

the United States Naval Academy, or the United States Air Force Academy if the member—

“(1) satisfies the eligibility requirements for admission to that academy (other than the maximum age limitation); and

“(2) was or is prevented from being admitted to a military service academy before the member reached the maximum age specified in such sections as a result of service on active duty in a theater of operations for Operation Iraqi Freedom, Operation Enduring Freedom, or Operation New Dawn.

“(b) MAXIMUM AGE FOR RECEIPT OF WAIVER.—A waiver may not be granted under this section if the candidate would pass the candidate’s twenty-sixth birthday by July 1 of the year in which the candidate would enter the military service academy pursuant to the waiver.

“(c) LIMITATION ON NUMBER ADMITTED USING WAIVER.—Not more than five candidates may be admitted to each of the military service academies for an academic year pursuant to a waiver granted under this section.

“(d) RECORD KEEPING REQUIREMENT.—The Secretary of each military department shall maintain records on the number of graduates of the military service academy under the jurisdiction of the Secretary who are admitted pursuant to a waiver granted under this section and who remain in the Armed Forces beyond the active duty service obligation assumed upon graduation. The Secretary shall compare their retention rate to the retention rate of graduates of that academy generally.

“(e) DURATION OF WAIVER AUTHORITY.—The authority to grant a waiver under this section expires on September 30, 2016.”

**AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO SERVICE ACADEMIES FOR CERTAIN ENLISTED MEMBERS WHO SERVED DURING PERSIAN GULF WAR**

Pub. L. 102-190, div. A, title V, §514, Dec. 5, 1991, 105 Stat. 1361, provided that:

“(a) WAIVER AUTHORITY.—The Secretary of the military department concerned may waive the maximum age limitation in section 4346(a), 6958(a)(1), or 9346(a) of title 10, United States Code, in the case of any enlisted member of the Armed Forces who—

“(1) becomes 22 years of age while serving on active duty in the Persian Gulf area of operations in connection with Operation Desert Storm during the Persian Gulf War; or

“(2) was a candidate for admission to the service academy under the jurisdiction of such Secretary in 1990, was prevented from being admitted to the academy during that year by reason of the service of such person on active duty in the Persian Gulf area of operations in connection with Operation Desert Storm, and became 22 years of age after July 1, 1990, and before the end of such service in that area of operations.

“(b) DEFINITIONS.—For purposes of this section:

“(1) The term ‘Operation Desert Storm’ has the meaning given such term in section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25; 105 Stat. 77; 10 U.S.C. 101 note).

“(2) The term ‘Persian Gulf War’ has the meaning given such term in section 101(33) of title 38, United States Code.”

**PERSONS FROM COUNTRIES ASSISTING U.S. IN VIETNAM; SERVICE ACADEMY INSTRUCTION: OATH OF TRAINEES**

Exemption from oath requirement of subsec. (d) of this section of appointees to the Military Academy, the Naval Academy, and the Air Force Academy from countries assisting U.S. in Vietnam, see Pub. L. 89-802, §1(g), Nov. 9, 1966, 80 Stat. 1519, set out as a note under section 4344 of this title.

**§ 4347. Cadets; nominees: effect of redistricting of States**

If as a result of redistricting a State the domicile of a cadet, or a nominee, nominated by a

Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of cadets otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a cadet or when he is finally separated from the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 243.)

**HISTORICAL AND REVISION NOTES**

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>    |
|------------------------|---------------------------|--------------------------------------|
| 4347 .....             | 10:1091-1.                | July 7, 1943, ch. 193, 57 Stat. 383. |

The word “domicile” is substituted for the words “place of residence” to conform to opinions of the Judge Advocate General of the Army (R. 29, 83; J.A.G. 351.11, Feb. 10, 1925). The words “a \* \* \* other than that from which he was nominated” are substituted for the word “another”. The words “were appointed with respect to”, “of the former district”, “as additional numbers”, “at such academy for the Representative”, “temporarily”, and “in attendance at such academy under an appointment from such former district” are omitted as surplusage. The words “the district in which his domicile so falls” are substituted for the words “of the latter district”. The words “to include him” are substituted for 10:1091-1 (18 words before proviso). The words “However, the number as so increased” are substituted for 10:1091-1 (1st 13 words of proviso). The words “if he fails to become a cadet” are inserted for clarity.

**§ 4348. Cadets: agreement to serve as officer**

(a) Each cadet shall sign an agreement with respect to the cadet’s length of service in the armed forces. The agreement shall provide that the cadet agrees to the following:

(1) That the cadet will complete the course of instruction at the Academy.

(2) That upon graduation from the Academy the cadet—

(A) will accept an appointment, if tendered, as a commissioned officer of the Regular Army or the Regular Air Force; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before completion of the commissioned service obligation of the cadet, the cadet—

(A) will accept an appointment as a commissioned officer as a Reserve for service in the Army Reserve or the Air Force Reserve; and

(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

(4) That if an appointment described in paragraph (2) or (3) is tendered and the cadet participates in a program under section 2121 of this title, the cadet will fulfill any unserved obligation incurred under this section on active duty, regardless of the type of appointment held, upon completion of, and in addition to, any service obligation incurred under section 2123 of this title for participation in such program.

(b)(1) The Secretary of the Army may transfer to the Army Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (a). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of this title.

(2) A cadet who is transferred to the Army Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (a) if the cadet is separated from the Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Academy and accept an appointment as a commissioned officer upon graduation from the Academy.

(c) The Secretary of the Army shall prescribe regulations to carry out this section. Those regulations shall include—

(1) standards for determining what constitutes, for the purpose of subsection (b), a breach of an agreement under subsection (a);

(2) procedures for determining whether such a breach has occurred; and

(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (b).

(d) In this section, the term “commissioned service obligation”, with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary of Defense, any later date up to the eighth anniversary of such appointment.

(e)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (a) only with the consent of a parent or guardian.

(f) A cadet or former cadet who does not fulfill the terms of the agreement as specified under subsection (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 243; Pub. L. 88-276, § 5(a), Mar. 3, 1964, 78 Stat. 153; Pub. L. 88-647, title III, § 301(9), Oct. 13, 1964, 78 Stat. 1072; Pub. L. 98-525, title V, §§ 541(a), 542(b), Oct. 19, 1984, 98 Stat. 2529; Pub. L. 99-145, title V, § 512(a), Nov. 8, 1985, 99 Stat. 623; Pub. L. 101-189, div. A, title V, § 511(b), title XVI, § 1622(e)(5), Nov. 29, 1989, 103 Stat. 1439, 1605; Pub. L. 104-106, div. A, title V, § 531(a), Feb. 10, 1996, 110 Stat. 314; Pub. L. 109-163, div. A, title VI, § 687(c)(9), Jan. 6, 2006, 119 Stat. 3335; Pub. L. 111-84, div. A, title X, § 1073(a)(29), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111-383, div. A, title V, § 554(a), Jan. 7, 2011, 124 Stat. 4221.)

## HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large)                 |
|-----------------|--------------------|--|
| 4348 .....      | 10:1092c.          | June 30, 1950, ch. 421, § 3, 64 Stat. 304. |

The word “agreement” is substituted for the word “articles”. The words “Hereafter”, “appointed to the United States Military Academy”, “engage”, and 10:1092c (1st 25 words of clause (2)) are omitted as surplusage. The word “separated” is substituted for the words “discharged by competent authority”. The words “if he is permitted to resign” are substituted for the words “in the event of the acceptance of his resignation”, since a resignation is effective only when accepted. The first 31 words of clause (3) are substituted for 10:1092c (last 29 words of clause (3)). The last sentence is substituted for the words “with the consent of his parents or guardian if he be a minor, and if any he have”.

## AMENDMENTS

2011—Subsec. (a)(4). Pub. L. 111-383 added par. (4).

2009—Subsec. (f). Pub. L. 111-84 substituted “subsection (a)” for “section (a)”.

2006—Subsec. (f). Pub. L. 109-163 added subsec. (f).

1996—Subsec. (a)(2)(B). Pub. L. 104-106 substituted “five years” for “six years”.

1989—Subsec. (a)(2)(B). Pub. L. 101-189, § 511(b), substituted “six years” for “five years”.

Subsec. (d). Pub. L. 101-189, § 1622(e)(5), inserted “the term” after “In this section.”.

1985—Pub. L. 99-145 amended section generally. Prior to amendment, section read as follows:

“(a) Each cadet who is a citizen or national of the United States shall sign an agreement that he will—

“(1) unless sooner separated from the Academy, complete the course of instruction at the Academy;

“(2) accept an appointment and, unless sooner separated from the service, serve as a commissioned officer of the Regular Army or the Regular Air Force for at least the five years immediately after graduation; and

“(3) accept an appointment as a commissioned officer as a Reserve for service in the Army Reserve or the Air Force Reserve and, unless sooner separated from the service, remain therein until at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary of his graduation, if an appointment in the regular component of that armed force is not tendered to him, or if he is permitted to resign as a commissioned officer of that component before that anniversary.

If the cadet is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

“(b) A cadet who does not fulfill his agreement under subsection (a) may be transferred by the Secretary of the Army to the Army Reserve in an appropriate enlisted grade and, notwithstanding section 651 of this title, may be ordered to active duty to serve in that grade for such period of time as the Secretary prescribes but not for more than four years.”

1984—Subsec. (a). Pub. L. 98-525, § 541(a), struck out “, unless sooner separated,” in introductory text before “he will”; inserted in cl. (1) “unless sooner separated from the Academy,”; and inserted “, unless sooner separated from the service,” in cls. (2) and (3).

Subsec. (a)(3). Pub. L. 98-525, § 524(b), substituted “at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary” for “the sixth anniversary”.

1964—Pub. L. 88-647 designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (a)(2). Pub. L. 88-276 substituted “five” for “three”.

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title V, § 531(e), Feb. 10, 1996, 110 Stat. 314, provided that: “The amendments made by

this section [amending this section and sections 6959 and 9348 of this title] apply to persons first admitted to the United States Military Academy, United States Naval Academy, and United States Air Force Academy after December 31, 1991.”

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 511(b) of Pub. L. 101-189 applicable to persons who are first admitted to one of the military service academies after Dec. 31, 1991, see section 511(e) of Pub. L. 101-189, as amended, set out as a note under section 2114 of this title.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title V, §512(e), Nov. 8, 1985, 99 Stat. 626, provided that: “The amendments made by subsections (a), (b), and (c) [amending this section and sections 6959 and 9348 of this title] (other than with respect to the authority of the Secretary of a military department to prescribe regulations)—

“(1) shall take effect with respect to each military department on the date on which regulations prescribed by the Secretary of that military department in accordance with subsection (d) [set out below] take effect; and

“(2) shall apply with respect to each agreement entered into under sections 4348, 6959, and 9348, respectively, of title 10, United States Code, that is entered into on or after the effective date of such regulations and shall apply with respect to each such agreement that was entered into before the effective date of such regulations by an individual who is a cadet or midshipman on such date.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title V, §541(d), Oct. 19, 1984, 98 Stat. 2529, provided that: “The amendments made by this section [amending this section and sections 6959 and 9348 of this title] shall apply with respect to agreements entered into under section 4348, 6959, or 9348 of title 10, United States Code, before, on, or after the date of the enactment of this Act [Oct. 19, 1984].”

#### EFFECTIVE DATE OF 1964 AMENDMENT; OBLIGATED PERIOD OF SERVICE

Pub. L. 88-276, §5(c), Mar. 3, 1964, 78 Stat. 153, provided that: “The amendments made by this section [amending this section, sections 6959 and 9348 of this title, and section 182 of Title 14, Coast Guard] shall apply only with respect to cadets and midshipmen appointed to the service academies and the Coast Guard Academy after the date of enactment of this Act [Mar. 3, 1964], and shall not affect the obligated period of service of any cadet or midshipman appointed to one of the service academies or the Coast Guard Academy on or before the date of enactment of this Act.”

#### REGULATIONS IMPLEMENTING 1985 AMENDMENT

Pub. L. 99-145, title V, §512(d), Nov. 8, 1985, 99 Stat. 626, provided that: “The Secretary of each military department shall prescribe the regulations required by section 4348(c), 6959(c), or 9348(c), as appropriate, of title 10, United States Code (as added by the amendments made by subsections (a), (b), and (c)) not later than the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 8, 1985].”

#### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of this title.

#### DEPARTMENT OF DEFENSE POLICY ON SERVICE ACADEMY AND ROTC GRADUATES SEEKING TO PARTICIPATE IN PROFESSIONAL SPORTS BEFORE COMPLETION OF THEIR ACTIVE-DUTY SERVICE OBLIGATIONS

Pub. L. 109-364, div. A, title V, §533, Oct. 17, 2006, 120 Stat. 2206, provided that:

#### “(a) POLICY REQUIRED.—

“(1) IN GENERAL.—Not later than July 1, 2007, the Secretary of Defense shall prescribe the policy of the Department of Defense on—

“(A) whether to authorize graduates of the service academies and the Reserve Officers’ Training Corps to participate in professional sports before the completion of their obligations for service on active duty as commissioned officers; and

“(B) if so, the obligations for service on active duty as commissioned officers of such graduates who participate in professional sports before the satisfaction of the obligations referred to in subparagraph (A).

“(2) REVIEW OF CURRENT POLICIES.—In prescribing the policy, the Secretary shall review current policies, practices, and regulations of the military departments on the obligations for service on active duty as commissioned officers of graduates of the service academies and the Reserve Officers’ Training Corps, including policies on authorized leaves of absence and policies under excess leave programs.

“(3) CONSIDERATIONS.—In prescribing the policy, the Secretary shall take into account the following:

“(A) The compatibility of participation in professional sports (including training for professional sports) with service on active duty in the Armed Forces or as a member of a reserve component of the Armed Forces.

“(B) The benefits for the Armed Forces of waiving obligations for service on active duty for cadets, midshipmen, and commissioned officers in order to permit such individuals to participate in professional sports.

“(C) The manner in which the military departments have resolved issues relating to the participation of personnel in professional sports, including the extent of and any reasons for, differences in the resolution of such issues by such departments.

“(D) The recoupment of the costs of education provided by the service academies or under the Reserve Officers’ Training Corps program if graduates of the service academies or the Reserve Officers’ Training Corps, as the case may be, do not complete the period of obligated service to which they have agreed by reason of participation in professional sports.

“(E) Any other matters that the Secretary considers appropriate.

“(b) ELEMENTS OF POLICY.—The policy prescribed under subsection (a) shall address the following matters:

“(1) The eligibility of graduates of the service academies and the Reserve Officers’ Training Corps for a reduction in the obligated length of service on active duty as a commissioned officer otherwise required of such graduates on the basis of their participation in professional sports.

“(2) Criteria for the treatment of an individual as a participant or potential participant in professional sports.

“(3) The effect on obligations for service on active duty as a commissioned officer of any unsatisfied obligations under prior enlistment contracts or other forms of advanced education assistance.

“(4) Any authorized variations in the policy that are warranted by the distinctive requirements of a particular Armed Force.

“(5) The eligibility of individuals for medical discharge or disability benefits as a result of injuries incurred while participating in professional sports.

“(6) A prospective effective date for the policy and for the application of the policy to individuals serving on such effective date as a commissioned officer, cadet, or midshipman.

“(c) APPLICATION OF POLICY TO ARMED FORCES.—Not later than December 1, 2007, the Secretary of each military department shall prescribe regulations, or modify current regulations, in order to implement the policy prescribed by the Secretary of Defense under sub-

section (a) with respect to the Armed Forces under the jurisdiction of such Secretary.”

**§ 4349. Cadets: organization of Corps; service; instruction**

(a) The Corps of Cadets shall be divided into companies, as directed by the Superintendent, for the purpose of military instruction. Each company shall be commanded by a commissioned officer of the Army.

(b) A cadet shall perform duties at such places and of such type as the President may direct.

(c) The course of instruction at the Academy is four years.

(d) The Secretary of the Army shall so arrange the course of studies at the Academy that cadets are not required to pursue their studies on Sunday.

(e) The Corps of Cadets shall be trained in the duties of members of the Army, shall be encamped at least three months in each year, and shall be trained in all duties incident to a camp.

(Aug. 10, 1956, ch. 1041, 70A Stat. 243.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)            | Source (Statutes at Large)   |
|-----------------|-------------------------------|--|
| 4349(a) .....   | 10:1105 (less last sentence). | R.S. 1322.<br>R.S. 1323.   |
| 4349(b) .....   | 10:1102.                      | Mar. 30, 1920, ch. 112 (1st par., less provisos, under “Miscellaneous”), 41 Stat. 548. |
| 4349(c) .....   | 10:1043.                      | R.S. 1324.   |
| 4349(d) .....   | 10:1044.                      |  |
| 4349(e) .....   | 10:1105 (last sentence).      |  |

In subsection (a), the word “commissioned” is inserted for clarity; 10:1105 (2d sentence) is omitted as obsolete.

In subsection (b), the word “perform” is substituted for the words “be subject at all times to do”. The words “of such type” are substituted for the words “on such service”.

In subsection (e), the words “members of the Army” are substituted for the words “private soldier, non-commissioned officer, and officer”. The words “taught and” are omitted as surplusage.

**§ 4350. Cadets: clothing and equipment**

(a) The Secretary of the Army may prescribe the amount to be credited to a cadet, upon original admission to the Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a cadet is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in so much of his clothing and equipment of a distinctive military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

(b) Under such regulations as the Secretary may prescribe, uniforms and equipment shall be furnished to a cadet at the Academy upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 244.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 4350(a) .....   | 10:1149a.          | Aug. 31, 1918, ch. 166, §9 (17th through 22d words), 40 Stat. 957. |
| 4350(b) .....   | 10:1106.           |  |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised section | Source (U.S. Code) | Source (Statutes at Large)                |
|-----------------|--------------------|---|
|                 |                    | Aug. 22, 1951, ch. 340, §1, 65 Stat. 196. |

In subsection (a), the words “while owing the United States for pay advanced for the purchase of” are substituted for the words “who is indebted to the United States on account of advances of pay to purchase”. The words “as is necessary to repay the amount advanced” are substituted for the words “to the extent required to discharge such indebtedness”.

In subsection (b), the word “accouterments” is omitted as surplusage. The words “by the Government” and “such restrictions and” are omitted as surplusage. The words “at cost” are omitted to reflect Title IV of the National Security Act of 1947, as amended (63 Stat. 585), which authorized the Secretary of Defense to prescribe regulations governing the use and sale of certain inventories at cost, including applicable administrative expenses. (See opinion of the Assistant General Counsel (Fiscal Matters) of the Office of the Secretary of Defense, January 4, 1955.)

**§ 4351. Cadets: deficiencies in conduct or studies; effect of failure on successor**

(a) A cadet who is reported as deficient in conduct or studies and recommended to be discharged from the Academy may not, unless recommended by the Academic Board, be returned or reappointed to the Academy.

(b) Any cadet who fails to pass a required examination because he is deficient in any one subject of instruction is entitled to a reexamination of equal scope and difficulty in that subject, if he applies in writing to the Academic Board within 10 days after he is officially notified of his failure. The reexamination shall be held within 60 days after the date of his application. If the cadet passes the reexamination and is otherwise qualified, he shall be readmitted to the Academy. If he fails, he may not have another examination.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the admission of his successor.

(Aug. 10, 1956, ch. 1041, 70A Stat. 244.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)      | Source (Statutes at Large)  |
|-----------------|-------------------------|---|
| 4351(a) .....   | 10:1104.                | Aug. 11, 1916, ch. 314 (3d, 4th, and 5th provisos under “Permanent Establishment”), 39 Stat. 493. |
| 4351(b) .....   | 10:1103.                | R.S. 1325.  |
| 4351(c) .....   | 10:1092b (1st proviso). | June 30, 1950, ch. 421, §2 (1st proviso), 64 Stat. 304.   |

In subsection (a), 10:1104 (last 20 words) is omitted as superseded by section 3287(d) of this title.

In subsection (b), the words “is entitled to” are substituted for the words “shall have the right to apply”. The words “of equal scope and difficulty in that subject” are substituted for the words “by compliance with the requirements existing at the time of the first examination”.

In subsection (c), the words “by reason of sickness, or deficiency in his studies, or other cause” are omitted as surplusage.

READMISSION TO SERVICE ACADEMIES OF CERTAIN FORMER CADETS AND MIDSHIPMEN

Pub. L. 108-136, div. A, title V, §525, Nov. 24, 2003, 117 Stat. 1465, provided that: