

Judge Advocate General of the Army (JAGA 1957/1019, Jan. 7, 1957.)

AMENDMENTS

2013—Subsec. (a). Pub. L. 112-239 designated existing provisions as par. (1) and added par. (2).

1994—Pub. L. 103-337 substituted “National Guard officers:” for “officers: Army National Guard;” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the Army National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit thereof, Federal recognition is automatically extended to him in the grade of first lieutenant, effective as of the date on which he completes three years of service computed under section 3360(a) of title 10.

“(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the Army National Guard to fill a vacancy in a federally recognized unit thereof, Federal recognition is automatically extended to him in the grade in which he is so appointed in the Army National Guard, if he has been recommended for promotion to the grade concerned under section 3366, 3367, 3370, or 3383 of title 10 and has remained in an active status since he was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the Army National Guard.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

SUSPENSION OF THIS SECTION

For authority of the President to suspend this section in time of war or emergency declared by Congress, see section 111 of this title.

§ 312. Appointment oath

Each person who is appointed as an officer of the National Guard shall subscribe to the following oath:

“I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of _____, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of _____ in the National Guard of the State of _____ upon which I am about to enter, so help me God.”

(Aug. 10, 1956, ch. 1041, 70A Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
312	32:112.	June 3, 1916, ch. 134, §73 (1st par.); restated June 15, 1933, ch. 87, §11 (1st par.), 48 Stat. 157; July 9, 1952, ch. 608, §806(c), 66 Stat. 507.

The words “Each person who is appointed as an” are inserted for clarity.

§ 313. Appointments and enlistments: age limitations

(a) To be eligible for original enlistment in the National Guard, a person must be at least 17 years of age and under 45, or under 64 years of age and a former member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps. To be eligible for reenlistment, a person must be under 64 years of age.

(b) To be eligible for appointment as an officer of the National Guard, a person must—

- (1) be a citizen of the United States; and
- (2) be at least 18 years of age and under 64.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 85-861, §2(9), Sept. 2, 1958, 72 Stat. 1544; Pub. L. 90-130, §2(2), Nov. 8, 1967, 81 Stat. 383.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
313(a)	32:4 (less 22 words before proviso).	June 3, 1916, ch. 134, §58; restated Feb. 28, 1925, ch. 371, §1 (1st par.); restated June 15, 1933, ch. 87, §5 (1st par.), 48 Stat. 155; June 19, 1935, ch. 277, §2, 49 Stat. 391; June 28, 1947, ch. 162, §7 (less applicability to §57 of the Act of June 3, 1916, ch. 134), 61 Stat. 192; July 9, 1952, ch. 608, §§803 (8th par.), 806(j), 66 Stat. 505, 508.
313(b)	32:4 (22 words before proviso).	

In subsection (a), 32:4 (1st 19 words) is omitted as covered by section 101(3) and (5) of this title. 32:4 (54th through 62d words) is omitted as surplusage. The words “under 64” are substituted for the words “not more than sixty-four” to conform to an opinion of the Judge Advocate General of the Army (JAGA 1953/9033, 3 Dec. 1953). The word “Regular” is inserted before the words “Navy” and “Marine Corps”. The words “Regular Air Force” are inserted to complete the coverage of the revised section. The word “reenlistment” is substituted for the words “subsequent enlistment”.

1958 ACT

Section of title 32	Source (U.S. Code)	Source (Statutes at Large)
313(b)	32 App.:4 (as applicable to age).	July 30, 1956, ch. 789, §2 (as applicable to age), 70 Stat. 729.

AMENDMENTS

1967—Subsec. (b)(3). Pub. L. 90-130 struck out cl. (3) which inserted requirement that women appointed with a view to serving as a nurse or medical specialist be at least 21 years of age and under 64 years of age in order to be eligible for appointment as an officer of the National Guard.

1958—Subsec. (b). Pub. L. 85-861 inserted qualifications for appointment of women with a view to serving as nurses or medical specialists.

§ 314. Adjutants general

(a) There shall be an adjutant general in each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. He shall perform the duties prescribed by the laws of that jurisdiction.

(b) The President shall appoint the adjutant general of the District of Columbia and prescribe his grade and qualifications.

(c) The President may detail as adjutant general of the District of Columbia any retired com-

missioned officer of the Regular Army or the Regular Air Force recommended for that detail by the commanding general of the District of Columbia National Guard. An officer detailed under this subsection is entitled to the basic pay and allowances of his grade.

(d) The adjutant general of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands, and officers of the National Guard, shall make such returns and reports as the Secretary of the Army or the Secretary of the Air Force may prescribe, and shall make those returns and reports to the Secretary concerned or to any officer designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 85-894, Sept. 2, 1958, 72 Stat. 1713; Pub. L. 100-456, div. A, title XII, §1234(b)(1), (5), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101-510, div. A, title XIII, §1322(b), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102-190, div. A, title V, §553, Dec. 5, 1991, 105 Stat. 1371; Pub. L. 109-163, div. A, title X, §1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
314(a)	32:11.	Jan. 21, 1903, ch. 196, §12, 32 Stat. 776.
314(b)	32:12.	June 6, 1900, ch. 811, 31 Stat. 671.
314(c)	10:998.	June 3, 1916, ch. 134, §66, 39 Stat. 199.
314(d)	32:13.	
	32:14.	

In subsection (a), the word “appointed” is omitted, since the position is not filled by appointment in some cases. The Act of January 21, 1903, ch. 196, §12 (last 48 words of 1st sentence) are not contained in 32:11. They are also omitted from the revised section as covered by subsection (d) of this section.

In subsection (b), the word “grade” is substituted for the word “rank”. The words “To be eligible for appointment as * * * a person must be” are substituted for the words “each * * * shall be”. The words “of that jurisdiction” are substituted for the words “of the Territory for which he is appointed”.

In subsection (c), the word “Regular” is inserted as an implication of 10:998 (last 2 words). The words “commanding general” are substituted for the words “brigadier general commanding”, since the commanding general might hold another grade.

The words “basic pay” are substituted for the words “active service pay” to conform to section 201 of the Career Compensation Act of 1949, 63 Stat. 805 (37 U.S.C. 232). The word “grade” is substituted for the word “rank”.

In subsection (d), the words “at such times and in such form” are omitted as covered by the words “such returns and reports as the Secretary * * * may prescribe”.

AMENDMENTS

2006—Subsecs. (a), (d). Pub. L. 109-163 substituted “State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands” for “State and Territory, Puerto Rico, and the District of Columbia”.

1991—Subsec. (b). Pub. L. 102-190 struck out “each Territory and” before “the District of Columbia” in first sentence, and struck out at end “To be eligible for appointment as adjutant general of a Territory, a person must be a citizen of that jurisdiction.”

1990—Subsec. (d). Pub. L. 101-510 struck out at end “Each Secretary shall send with his annual report to Congress an abstract of the returns and reports of the adjutants general and such comments as he considers necessary for the information of Congress.”

1988—Subsec. (a). Pub. L. 100-456, §1234(b)(1), struck out “the Canal Zone,” after “Puerto Rico,”.

Subsec. (b). Pub. L. 100-456, §1234(b)(5), struck out “, the Canal Zone,” after “each Territory” and “or the Canal Zone” after “a Territory”.

Subsec. (d). Pub. L. 100-456, §1234(b)(1), struck out “the Canal Zone,” after “Puerto Rico,”.

1958—Subsec. (b). Pub. L. 85-894 struck out “Puerto Rico” in two places.

§ 315. Detail of regular members of Army and Air Force to duty with National Guard

(a) The Secretary of the Army shall detail commissioned officers of the Regular Army to duty with the Army National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. The Secretary of the Air Force shall detail commissioned officers of the Regular Air Force to duty with the Air National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. With the permission of the President, an officer so detailed may accept a commission in the Army National Guard or the Air National Guard, as the case may be, terminable in the President’s discretion, without prejudicing his rank and without vacating his regular appointment.

(b) The Secretary of the Army may detail enlisted members of the Regular Army for duty with the Army National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. The Secretary of the Air Force may detail enlisted members of the Regular Air Force for duty with the Air National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109-163, div. A, title X, §1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
315(a)	32:68 (less 2d sentence). 32:69.	June 3, 1916, ch. 134, §100, 39 Stat. 208.
315(b)	32:68 (2d sentence).	

In subsection (a), 32:68 (last sentence) is omitted as surplusage, since positive provisions relating to the assignment or detail of retired officers to that duty are covered by section 3504(a) or 8504(a) of title 10. The words “of the active list”, in 32:68, are omitted for the same reason. The words “so detailed” are substituted for the words “detailed under section 68 of this title”, in 32:69. The words “relative or lineal”, in 32:69, are omitted as surplusage.

AMENDMENTS

2006—Pub. L. 109-163 substituted “State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands” for “State and Territory, Puerto Rico, and the District of Columbia” wherever appearing.

1988—Subsecs. (a), (b). Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico,”.

DELEGATION OF FUNCTIONS AND AUTHORITY UNDER SECTIONS 315 AND 325 OF TITLE 32, UNITED STATES CODE

Memorandum of President of the United States, Apr. 14, 2011, 76 F.R. 22003, provided: