ber of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to perform funeral honors functions under this section without the consent of the Governor or other appropriate authority of the State concerned. Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 495 of title 37.

(b) SERVICE CREDIT.—A member ordered to funeral honors duty under this section shall be required to perform a minimum of two hours of such duty in order to receive—

(1) service credit under section 12732(a)(2)(E) of title 10; and

(2) as directed by the Secretary concerned, either—

(A) the allowance under section 495 of title 37; or

(B) compensation under section 206 of title 37.

(c) REIMBURSABLE EXPENSES.—A member who performs funeral honors duty under this section may be reimbursed for travel and transportation expenses incurred in conjunction with such duty as authorized under chapter 7 of title 37 if such duty is performed at a location 50 miles or more from the member's residence.

(d) REGULATIONS.—The exercise of authority under subsection (a) is subject to regulations prescribed by the Secretary of Defense.

(Added Pub. L. 106–65, div. A, title V, §578(g)(2), Oct. 5, 1999, 113 Stat. 627; amended Pub. L. 106–398, §1 [[div. A], title V, §575(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–138; Pub. L. 107–107, div. A, title V, §562(b), Dec. 28, 2001, 115 Stat. 1119; Pub. L. 112–81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465.)

CODIFICATION

Section 631(f)(4)(A) of Pub. L. 112–81, which directed that this title be amended by conforming any references to sections of title 37, United States Code, which were transferred and redesignated by ''subsection (c)'' of section 631, was executed by conforming the references to those sections as transferred and redesignated by subsection (d) of section 631, to reflect the probable intent of Congress.

AMENDMENTS

2011—Subsecs. (a), (b)(2)(A). Pub. L. 112–81 substituted ''495'' for ''435''. See Codification note above.

2001—Subsec. (a). Pub. L. 107–107 inserted at end ''Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.''

2000—Subsec. (b)(2). Pub. L. 106–398 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''if authorized by the Secretary concerned, the allowance under section 435 of title 37.''

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 applicable to funeral honors duty performed on or after Oct. 30, 2000, see section 562(c) of Pub. L. 107–107, set out as a note under section 12503 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 applicable with respect to funeral honors duty performed on or after Oct. 1, 2000, see section 1 [[div. A], title V, §575(c)] of Pub. L. 106–398, set out as a note under section 12503 of Title 10, Armed Forces.

CHAPTER 3—PERSONNEL

Sec.
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325. Relief from National Guard duty when ordered to active duty.
326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures.
327. Courts-martial of National Guard not in Federal service: convening authority.
328. Active Guard and Reserve duty: Governor's authority.
[329 to 335. Repealed.]

AMENDMENTS

2006—Pub. L. 109–364, div. A, title V, §526(b), Oct. 17, 2006, 120 Stat. 2196, added item 328.

2002—Pub. L. 107–314, div. A, title V, §512(d), Dec. 2, 2002, 116 Stat. 2537, added item 327 and struck out former items 327 ''General courts-martial of National Guard not in Federal service'', 328 ''Special courts-martial of National Guard not in Federal service'', 329 ''Summary courts-martial of National Guard not in Federal service'', 330 ''Confinement instead of fine'', 331 ''Dismissal or dishonorable discharge'', 332 ''Compelling attendance of accused and witnesses'', and 333 ''Execution of process and sentence''.

1994—Pub. L. 103–337, div. A, title XVI, §1676(a)(4), Oct. 5, 1994, 108 Stat. 3019, substituted ''National Guard officers:'' for ''officers: Army National Guard;'' in items 309 and 310.

1986—Pub. L. 99–661, div. A, title VI, §604(f)(2)(B), Nov. 14, 1986, 100 Stat. 3878, struck out item 318 ''Compensation for disablement during training'', item 319 ''Compensation for disablement during training when not covered by section 318 of this title'', item 320 ''Hospitalization: when Secretary may require'', and item 321 ''Death gratuity''.

1984—Pub. L. 98–525, title IV, §414(b)(2)(B), Oct. 19, 1984, 98 Stat. 2519, struck out item 335 ''Status of certain members performing full-time duty''.

1983—Pub. L. 98–94, title V, §504(b)(2), Sept. 24, 1983, 97 Stat. 632, added item 335.

1981—Pub. L. 97–124, § 3, Dec. 29, 1981, 95 Stat. 1666, struck out item 334 ''Payment of malpractice liability of National Guard Medical personnel''.

1980—Pub. L. 96–513, title V, § 515(1), Dec. 12, 1980, 94 Stat. 2937, inserted ''of officers'' after ''recognition'' in item 307.

1976—Pub. L. 94–464, § 2(c), Oct. 8, 1976, 90 Stat. 1988, added item 334.

1961—Pub. L. 87–378, § 5(2), Oct. 4, 1961, 75 Stat. 808, inserted '', reenlistments, and extensions'' in item 302.

1958—Pub. L. 85–861, § 2(8), Sept. 2, 1958, 72 Stat. 1544, added items 309 and 310.

§ 301. Federal recognition of enlisted members

To be eligible for Federal recognition as an enlisted member of the National Guard, a person must have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved. He becomes federally recognized upon enlisting in a federally recognized unit or organization of the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
301	50:1113(a) (as applicable to enlisted members).	July 9, 1952, ch. 608, § 703(a) (as applicable to enlisted members), 66 Stat. 502.

§ 302. Enlistments, reenlistments, and extensions

(a) Under regulations to be prescribed by the Secretary concerned, original enlistments in the National Guard may be accepted for—

(1) any specified term, not less than three years, for persons who have not served in an armed force; or

(2) any specified term, not less than one year, for persons who have served in any armed force.

(b) Under regulations to be prescribed by the Secretary concerned, reenlistment in the National Guard may be accepted for any specified period, or, if the person last served in one of the highest five enlisted grades, for an unspecified period.

(c) Enlistments or reenlistments in the National Guard may be extended—

(1) under regulations to be prescribed by the Secretary concerned, at the request of the member, for any period not less than six months; or

(2) by proclamation of the President, if Congress declares an emergency, until six months after termination of that emergency.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601; Pub. L. 87–378, § 5(1), Oct. 4, 1961, 75 Stat. 808.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
302	32:124.	June 3, 1916, ch. 134, § 69; restated July 11, 1919, ch. 8 (20th par. under ''National Guard''); restated June 4, 1920, ch. 227, subch. I, § 37; restated June 6, 1924, ch. 275, § 4; restated June 15, 1933, ch. 87, § 7, 48 Stat. 156; July 9, 1952, ch. 608, § 806(a), 66 Stat. 506.

32:124 (1st proviso) is omitted as executed. The word ''reenlistments'' is substituted for the words ''subsequent enlistments''.

AMENDMENTS

1961—Pub. L. 87–378 permitted original enlistments for any specified term, not less than three years, for persons who have not served in an armed force, authorized reenlistments for any specified period, or if the person last served in one of the highest five enlisted grades, for an unspecified period, extensions of enlistments or reenlistments at the request of the member for any period not less than six months after termination of the emergency.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 6 of Pub. L. 87–378 provided that: ''The amendments made by sections 3, 4, and 5 of this Act [amending this section and sections 3261 and 8261 of Title 10, Armed Forces] shall not affect any enlistment, reenlistment, or appointment entered into or made before the effective date of this Act [Oct. 4, 1961].''

§ 303. Active and inactive enlistments and transfers

(a) Under regulations to be prescribed by the Secretary of the Army, a person qualified for enlistment in the active Army National Guard may be enlisted in the inactive Army National Guard for a single term of one or three years. Under regulations prescribed by the Secretary of the Air Force, a person qualified for enlistment in the active Air National Guard may be enlisted in the inactive Air National Guard for a single term of one or three years.

(b) Under such regulations as the Secretary of the Army may prescribe, an enlisted member of the active Army National Guard, not formerly enlisted in the inactive Army National Guard, may be transferred to the inactive Army National Guard. Under such regulations as the Secretary of the Air Force may prescribe, an enlisted member of the active Air National Guard, not formerly enlisted in the inactive Air National Guard, may be transferred to the inactive Air National Guard. Under such regulations as the Secretary concerned may prescribe, a person enlisted in or transferred to the inactive Army National Guard or the inactive Air National Guard may be transferred to the active Army National Guard or the active Air National Guard, as the case may be.

(c) In time of peace, no enlisted member may be required to serve for a period longer than that for which he enlisted in the active or inactive National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601; Pub. L. 87–649, § 14e(1), Sept. 7, 1962, 76 Stat. 502; Pub. L. 96–513, title V, § 515(2), Dec. 12, 1980, 94 Stat. 2937.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
303(a)	32:132.	June 3, 1916, ch. 134, § 78 (1st and 2d sentences); restated June 4, 1920, ch. 227, subch. I, § 42 (less provisos); restated Feb. 28, 1925, ch. 371, § 2 (1st and 2d sentences); restated June 15, 1933, ch. 87, § 15 (1st and 2d sentences), 48 Stat. 159; July 9, 1952, ch. 608, § 806(f), 66 Stat. 507.
303(b)	32:133 (less proviso).	
303(c)	32:154 (1st 26 words of last par.).	
303(d)	32:133 (proviso).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised section	Source (U.S. Code)	Source (Statutes at Large)
		June 3, 1916, ch. 134, § 110 (1st 30 words of last par.); restated Sept. 22, 1922, ch. 423, § 6 (1st 30 words of last par.); restated May 12, 1928, ch. 529 (1st 30 words), 45 Stat. 500.

In subsection (a), 32:132 (last 23 words) is omitted as covered by section 304 of this title.

In subsection (b), the words ''Under such regulations as the Secretary may prescribe'' are substituted for the word ''likewise''.

In subsection (c), the words ''in the inactive * * * National Guard'' are substituted for the words ''not on the active list'', since there is no active list prescribed for the National Guard.

In subsection (d), the words ''under any enlistment'' are omitted as surplusage.

AMENDMENTS

1980—Subsecs. (c), (d). Pub. L. 96–513 redesignated subsec. (d) as (c).

1962—Subsec. (c). Pub. L. 87–649 repealed subsec. (c) which provided that a person enlisted in inactive Army National Guard or inactive Air National Guard is not entitled to pay under section 301 of title 37.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 304. Enlistment oath

Each person enlisting in the National Guard shall sign an enlistment contract and subscribe to the following oath:

''I do hereby acknowledge to have voluntarily enlisted this ____ day of _____, 19__, in the _____ National Guard of the State of _____ for a period of ____ year(s) under the conditions prescribed by law, unless sooner discharged by proper authority.

''I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and that I will obey the orders of the President of the United States and the Governor of _____ and the orders of the officers appointed over me, according to law and regulations. So help me God.''

The oath may be taken before any officer of the National Guard of the State or Territory, or of Puerto Rico, or the District of Columbia, as the case may be, or before any other person authorized by the law of the jurisdiction concerned to administer oaths of enlistment in the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 602; Pub. L. 87–751, § 2, Oct. 5, 1962, 76 Stat. 748; Pub. L. 100–456, div. A, title XII, § 1234(b)(1), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
304	32:123.	June 3, 1916, ch. 134, § 70; restated June 4, 1920, ch. 227, subch. I, § 38; restated June 15, 1933, ch. 87, § 8, 48 Stat. 156; June 19, 1935, ch. 277, § 3, 49 Stat. 391; July 9, 1952, ch. 608, § 806(b), 66 Stat. 506.

The words ''or affirmation'' are omitted as covered by the definition of the word ''oath'' in section 1 of title 1. The words ''Each person'' are substituted for the word ''Men''. The words ''_____ National Guard'' are substituted for the words ''National Guard (Air National Guard)''.

AMENDMENTS

1988—Pub. L. 100–456 struck out ''the Canal Zone,'' after ''Puerto Rico,''.

1962—Pub. L. 87–751 substituted ''support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them'' for ''bear true faith and allegiance to the United States of America and to the State of _____: That I will serve them honestly and faithfully against all their enemies whomsoever'' and inserted ''So help me God.''

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–751 not to effect any oath taken before one year after Oct. 5, 1962, see section 3 of Pub. L. 87–751, set out as a note under section 502 of Title 10, Armed Forces.

§ 305. Federal recognition of commissioned officers: persons eligible

(a) The following categories are eligible for Federal recognition as commissioned officers of the National Guard:

(1) Members of the National Guard.

(2) Members of the armed forces.

(3) Former officers of the armed forces.

(4) Former enlisted members of the armed forces who were discharged honorably or under honorable conditions.

(5) Graduates of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy.

(6) Graduates of a school, college, university, or officer's training camp who received military instruction under the supervision of a commissioned officer of the Regular Army or the Regular Air Force, and whose fitness for appointment has been certified by that officer.

(7) Civilians who are specially qualified for duty in a technical or staff branch or organization.

(b) To be eligible for Federal recognition under this section with a view to serving as a nurse, a person must be a graduate of a hospital or university training school and a registered nurse.

(Aug. 10, 1956, ch. 1041, 70A Stat. 602; Pub. L. 85–861, § 2(5), Sept. 2, 1958, 72 Stat. 1543; Pub. L. 90–130, § 2(1), Nov. 8, 1967, 81 Stat. 383; Pub. L. 108–375, div. A, title V, § 505, Oct. 28, 2004, 118 Stat. 1875; Pub. L. 111–383, div. A, title V, § 517, Jan. 7, 2011, 124 Stat. 4214.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
305	32:111 (less 37th through 54th words).	June 3, 1916, ch. 134, § 74 (less 39th through 56th words); restated June 4, 1920, ch. 227, subch. I, § 41 (less 39th through 56th words), 41 Stat. 781.

The word ''individual'' is inserted for clarity to distinguish the individual Federal recognition that is necessary to membership as an officer from the general Federal recognition that is necessary to all membership in the National Guard (see section 301 of this title).

The words ''June 4, 1920'' are omitted as obsolete. The words ''Only persons selected from the following categories are eligible for individual Federal recognition as commissioned officers'' are substituted for the words ''Persons commissioned * * * shall not be recognized as such under any of the provisions of this title unless they shall have been selected from the following classes''.

In clause (2), the words ''reserve officers'' are omitted as covered by the words ''members of the Army, Navy, Air Force, or Marine Corps''.

In clause (4), the words ''under honorable conditions'' are inserted for clarity.

In clause (5), the words ''the United States Air Force Academy'' are inserted to reflect the establishment of that institution by the Air Force Academy Act (68 Stat. 47).

In clause (7), the words ''staff branch'' are substituted for the words ''Staff Corps and departments''.

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
305(b)	32 App.:4 (less applicability to age).	July 30, 1956, ch. 789, §§ 2 (less applicability to age), 3, 70 Stat. 729.

The words ''who are citizens of the United States'' are omitted as covered by section 313(b) of this title. The words ''with a view to serving'' are substituted for the words ''to serve''. The words ''and have the physical and other qualifications prescribed by the Secretary of the Army'' and section 3 of the source statute are omitted as covered by section 307(a)(2) of this title. The applicability of section 3 of the source statute to section 1 of the source statute is omitted as unnecessary.

AMENDMENTS

2011—Subsec. (a)(5). Pub. L. 111–383 substituted ''the United States Coast Guard Academy, or the United States Merchant Marine Academy'' for ''or the United States Coast Guard Academy''.

2004—Subsec. (a)(2) to (4). Pub. L. 108–375, § 505(1), substituted ''armed forces'' for ''Army, Navy, Air Force, or Marine Corps''.

Subsec. (a)(5). Pub. L. 108–375, § 505(2), substituted ''the United States Air Force Academy, or the United States Coast Guard Academy'' for ''or the United States Air Force Academy''.

1967—Subsec. (a). Pub. L. 90–130, § 2(1)(A), struck out provision that, except as provided in subsec. (b), only male persons from the enumerated categories were eligible for Federal recognition as commissioned officers of the National Guard.

Subsec. (b). Pub. L. 90–130, § 2(1)(B), (C), struck out provision that women are eligible for Federal recognition as commissioned officers of the National Guard, with a view to serving as nurses or medical specialist, and substituted ''person'' for ''woman'' in description of the individual who must be a graduate of a hospital or university training school and a registered nurse in order to be eligible for Federal recognition under this section with a view to serving as a nurse.

1958—Subsec. (a). Pub. L. 85–861, § 2(5)(A), designated existing provisions as subsec. (a) and substituted ''Except as provided in subsection (b), only male persons'' for ''Only persons''.

Subsec. (b). Pub. L. 85–861, § 2(5)(B), added subsec. (b).

§ 307. Federal recognition of officers: examination; certificate of eligibility

(a) To be eligible for Federal recognition as an officer of the National Guard, a person must—

(1) receive an appointment with a view to filling a vacancy in a federally recognized unit or organization of the National Guard;

(2) have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved; and

(3) except as provided in subsections (d) and (e) of this section, pass an examination for physical, moral, and professional fitness to be prescribed by the President, and subscribe to the oath of office prescribed by section 312 of this title.

(b) The examination prescribed by subsection (a)—

(1) shall be conducted, for the Army National Guard, by a board of three commissioned officers designated by the Secretary of the Army from members of the Regular Army or the Army National Guard of the United States, or both, and for the Air National Guard, by a board of three commissioned officers designated by the Secretary of the Air Force from members of the Regular Air Force or the Air National Guard of the United States, or both; and

(2) may be held before original appointment or promotion.

(c) If such a board finds a person qualified, the Chief of the National Guard Bureau may issue to him a certificate of eligibility for Federal recognition for the office for which he was found qualified. If he is originally appointed or promoted within two years to that office, he is entitled to Federal recognition without further examination, except as to physical condition.

(d) Subject to subsection (a)(1) and (2) and to such physical examination as may be prescribed, Federal recognition shall be extended to each officer of the Army Reserve who has qualified for appointment as an officer of the Army National Guard in his reserve grade. Similarly, Federal recognition shall be extended to each officer of the Air Force Reserve who has qualified for appointment as an officer of the Air National Guard. Federal recognition extended under this subsection is effective from the date of appointment in the Army National Guard or the Air National Guard, as the case may be.

(e) Subject to subsection (a)(1) and (2), Federal recognition shall be extended to each officer of the Air Force Reserve who is appointed in a commissioned grade in the Air National Guard to fill a vacancy, if on the date on which he is appointed his reserve grade is the same as the grade in which he is appointed or his name is on a recommended list for promotion to that reserve grade.

(f) Federal recognition extended under subsection (d) or (e) is effective from the date of ap-

pointment in the Army National Guard or the Air National Guard, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 602; Pub. L. 85–861, §2(6), Sept. 2, 1958, 72 Stat. 1543; Pub. L. 92–492, §2(b), Oct. 13, 1972, 86 Stat. 810; Pub. L. 96–535, Dec. 16, 1980, 94 Stat. 3165; Pub. L. 103–337, div. A, title XVI, §1676(a)(2), Oct. 5, 1994, 108 Stat. 3019.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
307(a)	32:113 (1st sentence). 32:111 (37th through 54th words). 50:1113(a) (as applicable to officers).	June 3, 1916, ch. 134, §74 (39th through 56th words); restated June 4, 1920, ch. 227, subch. I, §41 (39th through 56th words), 41 Stat. 781.
307(b)	32:113 (2d sentence and 1st 24 words of 3d sentence).	June 3, 1916, ch. 134, §75; restated June 15, 1933, ch. 87, §12, 48 Stat. 158; July 9, 1952, ch. 608, §803 (10th par.), 66 Stat. 505.
307(c)	32:113 (3d sentence, less 1st 24 words).	
307(d)	50:1115(a) (less last 39 words).	July 9, 1952, ch. 608, §§703(a) (as applicable to officers), 705(a) (less last 39 words), 66 Stat. 502.

In subsection (b), the words ''prescribed by subsection (a)'' are substituted for the words ''to determine such qualifications for appointment''. The word ''designated'' is substituted for the word ''appointed'', since the filling of the positions involved is not an appointment to office in the constitutional sense. The words ''of an individual as an officer or warrant officer'' are omitted as surplusage.

In subsection (c), the word ''originally'' is inserted for clarity. The words ''If such a board finds a person'' are substituted for the words ''if the applicant has been found''. The words ''for individual Federal recognition for the office for which he was found qualified'' are inserted for clarity. The words ''that office'' are substituted for the words ''the office for which he was found qualified''.

In subsection (d), the words ''Notwithstanding the provisions of section 113 of Title 32'' are omitted as covered by the words of exception in revised subsection (a). The words ''Subject to subsection (a)(1) and (2)'' are inserted, since 50:1115(a) (less last 39 words) was not an exception to that part of 50:1113 relating to qualifications prescribed by the Secretary, or to the requirement that only members of federally recognized units can be federally recognized. The words ''in his reserve grade'' are substituted for the words ''in the same grade in which he is appointed as a Reserve officer of the appropriate Armed Force of the United States''. The last sentence is inserted for clarity.

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
307(a)	50:1349(b) (1st sentence).	Sept. 3, 1954, ch. 1257, §519(b), 68 Stat. 1179.
307(e)	50:1349(b) (less 1st sentence, and less 36th through 58th words of 2d sentence).	
307(f)	50:1349(b) (36th through 58th words of 2d sentence).	

In subsection (e), the words ''to subsection (a)(1) and (2)'' are inserted, since 50:1349(b) was not an exception to that part of 50:1113 relating to qualifications prescribed by the Secretary, or to the requirement that only members of federally recognized units can be federally recognized. The words ''without the examination prescribed in section 113 of Title 32'' are omitted as covered by the words of exception in revised subsection (a). The last 37 words are substituted for 50:1349(b) (last 29 words of 2d sentence; and last sentence).

AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103–337 struck out ''and sections 8365 and 8366 of title 10'' after ''of this section''.

1980—Subsec. (g). Pub. L. 96–535 struck out subsec. (g) which prohibited extension of Federal recognition to members of the Virgin Islands National Guard in any grade above colonel.

1972—Subsec. (g). Pub. L. 92–492 added subsec. (g).

1958—Subsec. (a)(3). Pub. L. 85–861, §2(6)(A), substituted ''subsections (d) and (e) of this section and sections 8365 and 8366 of title 10'' for ''subsection (d)''.

Subsecs. (e), (f). Pub. L. 85–861, §2(6)(B), added subsecs. (e) and (f).

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 Title 10, Armed Forces.

SUSPENSION OF SUBSECTION (e) OF THIS SECTION

For authority of the President to suspend subsec. (e) of this section in time of war or emergency declared by Congress, see section 111 of this title.

§308. Federal recognition of officers: temporary recognition

(a) The Secretary of the Army may authorize the extension of temporary Federal recognition as an officer of the Army National Guard to any person who has passed the examination prescribed in section 307(b) of this title, pending his appointment as a reserve officer of the Army. The Secretary of the Air Force may do likewise for a person who has passed that examination pending his appointment as a reserve officer of the Air Force. Temporary recognition so extended may be withdrawn at any time. If not sooner withdrawn or replaced by permanent recognition upon appointment as a reserve officer in the same grade, it terminates one year after its effective date.

(b) To be eligible for temporary Federal recognition under subsection (a), a person must take an oath that during the period of temporary recognition he will perform his Federal duties as if he had been appointed as a reserve officer of the Army or the Air Force, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 603; Pub. L. 110–181, div. A, title V, §514, Jan. 28, 2008, 122 Stat. 99.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
308(a)	50:1114 (less 2d and 3d sentences).	July 9, 1952, ch. 608, §704 (less 2d sentence), 66 Stat. 502.
308(b)	50:1114 (3d sentence).	

In subsection (a), the words ''by regulations'' are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words ''as an officer of the Army National Guard to any person'' are substituted for the words ''to any officer of the National Guard or Air National Guard''. The second sentence is inserted for clarity. The words ''successfully'', ''final determination of his eligibility for, and'', ''in the grade concerned'', and ''automatically'' are omitted as surplusage. 50:1114 (proviso of last sentence) is omitted as surplusage.

In subsection (b), the words ''To be eligible for temporary Federal recognition under subsection (a), a per-

son'' are substituted for the words ''However, a temporary extension of Federal recognition shall be granted only when the officer''. The words ''the period of temporary recognition'' are substituted for the words ''such recognition''. The words ''and obligations required of him'' and ''in the same grade'' are omitted as surplusage.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181 substituted ''one year'' for ''six months'' in last sentence.

§ 309. Federal recognition of National Guard officers: officers promoted to fill vacancies

Each officer of the National Guard who is promoted to fill a vacancy in a federally recognized unit of the National Guard, and who has been on the reserve active-status list or the active-duty list of the Army or the Air Force for at least one year and has completed the minimum years of service in grade specified in section 14303 of title 10, shall be examined for Federal recognition in the grade to which the officer is promoted.

(Added Pub. L. 85–861, § 2(7), Sept. 2, 1958, 72 Stat. 1543; amended Pub. L. 103–337, div. A, title XVI, § 1630(1), Oct. 5, 1994, 108 Stat. 2963.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
309	50:1251.	Sept. 3, 1954, ch. 1257, § 319, 68 Stat. 1160.

The words ''authorized under section 1227(a) of this title'' are omitted as surplusage.

AMENDMENTS

1994—Pub. L. 103–337 substituted ''National Guard officers: officers'' for ''officers: Army National Guard; officers'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''Each officer of the Army National Guard who is promoted to fill a vacancy in a federally recognized unit thereof, and who is eligible for promotion under section 3363(b) of title 10, shall be examined for Federal recognition in the grade to which he is promoted. However, a second lieutenant or first lieutenant of the Army National Guard who has served creditably for at least one year in a position prescribed to be filled by a captain, and who has not previously been federally recognized under this section, may be examined for Federal recognition in the next higher grade without regard to section 3363(b) of title 10.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

SUSPENSION OF THIS SECTION

For authority of the President to suspend this section in time of war or emergency declared by Congress, see section 111 of this title.

§ 310. Federal recognition of National Guard officers: automatic recognition

(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of first lieutenant, effective as of the date on which that officer has completed the service in the grade specified in section 14303(a)(1) of title 10 and has met such other requirements as prescribed by the Secretary concerned under section 14308(b) of that title, if the officer has remained in an active status since the officer was so recommended.

(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve or the Air Force Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the National Guard to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade in which the officer is so appointed in the National Guard if the officer has been recommended for promotion under chapter 1405 of title 10 and has remained in an active status since the officer was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the National Guard.

(Added Pub. L. 85–861, § 2(7), Sept. 2, 1958, 72 Stat. 1544; amended Pub. L. 103–337, div. A, title XVI, § 1630(1), Oct. 5, 1994, 108 Stat. 2964.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
310(a)	50:1252 (less (2)).	Sept. 3, 1954, ch. 1257,
310(b)	50:1252(2).	§ 320, 68 Stat. 1160.

In subsections (a) and (b), the words ''federally recognized'' are inserted for clarity.

In subsection (a), the words ''or the date of the promotion, whichever is later'' are omitted as inconsistent with section 3820(c) of title 10, requiring the discharge of each second lieutenant who is not promoted by the time he has three years of service. (See opinion of the Judge Advocate General of the Army (JAGA 1957/1019, Jan. 7, 1957).)

AMENDMENTS

1994—Pub. L. 103–337 substituted ''National Guard officers:'' for ''officers: Army National Guard;'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the Army National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit thereof, Federal recognition is automatically extended to him in the grade of first lieutenant, effective as of the date on which he completes three years of service computed under section 3360(a) of title 10.

''(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the Army National Guard to fill a vacancy in a federally recognized unit thereof, Federal recognition is automatically extended to him in the grade in which he is so appointed in the Army National Guard, if he has been recommended for promotion to the grade concerned under section 3366, 3367, 3370, or 3383 of title 10 and has remained in an active status since he was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the Army National Guard.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

SUSPENSION OF THIS SECTION

For authority of the President to suspend this section in time of war or emergency declared by Congress, see section 111 of this title.

§312. Appointment oath

Each person who is appointed as an officer of the National Guard shall subscribe to the following oath:

''I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of _____, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of _____ in the National Guard of the State of _____ upon which I am about to enter, so help me God.''

(Aug. 10, 1956, ch. 1041, 70A Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
312	32:112.	June 3, 1916, ch. 134, §73 (1st par.); restated June 15, 1933, ch. 87, §11 (1st par.), 48 Stat. 157; July 9, 1952, ch. 608, §806(c), 66 Stat. 507.

The words ''Each person who is appointed as an'' are inserted for clarity.

§313. Appointments and enlistments: age limitations

(a) To be eligible for original enlistment in the National Guard, a person must be at least 17 years of age and under 45, or under 64 years of age and a former member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps. To be eligible for reenlistment, a person must be under 64 years of age.

(b) To be eligible for appointment as an officer of the National Guard, a person must—

(1) be a citizen of the United States; and

(2) be at least 18 years of age and under 64.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 85–861, §2(9), Sept. 2, 1958, 72 Stat. 1544; Pub. L. 90–130, §2(2), Nov. 8, 1967, 81 Stat. 383.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
313(a)	32:4 (less 22 words before proviso).	June 3, 1916, ch. 134, §58; restated Feb. 28, 1925, ch. 371, §1 (1st par.); restated June 15, 1933, ch. 87, §5 (1st par.), 48 Stat. 155; June 19, 1935, ch. 277, §2, 49 Stat. 391; June 28, 1947, ch. 162, §7 (less applicability to §57 of the Act of June 3, 1916, ch. 134), 61 Stat. 192; July 9, 1952, ch. 608, §§803 (8th par.), 806(j), 66 Stat. 505, 508.
313(b)	32:4 (22 words before proviso).	

In subsection (a), 32:4 (1st 19 words) is omitted as covered by section 101(3) and (5) of this title. 32:4 (54th through 62d words) is omitted as surplusage. The words ''under 64'' are substituted for the words ''not more than sixty-four'' to conform to an opinion of the Judge Advocate General of the Army (JAGA 1953/9033, 3 Dec. 1953). The word ''Regular'' is inserted before the words ''Navy'' and ''Marine Corps''. The words ''Regular Air Force'' are inserted to complete the coverage of the revised section. The word ''reenlistment'' is substituted for the words ''subsequent enlistment''.

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
313(b)	32 App.:4 (as applicable to age).	July 30, 1956, ch. 789, §2 (as applicable to age), 70 Stat. 729.

AMENDMENTS

1967—Subsec. (b)(3). Pub. L. 90–130 struck out cl. (3) which inserted requirement that women appointed with a view to serving as a nurse or medical specialist be at least 21 years of age and under 64 years of age in order to be eligible for appointment as an officer of the National Guard.

1958—Subsec. (b). Pub. L. 85–861 inserted qualifications for appointment of women with a view to serving as nurses or medical specialists.

§314. Adjutants general

(a) There shall be an adjutant general in each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. He shall perform the duties prescribed by the laws of that jurisdiction.

(b) The President shall appoint the adjutant general of the District of Columbia and prescribe his grade and qualifications.

(c) The President may detail as adjutant general of the District of Columbia any retired commissioned officer of the Regular Army or the Regular Air Force recommended for that detail by the commanding general of the District of Columbia National Guard. An officer detailed under this subsection is entitled to the basic pay and allowances of his grade.

(d) The adjutant general of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands, and officers of the National Guard, shall make such returns and reports as the Secretary of the Army or the Secretary of the Air Force may prescribe, and shall make those returns and reports to the Secretary concerned or to any officer designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 85–894, Sept. 2, 1958, 72 Stat. 1713; Pub. L. 100–456, div. A, title XII, §1234(b)(1), (5), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101–510, div. A, title XIII, §1322(b), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–190, div. A, title V, §553, Dec. 5, 1991, 105 Stat. 1371; Pub. L. 109–163, div. A, title X, §1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
314(a)	32:11.	Jan. 21, 1903, ch. 196, §12, 32 Stat. 776.
314(b)	32:12.	June 6, 1900, ch. 811, 31 Stat. 671.
314(c)	10:998.	
314(d)	32:13.	June 3, 1916, ch. 134, §66, 39 Stat. 199.
	32:14.	

In subsection (a), the word ''appointed'' is omitted, since the position is not filled by appointment in some

cases. The Act of January 21, 1903, ch. 196, § 12 (last 48 words of 1st sentence) are not contained in 32:11. They are also omitted from the revised section as covered by subsection (d) of this section.

In subsection (b), the word ''grade'' is substituted for the word ''rank''. The words ''To be eligible for appointment as * * * a person must be'' are substituted for the words ''each * * * shall be''. The words ''of that jurisdiction'' are substituted for the words ''of the Territory for which he is appointed''.

In subsection (c), the word ''Regular'' is inserted as an implication of 10:998 (last 2 words). The words ''commanding general'' are substituted for the words ''brigadier general commanding'', since the commanding general might hold another grade.

The words ''basic pay'' are substituted for the words ''active service pay'' to conform to section 201 of the Career Compensation Act of 1949, 63 Stat. 805 (37 U.S.C. 232). The word ''grade'' is substituted for the word ''rank''.

In subsection (d), the words ''at such times and in such form'' are omitted as covered by the words ''such returns and reports as the Secretary * * * may prescribe''.

AMENDMENTS

2006—Subsecs. (a), (d). Pub. L. 109–163 substituted ''State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands'' for ''State and Territory, Puerto Rico, and the District of Columbia''.

1991—Subsec. (b). Pub. L. 102–190 struck out ''each Territory and'' before ''the District of Columbia'' in first sentence, and struck out at end ''To be eligible for appointment as adjutant general of a Territory, a person must be a citizen of that jurisdiction.''

1990—Subsec. (d). Pub. L. 101–510 struck out at end ''Each Secretary shall send with his annual report to Congress an abstract of the returns and reports of the adjutants general and such comments as he considers necessary for the information of Congress.''

1988—Subsec. (a). Pub. L. 100–456, § 1234(b)(1), struck out ''the Canal Zone,'' after ''Puerto Rico,''.

Subsec. (b). Pub. L. 100–456, § 1234(b)(5), struck out '', the Canal Zone,'' after ''each Territory'' and ''or the Canal Zone'' after ''a Territory''.

Subsec. (d). Pub. L. 100–456, § 1234(b)(1), struck out ''the Canal Zone,'' after ''Puerto Rico,''.

1958—Subsec. (b). Pub. L. 85–894 struck out ''Puerto Rico'' in two places.

§ 315. Detail of regular members of Army and Air Force to duty with National Guard

(a) The Secretary of the Army shall detail commissioned officers of the Regular Army to duty with the Army National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. The Secretary of the Air Force shall detail commissioned officers of the Regular Air Force to duty with the Air National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. With the permission of the President, an officer so detailed may accept a commission in the Army National Guard or the Air National Guard, as the case may be, terminable in the President's discretion, without prejudicing his rank and without vacating his regular appointment.

(b) The Secretary of the Army may detail enlisted members of the Regular Army for duty with the Army National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. The Secretary of the Air Force may detail enlisted members of the Regular Air Force for duty with the Air National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 100–456, div. A, title XII, § 1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, § 1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
315(a)	32:68 (less 2d sentence).	June 3, 1916, ch. 134, § 100, 39 Stat. 208.
	32:69.	
315(b)	32:68 (2d sentence).	

In subsection (a), 32:68 (last sentence) is omitted as surplusage, since positive provisions relating to the assignment or detail of retired officers to that duty are covered by section 3504(a) or 8504(a) of title 10. The words ''of the active list'', in 32:68, are omitted for the same reason. The words ''so detailed'' are substituted for the words ''detailed under section 68 of this title'', in 32:69. The words ''relative or lineal'', in 32:69, are omitted as surplusage.

AMENDMENTS

2006—Pub. L. 109–163 substituted ''State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands'' for ''State and Territory, Puerto Rico, and the District of Columbia'' wherever appearing.

1988—Subsecs. (a), (b). Pub. L. 100–456 struck out ''the Canal Zone,'' after ''Puerto Rico,''.

DELEGATION OF FUNCTIONS AND AUTHORITY UNDER SECTIONS 315 AND 325 OF TITLE 32, UNITED STATES CODE

Memorandum of President of the United States, Apr. 14, 2011, 76 F.R. 22003, provided:

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you: (a) the functions and authority of the President contained in section 315 of title 32, United States Code, to permit a commissioned officer of the Regular Army or Regular Air Force to accept a commission in the Army National Guard or the Air National Guard, as the case may be, terminable at your discretion, without prejudicing his or her rank and without vacating his or her regular appointment; and (b) the functions and authority of the President contained in section 325 of title 32, United States Code, to authorize the service of an officer of the Army National Guard or the Air National Guard on active duty without relieving that officer from duty in the National Guard of his or her State, or of the Commonwealth of Puerto Rico, Guam, or the United States Virgin Islands, or the District of Columbia and to give such authorization in advance for the purpose of establishing the succession of command of a unit.

This delegation of functions and authority supersedes and replaces the July 23, 2004, delegation to the Secretary of Defense of the functions and authority of the President contained in section 325 of title 32, United States Code.

You are further authorized and directed to make necessary arrangements to fund the exercise of these functions and authority from the proper appropriation, prescribe regulations to implement these functions and authority, and to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 316. Detail of members of Army National Guard for rifle instruction of civilians

The President may detail officers and noncommissioned officers of the Army National

Guard to duty as instructors at rifle ranges for the training of civilians in the use of military arms.

(Aug. 10, 1956, ch. 1041, 70A Stat. 605.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
316	32:183.	June 3, 1916, ch. 134, § 113 (3d sentence), 39 Stat. 211.

The word ''civilians'' is substituted for the word ''citizenry''. The word ''capable'' is omitted as surplusage.

§ 317. Command during joint exercises with Federal troops

When any part of the National Guard that is not in Federal service participates in an encampment, maneuver, or other exercise for instruction, together with troops in Federal service, the command of the post, air base, or other place where it is held, and of the troops in Federal service on duty there, remains with the officers in Federal service who command that place and the Federal troops on duty there, without regard to the rank of the officers of the National Guard not in Federal service who are temporarily participating in the exercise.

(Aug. 10, 1956, ch. 1041, 70A Stat. 605.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
317	32:72.	June 3, 1916, ch. 134, § 95, 39 Stat. 207.

The words ''not in Federal service'' are inserted to show that the revised section applies only to joint exercises involving National Guard troops not in Federal service, since 32:72 was enacted before the establishment of the National Guard of the United States, in 1933. The words ''troops in Federal service'' are substituted for the words ''troops of the United States''. The words ''officers in Federal service who command'' are substituted for the words ''commander of the United States troops''. The words ''post, air base, or other place'' are substituted for the words ''military post, or reservation, or elsewhere''. The words ''that place and the Federal troops on duty there'' are substituted for the words ''there or elsewhere'' The words ''including outdoor target practice'' and ''field and coast defense instruction'' are omitted as surplusage.

USUAL AND CUSTOMARY ARRANGEMENT

Pub. L. 112–81, div. A, title V, § 515(c), Dec. 31, 2011, 125 Stat. 1395, provided that:

''(1) DUAL-STATUS COMMANDER.—When the Armed Forces and the National Guard are employed simultaneously in support of civil authorities in the United States, appointment of a commissioned officer as a dual-status commander serving on active duty and duty in, or with, the National Guard of a State under sections 315 or 325 of title 32, United States Code, as commander of Federal forces by Federal authorities and as commander of State National Guard forces by State authorities, should be the usual and customary command and control arrangement, including for missions involving a major disaster or emergency as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122). The chain of command for the Armed Forces shall remain in accordance with sections 162(b) and 164(c) of title 10, United States Code.

''(2) STATE AUTHORITIES SUPPORTED.—When a major disaster or emergency occurs in any area subject to the laws of any State, Territory, or the District of Columbia, the Governor of the State affected normally should be the principal civil authority supported by the primary Federal agency and its supporting Federal entities, and the Adjutant General of the State or his or her subordinate designee normally should be the principal military authority supported by the dual-status commander when acting in his or her State capacity.

''(3) RULE OF CONSTRUCTION.—Nothing in paragraphs (1) or (2) shall be construed to preclude or limit, in any way, the authorities of the President, the Secretary of Defense, or the Governor of any State to direct, control, and prescribe command and control arrangements for forces under their command.''

[§§ 318 to 321. Repealed. Pub. L. 99–661, div. A, title VI, § 604(f)(2)(A), Nov. 14, 1986, 100 Stat. 3878]

Section 318, acts Aug. 10, 1956, ch. 1041, 70A Stat. 605; Sept. 2, 1958, Pub. L. 85–861, § 33(c)(1), 72 Stat. 1567; Sept. 7, 1962, Pub. L. 87–649, § 8(a), 76 Stat. 495, related to compensation for members of National Guard for disablement during training.

Section 319, act Aug. 10, 1956, ch. 1041, 70A Stat. 605, related to compensation for members of National Guard for disablement during training when not covered by section 318 of this title.

Section 320, act Aug. 10, 1956, ch. 1041, 70A Stat. 606, related to hospitalization ordered by Secretary of Army or Air Force for members of National Guard.

Section 321, acts Aug. 10, 1956, ch. 1041, 70A Stat. 606; Sept. 2, 1958, Pub. L. 85–861, § 2(10), 72 Stat. 1544; Sept. 7, 1962, Pub. L. 87–649, § 8(b), 76 Stat. 495, related to death gratuities for members of National Guard.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as an Effective Date of 1986 Amendment note under section 1074a of Title 10, Armed Forces.

§ 322. Discharge of enlisted members

(a) An enlisted member of the National Guard shall be discharged when—

(1) he becomes 64 years of age; or

(2) his Federal recognition is withdrawn.

(b) An enlisted member who is discharged from the National Guard is entitled to a discharge certificate similar in form and classification to the corresponding certificate prescribed for members of the Regular Army or the Regular Air Force, as the case may be.

(c) In time of peace, an enlisted member of the National Guard may be discharged before his enlistment expires, under such regulations as may be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 606.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
322(a)	32:154 (last par., less 1st 26, and last 26, words).	June 3, 1916, ch. 134, § 72; restated June 4, 1920, ch. 227, subch. I, § 40; restated June 15, 1933, ch. 87, § 10, 48 Stat. 157; July 9, 1952, ch. 608, § 806(d), 66 Stat. 507.
322(b)	32:125 (less last 27 words).	
322(c)	32:125 (last 27 words).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
		June 3, 1916, ch. 134, § 110 (last par., less 1st 30, and last 25, words); restated Sept. 22, 1922, ch. 423, § 6 (last par., less 1st 30, and last 137, words); restated May 12, 1928, ch. 529 (less 1st 30, and last 25, words), 45 Stat. 500.

Subsection (a) is substituted for 32:154 (last par., less 1st 26, and last 26, words) to reflect an opinion of the Judge Advocate General of the Army (JAGA 1953/9033, 3 Dec. 1953).

In subsection (b), the words ''is entitled to a discharge certificate similar in form and classification to the corresponding certificate'' are substituted for the words ''shall receive a discharge in writing in such form and with such classification as is or shall be''. The words ''service in'' are omitted as surplusage.

In subsection (c), the words ''his enlistment expires'' are substituted for the words ''the expiration of terms of enlistment''.

§ 323. Withdrawal of Federal recognition

(a) Whenever a member of the National Guard ceases to have the qualifications prescribed under section 301 of this title or ceases to be a member of a federally recognized unit or organization of the National Guard, his Federal recognition shall be withdrawn.

(b) Under regulations to be prescribed by the President, the capacity and general fitness of an officer of the National Guard for continued Federal recognition may be investigated at any time by an efficiency board composed of commissioned officers of—

(1) the Regular Army or the Army National Guard of the United States, or both, who outrank him and who are detailed by the Secretary of the Army, if he is a member of the Army National Guard; or

(2) the Regular Air Force or the Air National Guard of the United States, or both, who outrank him and who are detailed by the Secretary of the Air Force, if he is a member of the Air National Guard.

If the findings of the board are unfavorable to the officer and are approved by the President, his Federal recognition shall be withdrawn.

(c) If a member of the Army National Guard of the United States or the Air National Guard of the United States is transferred to the Army Reserve or the Air Force Reserve, as the case may be, under section 12105, 12213(a), or 12214(a) of title 10, his Federal recognition is withdrawn.

(d) The Federal recognition of a reserve commissioned officer of the Army or the Air Force who is—

(1) federally recognized as an officer of the National Guard; and

(2) subject to involuntary transfer to the Retired Reserve, transfer to an inactive status list, or discharge under chapter 1407, 1409, or 1411 of title 10;

shall, if not sooner withdrawn, be withdrawn on the date of such involuntary transfer or discharge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Pub. L. 85–861, §§ 2(11), 33(c)(2), Sept. 2, 1958, 72 Stat. 1546, 1567; Pub. L. 103–337, div. A, title XVI, §§ 1630(2), 1676(a)(3), Oct. 5, 1994, 108 Stat. 2964, 3019.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
323(a)	32:154 (last 26 words of last par.).	June 3, 1916, ch. 134, § 76 (1st sentence, and 1st 24 words of 2d sentence); restated June 15, 1933, ch. 87, § 13 (1st sentence, and 1st 24 words of 2d sentence), 48 Stat. 158.
323(b)	32:115 (1st sentence, and 1st 24 words of 2d sentence).	June 3, 1916, ch. 134, § 110 (last 25 words of last par.); restated Sept. 22, 1922, ch. 423, § 6 (last 137 words of last par.); restated May 12, 1928, ch. 529 (last 25 words), 45 Stat. 501.
323(c)	50:1116 (last 15 words of 1st sentence).	July 9, 1952, ch. 608, § 706 (last 15 words of 1st sentence), 66 Stat. 503.

In subsection (a) the words ''ceases to have the qualifications prescribed under section 300 of this title'' are substituted for 32:154 (last 26 words of last par.), since it is implicit that a member who could not be paid would lose his federally recognized status (see JAGA 1953/9033, 3 Dec. 1953). The last 23 words of subsection (a) are inserted as a necessary implication of the rule stated in section 309(c) of this title.

In subsection (b), the words ''or warrant officer'' are omitted, since section 101(9) of this title defines ''officer'' to include warrant officers. The word ''detailed'' is substituted for the word ''appointed'', since the filling of the positions involved is not appointment to an office in the constitutional sense. The word ''commissioned'' is inserted after the words ''composed of'', since the word ''officer'' alone, in 32:115, referred to a commissioned officer only (see opinion of the Judge Advocate General of the Army (JAGA 1953/4078, 6 May 1953)). The words ''who outrank him'' are substituted for the words ''senior in rank to the officer under investigation''.

In subsection (c), the opening clause is substituted for the words ''such transfer''. The words ''his Federal recognition is withdrawn'' are substituted for the words ''shall terminate his federally recognized National Guard or Air National Guard status''.

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
323(d)	50:1261 (as applicable to Federal recognition).	Sept. 3, 1954, ch. 1257, §§ 324 (as applicable to Federal recognition), 522(e)(1) (56th through 63d words). (e)(2) (78th through 85th words), 68 Stat. 1161, 1181.
323(e)	50:1352(e)(1) (56th through 63d words). 50:1352(e)(2) (78th through 85th words).	

The change [in subsec. (b)(1) and (2)] is necessary to exclude from the efficiency board commissioned officers of the Army Reserve or Air Force Reserve, in accordance with the source law, the first sentence of section 76 of the Act of June 3, 1916, chapter 134 (formerly 32 U.S.C. 115 (1st sentence)).

In subsection (d), the words ''notwithstanding section 115 of title 32'' are omitted as surplusage.

In subsection (e), the words ''if appropriate'' are omitted as surplusage.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–337, § 1676(a)(3), substituted ''12105, 12213(a), or 12214(a)'' for ''3259, 3352(a), 8259, or 8352(a)''.

Subsecs. (d), (e). Pub. L. 103–337, § 1630(2), added subsec. (d) and struck out former subsecs. (d) and (e) which read as follows:

''(d) Except as provided in sections 1005 and 1006 of title 10, the Federal recognition of a second lieutenant

of the Army National Guard who is discharged under section 3820(c) of title 10 for failure of promotion shall be withdrawn on the date of that discharge.

''(e) Except as provided in sections 1005 and 1006 of title 10, the Federal recognition of a reserve officer of the Air Force who is not recommended for promotion under section 8368(c)(1) or (2) of title 10, or who is found to be not qualified for Federal recognition under section 8368(d) or (e) of title 10, shall be withdrawn.''

1958—Subsec. (b)(1). Pub. L. 85–861, § 33(c)(2), substituted ''the Regular Army or the Army National Guard of the United States, or both'' for ''a regular or reserve component of the Army''.

Subsec. (b)(2). Pub. L. 85–861, § 33(c)(2), substituted ''the Regular Air Force or the Air National Guard of the United States, or both'' for ''a regular or reserve component of the Air Force''.

Subsecs. (d), (e). Pub. L. 85–861, § 2(11), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1676(a)(3) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1630(2) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 33(c)(2) of Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of Title 10, Armed Forces.

SUSPENSION OF SUBSECTION (d) OF THIS SECTION

For authority of the President to suspend subsec. (d) of this section in time of war or emergency declared by Congress, see section 111 of this title.

§ 324. Discharge of officers; termination of appointment

(a) An officer of the National Guard shall be discharged when—

(1) he becomes 64 years of age; or

(2) his Federal recognition is withdrawn.

The official who would be authorized to appoint him shall give him a discharge certificate.

(b) Subject to subsection (a), the appointment of an officer of the National Guard may be terminated or vacated as provided by the laws of the State of whose National Guard he is a member, or by the laws of the Commonwealth of Puerto Rico, or the District of Columbia, Guam, or the Virgin Islands, of whose National Guard he is a member.

(c) Notwithstanding subsection (a)(1), an officer of the National Guard serving as a chaplain, medical officer, dental officer, nurse, veterinarian, Medical Service Corps officer, or biomedical sciences officer may be retained, with the officer's consent, until the date on which the officer becomes 68 years of age.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Pub. L. 100–456, div. A, title XII, § 1234(b)(6), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, § 1057(b)(5), Jan. 6, 2006, 119 Stat. 3441; Pub. L. 110–417, [div. A], title V, § 516(b), Oct. 14, 2008, 122 Stat. 4442; Pub. L. 111–383, div. A, title X, § 1075(h)(4)(C), Jan. 7, 2011, 124 Stat. 4377.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
324(a)	32:114 (less 1st sentence).	June 3, 1916, ch. 134, § 77; restated June 15, 1933, ch. 87, § 14; restated June 19, 1935, ch. 277, § 4, 49 Stat. 391; July 9, 1952, ch. 608, § 803 (11th par.), 66 Stat. 505.
324(b)	32:114 (1st sentence).	

In subsection (a), the words ''shall be discharged'' are substituted for the words ''shall thereupon cease to be a member thereof'' since an official is required to give the officer a discharge certificate. The words ''becomes 64 years of age'' are substituted for the words ''upon reaching the age of sixty-four years''. The words ''his Federal recognition is withdrawn'' are substituted for the words ''When Federal recognition is withdrawn * * * as provided in section 115 of this title''.

In subsection (b), the words ''Subject to subsection (a)'' are inserted for clarity. The words ''as provided by the laws'' are substituted for the words ''in such manner as * * * shall provide by law''.

AMENDMENTS

2011—Subsec. (b). Pub. L. 111–383 amended directory language of Pub. L. 109–163, § 1057(b)(5). See 2006 Amendment note below.

2008—Subsec. (c). Pub. L. 110–417 added subsec. (c).

2006—Subsec. (b). Pub. L. 109–163, § 1057(b)(5), as amended by Pub. L. 111–383, substituted ''State of whose National Guard he is a member, or by the laws of the Commonwealth of Puerto Rico, or the District of Columbia, Guam, or the Virgin Islands, of whose National Guard he is a member'' for ''State or Territory of whose National Guard he is a member, or by the laws of Puerto Rico or the District of Columbia, if he is a member of its National Guard''.

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

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, § 1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that the amendment made by section 1075(h)(4)(C) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

§ 325. Relief from National Guard duty when ordered to active duty

(a) RELIEF REQUIRED.—(1) Except as provided in paragraph (2), each member of the Army National Guard of the United States or the Air National Guard of the United States who is ordered to active duty is relieved from duty in the National Guard of his State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands or the District of Columbia, as the case may be, from the effective date of his order to active duty until he is relieved from that duty.

(2) An officer of the Army National Guard of the United States or the Air National Guard of the United States is not relieved from duty in the National Guard of his State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands or the District of Columbia, under paragraph (1) while serving on active duty if—

(A) the President authorizes such service in both duty statuses; and

(B) the Governor of his State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, consents to such service in both duty statuses.

(b) ADVANCE AUTHORIZATION AND CONSENT.—The President and the Governor of a State or

Territory, or of the Commonwealth of Puerto Rico, or the commanding general of the District of Columbia National Guard, as applicable, may give the authorization or consent required by subsection (a)(2) with respect to an officer in advance for the purpose of establishing the succession of command of a unit.

(c) RETURN TO STATE STATUS.—So far as practicable, members, organizations, and units of the Army National Guard of the United States or the Air National Guard of the United States ordered to active duty shall be returned to their National Guard status upon relief from that duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Pub. L. 100–456, div. A, title XII, § 1234(b)(6), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 108–136, div. A, title V, § 516, Nov. 24, 2003, 117 Stat. 1461; Pub. L. 109–163, div. A, title X, § 1057(b)(6), Jan. 6, 2006, 119 Stat. 3442; Pub. L. 110–417, [div. A], title V, § 517, Oct. 14, 2008, 122 Stat. 4442.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
325(a)	50:1120.	July 9, 1952, ch. 608, §§ 710, 712(b) (less last 17 words), 66 Stat. 503, 504.
325(b)	50:1122(b) (less last 17 words).	

In subsection (a), the words ''in the service of the United States'' are omitted as surplusage. The words ''effective date of his order to active duty until he is relieved from that duty'' are substituted for the words ''active-duty date of the orders and for as long as they remain on active duty in the service of the United States''. 50:1120 (last sentence) is omitted as surplusage, since the persons involved are members of the Army or the Air Force.

In subsection (b), the words ''upon relief from that duty'' are substituted for the words ''upon being relieved from active duty''. The words ''their National Guard status'' are substituted for the words ''to the National Guard and Air National Guard in their respective States, Territories, and the District of Columbia''.

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–417, § 517(a), struck out ''in command of a National Guard unit'' after ''active duty'' in introductory provisions.

Subsecs. (b), (c). Pub. L. 110–417, § 517(b), added subsec. (b) and redesignated former subsec. (b) as (c).

2006—Subsec. (a). Pub. L. 109–163 substituted ''State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands'' for ''State or Territory, or of Puerto Rico'' in par. (1) and introductory provisions of par. (2) and ''State or Territory or Puerto Rico'' in par. (2)(B).

2003—Subsec. (a). Pub. L. 108–136, § 516(a), substituted ''(a) RELIEF REQUIRED.—(1) Except as provided in paragraph (2), each'' for ''(a) Each'' and added par. (2).

Subsec. (b). Pub. L. 108–136, § 516(b), inserted heading.

1988—Subsec. (a). Pub. L. 100–456 struck out '', the Canal Zone,'' after ''Puerto Rico''.

DELEGATION OF FUNCTIONS

Functions and authority of President under this section delegated to the Secretary of Defense, see Memorandum of President of the United States, Apr. 14, 2011, 76 F.R. 22003, set out as a note under section 315 of this title.

NATIONAL GUARD SUPPORT FOR 2004 DEMOCRATIC AND REPUBLICAN NATIONAL CONVENTIONS AND OTHER APPROPRIATE EVENTS

Memorandum of President of the United States, July 23, 2004, 69 F.R. 46397, which delegated to the Secretary of Defense the functions and authority of the President under this section, was superseded by Memorandum of President of the United States, Apr. 14, 2011, 69 F.R. 22003, set out as a note under section 315 of this title.

§ 326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures

In the National Guard not in Federal service, there are general, special, and summary courts-martial constituted like similar courts of the Army and the Air Force. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures, provided for those courts. Punishments shall be as provided by the laws of the respective States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Pub. L. 107–314, div. A, title V, § 512(a), Dec. 2, 2002, 116 Stat. 2537; Pub. L. 109–163, div. A, title X, § 1057(b)(7), Jan. 6, 2006, 119 Stat. 3442.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
326	32:91.	June 3, 1916, ch. 134, § 102, 39 Stat. 208.

The words ''not in Federal service'' are substituted for the words ''Except in organizations in the service of the United States''. The words ''have the jurisdiction and powers'' are substituted for the words ''and have cognizance of the same subjects, and possess like powers''. The words ''of three kinds, namely'', ''provided for by the laws and regulations governing'', ''proceedings of courts-martial of the National Guard'', and ''modes of'' are omitted as surplusage.

AMENDMENTS

2006—Pub. L. 109–163 substituted ''States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands'' for ''States and Territories, Puerto Rico, and the District of Columbia''.

2002—Pub. L. 107–314 inserted at end ''Punishments shall be as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.''

§ 327. Courts-martial of National Guard not in Federal service: convening authority

(a) In the National Guard not in Federal service, general, special, and summary courts-martial may be convened as provided by the laws of the respective States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(b) In the National Guard not in Federal service—

(1) general courts-martial may be convened by the President;

(2) special courts-martial may be convened—

(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command; and

(3) summary courts-martial may be convened—

(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment.

(c) The convening authorities provided under subsection (b) are in addition to the convening authorities provided under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Pub. L. 100–456, div. A, title XII, § 1234(b)(4), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 107–314, div. A, title V, § 512(b), Dec. 2, 2002, 116 Stat. 2537; Pub. L. 109–163, div. A, title X, § 1057(b)(7), Jan. 6, 2006, 119 Stat. 3442.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
327(a)	32:92 (1st 46 words).	June 3, 1916, ch. 134, § 103, 39 Stat. 208.
327(b)	32:92 (less 1st 46 words).	

In subsection (a), the words ''Federal service'' are substituted for the words ''service of the United States''.

In subsection (b), the words ''A general court-martial may sentence to—'' are substituted for the words ''and such courts shall have the power to impose * * * to sentence''. The words ''any combination of these punishments'' are substituted for the words ''or any two or more of such punishments may be combined in the sentences imposed by such courts''.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163 substituted ''States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands'' for ''States and Territories, Puerto Rico, and the District of Columbia''.

2002—Pub. L. 107–314 amended section catchline and text generally. Prior to amendment, text read as follows:

''(a) In the National Guard not in Federal service, general courts-martial may be convened by the President or by the governor of a State or Territory or Puerto Rico or by the commanding general of the National Guard of the District of Columbia.

''(b) A general court-martial may sentence to—

''(1) a fine of not more than $200;

''(2) forfeiture of pay and allowances;

''(3) a reprimand;

''(4) dismissal or dishonorable discharge;

''(5) reduction of a noncommissioned officer to the ranks; or

''(6) any combination of these punishments.''

1988—Subsec. (a). Pub. L. 100–456 substituted ''Territory or Puerto Rico'' for ''Territory, Puerto Rico, or the Canal Zone,''.

MODELS FOR STATE CODE OF MILITARY JUSTICE AND STATE MANUAL FOR COURTS-MARTIAL

Pub. L. 107–314, div. A, title V, § 512(e), Dec. 2, 2002, 116 Stat. 2537, provided that:

''(1) The Secretary of Defense shall prepare a model State code of military justice and a model State manual for courts-martial to recommend to the States for use with respect to the National Guard not in Federal service. Both such models shall be consistent with the recommendations contained in the report that was issued in 1998 by the Department of Defense Panel to Study Military Justice in the National Guard not in Federal Service.

''(2) The Secretary shall ensure that adequate support for the preparation of the model State code of military justice and the model State manual for courts-martial (including the detailing of attorneys and other personnel) is provided by the General Counsel of the Department of Defense, the Secretary of the Army, the Secretary of the Air Force, and the Chief of the National Guard Bureau.

''(3) If the funds available to the Chief of the National Guard Bureau are insufficient for paying the cost of the National Guard Bureau support required under paragraph (2) (including increased costs of pay of members of the National Guard for additional active duty necessitated by such requirement and increased cost of detailed attorneys and other staff, allowances, and travel expenses related to such support), the Secretary shall, upon request made by the Chief of the Bureau, provide such additional funding as the Secretary determines necessary to satisfy the requirement for such support.

''(4) Not later than one year after the date of the enactment of this Act [Dec. 2, 2002], the Secretary shall submit a report on the actions taken to carry out this subsection to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include proposals in final form of both the model State code of military justice and the model State manual for courts-martial required by paragraph (1), together with a discussion of the efforts being made to present those proposals to the States for their consideration for enactment or adoption, respectively.

''(5) In this subsection, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.''

§ 328. Active Guard and Reserve duty: Governor's authority

(a) AUTHORITY.—The Governor of a State or the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, with the consent of the Secretary concerned, may order a member of the National Guard to perform Active Guard and Reserve duty, as defined by section 101(d)(6) of title 10, pursuant to section 502(f) of this title.

(b) DUTIES.—A member of the National Guard performing duty under subsection (a) may perform the additional duties specified in section 502(f)(2) of this title to the extent that the performance of those duties does not interfere with the performance of the member's primary Active Guard and Reserve duties of organizing, administering, recruiting, instructing, and training the reserve components.

(Added Pub. L. 109–364, div. A, title V, § 526(a), Oct. 17, 2006, 120 Stat. 2196.)

PRIOR PROVISIONS

A prior section 328, act Aug. 10, 1956, ch. 1041, 70A Stat. 608, related to special courts-martial of the National Guard not in Federal service, prior to repeal by Pub. L. 107–314, div. A, title V, § 512(c), Dec. 2, 2002, 116 Stat. 2537, applicable with respect to courts-martial convened after Dec. 2, 2002.

[§§ 329 to 333. Repealed. Pub. L. 107–314, div. A, title V, § 512(c)(1), Dec. 2, 2002, 116 Stat. 2537]

Section 329, act Aug. 10, 1956, ch. 1041, 70A Stat. 608, related to summary courts-martial of National Guard not in Federal service.

Section 330, act Aug. 10, 1956, ch. 1041, 70A Stat. 609, related to confinement instead of fine for a court-martial in the National Guard not in Federal service.

Section 331, acts Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, § 1234(b)(3), Sept. 29, 1988, 102 Stat. 2059, related to sentence of dismissal or

dishonorable discharge in the National Guard not in Federal service.

Section 332, act Aug. 10, 1956, ch. 1041, 70A Stat. 609, authorized the president of a court-martial or a summary court officer to compel attendance of accused and witnesses in the National Guard not in Federal service.

Section 333, acts Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059, related to execution of process and sentence of courts-martial in the National Guard not in Federal service.

EFFECTIVE DATE OF REPEAL

Pub. L. 107–314, div. A, title V, §512(c)(2), Dec. 2, 2002, 116 Stat. 2537, provided that: ''The provisions of law repealed by paragraph (1) [repealing sections 328 to 333 of this title] shall continue to apply with respect to courts-martial convened in the National Guard not in Federal service before the date of the enactment of this Act [Dec. 2, 2002].''

[§ 334. Repealed. Pub. L. 97–124, § 3, Dec. 29, 1981, 95 Stat. 1666]

Section, added Pub. L. 94–464, §2(b), Oct. 8, 1976, 90 Stat. 1986; amended Pub. L. 96–513, title V, §515(3), Dec. 12, 1980, 94 Stat. 2937, provided for the payment of malpractice liability of National Guard Medical personnel. See sections 1089(a) of Title 10, Armed Forces, and 2671 of Title 28, Judiciary and Judicial Procedure.

AMENDMENT AFTER REPEAL

Pub. L. 97–258, §3(h)(1), Sept. 13, 1982, 96 Stat. 1065, purported to substitute ''section 1304 of title 31'' for ''section 1302 of the Act of July 27, 1956, (31 U.S.C. 724a)'' in subsec. (a) of section 334 of this title, without reference to the earlier repeal of that section by Pub. L. 97–124, §3, Dec. 29, 1981, 95 Stat. 1666.

EFFECTIVE DATE OF REPEAL

Repeal effective only with respect to claims arising on or after Dec. 29, 1981, see section 4 of Pub. L. 97–124, set out as an Effective Date of 1981 Amendment note under section 1089 of Title 10, Armed Forces.

[§ 335. Repealed. Pub. L. 98–525, title IV, § 414(b)(2)(A), Oct. 19, 1984, 98 Stat. 2519]

Section, added Pub. L. 98–94, title V, §504(b)(1), Sept. 24, 1983, 97 Stat. 632, related to status of certain members of the National Guard performing full-time duty.

CHAPTER 5—TRAINING

Sec.
501. Training generally.
502. Required drills and field exercises.
503. Participation in field exercises.
504. National Guard schools and small arms competitions.
505. Army and Air Force schools and field exercises.
506. Assignment and detail of members of Regular Army or Regular Air Force for instruction of National Guard.
507. Instruction in firing; supply of ammunition.
508. Assistance for certain youth and charitable organizations.
509. National Guard Youth Challenge Program of opportunities for civilian youth.

AMENDMENTS

2004—Pub. L. 108–375, div. A, title V, §594(b)(2), Oct. 28, 2004, 118 Stat. 1936, substituted ''National Guard Youth Challenge'' for ''National Guard Challenge'' in item 509.

1997—Pub. L. 105–85, div. A, title X, §1076(b), Nov. 18, 1997, 111 Stat. 1914, added item 509.

1994—Pub. L. 103–337, div. A, title III, §385(b), Oct. 5, 1994, 108 Stat. 2742, added item 508.

§ 501. Training generally

(a) The discipline, including training, of the Army National Guard shall conform to that of the Army. The discipline, including training, of the Air National Guard shall conform to that of the Air Force.

(b) The training of the National Guard shall be conducted by the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands in conformity with this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(7), Jan. 6, 2006, 119 Stat. 3442.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
501(a)	32:61 (1st 24 words).	June 3, 1916, ch. 134, §91, 39 Stat. 206.
501(b)	32:61 (less 1st 24 words).	

In subsection (a), the words ''that of'' are substituted for the words ''the system which is or may be prescribed for''. The word ''Army'' is substituted for the words ''Regular Army'', since the Army is the category for which the discipline and training is prescribed and the Regular Army is a personnel category for which no discipline and training is prescribed. Similarly, the words ''Air Force'' are used instead of the words ''Regular Air Force''.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted ''States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands'' for ''States and Territories, Puerto Rico, and the District of Columbia''.

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

DEMONSTRATION PROJECT TO INCREASE RESERVE COMPONENT INTERNET ACCESS AND SERVICES IN RURAL COMMUNITIES

Pub. L. 106–398, §1 [[div. A], title III, §390], Oct. 30, 2000, 114 Stat. 1654, 1654A–90, provided that:

''(a) AUTHORIZATION AND PURPOSE OF PROJECT.—The Secretary of the Army, acting through the Chief of the National Guard Bureau, may carry out a demonstration project in rural communities that are unserved or underserved by the telecommunications medium known as the Internet to provide or increase Internet access and services to units and members of the National Guard and other reserve components located in these communities.

''(b) PROJECT ELEMENTS.—In carrying out the demonstration project, the Secretary may—

''(1) establish and operate distance learning classrooms in communities described in subsection (a), including any support systems required for such classrooms; and

''(2) provide Internet access and services in such classrooms through GuardNet, the telecommunications infrastructure of the National Guard.

''(c) REPORT.—Not later than February 1, 2005, the Secretary shall submit to Congress a report on the demonstration project. The report shall describe the activities conducted under the demonstration project and include any recommendations for the improvement or expansion of the demonstration project that the Secretary considers appropriate.''

PILOT PROGRAM TO USE NATIONAL GUARD PERSONNEL IN MEDICALLY UNDERSERVED COMMUNITIES

Pub. L. 102–484, div. A, title III, §376, Oct. 23, 1992, 106 Stat. 2385, as amended by Pub. L. 103–160, div. A, title