

(Added Pub. L. 110–181, div. A, title XVI, § 1642(a), Jan. 28, 2008, 122 Stat. 465.)

§ 1217. Academy cadets and midshipmen: applicability of chapter

(a) This chapter applies to cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy and midshipmen of the United States Naval Academy, but only with respect to physical disabilities incurred after October 28, 2004.

(b) Monthly cadet pay and monthly midshipman pay under section 203(c) of title 37 shall be considered to be basic pay for purposes of this chapter and the computation of retired pay and severance and separation pay to which entitlement is established under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 100; Pub. L. 85–861, § 33(a)(7), Sept. 2, 1958, 72 Stat. 1564; Pub. L. 108–375, div. A, title V, § 555(b)(1), Oct. 28, 2004, 118 Stat. 1914; Pub. L. 109–364, div. A, title X, § 1071(a)(6), Oct. 17, 2006, 120 Stat. 2398.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1217	[No source].	[No source].

The revised section is inserted to reflect the limited definition of the word “member” in section 102(b) of the Career Compensation Act of 1949 (37 U.S.C. 231(b)).

1958 ACT

Aviation cadets were omitted from chapter 61 because Title IV of the Career Compensation Act of 1949 (formerly 37 U.S.C. 271 et seq.), which was the source law for this chapter, covered only members entitled to basic pay and it was believed that aviation cadets were not so entitled. However, the Comptroller General has ruled that aviation cadets are entitled to basic pay (30 Comp. Gen. 431). Accordingly, aviation cadets were covered by Title IV and should not be excepted from chapter 61.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–364 substituted “October 28, 2004” for “the date of the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005”.

2004—Pub. L. 108–375 amended section catchline and text generally. Prior to amendment, text read as follows: “This chapter does not apply to cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or to midshipmen of the Navy.”

1958—Pub. L. 85–861 struck out provisions which made chapter inapplicable to aviation cadets.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of this title.

§ 1218. Discharge or release from active duty: claims for compensation, pension, or hospitalization

(a) A member of an armed force may not be discharged or released from active duty because of physical disability until he—

(1) has made a claim for compensation, pension, or hospitalization, to be filed with the

Department of Veterans Affairs, or has refused to make such a claim; or

(2) has signed a statement that his right to make such a claim has been explained to him, or has refused to sign such a statement.

(b) A right that a member may assert after failing or refusing to sign a claim, as provided in subsection (a), is not affected by that failure or refusal.

(c) This section does not prevent the immediate transfer of a member to a facility of the Department of Veterans Affairs for necessary hospital care.

(d)(1) The Secretary of a military department shall ensure that each member of a reserve component under the jurisdiction of the Secretary who is determined, after a mobilization and deployment to an area in which imminent danger pay is authorized under section 310 or 351 of title 37, to require evaluation for a physical or mental disability which could result in separation or retirement for disability under this chapter or placement on the temporary disability retired list or inactive status list under this chapter is retained on active duty during the disability evaluation process until such time as such member is—

(A) cleared by appropriate authorities for continuation on active duty; or

(B) separated, retired, or placed on the temporary disability retired list or inactive status list.

(2)(A) A member described in paragraph (1) may request termination of active duty under such paragraph at any time during the demobilization or disability evaluation process of such member.

(B) Upon a request under subparagraph (A), a member described in paragraph (1) shall only be released from active duty after the member receives counseling about the consequences of termination of active duty.

(C) Each release from active duty under subparagraph (B) shall be thoroughly documented.

(3) The requirements in paragraph (1) shall expire on October 28, 2014.

(Added Pub. L. 85–56, title XXII, § 2201(31)(A), June 17, 1957, 71 Stat. 160; amended Pub. L. 87–651, title I, § 107(c), Sept. 7, 1962, 76 Stat. 508; Pub. L. 101–189, div. A, title XVI, § 1621(a)(1), (4), Nov. 29, 1989, 103 Stat. 1602, 1603; Pub. L. 111–84, div. A, title V, § 511, Oct. 28, 2009, 123 Stat. 2280; Pub. L. 113–291, div. A, title X, § 1071(e)(1), Dec. 19, 2014, 128 Stat. 3509; Pub. L. 114–328, div. A, title VI, § 618(c), Dec. 23, 2016, 130 Stat. 2160.)

HISTORICAL AND REVISION NOTES

1962 ACT

Sections 1218 and 1219 are restated, without substantive change, to conform to the style adopted for title 10.

AMENDMENTS

2016—Subsec. (d)(1). Pub. L. 114–328 inserted “or 351” after “section 310” in introductory provisions.

2014—Subsec. (d)(3). Pub. L. 113–291 substituted “on October 28, 2014” for “on the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010”.

2009—Subsec. (d). Pub. L. 111–84 added subsec. (d).