

§ 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.)