

move ambiguity, and for uniformity of treatment of provisions of this type. The reference to time of examination is omitted as being included within the Secretary's authority to prescribe regulations, which is stated in the subsection. The words "Academic Board" are substituted for the words "board of examiners".

In subsection (b) the words "domiciled in" are substituted for the words "actual resident of" since this term has been so interpreted.

#### AMENDMENTS

2018—Pub. L. 115-232, §807(c)(1), renumbered section 6958 of this title as this section.

Subsec. (b). Pub. L. 115-232, §809(a), substituted "clauses (3) through (9) of section 8454(a)" for "clauses (3) through (9) of section 6954(a)".

Subsec. (c). Pub. L. 115-232, §809(a), substituted "clause (2) or (3) of section 8454(b)" for "clause (2) or (3) of section 6954(b)" in introductory provisions.

1997—Subsec. (d). Pub. L. 105-85 added subsec. (d).

1996—Subsec. (a)(1). Pub. L. 104-201 substituted "twenty-third birthday" for "twenty-second birthday".

1991—Subsec. (c)(2) to (4). Pub. L. 102-190 redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which required candidates to have served at least one year as enlisted members on date of entrance.

1990—Subsec. (b). Pub. L. 101-510 substituted "clauses (3) through (9)" for "clauses (3)-(7), (9) and (10)".

1973—Subsec. (b). Pub. L. 93-171 substituted ", (9) and (10) of section 6954(a)" for "and (9) of section 6954(a)" and struck out "or Territory".

1962—Subsec. (b). Pub. L. 87-663 inserted references to American Samoa, Guam, and the Virgin Islands, and substituted "clauses (3)-(7) and (9)" for "clauses (3)-(7)".

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

#### EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93-171, see section 4 of Pub. L. 93-171, set out as a note under section 7442 of this title.

#### AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO SERVICE ACADEMIES FOR CERTAIN ENLISTED MEMBERS WHO SERVED DURING PERSIAN GULF WAR

For authority to waive maximum age limitation in subsec. (a)(1) of this section on basis of service on active duty in connection with Operation Desert Storm, see section 514 of Pub. L. 102-190, set out as a note under section 7446 of this title.

#### § 8459. Midshipmen: agreement for length of service

(a) Each midshipman shall sign an agreement with respect to the midshipman's length of service in the armed forces. The agreement shall provide that the midshipman agrees to the following:

(1) That the midshipman will complete the course of instruction at the Naval Academy.

(2) That upon graduation from the Naval Academy the midshipman—

(A) will accept an appointment, if tendered, as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the midshipman is permitted to resign as a regular officer before completion of the commissioned service obligation of the midshipman, the midshipman—

(A) will accept an appointment as a commissioned officer in the Navy Reserve or the Marine Corps Reserve or as a Reserve in the Air Force for service in the Air Force Reserve; and

(B) will remain in that reserve component until completion of the commissioned service obligation of the midshipman.

(4) That if an appointment described in paragraph (2) or (3) is tendered and the midshipman participates in a program under section 2121 of this title, the midshipman will fulfill any unserved obligation incurred under this section on active duty, regardless of the type of appointment held, upon completion of, and in addition to, any service obligation incurred under section 2123 of this title for participation in such program.

(5) That the midshipman—

(A) will not seek release from the midshipman's commissioned service obligation or seek or accept approval for off-duty employment while completing the midshipman's commissioned service obligation to obtain employment as a professional athlete following graduation until the midshipman completes a period of at least two consecutive years of commissioned service; and

(B) understands that the appointment alternative described in paragraph (3) will not be used to allow the midshipman to obtain such employment until at least the end of that two-year period.

(b)(1) The Secretary of the Navy may transfer to the Navy Reserve or the Marine Corps Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a midshipman who breaches an agreement under subsection (a). The period of time for which a midshipman is ordered to active duty under this paragraph may be determined without regard to section 651(a) of this title.

(2) A midshipman who is transferred to the Navy Reserve or Marine Corps Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

(3) For the purposes of paragraph (1), a midshipman shall be considered to have breached an agreement under subsection (a) if the midshipman is separated from the Naval Academy under circumstances which the Secretary determines constitute a breach by the midshipman of the midshipman's agreement to complete the course of instruction at the Naval Academy and accept an appointment as a commissioned officer upon graduation from the Naval Academy.

(c) The Secretary of the Navy shall prescribe regulations to carry out this section. Those regulations shall include—

(1) standards for determining what constitutes, for the purpose of subsection (b), a breach of an agreement under subsection (a);

(2) procedures for determining whether such a breach has occurred; and

(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (b).

(d) In this section, “commissioned service obligation”, with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer’s appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary of Defense, any later date up to the eighth anniversary of such appointment.

(e)(1) This section does not apply to a midshipman who is not a citizen or national of the United States.

(2) In the case of a midshipman who is a minor and who has parents or a guardian, the midshipman may sign the agreement required by subsection (a) only with the consent of a parent or guardian.

(f) A midshipman or former midshipman who does not fulfill the terms of the agreement as specified under subsection (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432, §6959; Pub. L. 88-276, §5(a), Mar. 3, 1964, 78 Stat. 153; Pub. L. 88-647, title III, §301(19), Oct. 13, 1964, 78 Stat. 1072; Pub. L. 98-525, title V, §§541(b), 542(c), Oct. 19, 1984, 98 Stat. 2529; Pub. L. 99-145, title V, §512(b), Nov. 8, 1985, 99 Stat. 624; Pub. L. 101-189, div. A, title V, §511(c), Nov. 29, 1989, 103 Stat. 1439; Pub. L. 104-106, div. A, title V, §531(b), Feb. 10, 1996, 110 Stat. 314; Pub. L. 109-163, div. A, title V, §515(b)(1)(S), title VI, §687(c)(10), Jan. 6, 2006, 119 Stat. 3233, 3335; Pub. L. 111-84, div. A, title X, §1073(a)(29), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 111-383, div. A, title V, §554(b), Jan. 7, 2011, 124 Stat. 4221; Pub. L. 115-91, div. A, title V, §543(b), title VI, §618(a)(1)(L), Dec. 12, 2017, 131 Stat. 1395, 1426; renumbered §8459, Pub. L. 115-232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836; Pub. L. 116-92, div. A, title V, §554(b), Dec. 20, 2019, 133 Stat. 1388.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6959 .....	34 U.S.C. 1048.	June 30, 1950, ch. 421, §3, 64 Stat. 304.

The words “Hereafter” and “appointed to the United States Naval Academy” are omitted as surplusage. The words “an agreement that \* \* \* he will” are substituted for the words “articles \* \* \* by which he shall engage”. The word “separated” is substituted for the words “discharged by competent authority”. The words “if tendered an appointment”, “upon graduation from the United States Naval Academy”, and “consecutive” are omitted as surplusage. The words “if he is permitted to resign” are substituted for the words “in the event of the acceptance of his resignation”, since a resignation is effective only if accepted. The first 43 words of clause (3) are substituted for 34 U.S.C. 1048 (last 30 words of clause (3)). The last sentence is substituted for the words “with the consent of his parents or guardian if he be a minor, and if any he have.”

AMENDMENTS

2019—Subsec. (a)(5)(A). Pub. L. 116-92 inserted “or seek or accept approval for off-duty employment while

completing the midshipman’s commissioned service obligation” before “to obtain employment”.

2018—Pub. L. 115-232 renumbered section 6959 of this title as this section.

2017—Subsec. (a)(5). Pub. L. 115-91, §543(b), added par. (5).

Subsec. (f). Pub. L. 115-91, §618(a)(1)(L), inserted “or 373” before “of title 37”.

2011—Subsec. (a)(4). Pub. L. 111-383 added par. (4).

2009—Subsec. (f). Pub. L. 111-84 substituted “subsection (a)” for “section (a)”.

2006—Subsecs. (a)(3)(A), (b)(1), (2). Pub. L. 109-163, §515(b)(1)(S), substituted “Navy Reserve” for “Naval Reserve”.

Subsec. (f). Pub. L. 109-163, §687(c)(10), added subsec. (f).

1996—Subsec. (a)(2)(B). Pub. L. 104-106 substituted “five years” for “six years”.

1989—Subsec. (a)(2)(B). Pub. L. 101-189 substituted “six years” for “five years”.

1985—Pub. L. 99-145 amended section generally. Prior to amendment, section read as follows:

“(a) Each midshipman who is a citizen or national of the United States shall sign an agreement that he will—

“(1) unless sooner separated from the Naval Academy, complete the course of instruction at the Naval Academy;

“(2) accept an appointment and, unless sooner separated from the naval service, serve as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force for at least five years immediately after graduation; and

“(3) accept an appointment as a commissioned officer in the reserve component of the Navy or the Marine Corps or as a Reserve in the Air Force for service in the Air Force Reserve and, unless sooner separated from the naval service, remain therein until at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary of his graduation if an appointment in the regular component of that armed force is not tendered to him or if he is permitted to resign as a commissioned officer of that component before that anniversary.

If the midshipman is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

“(b) A midshipman who does not fulfill his agreement under subsection (a) may be transferred by the Secretary of the Navy to the Naval Reserve or the Marine Corps Reserve in an appropriate enlisted grade or rating, and, notwithstanding section 651 of this title, may be ordered to active duty to serve in that grade or rating for such period of time as the Secretary prescribes but not for more than four years.”

1984—Subsec. (a). Pub. L. 98-525, §541(b), struck out “, unless sooner separated,” in introductory text preceding “he will”; inserted in cl. (1) “unless sooner separated from the Naval Academy,”; and inserted “, unless sooner separated from the naval service,” in cls. (2) and (3).

Subsec. (a)(3). Pub. L. 98-525, §542(c), substituted “at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary” for “the sixth anniversary”.

1964—Pub. L. 88-647 designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (a)(2). Pub. L. 88-276 substituted “five” for “three”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2017 AMENDMENT

Revised cadet and midshipman service agreements under this section and sections 7448 and 9448 of this

title applicable to cadets and midshipmen who are attending the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy on Dec. 12, 2017, and to persons who begin attendance at such military service academies on or after that date, see section 543(d) of Pub. L. 115-91, set out as a note under section 7448 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 applicable to persons first admitted to United States Military Academy, United States Naval Academy, and United States Air Force Academy after Dec. 31, 1991, see section 531(e) of Pub. L. 104-106, set out as a note under section 7448 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-189 applicable to persons who are first admitted to one of the military service academies after Dec. 31, 1991, see section 511(e) of Pub. L. 101-189, as amended, set out as a note under section 2114 of this title.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-145 (other than with respect to the authority of the Secretary of the Navy to prescribe regulations) effective on the date on which regulations prescribed by the Secretary take effect and applicable to agreements entered into under this section on or after the effective date of such regulations and also with respect to each such agreement that was entered into before the effective date of such regulations by an individual who is a midshipman on such date, see section 512(e) of Pub. L. 99-145, set out as a note under section 7448 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 541(b) of Pub. L. 98-525 applicable with respect to agreements entered into under this section before, on, or after Oct. 19, 1984, see section 541(d) of Pub. L. 98-525, set out as a note under section 7448 of this title.

#### EFFECTIVE DATE OF 1964 AMENDMENT; OBLIGATED PERIOD OF SERVICE

For effective date of amendment by Pub. L. 88-276, see section 5(c) of Pub. L. 88-276, set out as a note under section 7448 of this title.

#### REGULATIONS IMPLEMENTING 1985 AMENDMENT

Secretary of the Navy to prescribe regulations required by subsec. (c) of this section as added by Pub. L. 99-145 not later than the end of the 90-day period beginning on Nov. 8, 1985, see section 512(d) of Pub. L. 99-145, set out as a note under section 7448 of this title.

#### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of this title.

#### DEPARTMENT OF DEFENSE POLICY ON SERVICE ACADEMY AND ROTC GRADUATES SEEKING TO PARTICIPATE IN PROFESSIONAL SPORTS BEFORE COMPLETION OF THEIR ACTIVE-DUTY SERVICE OBLIGATIONS

Secretary of Defense to prescribe, not later than July 1, 2007, Department of Defense policy on whether to authorize service academy and ROTC graduates to participate in professional sports before the completion of their obligations for service on active duty, see section 533 of Pub. L. 109-364, set out as a note under section 7448 of this title.

#### § 8460. Midshipmen: clothing and equipment; uniform allowance

The Secretary of the Navy may prescribe the amount to be credited to a midshipman, upon

original admission to the Naval Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a midshipman is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in as much of his clothing and equipment of a distinctively military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432, §6960; renumbered §8460, Pub. L. 115-232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6960 .....	34 U.S.C. 1052a.	Aug. 22, 1951, ch. 340, §1, 65 Stat. 196.

The word “new” before “midshipmen” and the word “subsequently” after “deducted” are omitted as surplusage. The words “while owing the United States for pay advanced for the purchase of” are substituted for the words “who is indebted to the United States on account of advances of pay to purchase”.

#### AMENDMENTS

2018—Pub. L. 115-232 renumbered section 6960 of this title as this section.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

#### § 8461. Midshipmen: dismissal for best interests of the service

(a) Whenever the Superintendent of the Naval Academy believes that the continued presence of any midshipman at the Academy is contrary to the best interest of the service, he shall report in writing to the Secretary of the Navy a full statement of the facts upon which his belief is based. If the Secretary determines from the report that the Superintendent's belief is well founded, the Secretary shall serve a copy of the report on the midshipman. Within such time as the Secretary considers reasonable, the midshipman shall show cause in writing why he should not be dismissed from the Academy. The Secretary, after consideration of any cause so shown, and with the written approval of the President, may dismiss the midshipman from the Academy and from the naval service.

(b) The truth of any issue of fact raised under subsection (a), except as to the record of demerits, shall be determined by a court of inquiry convened by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432, §6961; renumbered §8461, Pub. L. 115-232, div. A, title VIII, §807(c)(1), Aug. 13, 2018, 132 Stat. 1836.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6961 .....	34 U.S.C. 1062.	Apr. 9, 1906, ch. 1370, §1, 34 Stat. 104.