

this section shall be selected from qualified alternates nominated by the persons named in paragraphs (2) through (8) of section 7442(a) of this title, and the remainder from qualified candidates holding competitive nominations under any other provision of law. An appointment under this section is an additional appointment and is not in place of an appointment otherwise authorized by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 242, §4343; Pub. L. 88–276, §1(2), Mar. 3, 1964, 78 Stat. 150; Pub. L. 93–171, §1(5), Nov. 29, 1973, 87 Stat. 690; Pub. L. 102–25, title VII, §701(f)(5), Apr. 6, 1991, 105 Stat. 115; Pub. L. 112–239, div. A, title X, §1076(f)(39), Jan. 2, 2013, 126 Stat. 1954; renumbered §7443 and amended Pub. L. 115–232, div. A, title VIII, §§808(c)(1), 809(a), Aug. 13, 2018, 132 Stat. 1839, 1840.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 4343 | 10:1092d. | June 30, 1950, ch. 421, §4, 64 Stat. 305. |

The words “If it is determined” are substituted for the words “When upon determination”. The words “within his discretion” are omitted as covered by the word “may”. The words “within the capacity of the Academy”, “from the remaining sources of admission authorized by law”, and “to be admitted in such class” are omitted as surplusage. The words “by the persons named in clauses (1)–(6) of section 4342(a), and clause (2) of section 4342(e), of this title” are substituted for the words “by the Vice President, Members of the Senate and House of Representatives of the United States, Delegates and Resident Commissioners, the Commissioners of the District of Columbia, and the Governor of the Canal Zone”. The words “under any other provision of law” are substituted for the words “from sources authorized by law other than those holding such alternate appointments”.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–232, §809(a), substituted “paragraphs (2) through (8) of section 7442(a)” for “paragraphs (2) through (8) of section 4342(a)”.

Pub. L. 115–232, §808(c)(1), renumbered section 4343 of this title as this section.

2013—Pub. L. 112–239 substituted “paragraphs” for “clauses”.

1991—Pub. L. 102–25 substituted “clauses (2) through (8)” for “clauses (2)–(9)”.

1973—Pub. L. 93–171 substituted “clauses (2)–(9) of section 4342(a)” for “clauses (2)–(8) of section 4342(a)”.

1964—Pub. L. 88–276, among other changes, increased the percentage of nominees to be selected from two-thirds to three-fourths, and struck out “as are necessary to meet the needs of the Army and Air Force, but not more than the authorized strength of the Corps of Cadets” after “Academic Board”.

Statutory Notes and Related Subsidiaries

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

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.

NUMBER OF ALTERNATE-APPOINTEES FROM CONGRESSIONAL SOURCES NOT TO BE REDUCED BECAUSE OF ADDITIONAL PRESIDENTIAL APPOINTMENTS

Pub. L. 89–650, §2, Oct. 13, 1966, 80 Stat. 896, as amended by Pub. L. 115–232, div. A, title VIII, §809(b)(7), Aug. 13, 2018, 132 Stat. 1840, provided that: “Notwithstanding any other provision of law, none of the additional appointments authorized in sections 7442(b)(1), 8454(b), and 9442(b)(1) of title 10, United States Code, as provided by this Act shall serve to reduce or diminish the number of qualified alternates from congressional sources who would otherwise be appointed by the appropriate service Secretary under the authority contained in sections 7443, 8456, and 9443 of such title.”

§ 7446. Cadets: requirements for admission

(a) To be eligible for admission to the Academy a candidate must be at least 17 years of age and must not have passed his twenty-third birthday on July 1 of the year in which he enters the Academy.

(b) To be admitted to the Academy, an appointee must show, by an examination held under regulations prescribed by the Secretary of the Army, that he is qualified in the subjects prescribed by the Secretary.

(c) A candidate designated as a principal or an alternate for appointment as a cadet shall appear for physical examination at a time and place designated by the Secretary.

(d) To be admitted to the Academy, an appointee must take and subscribe to the following oath—

“I, _____, do solemnly swear that I will support the Constitution of the United States, and bear true allegiance to the National Government; that I will maintain and defend the sovereignty of the United States, paramount to any and all allegiance, sovereignty, or fealty I may owe to any State or country whatsoever; and that I will at all times obey the legal orders of my superior officers, and the Uniform Code of Military Justice.”

If a candidate for admission refuses to take this oath, his appointment is terminated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 242, §4346; Pub. L. 104–201, div. A, title V, §555(b), Sept. 23, 1996, 110 Stat. 2527; renumbered §7446, Pub. L. 115–232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--|
| 4346(a) | 10:1092b (less provisos). | June 30, 1950, ch. 421, §2 (less provisos), 64 Stat. 304. |
| 4346(b) | 10:1096. | R.S. 1319; restated Mar. 2, 1901, ch. 804 (1st proviso under “Permanent Establishment”), 31 Stat. 911. |
| 4346(c) | 10:1095. | Aug. 9, 1912, ch. 275 (2d proviso under “Permanent Establishment”), 37 Stat. 252. |
| 4346(d) | 10:1099. | R.S. 1320. |

In subsection (a), the words “Effective January 1, 1951” are omitted as executed. The word “Calendar” is

omitted as surplusage. The words “must not have passed his twenty-second birthday” are substituted for the words “not more than twenty-two years of age”, to make it clear that a person whose twenty-second birthday falls on July 1 of the year of admission is eligible (see opinion of the Judge Advocate General of the Army (JAGA 1952/7083, 2 Sept. 1952)).

In subsection (b), the words “To be” are substituted for the words “before they shall be”. The words “must show * * * that he is qualified” are substituted for the words “shall be required to be well versed”. The words “from time to time” are omitted as surplusage.

In subsection (c), the word “shall” is substituted for the word “may”, since the nominee is required to appear for the examination. The word “appear” is substituted for the words “present himself”. The words “at a place” are substituted for the words “at West Point, New York, or other prescribed places”.

In subsection (d), the word “county” is omitted as surplusage. The words “Uniform Code of Military Justice” are substituted for the words “rules and articles governing the armies of the United States”, since the Articles of War have been superseded by the Uniform Code of Military Justice. The words “his appointment is terminated” are substituted for the words “shall be dismissed from the service”, since a cadet who has not taken the oath is not yet a member.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 4346 of this title as this section.

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

Statutory Notes and Related Subsidiaries

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.

TEMPORARY AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO THE MILITARY SERVICE ACADEMIES

Pub. L. 112-81, div. A, title V, §553, Dec. 31, 2011, 125 Stat. 1413, as amended by Pub. L. 114-92, div. A, title X, §1072(b), Nov. 25, 2015, 129 Stat. 995, provided that:

“(a) WAIVER FOR CERTAIN ENLISTED MEMBERS.—The Secretary of the military department concerned may waive the maximum age limitation specified in section 4346(a), 6958(a)(1), or 9346(a) [now 7446(a), 8458(a)(1), or 9446(a)] of title 10, United States Code, for the admission of an enlisted member of the Armed Forces to the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy if the member—

“(1) satisfies the eligibility requirements for admission to that academy (other than the maximum age limitation); and

“(2) was or is prevented from being admitted to a military service academy before the member reached the maximum age specified in such sections as a result of service on active duty in a theater of operations for Operation Iraqi Freedom, Operation Enduring Freedom, or Operation New Dawn.

“(b) MAXIMUM AGE FOR RECEIPT OF WAIVER.—A waiver may not be granted under this section if the candidate would pass the candidate’s twenty-sixth birthday by July 1 of the year in which the candidate would enter the military service academy pursuant to the waiver.

“(c) LIMITATION ON NUMBER ADMITTED USING WAIVER.—Not more than five candidates may be admitted to each of the military service academies for an academic year pursuant to a waiver granted under this section.

“(d) RECORD KEEPING REQUIREMENT.—The Secretary of each military department shall maintain records on the number of graduates of the military service academy under the jurisdiction of the Secretary who are admitted pursuant to a waiver granted under this section and who remain in the Armed Forces beyond the active duty service obligation assumed upon graduation. The Secretary shall compare their retention rate to the retention rate of graduates of that academy generally.

“(e) DURATION OF WAIVER AUTHORITY.—The authority to grant a waiver under this section expires on September 30, 2016.”

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

Pub. L. 102-190, div. A, title V, §514, Dec. 5, 1991, 105 Stat. 1361, provided that:

“(a) WAIVER AUTHORITY.—The Secretary of the military department concerned may waive the maximum age limitation in section 4346(a), 6958(a)(1), or 9346(a) [now 7446(a), 8458(a)(1), or 9446(a)] of title 10, United States Code, in the case of any enlisted member of the Armed Forces who—

“(1) becomes 22 years of age while serving on active duty in the Persian Gulf area of operations in connection with Operation Desert Storm during the Persian Gulf War; or

“(2) was a candidate for admission to the service academy under the jurisdiction of such Secretary in 1990, was prevented from being admitted to the academy during that year by reason of the service of such person on active duty in the Persian Gulf area of operations in connection with Operation Desert Storm, and became 22 years of age after July 1, 1990, and before the end of such service in that area of operations.

“(b) DEFINITIONS.—For purposes of this section:

“(1) The term ‘Operation Desert Storm’ has the meaning given such term in section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25; 105 Stat. 77; 10 U.S.C. 101 note).

“(2) The term ‘Persian Gulf War’ has the meaning given such term in section 101(33) of title 38, United States Code.”

PERSONS FROM COUNTRIES ASSISTING U.S. IN VIETNAM; SERVICE ACADEMY INSTRUCTION: OATH OF TRAINEES

Exemption from oath requirement of subsec. (d) of this section of appointees to the Military Academy, the Naval Academy, and the Air Force Academy from countries assisting U.S. in Vietnam, see Pub. L. 89-802, §1(g), Nov. 9, 1966, 80 Stat. 1519, formerly set out as a note under section 4344 of this title.

§ 7447. Cadets; nominees: effect of redistricting of States

If as a result of redistricting a State the domicile of a cadet, or a nominee, nominated by a Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of cadets otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a cadet or when he is finally separated from the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 243, §4347; renumbered §7447, Pub. L. 115-232, div. A, title VIII, §808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)