

date of retirement or separation from service with the Department, as applicable.

“(2) COVERED INDIVIDUALS.—An individual described in this paragraph is the following:

“(A) An officer of the Armed Forces in grade O-7 or O-8 at the time of retirement or separation from the Armed Forces.

“(B) A civilian employee of the Department of Defense who had a civilian grade equivalent to a military grade specified in subparagraph (A) at the time of the employee’s retirement or separation from service with the Department.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘lobbying activities with respect to the Department of Defense’ means the following:

“(A) Lobbying contacts and other lobbying activities with covered executive branch officials with respect to the Department of Defense.

“(B) Lobbying contacts with covered executive branch officials described in subparagraphs (C) through (F) of section 3(3) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(3)) in the Department of Defense.

“(2) The terms ‘lobbying activities’ and ‘lobbying contacts’ have the meaning given such terms in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).

“(3) The term ‘covered executive branch official’ has the meaning given that term in section 3(3) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(3)).”

§ 971. Service credit: officers may not count service performed while serving as cadet or midshipman

(a) PROHIBITION ON COUNTING ENLISTED SERVICE PERFORMED WHILE AT SERVICE ACADEMY OR IN NAVY RESERVE.—The period of service under an enlistment or period of obligated service while also performing service as a cadet or midshipman or serving as a midshipman in the Navy Reserve may not be counted in computing, for any purpose, the length of service of an officer of an armed force or an officer in the Commissioned Corps of the Public Health Service.

(b) PROHIBITION ON COUNTING SERVICE AS A CADET OR MIDSHIPMAN.—In computing length of service for any purpose, service as a cadet or midshipman may not be credited to any of the following officers:

(1) An officer of the Navy or Marine Corps.

(2) A commissioned officer of the Army or Air Force.

(3) An officer of the Coast Guard.

(4) An officer in the Commissioned Corps of the Public Health Service.

(c) SERVICE AS A CADET OR MIDSHIPMAN DEFINED.—In this section, the term “service as a cadet or midshipman” means—

(1) service as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or

(2) service as a midshipman at the United States Naval Academy.

(Added Pub. L. 85-861, §1(20), Sept. 2, 1958, 72 Stat. 1442; amended Pub. L. 90-235, §6(a) (1), Jan. 2, 1968, 81 Stat. 761; Pub. L. 98-557, §17(a), Oct. 30, 1984, 98 Stat. 2867; Pub. L. 101-189, div. A, title VI, §652(a)(1)(A), (2), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 104-201, div. A, title V, §581, Sept. 23, 1996, 110 Stat. 2537; Pub. L. 105-85, div. A, title X, §1073(a)(13), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 109-163, div. A, title V, §515(b)(1)(D), (2), Jan. 6, 2006, 119 Stat. 3233, 3234.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
971	50:1414.	June 25, 1956, ch. 439, §4, 70 Stat. 333.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 substituted “NAVY RESERVE” for “NAVAL RESERVE” in heading and “Navy Reserve” for “Naval Reserve” in text.

1997—Subsec. (b)(4). Pub. L. 105-85 substituted “Commissioned Corps” for “commissioned corps”.

1996—Pub. L. 104-201, §581(c)(3), struck out “enlisted” after “count” in section catchline.

Subsec. (a). Pub. L. 104-201, §581(a), (c)(2), inserted heading, substituted “while also performing service as a cadet or midshipman or serving as a midshipman” for “while also serving as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy or”, and inserted before period at end “or an officer in the Commissioned Corps of the Public Health Service”.

Subsec. (b). Pub. L. 104-201, §581(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In computing length of service for any purpose—

“(1) no officer of the Navy or Marine Corps may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy;

“(2) no commissioned officer of the Army or Air Force may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; and

“(3) no officer of the Coast Guard may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy.”

Subsec. (c). Pub. L. 104-201, §581(c)(1), added subsec. (c).

1989—Subsec. (a). Pub. L. 101-189, §652(a)(1)(A), struck out “, under an appointment accepted after June 25, 1956,” after “Naval Reserve”.

Subsec. (b)(1). Pub. L. 101-189, §652(a)(2)(A), struck out “, if he was appointed as a midshipman or cadet after March 4, 1913” after “United States Coast Guard Academy”.

Subsec. (b)(2). Pub. L. 101-189, §652(a)(2)(B), struck out “, if he was appointed as a midshipman or cadet after August 24, 1912” after “United States Coast Guard Academy”.

1984—Subsec. (b)(3). Pub. L. 98-557 added par. (3).

1968—Pub. L. 90-235 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

APPLICATION OF SUBSECTION (a) TO SERVICE UNDER APPOINTMENT ACCEPTED BEFORE JUNE 26, 1956

Pub. L. 101-189, div. A, title VI, §652(a)(1)(B), Nov. 29, 1989, 103 Stat. 1461, provided that the computing limitation in subsection (a) of this section did not apply to service under an appointment as a cadet or midshipman accepted before June 26, 1956.

§ 972. Members: effect of time lost

(a) **ENLISTED MEMBERS REQUIRED TO MAKE UP TIME LOST.**—An enlisted member of an armed force who—

- (1) deserts;
- (2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;
- (3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or
- (4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period that, when added to the period that he served before his absence from duty, amounts to the term for which he was enlisted or inducted.

(b) **OFFICERS NOT ALLOWED SERVICE CREDIT FOR TIME LOST.**—In the case of an officer of an armed force who after February 10, 1996—

- (1) deserts;
- (2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;
- (3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or
- (4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

the period of such desertion, absence, confinement, or inability to perform duties may not be counted in computing, for any purpose other than basic pay under section 205 of title 37, the officer's length of service.

(c) **WAIVER OF RECOUPMENT OF TIME LOST FOR CONFINEMENT.**—The Secretary concerned shall waive liability for a period of confinement in connection with a trial under subsection (a)(3), or exclusion of a period of confinement in connection with a trial under subsection (b)(3), in a case upon the occurrence of any of the following events:

- (1) For each charge—
 - (A) the charge is dismissed before or during trial in a final disposition of the charge; or
 - (B) the trial results in an acquittal of the charge.
- (2) For each charge resulting in a conviction in such trial—
 - (A) the conviction is set aside in a final disposition of such charge, other than in a grant of clemency; or
 - (B) a judgment of acquittal or a dismissal is entered upon a reversal of the conviction on appeal.

(Added Pub. L. 85-861, §1(20), Sept. 2, 1958, 72 Stat. 1443; amended Pub. L. 104-106, div. A, title

V, § 561(a)–(c)(1), Feb. 10, 1996, 110 Stat. 321, 322; Pub. L. 105-85, div. A, title X, §1073(a)(14), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108-375, div. A, title V, § 572, Oct. 28, 2004, 118 Stat. 1921.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
972	10 App.:629a. 34 App.:183b.	July 24, 1956, ch. 692, §1, 70 Stat. 631.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108-375 added subsec. (c).
1997—Subsec. (b). Pub. L. 105-85 substituted “February 10, 1996” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996” in introductory provisions.

1996—Pub. L. 104-106, § 561(c)(1), substituted “Members: effect of time lost” for “Enlisted members: required to make up time lost” as section catchline.

Pub. L. 104-106, § 561(a), designated existing provisions as subsec. (a), inserted heading, added par. (3), redesignated par. (5) as (4), struck out former pars. (3) and (4), and added subsec. (b). Prior to amendment, subsec. (a)(3) and (4) read as follows:

“(3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has become final;

“(4) is confined for more than one day under a sentence that has become final; or”.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title V, § 561(e), Feb. 10, 1996, 110 Stat. 323, provided that: “The amendments made by this section [enacting section 6328 of this title and amending this section and sections 1405, 3925, 3926, 8925, and 8926 of this title] shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to any period of time covered by section 972 of title 10, United States Code, that occurs after that date.”

§ 973. Duties: officers on active duty; performance of civil functions restricted

(a) No officer of an armed force on active duty may accept employment if that employment requires him to be separated from his organization, branch, or unit, or interferes with the performance of his military duties.

(b)(1) This subsection applies—

(A) to a regular officer of an armed force on the active-duty list (and a regular officer of the Coast Guard on the active duty promotion list);

(B) to a retired regular officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days; and

(C) to a reserve officer of an armed force serving on active duty under a call or order to active duty for a period in excess of 270 days.

(2)(A) Except as otherwise authorized by law, an officer to whom this subsection applies may not hold, or exercise the functions of, a civil office in the Government of the United States—

(i) that is an elective office;

(ii) that requires an appointment by the President by and with the advice and consent of the Senate; or

(iii) that is a position in the Executive Schedule under sections 5312 through 5317 of title 5.

(B) An officer to whom this subsection applies may hold or exercise the functions of a civil of-