

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 106-398, §1 [[div. A], title VI, §663(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-168, provided that: "Section 12604 of title 10, United States Code, as added by subsection (a), shall apply with respect to periods of inactive-duty training beginning more than 180 days after the date of the enactment of this Act [Oct. 30, 2000]."

§ 12605. Presentation of United States flag: members transferred from an active status or discharged after completion of eligibility for retired pay

(a) PRESENTATION OF FLAG.—Upon the transfer from an active status or discharge of a Reserve who has completed the years of service required for eligibility for retired pay under chapter 1223 of this title, the Secretary concerned shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or any provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

(Added Pub. L. 106-65, div. A, title VI, §652(a)(1), Oct. 5, 1999, 113 Stat. 664.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 106-65, div. A, title VI, §652(d), Oct. 5, 1999, 113 Stat. 665, provided that: "Section 12605 of title 10, United States Code (as added by subsection (a)), section 213 of the Public Health Service Act [42 U.S.C. 214] (as added by subsection (b)), and section 25 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 [33 U.S.C. 853v] (as added by subsection (c)) shall apply with respect to releases from service described in those sections on or after October 1, 1999."

CHAPTER 1219—STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

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12647.	Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.

§ 12641. Standards and procedures: Secretary to prescribe

(a) The Secretary concerned shall, by regulation, prescribe—

- (1) standards and qualifications for the retention and promotion of members of the reserve components under his jurisdiction; and

(2) equitable procedures for the periodic determination of the compliance of each such Reserve with those standards and qualifications.

(b) If a Reserve fails to comply with the standards and qualifications prescribed under subsection (a), he shall—

- (1) if qualified, be transferred to an inactive reserve status;
- (2) if qualified, be retired without pay; or
- (3) have his appointment or enlistment terminated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 79, §1001; renumbered §12641 and amended Pub. L. 103-337, div. A, title XVI, §1662(h)(2), (4)(A), Oct. 5, 1994, 108 Stat. 2996.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1001(a)	10:1036c (1st sentence). 34:440k (1st sentence).	June 29, 1948, ch. 708, §304 (less last sentence), 62 Stat. 1088.
1001(b)	10:1036c (2d sentence). 34:440k (2d sentence).	

In subsection (a), the words "As soon as may be practicable after the effective date of sections 1036-1036i [440h-440q] of this title" are omitted as executed. The words "not inconsistent with said sections or any other Act" and "appropriate" are omitted as surplusage.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 1001 of this title as this section and substituted "Standards and procedures: Secretary to prescribe" for "Secretary to prescribe" as section catchline.

Statutory Notes and Related Subsidiaries

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. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 12642. Standards and qualifications: result of failure to comply with

(a) To be retained in an active status, a reserve commissioned officer must, in any applicable yearly period, attain the number of points under section 12732(a)(2) of this title prescribed by the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, and must conform to such other standards and qualifications as the Secretary concerned may prescribe. The Secretary may not prescribe a minimum of more than 50 points under this subsection.

(b) Subject to section 12645 of this title, a reserve commissioned officer who fails to attain the number of points, or to conform to the standards and qualifications, prescribed in subsection (a) shall—

- (1) be transferred to the Retired Reserve if he is qualified and applies therefor;
- (2) if he is not qualified or does not apply for transfer to the Retired Reserve, be transferred to an inactive status, if he is qualified therefor; or
- (3) if he is not transferred to the Retired Reserve or an inactive status, be discharged from his reserve appointment.

(c) This section does not apply to commissioned warrant officers or to adjutants general or assistant adjutants general of States, Puerto Rico, and the District of Columbia.

(Added Pub. L. 85-861, §1(22)(A), Sept. 2, 1958, 72 Stat. 1443, §1002; amended Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; renumbered §12642 and amended Pub. L. 103-337, div. A, title XVI, §§1662(h)(2), 1675(d)(1), Oct. 5, 1994, 108 Stat. 2996, 3018; 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)
1002(a)	50:1192(b) (1st sentence, less 11th through 29th words).	Sept. 3, 1954, ch. 1257, §§102(1) (as applicable to §202(b)), 102(4), 202(b), 68 Stat. 1149, 1150.
1002(b)	50:1181(4).	
1002(c)	50:1192(b) (less 1st sentence).	
	50:1181(1) (as applicable to 50:1192(b)).	
	50:1192(b) (11th through 29th words of 1st sentence).	

In subsection (a), the word “minimum” is omitted as surplusage. The last sentence is substituted for the words “(not to exceed fifty)”.

Editorial Notes

AMENDMENTS

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

1994—Pub. L. 103-337, §1662(h)(2), renumbered section 1002 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1675(d)(1)(A), substituted “12732(a)(2)” for “1332(a)(2)”.

Subsec. (b). Pub. L. 103-337, §1675(d)(1)(B), substituted “12645” for “1005”.

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

Statutory Notes and Related Subsidiaries

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. 103-337, set out as an Effective Date note under section 10001 of this title.

§ 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

Revised section	Source (U.S. Code)	Source (Statutes at Large)
266(a)	50:1005(a).	July 9, 1952, ch. 608, §254, 66 Stat. 496.
266(b)	50:1005(b).	

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.

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

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),