

(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-

fore the date of the waiver, as appropriate in an individual case.

(Added Pub. L. 102-484, div. A, title V, §515(a), Oct. 23, 1992, 106 Stat. 2406, §596; renumbered §12205 and amended Pub. L. 103-337, div. A, title V, §§519, 520, title XVI, §1662(c)(2), Oct. 5, 1994, 108 Stat. 2755, 2990; Pub. L. 104-201, div. A, title V, §§504, 505, title X, §1074(a)(22), Sept. 23, 1996, 110 Stat. 2512, 2660; Pub. L. 107-107, div. A, title V, §512(a), Dec. 28, 2001, 115 Stat. 1092; Pub. L. 109-163, div. A, title V, §515(b)(1)(KK), Jan. 6, 2006, 119 Stat. 3234.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102-190, div. A, title V, §523, Dec. 5, 1991, 105 Stat. 1363, which was set out as a note under section 591 [now 12201] of this title, prior to repeal by Pub. L. 103-35, §203(a).

AMENDMENTS

2006—Subsecs. (a), (b)(2), (3), (c)(2)(C). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

2001—Subsec. (d). Pub. L. 107-107 added subsec. (d).

1996—Subsec. (a). Pub. L. 104-201, §1074(a)(22), substituted “No person” for “After September 30, 1995, no person”.

Subsec. (b)(3). Pub. L. 104-201, §505, inserted “or the Seaman to Admiral program” after “(NAVCAD) program”.

Subsec. (c)(2)(C). Pub. L. 104-201, §504, substituted “eight years” for “three years”.

1994—Pub. L. 103-337, §1662(c)(2), renumbered section 596 of this title as this section.

Subsec. (a). Pub. L. 103-337, §519(1), substituted “a qualifying educational institution” for “an accredited educational institution”.

Subsec. (b)(2), (3). Pub. L. 103-337, §520(b), substituted “a person” for “an individual”.

Subsec. (b)(5). Pub. L. 103-337, §520(a), added par. (5).

Subsec. (c). Pub. L. 103-337, §519(2), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title V, §512(b), Dec. 28, 2001, 115 Stat. 1092, provided that: “Subsection (d) of section 12205 of title 10, United States Code, as added by subsection (a), shall apply with respect to officers appointed before, on, or after the date of the enactment of this Act [Dec. 28, 2001].”

AUTHORITY FOR TEMPORARY WAIVER FOR CERTAIN ARMY RESERVE OFFICERS OF BACCALAUREATE DEGREE REQUIREMENT FOR PROMOTION OF RESERVE OFFICERS

Pub. L. 105-261, div. A, title V, §516, Oct. 17, 1998, 112 Stat. 2008, provided that:

“(a) **WAIVER AUTHORITY FOR ARMY OCS GRADUATES.**—The Secretary of the Army may waive the applicability of section 12205(a) of title 10, United States Code, to any officer who before the date of the enactment of this Act [Oct. 17, 1998] was commissioned through the Army Officer Candidate School. 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 2 years after the waiver is granted. The Secretary may provide for such a waiver to be effective before the date of the waiver, as appropriate in an individual case.

“(b) **EXPIRATION OF AUTHORITY.**—A waiver under this section may not be granted after September 30, 2000.”

§ 12206. Commissioned officers: appointment of former commissioned officers

Under regulations prescribed by the Secretary of Defense, a person who is a former commis-

sioned officer may, if otherwise qualified, be appointed as a reserve officer of the Army, Navy, Air Force, or Marine Corps. A person so appointed—

(1) may be placed on the reserve active-status list of that armed force in the grade equivalent to the permanent regular or reserve grade, and in the same competitive category, in which the person previously served satisfactorily on active duty or in an active status; and

(2) may be credited for the purpose of determining date of rank under section 741(d) of this title with service in grade equal to that held by that person when discharged or separated.

(Added §596a and renumbered §12206, Pub. L. 103-337, div. A, title XVI, §§1633, 1662(c)(2), Oct. 5, 1994, 108 Stat. 2965, 2990.)

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-337, §1662(c)(2), renumbered section 596a of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 12207. Commissioned officers: service credit upon original appointment

(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.

(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b) or (e).

(b)(1) Under regulations prescribed by the Secretary of Defense, a person who is receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps, and who has special training or experience, or advanced education (if applicable), shall be credited with constructive service for such education, training, or experience, as follows:

(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed or designated in, or as-

signed to, officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this subparagraph to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for such appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal health professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a speciality required by the armed force concerned.

(D) Additional credit as follows:

(i) For special training or experience in a particular officer field as designated by the Secretary concerned, if such training or experience is directly related to the operational needs of the armed force concerned.

(ii) During fiscal years 2021 through 2025, for advanced education in an officer field so designated, if such education is directly related to the operational needs of the armed force concerned.

(E) Additional credit for experience as a physician or dentist, if appointed, assigned, or designated as a medical or dental officer.

(2)(A) If the Secretary of Defense determines that the number of officers in a health profession described in subparagraph (B) who are serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed in such health profession by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment as an officer for service in such health profession with a period of constructive credit in such amount (in addition to any amount credited such person under paragraph (1)) as will result in the grade of such person being that of captain or, in the case of the Navy Reserve, lieutenant.

(B) The types of health professions referred to in subparagraph (A) include the following:

(i) Any health profession performed by officers in the Medical Corps of the Army or the Navy or by officers of the Air Force designated as a medical officer.