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EFFECTIVE DATE OF 1970 AMENDMENT
Amendment by Pub. L. 96–54 effective July 12, 1970, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT
Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

§ 2107. Congressional employee

For the purpose of this title, “Congressional employee” means—

(1) an employee of either House of Congress, of a committee of either House, or of a joint committee of the two Houses;

(2) an elected officer of either House who is not a Member of Congress;

(3) the Legislative Counsel of either House and an employee of his office;

(4) a member or employee of the Capitol Police;

(5) an employee of a Member of Congress if the pay of the employee is paid by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

(6) an employee of the Architect of the Capitol and an employee of the Architect of the Capitol;

(7) the Architect of the Capitol and an employee of the Botanic Garden; and

(8) an employee of the Office of Congressional Accessibility Services.

Amendments

2010—Par. (4). Pub. L. 111–145, inserted “‘employee’” after “‘member’”.


1996—Par. (5). Pub. L. 104–186 substituted “Chief Administrative Officer” for “Clerk”.


EFFECTIVE DATE OF 2010 AMENDMENT

EFFECTIVE DATE OF 2008 AMENDMENT
Amendment by Pub. L. 110–437 effective first day of first pay period (applicable to employees transferred under section 2241 of Title 2, The Congress) on or after 30 days after Oct. 20, 2008, see section 422(d) of Pub. L. 110–437, set out as a note under section 1301 of Title 2.

EFFECTIVE DATE OF 1970 AMENDMENT
Amendment by Pub. L. 91–510 effective immediately prior to noon on June 3, 1971, see section 601(1) of Pub. L. 91–510, set out as a note under section 72a of Title 2, The Congress.

§ 2108. Veteran; disabled veteran; preference eligible

For the purpose of this title—

(1) “veteran” means an individual who—

(A) served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955;

(B) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred after January 31, 1955, and before October 15, 1976, not including service under section 12103(d) of title 10 pursuant to a enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;

(C) served on active duty as defined by section 101(21) of title 38 in the armed forces during the period beginning on August 2, 1990, and ending on January 2, 1992; or

(D) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom;

and, except as provided under section 2108a, who has been discharged or released from active duty in the armed forces under honorable conditions;

(2) “disabled veteran” means an individual who has served on active duty in the armed forces, (except as provided under section 2108a) has been separated therefrom under honorable
conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Department of Veterans Affairs or a military department;

(3) “preference eligible” means, except as provided in paragraph (4) of this section or section 2108a(c)—

(A) a veteran as defined by paragraph (1)(A) of this section;

(B) a veteran as defined by paragraph (1)(B), (C), or (D) of this section;

(C) a disabled veteran;

(D) the unmarried widow or widower of a veteran as defined by paragraph (1)(A) of this section;

(E) the wife or husband of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;

(F) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed;

(G) the mother of a service-connected permanently and totally disabled veteran, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and

(H) a veteran who was discharged or released from a period of active duty by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10); but does not include applicants for, or members of, the Senior Executive Service, the Defense Intelligence Senior Executive Service, or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(4) except for the purposes of chapters 43 and 75 of this title, “preference eligible” does not include a retired member of the armed forces unless—

(A) the individual is a disabled veteran; or

(B) the individual retired below the rank of major or its equivalent; and

(5) “retired member of the armed forces” means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member.


HISTORICAL AND REVISION NOTES

1966 ACT

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<tr>
<th>Section of title 5</th>
<th>Source (U.S. Code)</th>
<th>Source (Statutes at Large)</th>
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AMENDMENTS

1967 ACT

2108 ........... 5 App.: 851.

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In paragraph (2), the words “a military department” are substituted for “the War Department or Navy Department” (appearing in section 2 of the Act of June 27, 1944) because of the definition of “military department” in section 102. The Department of War was designated the Department of the Army by the Act of July 26, 1947, ch. 343, § 205, 61 Stat. 501. “Department of the Air Force” is included on authority of the Act of July 26, 1947, ch. 343, § 207(a), (f), 61 Stat. 502.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

2006—Par. (1). Pub. L. 110–163, § 5112(a), in concluding provisions, inserted “except as provided under section 2108a” before “who has been”.

Par. (2). Pub. L. 110–163, § 235(a)(2)(A)(ii), inserted “except as provided under section 2108a” before “has been separated”.

Par. (3). Pub. L. 110–163, § 235(a)(2)(A)(ii), in introductory provisions, inserted “or section 2108a(c)” after “paragraph (4) of this section”.


Par. (3)(D). Pub. L. 109–183, § 1112(a), in concluding provisions, substituted “discharged or released from active duty in” for “separated from”.


Par. (3)(B). Pub. L. 109–163, § 1111(b), substituted “paragraph (1)(B), (C), or (D)” for “paragraph (1)(B) or (C)”.

In paragraph (3), except as provided under section 2108a, “Navy Reserve” for “Naval Reserve”.

In paragraph (4), the words “a military department” are substituted for “the War Department or Navy Department” (appearing in section 2 of the Act of June 27, 1944) because of the definition of “military department” in section 102. The Department of War was designated the Department of the Army by the Act of July 26, 1947, ch. 343, § 205, 61 Stat. 501. “Department of the Air Force” is included on authority of the Act of July 26, 1947, ch. 343, § 207(a), (f), 61 Stat. 502.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

2011—Par. (1). Pub. L. 112–56, § 235(a)(2)(A)(ii), in concluding provisions, inserted “except as provided under section 2108a” before “who has been”.

Par. (2). Pub. L. 112–56, § 235(a)(2)(A)(ii), inserted “except as provided under section 2108a” before “has been separated”.

Par. (3). Pub. L. 112–56, § 235(a)(2)(A)(ii), in introductory provisions, inserted “or section 2108a(c)” after “paragraph (4) of this section”.


Par. (3)(D). Pub. L. 109–183, § 1112(a), in concluding provisions, substituted “discharged or released from active duty in” for “separated from”.


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Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.
§2108a

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1998—Par. (3). Pub. L. 105–339, in concluding provi-
sions, substituted "or the Federal Bureau of Investiga-
tion and Drug Enforcement Administration Senior Ex-
cutive Service;" for "the Federal Bureau of Investiga-
tion and Drug Enforcement Administration Senior Ex-
cutive Service, or the General Accounting Office".
Veterans’ Employment and Education Assistance Act of
1976," and "12103(d) of title 10" for "511(d) of title 10".
(C).
Par. (3)(B). Pub. L. 105–85, §1102(a)(2), inserted "or
(C)" after "paragraph (1)(B)".
1991—Par. (3). Pub. L. 102–54 substituted "Department of
Veterans Affairs" for "Veterans’ Administration".
1988—Par. (3). Pub. L. 100–325 inserted reference to
Federal Bureau of Investigation and Drug Enforcement
Administration Senior Executive Service in concluding
provisions.
1981—Par. (3). Pub. L. 97–89 inserted reference to De-
fense Intelligence Senior Executive Service and Senior
Cryptologic Executive Service in concluding provi-
sions.
General Accounting Office in concluding provisions.
1979—Par. (3). Pub. L. 96–54, §2(a)(b), inserted provi-
sion excepting applicants for, or members of, Senior
Executive Service.
Par. (3). Pub. L. 96–54, §2(a)(9)(A), struck out provi-
sion excepting applicants for, or members of, Senior
Executive Service.
"and" at end.
"except as provided in paragraph (4) of this section"
"and", and substituted a semicolon for the peri-
dot at end.
and (5) relating to retired members of the armed forces.
Par. (5). Pub. L. 95–454, §401(d), inserted "but does
not include applicants for, or members of, the Senior
Executive Service" before the period at end.
of which occurred after January 31, 1965, and before
the date of enactment of the Veterans’ Education and
Employment Assistance Act of 1976,“ for "for
January 31, 1955,".
1971—Par. (3)(D). Pub. L. 92–187 inserted "or widow"
"and" at end.
Par. (3)(E). Pub. L. 92–187 inserted "or husband” after
"the wife”.
1969—Par. (3)(D). Pub. L. 90–623 inserted "as defined
by paragraph (1)(A) of this section" after "Veteran".

Effective Date of 2008 Amendment
Pub. L. 110–317, §10, Aug. 29, 2008, 122 Stat. 3530, pro-
vided that—
"(a) RETROACTIVE EFFECTIVE DATE.—Except as pro-
vided in subsection (b) and section 9 [amending section
685 of Title 26, Internal Revenue Code, and enacting
provisions set out as a note under section 685 of Title
26], this Act [amending this section, section 8521 of this
title, sections 1145, 1146, and 1174 of Title 10, Armed
Forces, section 685 of Title 26, section 303A of Title 37,
Pub. Law and Allowances of the Uniformed Services, and
sections 3011, 3012, 3702, and 4211 of Title 38, Veterans’
Benefits, and enacting provisions set out as notes under
section 101 of Title 10 and section 685 of Title 26 and the
amendments made by this Act shall apply with re-
spect to any sole survivorship discharge granted after
"(b) DATE OF ENACTMENT EFFECTIVE DATE FOR CERT-
AIN AMENDMENTS.—The amendments made by sections
4, 7, and 8 (amending this section and section 8521 of this
title and section 1145 of Title 10) shall apply with re-
spect to any sole survivorship discharge granted after
the date of enactment of this Act [Aug. 29, 2008].

"(c) SOLE SURVIVORSHIP DISCHARGE DEFINED.—In this
section, the term ‘sole survivorship discharge’ means
the separation of a member from the Armed Forces, at
the request of the member, pursuant to the Department of
Defense policy permitting the early separation of a
member who is the only surviving child in a family in
which—
"(1) the father or mother or one or more siblings—

"(A) served in the Armed Forces; and

"(B) was killed, died as a result of wounds, acci-
dent, or disease, is in a captured or missing in ac-
tion status, or is permanently 100 percent disabled
or hospitalized on a continuing basis (and is not
employed gainfully because of the disability or hos-
pitalization); and

"(2) the death, status, or disability did not result
from the intentional misconduct or willful neglect of
the parent or sibling and was not incurred during a
period of unauthorized absence.

Effective Date of 1981 Amendment
Amendment by Pub. L. 97–89 effective Oct. 1, 1981, see
section 806 of Pub. L. 97–89, set out as an Effective Date
note under section 1621 of Title 10. Armed Forces.

Effective Date of 1980 Amendment
Amendment by Pub. L. 96–191 effective Oct. 1, 1980, see
section 10(a) of Pub. L. 96–191.

Effective Date of 1979 Amendment
Amendment by section 2(a)(8) of Pub. L. 96–54 effective
July 12, 1979, see section 2(b) of Pub. L. 96–54, set
out as a note under section 305 of this title.

Section 2(a)(9)(B) of Pub. L. 96–54 provided that: "The
amendment made by subparagraph (A) [amending this
section] shall take effect October 1, 1980".

Effective Date of 1978 Amendment
Section 307(a) of Pub. L. 95–454 provided that the amendment
made by that section is effective Oct. 1, 1980.

Amendment by section 401(d) of Pub. L. 95–454 effective
9 months after Oct. 13, 1978, and congressional re-
view of provisions of sections 401 through 412 of Pub. L.
95–454, set out as an Effective Date note under section
3131 of this title.

Effective Date of 1968 Amendment
Amendment by Pub. L. 90–623 effective Sept. 11, 1967,
for all purposes, see section 6 of Pub. L. 90–623, set out
as a note under section 5334 of this title.

Savings Provision
119 Stat. 3451, provided that: “Nothing in the amend-
ment made by subsection (a) [amending this section]
may be construed to affect a determination made be-
fore the date of enactment of this Act [Jan. 6, 2006] that
an individual is a preference eligible (as defined in sec-
section 2108(3) of title 5, United States Code).”

Transfer of Functions
For transfer of authorities, functions, personnel, and
assets of the Coast Guard, including the authorities
and functions of the Secretary of Transportation relati-
ing thereto, to the Department of Homeland Security,
and for treatment of related references, see sections
468(b), 551(d), 552(d), and 557 of Title 6, Domestic Secu-
rity, and the Department of Homeland Security Reor-
organization Plan of November 25, 2002, as modified, set
out as a note under section 542 of Title 6.

§2108a. Treatment of certain individuals as vet-
nerans, disabled veterans, and preference eli-
gibles

(a) VETERAN.—

(1) IN GENERAL.—Except as provided under
paragraph (3), an individual shall be treated

1 So in original. Subsec. does not contain a par. (3).