

§ 12204. Commissioned officers: original appointment; limitation

(a) No person may be appointed as a Reserve in a commissioned grade above major or lieutenant commander, unless—

- (1) he was formerly a commissioned officer of an armed force; or
- (2) such an appointment is recommended by a board of officers convened by the Secretary concerned.

(b) This section does not apply to adjutants general and assistant adjutants general of the several States, Puerto Rico, and the District of Columbia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 25, §594; Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12204, Pub. L. 103-337, div. A, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2990; Pub. L. 109-163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
594(a)	50:941(c) (less 1st 21 words).	July 9, 1952, ch. 608 §217(c), 66 Stat. 487.
594(b)	50:941(c) (1st 21 words).	

In subsection (a), the words “unless * * * he was formerly” are substituted for the words “has not held an appointment as”. The words “or any component thereof” are omitted as surplusage.

Editorial Notes

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-163 struck out “and Territories” after “States”.

1994—Pub. L. 103-337 renumbered section 594 of this title as this section.

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

§ 12205. Commissioned officers: appointment; educational requirement

(a) IN GENERAL.—No person may be appointed to a grade above the grade of first lieutenant in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above the grade of lieutenant (junior grade) in the Navy Reserve, or be federally recognized in a grade above the grade of first lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree by a qualifying educational institution.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

- (1) The appointment to or recognition in a higher grade of a person who is appointed in or assigned for service in a health profession for which a baccalaureate degree is not a condition of original appointment or assignment.
- (2) The appointment in the Navy Reserve or Marine Corps Reserve of a person appointed for service as an officer designated as a limited duty officer.
- (3) The appointment in the Navy Reserve of a person appointed for service under the Naval Aviation Cadet (NAVCAD) program or the Seaman to Admiral program.

(4) The appointment to or recognition in a higher grade of any person who was appointed to, or federally recognized in, the grade of captain or, in the case of the Navy, lieutenant before October 1, 1995.

(5) Recognition in the grade of captain or major in the Alaska Army National Guard of a person who resides permanently at a location in Alaska that is more than 50 miles from each of the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road and who is serving in a Scout unit or a Scout supporting unit.

(c) QUALIFYING EDUCATIONAL INSTITUTIONS.—(1) A qualifying educational institution for purposes of this section is an educational institution that is accredited or that meets the requirements of paragraph (2).

(2)(A) An unaccredited educational institution shall be considered to be a qualifying educational institution for purposes of the appointment or recognition of a person who is a graduate of that institution if the Secretary concerned determines that (as of the year of the graduation of that person from that institution) at least three educational institutions that are accredited and that maintain Reserve Officers' Training Corps programs each generally grant baccalaureate degree credit for completion of courses of the unaccredited institution equivalent to the baccalaureate degree credit granted by the unaccredited institution for the completion of those courses.

(B) In order to assist the Secretary concerned in making determinations under subparagraph (A), any unaccredited institution that seeks to be considered to be a qualifying educational institution for purposes of this paragraph shall submit to the Secretary of Defense each year such information as the Secretary may require concerning the program of instruction at that institution.

(C) In the case of a person with a degree from an unaccredited institution that is a qualifying educational institution under this paragraph, the degree may not have been awarded more than eight years before the date on which the person is to be appointed to, or recognized in, the grade of captain or, in the case of the Navy Reserve, lieutenant, in order for that person to be considered for purposes of subsection (a) to have been awarded a baccalaureate degree by a qualifying educational institution.

(d) WAIVER AUTHORITY FOR ARMY OCS GRADUATES AND CERTAIN MARINE CORPS OFFICERS.—(1) The Secretary of the Army may waive the applicability of subsection (a) to any officer whose original appointment in the Army as a Reserve officer is through the Army Officer Candidate School program.

(2) The Secretary of the Navy may waive the applicability of subsection (a) to any officer whose original appointment in the Marine Corps as a Reserve officer is through the Marine Corps meritorious commissioning program.

(3) Any such waiver shall be made on a case-by-case basis, considering the individual circumstances of the officer involved, and may continue in effect for no more than two years after the waiver is granted. The Secretary concerned may provide for such a waiver to be effective be-