

(Added Pub. L. 115-232, div. A, title V, § 507(a)(1), Aug. 13, 2018, 132 Stat. 1745.)

§ 649e. Promotions

Sections 620 through 626 of this title shall apply in promotions of officers in competitive categories of officers designated for purposes of this subchapter.

(Added Pub. L. 115-232, div. A, title V, § 507(a)(1), Aug. 13, 2018, 132 Stat. 1746.)

§ 649f. Failure of selection for promotion

(a) IN GENERAL.—Except as provided in this section, sections 627 through 632 of this title shall apply to promotions of officers in competitive categories of officers designated for purposes of this subchapter.

(b) INAPPLICABILITY OF FAILURE OF SELECTION FOR PROMOTION TO OFFICERS ABOVE PROMOTION ZONE.—The reference in section 627 of this title to an officer above the promotion zone shall not apply in the promotion of officers described in subsection (a).

(c) SPECIAL SELECTION BOARD MATTERS.—The reference in section 628(a)(1) of this title to a person above the promotion zone shall not apply in the promotion of officers described in subsection (a).

(d) EFFECT OF FAILURE OF SELECTION.—In the administration of this subchapter pursuant to subsection (a)—

(1) an officer described in subsection (a) shall not be deemed to have failed twice of selection for promotion for purposes of section 629(e)(2) of this title until the officer has failed selection of promotion to the next higher grade the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned pursuant to section 649d of this title; and

(2) any reference in section 631(a) or 632(a) of this title to an officer who has failed of selection for promotion to the next higher grade for the second time shall be deemed to refer instead to an officer described in subsection (a) who has failed of selection for promotion to the next higher grade for the maximum number of times specified for opportunities for promotion to such grade within the competitive category concerned pursuant to such section 649d.

(Added Pub. L. 115-232, div. A, title V, § 507(a)(1), Aug. 13, 2018, 132 Stat. 1746.)

§ 649g. Retirement: retirement for years of service; selective early retirement

(a) RETIREMENT FOR YEARS OF SERVICES.—Sections 633 through 636 of this title shall apply to the retirement of officers in competitive categories of officers designated for purposes of this subchapter.

(b) SELECTIVE EARLY RETIREMENT.—Sections 638 and 638a of this title shall apply to the retirement of officers described in subsection (a).

(Added Pub. L. 115-232, div. A, title V, § 507(a)(1), Aug. 13, 2018, 132 Stat. 1747.)

§ 649h. Continuation on active duty

(a) IN GENERAL.—An officer subject to discharge or retirement pursuant to this sub-

chapter may, subject to the needs of the service, be continued on active duty if the officer is selected for continuation on active duty in accordance with this section by a selection board convened under section 611(b) of this title.

(b) IDENTIFICATION OF POSITIONS FOR OFFICERS CONTINUED ON ACTIVE DUTY.—

(1) IN GENERAL.—Officers may be selected for continuation on active duty pursuant to this section only for assignment to positions identified by the Secretary of the military department concerned for which vacancies exist or are anticipated to exist.

(2) IDENTIFICATION.—Before convening a selection board pursuant to section 611(b) of this title for purposes of selection of officers for continuation on active duty pursuant to this section, the Secretary of the military department concerned shall specify for purposes of the board the positions identified by the Secretary to which officers selected for continuation on active duty may be assigned.

(c) RECOMMENDATION FOR CONTINUATION.—A selection board may recommend an officer for continuation on active duty pursuant to this section only if the board determines that the officer is qualified for assignment to one or more positions identified pursuant to subsection (b) on the basis of skills, knowledge, and behavior required of an officer to perform successfully in such position or positions.

(d) APPROVAL OF SECRETARY OF MILITARY DEPARTMENT.—Continuation of an officer on active duty under this section pursuant to the action of a selection board is subject to the approval of the Secretary of the military department concerned.

(e) NONACCEPTANCE OF CONTINUATION.—An officer who is selected for continuation on active duty pursuant to this section, but who declines to continue on active duty, shall be discharged or retired, as appropriate, in accordance with section 632 of this title.

(f) PERIOD OF CONTINUATION.—

(1) IN GENERAL.—An officer continued on active duty pursuant to this section shall remain on active duty, and serve in the position to which assigned (or in another position to which assigned with the approval of the Secretary of the military department concerned), for a total of not more than three years after the date of assignment to the position to which first so assigned.

(2) ADDITIONAL CONTINUATION.—An officer whose continued service pursuant to this section would otherwise expire pursuant to paragraph (1) may be continued on active duty if selected for continuation on active duty in accordance with this section before the date of expiration pursuant to that paragraph.

(g) EFFECT OF EXPIRATION OF CONTINUATION.—Each officer continued on active duty pursuant to this subsection who is not selected for continuation on active duty pursuant to subsection (f)(2) at the completion of the officer's term of continued service shall, unless sooner discharged or retired under another provision of law—

(1) be discharged upon the expiration of the term of continued service; or

(2) if eligible for retirement under another other provision of law, be retired under that law on the first day of the first month following the month in which the officer completes the term of continued service.

(h) TREATMENT OF DISCHARGE OR RETIREMENT.—The discharge or retirement of an officer pursuant to this section shall be considered to be an involuntary discharge or retirement for purposes of any other provision of law.

(Added Pub. L. 115-232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1747.)

§ 649i. Continuation on active duty: officers in certain military specialties and career tracks

In addition to continuation on active duty provided for in section 649h of this title, an officer to whom section 637a of this title applies may be continued on active duty in accordance with the provisions of such section 637a.

(Added Pub. L. 115-232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1748.)

§ 649j. Other administrative authorities

The following provisions of this title shall apply to officers in competitive categories of officers designated for purposes of this subchapter:

- (1) Section 638b, relating to voluntary retirement incentives.
(2) Section 639, relating to continuation on active duty to complete disciplinary action.
(3) Section 640, relating to deferment of retirement or separation for medical reasons.

(Added Pub. L. 115-232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1748; amended Pub. L. 116-92, div. A, title XVII, §1731(a)(18), Dec. 20, 2019, 133 Stat. 1813.)

Editorial Notes

AMENDMENTS

2019—Pub. L. 116-92 struck out “(a) IN GENERAL.—” before “The” in introductory provisions.

§ 649k. Regulations

The Secretary of Defense shall prescribe regulations regarding the administration of this subchapter. The elements of such regulations shall include mechanisms to clarify the manner in which provisions of other subchapters of this chapter shall be used in the administration of this subchapter in accordance with the provisions of this subchapter.

(Added Pub. L. 115-232, div. A, title V, §507(a)(1), Aug. 13, 2018, 132 Stat. 1748.)

CHAPTER 37—GENERAL SERVICE REQUIREMENTS

Sec.

- 651. Members: required service.
652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned.
653. Minimum service requirement for certain flight crew positions.
654. Minimum service requirement for certain cyberspace occupational specialties.
655. Designation of persons having interest in status of a missing member.

Sec.

- 656. Diversity in military leadership: plan; mentoring and career counseling program.
657. Prohibition on service in the armed forces by individuals convicted of certain sexual offenses.

Editorial Notes

AMENDMENTS

2023—Pub. L. 118-31, div. A, title V, §509(b), Dec. 22, 2023, 137 Stat. 243, added item 654. Amendment was made pursuant to operation of section 102 of this title.

2021—Pub. L. 116-283, div. A, title V, §571(a)(3)(B), Jan. 1, 2021, 134 Stat. 3643, added item 656 and struck out former item 656 “Diversity in military leadership: plan”.

2013—Pub. L. 113-66, div. A, title XVII, §1711(a)(2), Dec. 26, 2013, 127 Stat. 963, added item 657.

Pub. L. 112-239, div. A, title V, §519(a)(2), Jan. 2, 2013, 126 Stat. 1721, added item 656.

2010—Pub. L. 111-321, §2(f)(1)(B), Dec. 22, 2010, 124 Stat. 3516, struck out item 654 “Policy concerning homosexuality in the armed forces”.

2006—Pub. L. 109-163, div. A, title V, §541(a)(2), Jan. 6, 2006, 119 Stat. 3252, added item 652.

1996—Pub. L. 104-106, div. A, title V, §569(d)(2), Feb. 10, 1996, 110 Stat. 352, added item 655.

1994—Pub. L. 103-337, div. A, title XVI, §1671(b)(6), Oct. 5, 1994, 108 Stat. 3013, struck out item 652 “Ready Reserves: requirement of notification of change of status”.

1993—Pub. L. 103-160, div. A, title V, §571(a)(2), Nov. 30, 1993, 107 Stat. 1673, added item 654.

1989—Pub. L. 101-189, div. A, title VI, §634(a)(2), Nov. 29, 1989, 103 Stat. 1454, added item 653.

1978—Pub. L. 95-485, title IV, §405(d)(2), Oct. 20, 1978, 92 Stat. 1616, added item 652.

1958—Pub. L. 85-861, §33(a)(4)(A), Sept. 2, 1958, 72 Stat. 1564, substituted “GENERAL SERVICE REQUIREMENTS” for “SERVICE REQUIREMENTS FOR RESERVES” in chapter heading.

Statutory Notes and Related Subsidiaries

PROHIBITION AGAINST MEMBERS OF THE ARMED FORCES PARTICIPATING IN CRIMINAL STREET GANGS

Pub. L. 110-181, div. A, title V, §544, Jan. 28, 2008, 122 Stat. 116, provided that: “The Secretary of Defense shall prescribe regulations to prohibit the active participation by members of the Armed Forces in a criminal street gang.”

Executive Documents

EX. ORD. NO. 14004. ENABLING ALL QUALIFIED AMERICANS TO SERVE THEIR COUNTRY IN UNIFORM

Ex. Ord. No. 14004, Jan. 25, 2021, 86 F.R. 7471, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. All Americans who are qualified to serve in the Armed Forces of the United States (“Armed Forces”) should be able to serve. The All-Volunteer Force thrives when it is composed of diverse Americans who can meet the rigorous standards for military service, and an inclusive military strengthens our national security.

It is my conviction as Commander in Chief of the Armed Forces that gender identity should not be a bar to military service. Moreover, there is substantial evidence that allowing transgender individuals to serve in the military does not have any meaningful negative impact on the Armed Forces. To that end, in 2016, a meticulous, comprehensive study requested by the Department of Defense found that enabling transgender individuals to serve openly in the United States military would have only a minimal impact on military readi-