

positions identified pursuant to subsection (b) on the basis of skills, knowledge, and behavior required of an officer to perform successfully in such position or positions.

(d) APPROVAL OF SECRETARY OF MILITARY DEPARTMENT.—Continuation of an officer on active duty under this section pursuant to the action of a selection board is subject to the approval of the Secretary of the military department concerned.

(e) NONACCEPTANCE OF CONTINUATION.—An officer who is selected for continuation on active duty pursuant to this section, but who declines to continue on active duty, shall be discharged or retired, as appropriate, in accordance with section 632 of this title.

(f) PERIOD OF CONTINUATION.—

(1) IN GENERAL.—An officer continued on active duty pursuant to this section shall remain on active duty, and serve in the position to which assigned (or in another position to which assigned with the approval of the Secretary of the military department concerned), for a total of not more than three years after the date of assignment to the position to which first so assigned.

(2) ADDITIONAL CONTINUATION.—An officer whose continued service pursuant to this section would otherwise expire pursuant to paragraph (1) may be continued on active duty if selected for continuation on active duty in accordance with this section before the date of expiration pursuant to that paragraph.

(g) EFFECT OF EXPIRATION OF CONTINUATION.—Each officer continued on active duty pursuant to this subsection who is not selected for continuation on active duty pursuant to subsection (f)(2) at the completion of the officer's term of continued service shall, unless sooner discharged or retired under another provision of law—

(1) be discharged upon the expiration of the term of continued service; or

(2) if eligible for retirement under another provision of law, be retired under that law on the first day of the first month following the month in which the officer completes the term of continued service.

(h) TREATMENT OF DISCHARGE OR RETIREMENT.—The discharge or retirement of an officer pursuant to this section shall be considered to be an involuntary discharge or retirement for purposes of any other provision of law.

(Added Pub. L. 115-232, div. A, title V, § 507(a)(1), Aug. 13, 2018, 132 Stat. 1747.)

§ 649i. Continuation on active duty: officers in certain military specialties and career tracks

In addition to continuation on active duty provided for in section 649h of this title, an officer to whom section 637a of this title applies may be continued on active duty in accordance with the provisions of such section 637a.

(Added Pub. L. 115-232, div. A, title V, § 507(a)(1), Aug. 13, 2018, 132 Stat. 1748.)

§ 649j. Other administrative authorities

The following provisions of this title shall apply to officers in competitive categories of officers designated for purposes of this subchapter:

(1) Section 638b, relating to voluntary retirement incentives.

(2) Section 639, relating to continuation on active duty to complete disciplinary action.

(3) Section 640, relating to deferment of retirement or separation for medical reasons.

(Added Pub. L. 115-232, div. A, title V, § 507(a)(1), Aug. 13, 2018, 132 Stat. 1748; amended Pub. L. 116-92, div. A, title XVII, § 1731(a)(18), Dec. 20, 2019, 133 Stat. 1813.)

Editorial Notes

AMENDMENTS

2019—Pub. L. 116-92 struck out “(a) IN GENERAL.—” before “The” in introductory provisions.

§ 649k. Regulations

The Secretary of Defense shall prescribe regulations regarding the administration of this subchapter. The elements of such regulations shall include mechanisms to clarify the manner in which provisions of other subchapters of this chapter shall be used in the administration of this subchapter in accordance with the provisions of this subchapter.

(Added Pub. L. 115-232, div. A, title V, § 507(a)(1), Aug. 13, 2018, 132 Stat. 1748.)

CHAPTER 37—GENERAL SERVICE REQUIREMENTS

Sec.

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| 651. | Members: required service. |
| 652. | Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned. |
| 653. | Minimum service requirement for certain flight crew positions. |
| [654. | Repealed.] |
| 655. | Designation of persons having interest in status of a missing member. |
| 656. | Diversity in military leadership: plan; mentoring and career counseling program. |
| 657. | Prohibition on service in the armed forces by individuals convicted of certain sexual offenses. |

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, div. A, title V, § 571(a)(3)(B), Jan. 1, 2021, 134 Stat. 3643, added item 656 and struck out former item 656 “Diversity in military leadership: plan”.

2013—Pub. L. 113-66, div. A, title XVII, § 1711(a)(2), Dec. 26, 2013, 127 Stat. 963, added item 657.

Pub. L. 112-239, div. A, title V, § 519(a)(2), Jan. 2, 2013, 126 Stat. 1721, added item 656.

2010—Pub. L. 111-321, § 2(f)(1)(B), Dec. 22, 2010, 124 Stat. 3516, struck out item 654 “Policy concerning homosexuality in the armed forces”.

2006—Pub. L. 109-163, div. A, title V, § 541(a)(2), Jan. 6, 2006, 119 Stat. 3252, added item 652.

1996—Pub. L. 104-106, div. A, title V, § 569(d)(2), Feb. 10, 1996, 110 Stat. 352, added item 655.

1994—Pub. L. 103-337, div. A, title XVI, § 1671(b)(6), Oct. 5, 1994, 108 Stat. 3013, struck out item 652 “Ready Reserves: requirement of notification of change of status”.

1993—Pub. L. 103-160, div. A, title V, § 571(a)(2), Nov. 30, 1993, 107 Stat. 1673, added item 654.

1989—Pub. L. 101-189, div. A, title VI, § 634(a)(2), Nov. 29, 1989, 103 Stat. 1454, added item 653.

1978—Pub. L. 95-485, title IV, § 405(d)(2), Oct. 20, 1978, 92 Stat. 1616, added item 652.

1958—Pub. L. 85–861, §33(a)(4)(A), Sept. 2, 1958, 72 Stat. 1564, substituted “GENERAL SERVICE REQUIREMENTS” for “SERVICE REQUIREMENTS FOR RESERVES” in chapter heading.

Statutory Notes and Related Subsidiaries

PROHIBITION AGAINST MEMBERS OF THE ARMED FORCES PARTICIPATING IN CRIMINAL STREET GANGS

Pub. L. 110–181, div. A, title V, §544, Jan. 28, 2008, 122 Stat. 116, provided that: “The Secretary of Defense shall prescribe regulations to prohibit the active participation by members of the Armed Forces in a criminal street gang.”

Executive Documents

EX. ORD. NO. 14004. ENABLING ALL QUALIFIED AMERICANS TO SERVE THEIR COUNTRY IN UNIFORM

Ex. Ord. No. 14004, Jan. 25, 2021, 86 F.R. 7471, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* All Americans who are qualified to serve in the Armed Forces of the United States (“Armed Forces”) should be able to serve. The All-Volunteer Force thrives when it is composed of diverse Americans who can meet the rigorous standards for military service, and an inclusive military strengthens our national security.

It is my conviction as Commander in Chief of the Armed Forces that gender identity should not be a bar to military service. Moreover, there is substantial evidence that allowing transgender individuals to serve in the military does not have any meaningful negative impact on the Armed Forces. To that end, in 2016, a meticulous, comprehensive study requested by the Department of Defense found that enabling transgender individuals to serve openly in the United States military would have only a minimal impact on military readiness and healthcare costs. The study also concluded that open transgender service has had no significant impact on operational effectiveness or unit cohesion in foreign militaries.

On the basis of this information, the Secretary of Defense concluded in 2016 that permitting transgender individuals to serve openly in the military was consistent with military readiness and with strength through diversity, such that transgender service members who could meet the required standards and procedures should be permitted to serve openly. The Secretary of Defense also concluded that it was appropriate to create a process that would enable service members to take steps to transition gender while serving.

The previous administration chose to alter that policy to bar transgender persons, in almost all circumstances, from joining the Armed Forces and from being able to take steps to transition gender while serving. Rather than relying on the comprehensive study by a nonpartisan federally funded research center, the previous administration relied on a review that resulted in a policy that set unnecessary barriers to military service. It is my judgment that the Secretary of Defense’s 2016 conclusions remain valid, as further demonstrated by the fact that, in 2018, the then-serving Chief of Staff of the Army, Chief of Naval Operations, Commandant of the Marine Corps, and Chief of Staff of the Air Force all testified publicly to the Congress that they were not aware of any issues of unit cohesion, disciplinary problems, or issues of morale resulting from open transgender service. A group of former United States Surgeons General, who collectively served under Democratic and Republican Presidents, echoed this point, stating in 2018 that “transgender troops are as medically fit as their non-transgender peers and that there is no medically valid reason—including a diagnosis of gender dysphoria—to exclude them from military service or to limit their access to medically necessary care.”

Therefore, it shall be the policy of the United States to ensure that all transgender individuals who wish to serve in the United States military and can meet the appropriate standards shall be able to do so openly and free from discrimination.

SEC. 2. *Revocation.* The Presidential Memorandum of March 23, 2018 (Military Service by Transgender Individuals) [formerly set out below], is hereby revoked, and the Presidential Memorandum of August 25, 2017 (Military Service by Transgender Individuals) [formerly set out below], remains revoked.

SEC. 3. *Agency Roles and Responsibilities.* In furtherance of the policy described in section 1 of this order, I hereby direct the following:

(a) The Secretary of Defense, and Secretary of Homeland Security with respect to the Coast Guard, shall, after consultation with the Joint Chiefs of Staff about how best to implement this policy and consistent with applicable law, take all necessary steps to ensure that all directives, orders, regulations, and policies of their respective departments are consistent with this order. These steps shall include establishing a process by which transgender service members may transition gender while serving, along with any further steps that the Secretary of Defense and Secretary of Homeland Security deem appropriate to advance the policy described in section 1 of this order.

(b) The Secretary of Defense shall:

(i) immediately prohibit involuntary separations, discharges, and denials of reenlistment or continuation of service on the basis of gender identity or under circumstances relating to their gender identity;

(ii) identify and examine the records of service members who have been involuntarily separated, discharged, or denied reenlistment or continuation of service on the basis of gender identity or under circumstances relating to their gender identity;

(iii) issue guidance to the Secretaries of each military department regarding the correction of the military records of individuals described in subsection (b)(ii) of this section as necessary to remove an injustice, pursuant to section 1552(a) of title 10, United States Code, to the extent permitted by law; and

(iv) direct the Secretaries of each military department to provide supplemental guidance, subject to the approval of the Secretary, to the boards for the correction of military records, instructing such boards on how to review applications for the correction of records of individuals described in subsection (b)(ii) of this section. Where appropriate, the department concerned shall offer such individuals an opportunity to rejoin the military should they wish to do so and meet the current entry standards.

(c) The Secretary of Homeland Security with respect to the Coast Guard shall:

(i) immediately prohibit involuntary separations, discharges, and denials of reenlistment or continuation of service, on the basis of gender identity or under circumstances relating to their gender identity;

(ii) identify and examine the records of service members who have been involuntarily separated, discharged, or denied reenlistment or continuation of service, on the basis of gender identity or under circumstances relating to their gender identity;

(iii) issue guidance regarding the correction of the military records of individuals described in subsection (c)(ii) of this section as necessary to remove an injustice, pursuant to section 1552(a) of title 10, United States Code, to the extent permitted by law; and

(iv) provide supplemental guidance to the Board for Correction of Military Records of the Coast Guard, instructing the Board on how to review applications for the correction of records of individuals described in subsection (c)(ii) of this section. Where appropriate, the Secretary of Homeland Security shall offer such individuals an opportunity to rejoin the Coast Guard should they wish to do so and meet the current entry standards.

(d) The Secretary of Defense and the Secretary of Homeland Security shall report to me within 60 days of

the date of this order [Jan. 25, 2021] on their progress in implementing the directives in this order and the policy described in section 1 of this order.

SEC. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

MILITARY SERVICE BY TRANSGENDER INDIVIDUALS

Memorandum of President of the United States, Aug. 25, 2017, 82 F.R. 41319, which related to transgender military personnel, was revoked by Memorandum of President of the United States, §1, Mar. 23, 2018, 83 F.R. 13367, formerly set out below.

Memorandum of President of the United States, Mar. 23, 2018, 83 F.R. 13367, which related to military service by transgender individuals, was revoked by Ex. Ord. No. 14004, §2, Jan. 25, 2021, 86 F.R. 7472, set out above.

§ 651. **Members: required service**

(a) Each person who becomes a member of an armed force, other than a person deferred under the next to the last sentence of section 6(d)(1) of the Military Selective Service Act (50 U.S.C. 3806(d)(1)), shall serve in the armed forces for a total initial period of not less than six years nor more than eight years, as provided in regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when it is not operating as service in the Navy, unless such person is sooner discharged under such regulations because of personal hardship. Any part of such service that is not active duty or that is active duty for training shall be performed in a reserve component.

(b) Each person covered by subsection (a) who is not a Reserve, and who is qualified, shall, upon his release from active duty, be transferred to a reserve component to complete the service required by subsection (a).

(c)(1) For the armed forces under the jurisdiction of the Secretary of Defense, the Secretary may waive the initial period of required service otherwise established pursuant to subsection (a) in the case of the initial appointment of a commissioned officer in a critically short health professional specialty specified by the Secretary for purposes of this subsection.

(2) The minimum period of obligated service for an officer under a waiver under this subsection shall be the greater of—

(A) two years; or

(B) in the case of an officer who has accepted an accession bonus or executed a contract or agreement for the multiyear receipt of special pay for service in the armed forces, the period of obligated service specified in such contract or agreement.

(Aug. 10, 1956, ch. 1041, 70A Stat. 27; Pub. L. 85-861, §§1(12), 36B(3), Sept. 2, 1958, 72 Stat. 1440,

1570; Pub. L. 89-718, §5, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 95-79, title VIII, §803(a), July 30, 1977, 91 Stat. 333; Pub. L. 96-107, title VIII, §805(b), Nov. 9, 1979, 93 Stat. 813; Pub. L. 96-513, title V, §511(18), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 98-94, title X, §1022(b)(1), Sept. 24, 1983, 97 Stat. 670; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110-181, div. A, title V, §505, Jan. 28, 2008, 122 Stat. 96; Pub. L. 114-328, div. A, title X, §1081(b)(1)(A)(iv), Dec. 23, 2016, 130 Stat. 2418; Pub. L. 116-92, div. A, title XVII, §1731(a)(19), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 116-283, div. A, title IX, §924(b)(17), Jan. 1, 2021, 134 Stat. 3823; Pub. L. 117-81, div. A, title X, §1081(a)(11), Dec. 27, 2021, 135 Stat. 1920.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
651(a)	50 App.:454(d)(3) (1st sentence, and less applicability to members of National Security Training Corps).	June 24, 1948, ch. 625, §4(d)(3) (less 4th sentence, and less applicability to members of National Security Training Corps); added June 19, 1951, ch. 144, §1(g) (last par., less 4th sentence, and less applicability to members of National Security Training Corps), 65 Stat. 79; July 9, 1952, ch. 608, §813, 66 Stat. 509.
651(b)	50 App.:454(d)(3) (2d sentence, and less applicability to members of National Security Training Corps).	
651(c)	50 App.:454(d)(3) (3d and last sentences).	

In subsection (a), the word “male” is inserted, since the source statute (Universal Military Training and Service Act (50 U.S.C. App. 451 et seq.)) applies only to male persons. The words “subsequent to the date of enactment of this paragraph [June 19, 1951]” are omitted as executed. The words “becomes a member” are substituted for the words “is inducted, enlisted, or appointed * * * in”. The words “in the armed forces” are substituted for the words “on active training and service in the Armed Forces * * * and in a reserve component”. The last sentence is substituted for the words “or in training in the National Security Training Corps”. The words “under any provision of law” and “including the reserve components thereof” are omitted as surplusage.

In subsection (b), the words “who is not a Reserve” are inserted, since the eight year obligation for Reserves is covered by subsection (a). The words “active duty” are substituted for the words “active training and service”. The last eight words are substituted for the words “and shall serve therein for the remainder of the period which he is required to serve under this paragraph”. The words “physically and mentally” and 50 App.:454(d)(3) (last 15 words of 2d sentence) are omitted as surplusage.

In [former] subsection (c), the words “who is released from active duty” are inserted for clarity. The words “shall become a member” are substituted for the words “it shall be the duty of such person to enlist, enroll, or accept appointment in, or accept assignment to”. The words “there is a vacancy” are substituted for the words “enlistment, enrollment, or appointment in, or assignment to”. 50 App.:454(d)(3) (last sentence) is omitted as surplusage.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
651(a)	50 App.:454(d)(3) (2d sentence).	Aug. 9, 1955, ch. 665, §3(a) (last sentence), 69 Stat. 603.

In subsection (a), the word “male” is inserted, since the source statute applies only to male persons. The