, by and with the consent of the Senate, in grades of lieutenant colonel and above, temporary appointments of commissioned officers in the reserve components of the Army be made by the President alone in grades below lieutenant colonel and by the President, by and with the consent of the Senate, in grades above major, and that the President may vacate at any time a temporary appointment in a commissioned grade. See section 601 of this title.

Section 3448, acts Aug. 10, 1956, ch. 1041, 70A Stat. 197; Aug. 8, 1958, Pub. L. 85-603, §1(2), 72 Stat. 526, authorized the Secretary of the Army, upon his determination of need, to appoint qualified persons as warrant officers, with such appointments to continue at the pleasure of the Secretary, and such warrant officers entitled to count all periods of active duty under the appointment as warrant or enlisted service for all purposes and to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Army on active duty. See section 602 of this title.

Section 3449, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided that temporary promotions in warrant officer grades be governed by such regulations as the Secretary of the Army prescribe. See section 602 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

[§ 3450. Repealed. Pub. L. 90-235, § 3(b)(1), Jan. 2, 1968, 81 Stat. 758]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided for suspension of laws for promotion or mandatory retirement or separation during war or emergency of temporary warrant officers of the Army.

[§§ 3451, 3452. Repealed. Pub. L. 96-513, title II, § 207, Dec. 12, 1980, 94 Stat. 2884]

Section 3451, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided that an officer who is promoted to a temporary grade is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion.

Section 3452, added Pub. L. 85-861, §1(81)(E), Sept. 2, 1958, 72 Stat. 1480, provided that, notwithstanding any

other provision of law, an officer of Medical Corps or Dental Corps may be promoted to temporary grade of captain at any time after first anniversary of date upon which he graduated from a medical, osteopathic, or dental school.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

CHAPTER 341—ACTIVE DUTY

Sec.

3491. Non-regular officers: status.

[3492 to 3502. Repealed.]

3503. Retired commissioned officers: status.

[3504. Repealed.]

AMENDMENTS

1994—Pub. L. 103-337, div. A, title XVI, §1672(b)(4), Oct. 5, 1994, 108 Stat. 3015, struck out items 3495 “Army National Guard of United States: status”, 3496 “Army National Guard of United States: commissioned officers; duty in National Guard Bureau”, 3497 “Army National Guard of United States: members; status in which ordered into Federal service”, 3498 “Army National Guard of United States: mobilization; maintenance of organization”, 3499 “Army National Guard in Federal service: status”, 3500 “Army National Guard in Federal service: call”, 3501 “Army National Guard in Federal service: period of service; apportionment”, and 3502 “Army National Guard in Federal service: physical examination”.

1980—Pub. L. 96-513, title V, §502(12), Dec. 12, 1980, 94 Stat. 2910, struck out item 3494 “Commissioned officers: grade in which ordered to active duty” and item 3504 “Retired members: limitations; grade”.

1968—Pub. L. 90-235, §1(a)(3), (b), Jan. 2, 1968, 81 Stat. 753, struck out item 3492 “Members: service extension during war”, and item 3493 “Army Reserve: commissioned officers with Corps of Engineers”.

1958—Pub. L. 85-861, §1(82)(B), Sept. 2, 1958, 72 Stat. 1481, added item 3494.

§ 3491. Non-regular officers: status

A commissioned officer of the Army, other than of the Regular Army, who is on active duty in any commissioned grade has the rights and privileges, and is entitled to the benefits, provided by law for a commissioned officer of the Army Reserve—

- (1) whose reserve grade is that in which the officer not of the Regular Army is serving;
- (2) who has the same length of service as the officer not of the Regular Army; and
- (3) who is on active duty in his reserve grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 198.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3491	10:506d(h).	Aug. 7, 1947, ch. 512, §515(h), 61 Stat. 908.

The first 12 words are substituted for 10:506d(h) (1st 11 words). The words “has the rights and privileges, and is entitled to the benefits” are substituted for the words “shall be entitled * * * to the same rights, privileges, and benefits”. Clause (1) is substituted for the words “in a grade the same as such ‘active-duty grade’”. The words “as the officer not of the Regular Army” are substituted for the words “holding appointment in the Army Reserve”. The words “his reserve grade” are substituted for the words “the grade held in the Army Reserve”.

[[§ 3492, 3493. Repealed. Pub. L. 90-235, § 1(a)(2), (b), Jan. 2, 1968, 81 Stat. 753]

Section 3492, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, provided for extension of active service of Army members during war. See section 671a of this title.

Section 3493, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, empowered the President to order commissioned officers of the Army Reserve to active duty with the Corps of Engineers.

[§ 3494. Repealed. Pub. L. 96-513, title II, § 209(a), Dec. 12, 1980, 94 Stat. 2884]

Section, added Pub. L. 85-861, §1(82)(A), Sept. 2, 1958, 72 Stat. 1481; amended Pub. L. 86-559, §1(20), June 30, 1960, 74 Stat. 271, provided that a reserve commissioned officer who is ordered to active duty be ordered to that duty in his reserve grade unless the Secretary of the Army orders him to active duty, other than for training, in a higher temporary grade and authorized a reserve commissioned officer who is selected for participation in a program under which he will be ordered to active duty for at least one academic year at a civilian school or college to be ordered, upon his request, to that duty in a temporary grade that is lower than his reserve grade, without affecting his reserve grade. See section 12320 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

[[§ 3495 to 3502. Repealed. Pub. L. 103-337, div. A, title XVI, § 1662(f)(2), Oct. 5, 1994, 108 Stat. 2994]

Section 3495, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, provided that members of Army National Guard of United States were not in active Federal service except when ordered thereto under law. See section 12401 of this title.

Section 3496, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, authorized President to order commissioned officers of Army National Guard of United States to active duty in National Guard Bureau. See section 12402(a), (b)(1) of this title.

Section 3497, act Aug. 10, 1956, ch. 1041, 70A Stat. 199, provided that members of Army National Guard of United States ordered to active duty were to be ordered to duty as Reserves of Army. See section 12403 of this title.

Section 3498, act Aug. 10, 1956, ch. 1041, 70A Stat. 199, related to organization during initial mobilization of units of Army National Guard of United States ordered into active Federal service. See section 12404 of this title.

Section 3499, act Aug. 10, 1956, ch. 1041, 70A Stat. 199, related to application of laws governing Army to members of Army National Guard called into Federal service. See section 12405 of this title.

Section 3500, acts Aug. 10, 1956, ch. 1041, 70A Stat. 199; Sept. 29, 1988, Pub. L. 100-456, div. A, title XII, §1234(a)(1), (3), 102 Stat. 2059, authorized President to call Army National Guard units and members into Federal service. See section 12406 of this title.

Section 3501, acts Aug. 10, 1956, ch. 1041, 70A Stat. 199; Sept. 29, 1988, Pub. L. 100-456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to period of service and apportionment of members and units of Army National Guard called into Federal service. See section 12407 of this title.

Section 3502, act Aug. 10, 1956, ch. 1041, 70A Stat. 200, related to physical examinations of members of Army National Guard called into Federal service. See section 12408 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.