

§ 12643. Boards for appointment, promotion, and certain other purposes: composition

(a) Except as provided in section 612(a)(3) of this title and except for boards that may be convened to select Reserves for appointment in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include at least one member of the Reserves, with the exact number of Reserves determined by the Secretary concerned in his discretion.

(b) Each member of a board convened for the selection for promotion, or for the demotion or discharge, of Reserves must be senior in rank to the persons under consideration by that board. However, a member serving in a legal advisory capacity may be junior in rank to any person, other than a judge advocate or law specialist, being considered by that board; and a member serving in a medical advisory capacity may be junior in rank to any person, other than a medical officer, being considered by that board.

(Aug. 10, 1956, ch. 1041, 70A Stat. 11, §266; Pub. L. 96-513, title V, §501(4), Dec. 12, 1980, 94 Stat. 2907; Pub. L. 97-22, §2(c), July 10, 1981, 95 Stat. 124; renumbered §12643, Pub. L. 103-337, div. A, title XVI, §1662(h)(2), Oct. 5, 1994, 108 Stat. 2996.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Rows include 266(a) and 266(b) with their respective code and statute references.

In subsection (a), the words "under \* \* \* prescribed" are substituted for the words "in accordance \* \* \* established".

In subsection (b), the words "in rank" and "by that board" are inserted for clarity.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 266 of this title as this section.

1981—Subsec. (a). Pub. L. 97-22 substituted "Except as provided in section 612(a)(3) of this title and except for Boards that may be convened to select Reserves for appointment in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include at least one member of the Reserves, with the exact number of Reserves determined by the Secretary concerned in his discretion" for "Except as provided in section 612(a)(3) of this title, each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include an appropriate number of Reserves, as prescribed by the Secretary concerned under standards and policies prescribed by the Secretary of Defense".

1980—Subsec. (a). Pub. L. 96-513 substituted "Except as provided in section 612(a)(3) of this title, each" for "Each".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 12644. Members physically not qualified for active duty: discharge or transfer to retired status

Except as otherwise provided by law, the Secretary concerned may provide for the honorable discharge or the transfer to a retired status of members of the reserve components under his jurisdiction who are found to be not physically qualified for active duty. However, no member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred under this subsection without the consent of the governor or other appropriate authority of the jurisdiction concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 79, §1004; Pub. L. 86-603, §1(1), July 7, 1960, 74 Stat. 357; Pub. L. 103-160, div. A, title V, §519, Nov. 30, 1993, 107 Stat. 1651; renumbered §12644 and amended Pub. L. 103-337, div. A, title XVI, §§1661(a)(4), 1662(h)(2), (4)(B), Oct. 5, 1994, 108 Stat. 2980, 2996, 2997.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Rows include 1004(a), 1004(b), and 1004(c) with their respective code and statute references.

In subsection (a), the words "Each \* \* \* who is not on active duty" are substituted for the words "when not on active duty all". The words "examined as to his physical fitness" are substituted for the words "given physical examinations". The words "be required to" are omitted as surplusage. The words "execute and" are inserted for clarity.

In subsection (c), the words "under his jurisdiction" are inserted for clarity.

AMENDMENTS

1994—Pub. L. 103-337, §1662(h)(2), (4)(B), renumbered section 1004 of this title as this section and substituted "Members physically not qualified for active duty: discharge or transfer to retired status" for "Physical examination" as section catchline.

Pub. L. 103-337, §1661(a)(4), struck out "(c)" before "Except as otherwise provided" and struck out subsecs. (a) and (b) which read as follows:

"(a) Each member of the Ready Reserve who is not on active duty shall—

"(1) be examined as to his physical fitness every five years, or more often as the Secretary concerned considers necessary; and

"(2) execute and submit annually a certificate of physical condition.

Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually a certificate of physical condition.

"(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty."

1993—Subsec. (a)(1). Pub. L. 103-160 substituted "five years" for "four years".

1960—Subsec. (a). Pub. L. 86-603 limited the requirement for a physical examination every four years, and for the annual execution of a certificate of physical condition, to the Ready Reserve, and also required each Reserve in an active status, or on an inactive status list, who is not on active duty to execute and submit annually a certificate of physical condition.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L.