

leased from active duty because of a failure to meet—

- (1) physical standards for retention due to a preexisting condition not aggravated during the period of active duty; or
- (2) medical or dental standards for deployment due to a preexisting condition not aggravated during the period of active duty.

(c) SAVINGS PROVISION FOR MEDICAL CARE PROVIDED WHILE ON ACTIVE DUTY.—Notwithstanding subsection (a), any benefit under chapter 55 of this title received by a member described in subsection (a) or a dependent of such member before or during the period of active duty shall not be subject to recoupment or otherwise affected.

(Added Pub. L. 108-375, div. A, title V, §521(a), Oct. 28, 2004, 118 Stat. 1887.)

**§ 1207. Disability from intentional misconduct or willful neglect: separation**

Each member of the armed forces who incurs a physical disability that, in the determination of the Secretary concerned, makes him unfit to perform the duties of his office, grade, rank, or rating, and that resulted from his intentional misconduct or willful neglect or was incurred during a period of unauthorized absence, shall be separated from his armed force without entitlement to any benefits under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 94.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1207 .....	37:278.	Oct. 12, 1949, ch. 681, §408, 63 Stat. 823.

The words “Each member \* \* \* who” are substituted for the words “When a member \* \* \* such member”. The words “is determined to have” are omitted as surplusage.

**§ 1207a. Members with over eight years of active service: eligibility for disability retirement for pre-existing conditions**

(a) In the case of a member described in subsection (b) who would be covered by section 1201, 1202, or 1203 of this title but for the fact that the member’s disability is determined to have been incurred before the member became entitled to basic pay in the member’s current period of active duty, the disability shall be deemed to have been incurred while the member was entitled to basic pay and shall be so considered for purposes of determining whether the disability was incurred in the line of duty.

(b) A member described in subsection (a) is a member with at least eight years of active service.

(Added Pub. L. 106-65, div. A, title VI, §653(a)(1), Oct. 5, 1999, 113 Stat. 666.)

**§ 1208. Computation of service**

(a) For the purposes of this chapter, a member of a regular component shall be credited with the service described in paragraph (1) or that described in paragraph (2), whichever is greater:

- (1) The service that he is considered to have for the purpose of separation, discharge, or retirement for length of service.

(2) The sum of—

- (A) his active service as a member of the armed forces, a nurse, a reserve nurse, a contract surgeon, a contract dental surgeon, or an acting dental surgeon;
- (B) his active service as a member of the National Oceanic and Atmospheric Administration or the Public Health Service; and
- (C) his service while participating in exercises or performing duties under sections 502, 503, 504, and 505 of title 32.

For the purpose of paragraph (2), active service as a member of the National Oceanic and Atmospheric Administration includes active service as a member of the Environmental Science Services Administration and of the Coast and Geodetic Survey.

(b) A member of the armed forces who is not a member of a regular component shall be credited, for the purposes of this chapter, with the number of years of service that he would count if he were computing his years of service under section 12733 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 94; Pub. L. 89-718, §8, Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96-513, title V, §§501(16), 511(42), Dec. 12, 1980, 94 Stat. 2908, 2923; Pub. L. 99-661, div. A, title XIII, §1343(a)(6), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 100-26, §7(j)(3), Apr. 21, 1987, 101 Stat. 283; Pub. L. 104-106, div. A, title XV, §1501(c)(13), Feb. 10, 1996, 110 Stat. 499.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1208(a) .....	37:282 (less clauses (2) and (3), less applicability to persons referred to in 37:281, and less applicability to service as a cadet before August 24, 1912, as a midshipman before March 4, 1913, as an Army field clerk, or as a field clerk, Army Quartermaster Corps).	Oct. 12, 1949, ch. 681, §412 (less clause (3), less applicability to persons referred to in §411, and less applicability to service as a cadet before August 24, 1912, as a midshipman before March 4, 1913, as an Army field clerk, or as a field clerk, Army Quartermaster Corps), 63 Stat. 824.
1208(b) .....	37:282 (clause (2), less applicability to persons referred to in 37:281, and less applicability to service as a cadet before August 24, 1912, as a midshipman before March 4, 1913, as an Army field clerk, or as a field clerk, Army Quartermaster Corps).	

In subsection (a), the words “shall be credited with the service described in clause (1) or that described in clause (2), whichever is greater” are substituted for the words “shall be interpreted to mean”.

In subsection (a)(1), the words “he is considered to have” are substituted for the words “such member, former member, or person has or is deemed to have pursuant to law”.

In subsection (a)(2)(A), the words “his active service” are substituted for the words “while on the active list or on active duty or while participating in full-time training or other full-time duty provided for or authorized in the National Defense Act, as amended, the Naval Reserve Act of 1938, as amended, or in—other provisions of law” because of the definitions of “active service” and “active duty” in sections 101(24) and 101(22) of this title.

In subsection (a)(2)(C), the references to 10:22-23, 24-26, and 30-36 are omitted as repealed by section 401 of the Army Organization Act of 1950, 64 Stat. 271. The