

**§ 12108. Enlisted members: discharge or retirement for years of service or for age**

Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

(1) be transferred to the Retired Reserve if the member is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

(2) be discharged if the member is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

(Added Pub. L. 107–107, div. A, title V, § 517(f)(1), Dec. 28, 2001, 115 Stat. 1095.)

EFFECTIVE DATE

Section effective on the first day of the first month that begins more than 180 days after Dec. 28, 2001, see section 517(g) of Pub. L. 107–107, set out as an Effective Date of 2001 Amendment note under section 10154 of this title.

**CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS**

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AMENDMENTS

2006—Pub. L. 109–364, div. A, title V, § 507(a)(2)(C), Oct. 17, 2006, 120 Stat. 2180, struck out “while so serving” after “reserve grade” in item 12210.

1996—Pub. L. 104–106, div. A, title XV, § 1501(b)(11)(B), (13)(B), Feb. 10, 1996, 110 Stat. 496, substituted “Reserve officers: qualifications” for “Qualifications” in item 12201 and inserted “the” after “National Guard of” in items 12211, 12212, 12213, and 12214.

**§ 12201. Reserve officers: qualifications for appointment**

(a)(1) To become an officer of a reserve component a person must be appointed as a Reserve of

an armed force in a grade corresponding to a grade authorized for the regular component of the armed force concerned and, except as provided in paragraph (2), subscribe to the oath prescribed by section 3331 of title 5. In addition, to become an officer of the Army National Guard of the United States or the Air National Guard of the United States, he must first be appointed to, and be federally recognized in, the same grade in the Army National Guard or the Air National Guard, as the case may be.

(2) If an officer is transferred from the active-duty list of an armed force to a reserve active-status list of an armed force in accordance with regulations prescribed by the Secretary of Defense, the officer is not required to subscribe to the oath referred to in paragraph (1) in order to qualify for an appointment under that paragraph.

(b) Except as otherwise provided by law, the Secretary concerned shall prescribe physical, mental, moral, professional, and age qualifications for the appointment of persons as Reserves of the armed forces under his jurisdiction. However, no person may be appointed as a Reserve unless he is at least 18 years of age and—

(1) he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(2) he has previously served in the armed forces or in the National Security Training Corps.

(c) A person who is otherwise qualified, but who has a physical defect that the Secretary concerned determines will not interfere with the performance of the duties to which that person may be assigned, may be appointed as a Reserve of any armed force under the jurisdiction of that Secretary.

(d) In prescribing age qualifications under subsection (b) for the appointment of persons as Reserves of the armed forces under his jurisdiction, the Secretary concerned may not prescribe a maximum age qualification of less than 47 years of age for the initial appointment of a person as a Reserve to serve in a health profession specialty which has been designated by the Secretary concerned as a specialty critically needed in wartime.

(Aug. 10, 1956, ch. 1041, 70A Stat. 24, § 591; Pub. L. 85–861, § 1(10)(A), Sept. 2, 1958, 72 Stat. 1440; Pub. L. 88–236, Dec. 23, 1963, 77 Stat. 474; Pub. L. 89–718, § 4, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90–130, § 1(3), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96–513, title V § 511(16), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 100–180, div. A, title VII, § 718(a), Dec. 4, 1987, 101 Stat. 1115; renumbered § 12201 and amended Pub. L. 103–337, div. A, title XVI, § 1631(b), 1662(c)(2), Oct. 5, 1994, 108 Stat. 2964, 2990; Pub. L. 104–106, div. A, title XV, § 1501(a)(5)(B), (b)(11)(A), Feb. 10, 1996, 110 Stat. 495, 496; Pub. L. 108–375, div. A, title V, § 501(c)(3), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 111–383, div. A, title V, § 515, Jan. 7, 2011, 124 Stat. 4213.)

HISTORICAL AND REVISION NOTES  
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
591(a) .....	50:946.	July 9, 1952, ch. 608, §§217
591(b) .....	50:941(a) (less applicability to enlistments).	(less (c), and less applicability to enlistments), 222, 232 (less applicability to enlistments), 66 Stat. 486, 487, 489.
591(c) .....	50:941(b) (less applicability to enlistments).	
591(d) .....	50:956 (less applicability to enlistments).	

In subsection (a), 50:946(a) (last 12 words of proviso) is omitted as covered by section 312 of title 32, 50:946(b) is omitted as covered by the revised subsection.

In subsection (b), the word "However" is substituted for the words "Subject to the limitation that". The exception as to section 4(i)(7) of the Universal Military Training and Service Act is inserted for clarity. The words "as Reserves of the armed forces under his jurisdiction" are substituted for the words "of Reserve members of the Armed Forces of the United States". The words "unless he is at least 18 years of age" are substituted for 50:941(a) (last sentence). The words "its Territories" are omitted as surplusage, since citizens of the Territories are citizens of the United States.

In subsection (c), the words "armed force concerned" are substituted for the words "of the appropriate Armed Force of the United States". The words "in the grades corresponding to the grades authorized for female officers of the" are substituted for the words "in the same grades \* \* \* as are authorized for women in the", to conform to subsection (a). The words "in which she previously served satisfactorily" are substituted for the words "satisfactorily held by her".

In subsection (d), the words "under the jurisdiction of that Secretary" are inserted for clarity. The words "general or special" are omitted as surplusage.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
591(c) .....	50:941(b).	July 30, 1956, ch. 789, §4(a), 70 Stat. 729.

The words "Subject to section 946(a) of this title" are omitted, since that section is restated in subsection (a) of the revised section and is applicable to all reserve appointments. 50:941(b) (last 2 sentences) is omitted as covered by sections 510 and 591 of this title.

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

AMENDMENTS

2011—Subsec. (a)(2). Pub. L. 111-383 substituted "If an officer is transferred from the active-duty list of an armed force to a reserve active-status list of an armed force in accordance with regulations prescribed by the Secretary of Defense, the officer" for "An officer transferred from the active-duty list of an armed force to a reserve active-status list of an armed force under section 647 of this title".

2004—Subsec. (a). Pub. L. 108-375 designated existing provisions as par. (1), inserted ", except as provided in paragraph (2)," after "the armed force concerned and", and added par. (2).

1996—Pub. L. 104-106, §1501(b)(11), substituted "Reserve officers: qualifications for appointment" for "Reserve components: qualifications" as section catchline.

Subsecs. (c) to (e). Pub. L. 104-106, §1501(a)(5)(B), made technical correction to directory language of Pub. L. 103-337, §1631(b). See 1994 Amendment note below.

1994—Pub. L. 103-337, §1662(c)(2), renumbered section 591 of this title as this section.

Subsecs. (c) to (e). Pub. L. 103-337, §1631(b), as amended by Pub. L. 104-106, §1501(a)(5)(B), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which read as follows: "Women may be appointed as Reserves of the armed forces for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, and Coast Guard Reserve. Women who are otherwise qualified may be appointed as Reserves of the armed forces with a view to serving in the Army National Guard of the United States or the Air National Guard of the United States. Women are appointed in grades corresponding to the grades authorized for female officers of the regular component of the armed force concerned. Any female former officer of an armed force may, if otherwise qualified, be appointed as a Reserve of that armed force in the highest grade in which she previously served satisfactorily on active duty (other than for training)."

1987—Subsec. (e). Pub. L. 100-180 added subsec. (e).

1980—Subsec. (b). Pub. L. 96-513 substituted "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)" for "chapter 12 of title 8", and struck out reference to section 454(i)(7) of title 50, appendix.

1967—Subsec. (c). Pub. L. 90-130 struck out provision limiting areas of service of women in Army National Guard of the United States and Air National Guard of the United States to service as nurses or medical specialists.

1966—Subsec. (a). Pub. L. 89-718 substituted "3331" for "16".

1963—Subsec. (b) (1). Pub. L. 88-236 substituted "he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under chapter 12 of title 8" for "he is, or has made a declaration of intention to become, a citizen of the United States or of a possession thereof".

1958—Subsec. (c). Pub. L. 85-861 permitted appointment of women as Reserves of armed forces with a view to serving as nurses or medical specialists in Army National Guard of the United States or Air National Guard of the United States.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108-375, set out as a note under section 531 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1631(b) of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

BACCALAUREATE DEGREE REQUIRED FOR APPOINTMENT OR PROMOTION OF RESERVE COMPONENT OFFICERS TO GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE)

Pub. L. 102-190, div. A, title V, §523, Dec. 5, 1991, 105 Stat. 1363, provided that after Sept. 30, 1995, no person could be appointed to a grade above grade of first lieutenant in Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above grade of lieutenant (junior grade) in Naval Reserve, or be federally recognized in a grade above grade of first lieutenant as a member of Army National Guard or Air National

Guard, unless that person had been awarded a baccalaureate degree by an accredited educational institution, prior to repeal by Pub. L. 103-35, title II, §203(a), May 31, 1993, 107 Stat. 102. See section 12205 of this title.

PRIORITY IN MAKING ORIGINAL APPOINTMENTS IN GUARD AND RESERVE COMPONENTS FOR ROTC SCHOLARSHIP PROGRAM GRADUATES

Pub. L. 102-190, div. A, title V, §524, Dec. 5, 1991, 105 Stat. 1363, as amended by Pub. L. 109-163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, provided that: "In making appointments of persons as second lieutenants in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to the grade of ensign in the Navy Reserve, or in granting federal recognition in the grade of second lieutenant to members of the Army National Guard or Air National Guard, the Secretary of the military department concerned shall give preference to persons who have completed a post-secondary program of education pursued under a ROTC scholarship program at a college or university accredited to award baccalaureate degrees or pursued under a ROTC scholarship program at an accredited two-year or four-year military college."

REPORT ON INITIAL APPOINTMENT OF ALL OFFICERS AS RESERVE OFFICERS AND ON APPROPRIATE ACTIVE DUTY OBLIGATION OF GRADUATES OF SERVICE ACADEMIES

Pub. L. 101-510, div. A, title V, §524, Nov. 5, 1990, 104 Stat. 1562, directed Secretary of Defense to submit to Congress a report on advantages, disadvantages, and desirability of initially appointing all persons commissioned as officers in the Army, Navy, Air Force, or Marine Corps as Reserve officers, and the appropriate active duty service obligation for graduates of the service academies, directed Secretary to submit report not later than 60 days after Nov. 5, 1990, and provided that if the report was not submitted by that date, all persons initially appointed as commissioned officers in the Army, Navy, Air Force, and Marine Corps after that date would be appointed as commissioned officers in a Reserve component of the Armed Forces, and all persons entering the service academies after that date would incur an obligation to serve on active duty for a period of five years.

DEADLINE FOR REGULATIONS IMPLEMENTING SUBSECTION (e) OF THIS SECTION

Pub. L. 100-180, div. A, title VII, §718(b), Dec. 4, 1987, 101 Stat. 1115, provided that: "The Secretary concerned shall prescribe regulations implementing subsection (e) of section 591 [now 12201(d)] of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987]."

§ 12202. Commissioned officer grades

Except for commissioned warrant officers, the reserve commissioned officer grades in each armed force are those authorized for regular commissioned officers of that armed force.

(Added Pub. L. 85-861, §1(10)(B), Sept. 2, 1958, 72 Stat. 1440, §592; renumbered §12202, Pub. L. 103-337, div. A, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2990.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
592 .....	50:1181(1) (as applicable to 50:1201). 50:1201.	Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §211), 211, 68 Stat. 1149, 1153.

The words "including those heretofore or hereafter transferred to the Retired Reserve", "permanent", and

"pursuant to the Officer Personnel Act of 1947, as amended" are omitted as surplusage. The rule as to the Coast Guard is consolidated with the rule applicable to the other armed forces, since 14:754 prescribes the same substantive result as that prescribed by 50:1201 for the other armed forces.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 592 of this title as this section.

§ 12203. Commissioned officers: appointment, how made; term

(a) Appointments of reserve officers in commissioned grades of lieutenant colonel and commander or below, except commissioned warrant officer, shall be made by the President alone. Appointments of reserve officers in commissioned grades above lieutenant colonel and commander shall be made by the President, by and with the advice and consent of the Senate, except as provided in section 624, 12213, or 12214 of this title.

(b) Subject to the authority, direction, and control of the President, the Secretary concerned may appoint as a reserve commissioned officer any regular officer transferred from the active-duty list of an armed force to the reserve active-status list of a reserve component under section 647 of this title, notwithstanding the requirements of subsection (a).

(c) Appointments of Reserves in commissioned grades are for an indefinite term and are held during the pleasure of the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 25, §593; Pub. L. 85-861, §1(10)(C), Sept. 2, 1958, 72 Stat. 1440; Pub. L. 92-129, title VI, §601, Sept. 28, 1971, 85 Stat. 361; Pub. L. 96-513, title V, §501(7), Dec. 12, 1980, 94 Stat. 2907; renumbered §12203 and amended Pub. L. 103-337, div. A, title XVI, §§1632, 1662(c)(2), 1675(b)(1), Oct. 5, 1994, 108 Stat. 2965, 2990, 3017; Pub. L. 104-106, div. A, title XV, §1501(a)(6), Feb. 10, 1996, 110 Stat. 495; Pub. L. 108-375, div. A, title V, §501(c)(4), Oct. 28, 2004, 118 Stat. 1874; Pub. L. 111-383, div. A, title X, §1075(b)(54), Jan. 7, 2011, 124 Stat. 4372.)

HISTORICAL AND REVISION NOTES  
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
593(a) .....	50:942. 50:943.	July 9, 1952, ch. 608, §§218, 219, 221, 224 (less 3d and 4th sentences, as applicable to commissioned officers), 66 Stat. 487.
593(b) .....	50:945. 50:948 (less 3d and 4th sentences, as applicable to commissioned officers).	

In subsection (a), the word "alone" is inserted for clarity. The exception as to commissioned warrant officers is inserted to reflect section 597 of this title, since reserve chief warrant officers of the Navy, Marine Corps, and Coast Guard are appointed by commission by the Secretary concerned.

In subsection (b), 50:948 (2d and last sentences) is omitted as executed.

1958 ACT

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

The exception is inserted to reflect section 3352(b) of title 10, United States Code.