

the appointment as warrant or enlisted service for all purposes and to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Army on active duty. See section 602 of this title.

Section 3449, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided that temporary promotions in warrant officer grades be governed by such regulations as the Secretary of the Army prescribe. See section 602 of this title.

**EFFECTIVE DATE OF REPEAL**

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

[§ 3450. Repealed. Pub. L. 90-235, § 3(b)(1), Jan. 2, 1968, 81 Stat. 758]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided for the suspension of laws for promotion or mandatory retirement or separation during war or emergency of temporary warrant officers of the Army.

[§§ 3451, 3452. Repealed. Pub. L. 96-513, title II, § 207, Dec. 12, 1980, 94 Stat. 2884]

Section 3451, act Aug. 10, 1956, ch. 1041, 70A Stat. 197, provided that an officer who is promoted to a temporary grade is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion.

Section 3452, added Pub. L. 85-861, § 1(81)(E), Sept. 2, 1958, 72 Stat. 1480, provided that, notwithstanding any other provision of law, an officer of the Medical Corps or Dental Corps may be promoted to the temporary grade of captain at any time after the first anniversary of the date upon which he graduated from a medical, osteopathic, or dental school.

**EFFECTIVE DATE OF REPEAL**

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**CHAPTER 341—ACTIVE DUTY**

Sec.

- 3491. Non-regular officers: status. [3492 to 3494. Repealed.]
- 3495. Army National Guard of United States: status.
- 3496. Army National Guard of United States: commissioned officers; duty in National Guard Bureau.
- 3497. Army National Guard of United States: members; status in which ordered into Federal service.
- 3498. Army National Guard of United States: mobilization; maintenance of organization.
- 3499. Army National Guard in Federal service: status.
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- 3501. Army National Guard in Federal service: period of service; apportionment.
- 3502. Army National Guard in Federal service: physical examination.
- 3503. Retired commissioned officers: status. [3504. Repealed.]

**AMENDMENTS**

1980—Pub. L. 96-513, title V, § 502(12), Dec. 12, 1980, 94 Stat. 2910, struck out items 3494 "Commissioned officers: grade in which ordered to active duty" and 3504 "Retired members: limitations; grade".

1968—Pub. L. 90-235, § 1(a)(3), (b), Jan. 2, 1968, 81 Stat. 753, struck out item 3492 "Members: service extension during war", and item 3493 "Army Reserve: commissioned officers with Corps of Engineers".

1958—Pub. L. 85-861, § 1(82)(B), Sept. 2, 1958, 72 Stat. 1481, added item 3494.

**CROSS REFERENCES**

Disabled officers, retention on active duty, see section 3446 of this title.

General military law provisions, see section 671 et seq. of this title.

Temporary appointments to commissioned grade, time for relief from active duty, see section 603 of this title.

Warrant officers holding temporary appointment, order to active duty, see section 602 of this title.

**§ 3491. Non-regular officers: status**

A commissioned officer of the Army, other than of the Regular Army, who is on active duty in any commissioned grade has the rights and privileges, and is entitled to the benefits, provided by law for a commissioned officer of the Army Reserve—

- (1) whose reserve grade is that in which the officer not of the Regular Army is serving;
- (2) who has the same length of service as the officer not of the Regular Army; and
- (3) who is on active duty in his reserve grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 198.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3491 .....	10:506d(h).	Aug. 7, 1947, ch. 512, § 515(h), 61 Stat. 908.

The first 12 words are substituted for 10:506d(h) (1st 11 words). The words "has the rights and privileges, and is entitled to the benefits" are substituted for the words "shall be entitled \* \* \* to the same rights, privileges, and benefits". Clause (1) is substituted for the words "in a grade the same as such 'active-duty grade' ". The words "as the officer not of the Regular Army" are substituted for the words "holding appointment in the Army Reserve". The words "his reserve grade" are substituted for the words "the grade held in the Army Reserve".

[§§ 3492, 3493. Repealed. Pub. L. 90-235, § 1(a)(2), (b), Jan. 2, 1968, 81 Stat. 753]

Section 3492, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, provided for extension of active service of Army members during war. See section 671a of this title.

Section 3493, act Aug. 10, 1956, ch. 1041, 70A Stat. 198, empowered the President to order commissioned officers of the Army Reserve to active duty with the Corps of Engineers.

[§ 3494. Repealed. Pub. L. 96-513, title II, § 209(a), Dec. 12, 1980, 94 Stat. 2884]

Section, added Pub. L. 85-861, § 1(82)(A), Sept. 2, 1958, 72 Stat. 1481, and amended Pub. L. 86-559, § 1(20), June 30, 1960, 74 Stat. 271, provided that a re-

serve commissioned officer who is ordered to active duty be ordered to that duty in his reserve grade unless the Secretary of the Army orders him to active duty, other than for training, in a higher temporary grade and authorized a reserve commissioned officer who is selected for participation in a program under which he will be ordered to active duty for at least one academic year at a civilian school or college to be ordered, upon his request, to that duty in a temporary grade that is lower than his reserve grade, without affecting his reserve grade. See section 689 of this title.

**EFFECTIVE DATE OF REPEAL**

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

**§ 3495. Army National Guard of the United States: status**

Members of the Army National Guard of the United States are not in active Federal service except when ordered thereto under law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 198.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3495 .....	56:1119 (1st sentence).	July 9, 1952, ch. 608, § 709 (1st sentence), 66 Stat. 503.

The words "active Federal service" are substituted for the words "active duty in the service of the United States".

**CROSS REFERENCES**

Call into Federal service, see section 3500 of this title.

Regulations to carry out this section, see section 260 of this title.

Status when not in Federal service, see section 3079 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 280 of this title.

**§ 3496. Army National Guard of United States: commissioned officers; duty in National Guard Bureau**

(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States to active duty in the National Guard Bureau.

(b) The number of officers of the Army National Guard of the United States in any grade below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army in that grade authorized for duty in that Bureau.

(Aug. 10, 1956, ch. 1041, 70A Stat. 198.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3496(a) .....	32:175 (less proviso).	June 3, 1916, ch. 134, § 81 (2d par., less 1st sentence); restated June 4, 1920, ch. 227, subch. I, § 44 (less 1st 5 sentences); restated Sept. 22, 1922, ch. 423, § 4 (less 1st 6 sentences); restated Feb. 28, 1925, ch. 371, § 3 (7th and 8th sentences); restated June 15, 1933, ch. 87, § 18 (2d par., less 1st sentence), 48 Stat. 169; Mar. 16, 1950, ch. 60, 64 Stat. 19; July 9, 1952, ch. 608, § 806(g) (1st 24 words of last 107 words), 66 Stat. 508.
3496(b) .....	32:175 (proviso).	

In subsection (a), the words "who at the time of their initial assignments are members" are omitted as surplusage. 32:175 (30 words before proviso) is omitted as covered by the Career Compensation Act of 1949, 63 Stat. 802 (37 U.S.C. 231 et seq.).

In subsection (b), the words "below brigadier general" are substituted for the words "below \* \* \* General Officer". The words "in any grade \* \* \* who are ordered to active duty" are substituted for the words "authorized in each grade for duty".

**CROSS REFERENCES**

National Guard Bureau, assignment of officers of regular or reserve components, see section 3541 of this title.

Payment of pay and allowances for the Chief of the National Guard Bureau and officers ordered to active duty under this section, see section 107 of Title 32, National Guard.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 523, 641, 3541 of this title; title 32 section 107; title 37 section 204.

**§ 3497. Army National Guard of United States: members; status in which ordered into Federal service**

Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3497 .....	50:1123(a).	July 9, 1952, ch. 698, § 713(a), 66 Stat. 504.

The words "officers and enlisted" and "in their status" are omitted as surplusage. The word "Reserves" is substituted for the words "Reserve officers and Reserve enlisted members". The words "to active duty" are substituted for the words "into Federal service".

**§ 3498. Army National Guard of United States: mobilization; maintenance of organization**

During an initial mobilization, the organization of a unit of the Army National Guard of the United States ordered into active Federal

service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3498 .....	50:1122(a).	July 9, 1952, ch. 608, § 712(a), 66 Stat. 504.

The words "ordered into active Federal service" are inserted for clarity. The words "shall \* \* \* be maintained as it existed on the date of the order to duty" are substituted for the words "existing at the date of an order to active Federal service shall be maintained intact".

CROSS REFERENCES

Regulations to carry out this section, see section 280 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 280 of this title.

§ 3499. Army National Guard in Federal service: status

Members of the Army National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army, except those applicable only to members of the Regular Army.

(Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3499 .....	32:82.	June 3, 1916, ch. 134, § 101, 39 Stat. 208.

The words "Members of" are inserted for clarity. The words "governing the Army, except those applicable only to members of the Regular Army" are substituted for the words "governing the Regular Army, so far as such laws and regulations are applicable to officers and enlisted men whose permanent retention in the military service, either on the active list or on the retired list, is not contemplated by existing law", since the Regular Army, under section 3075 of this title, consists only of persons whose permanent retention in the military service is "contemplated by law".

§ 3500. Army National Guard in Federal service: call Whenever—

(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the Army National Guard of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia in such numbers as he considers necessary to repeal the invasion, suppress the rebellion, or

execute those laws. Orders for these purposes shall be issued through the governors of the States, the Territories, Puerto Rico, and the Canal Zone, and, in the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3500 .....	32:81a.	Jan. 21, 1903, ch. 196, § 4; restated May 27, 1908, ch. 204, § 3, 35 Stat. 400.

The words "or any of the Territories, Commonwealths, or possessions" are inserted to conform to an opinion of the Judge Advocate General of the Army (C. 16273, May 3, 1904). The words "laws of the United States" are substituted for the words "laws of the Union". The word "may" is substituted for the words "it shall be lawful for". The words "into Federal Service" are substituted for the word "forth". The words "members and units" are substituted for the word "number". The words "in such numbers as he considers necessary" are substituted for the words "as he may deem". The words "at his command" and 32:81a (last 11 words) are omitted as surplusage.

REFERENCES IN TEXT

For definition of Canal Zone and Governor of the Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 138 of this title; title 5 section 6323.

§ 3501. Army National Guard in Federal service: period of service; apportionment

(a) Whenever the President calls the Army National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the Army National Guard may be kept in Federal service beyond the term of his commission or enlistment.

(b) When the Army National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia is called into Federal service with the Army National Guard of another of those jurisdictions, the President may apportion the total number called on the basis of the populations of the jurisdictions affected by the call.

(Aug. 10, 1956, ch. 1041, 70A Stat. 199.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3501(a) .....	32:81b (less last sentence).	Jan. 21, 1903, ch. 196, § 6, 32 Stat. 776.
3501(b) .....	32:81b (last sentence).	Jan. 21, 1903, ch. 196, § 6; restated May 27, 1908, ch. 204, § 4, 35 Stat. 400.

The last proviso of section 5 of the Act of January 21, 1903, ch. 196, 32 Stat. 776, is not contained in 32: 81b. It is also omitted from the revised section, since in the opinion of the Judge Advocate General of the Army (JAG 010.3, Dec. 12, 1929, p. 20) it was impliedly repealed by section 3 of the Act of April 25, 1914, ch. 71, 38 Stat. 347.

In subsection (a), the words "of the service" are substituted for the words "for which such service is required". The words "members and units called" are substituted for the words "militia so called". The word "member", in the last sentence, is substituted for the words "commissioned officer or enlisted man". The words "except as provided in section 81 of this title" are omitted, since that section was repealed by the seventh paragraph of section 803 of the Armed Forces Reserve Act of 1952, 66 Stat. 505.

In subsections (a) and (b), the words "Army National Guard" are substituted for the words "organized militia (including the National Guard)". The words "Federal service" are substituted for the words "service of the United States" and "actual service of the United States".

In subsection (b), the words "When \* \* \* of a \* \* \* is called \* \* \* with \* \* \* of another of those jurisdictions" are substituted for the words "When \* \* \* of more than one \* \* \* is called". The words "the total number" are substituted for the word "them". The last 15 words are substituted for the words "according to representative population".

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

§ 3502. Army National Guard in Federal service: physical examination

(a) Under regulations prescribed by the President, each member of the Army National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

(b) Immediately before such a member is mustered out of Federal service he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 200.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3502(a) .....	32:83 (less proviso).	June 3, 1916, ch. 134, § 115, 39 Stat. 212.
3502(b) .....	32:83 (proviso).	

In subsection (a), the words "each member" are substituted for the words "Every officer and enlisted man".

In subsections (a) and (b), the words "Federal service" are substituted for the words "the service of the United States" and "the active service of the United States".

In subsection (b), the words "a member" are substituted for the words "an officer or enlisted man". The words "The record of this examination shall be retained by the United States" are substituted for the words "and the record thereof shall be filed and kept in the Department of the Army", to conform to the Act of June 19, 1934, ch. 668, 48 Stat. 1122 (44 U.S.C. 300 et seq.) which governs the care and custody of records generally.

§ 3503. Retired commissioned officers: status

A retired commissioned officer of the Army who is on active duty is considered, for all pur-

poses except promotion, to be an officer of the branch or organization to which he is assigned. (Aug. 10, 1956, ch. 1041, 70A Stat. 200.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
3503 .....	10:990.	July 9, 1918, ch. 143, subch. XX (2d par.), 40 Stat. 893.

The words "and shall be an extra number therein" are omitted, since, in the opinion of the Judge Advocate General of the Army (JAG 210.85, Feb. 21, 1923), they were repealed by the Act of July 31, 1935, ch. 422, 49 Stat. 505. The words "in the discretion of the President, employed \* \* \* assigned to duty" are omitted as surplusage. The word "branch" is substituted for the words "arms, corps, department" to conform to sections 3063 and 3064 of this title.

[§ 3504, Repealed, Pub. L. 96-513, title II, § 210, Dec. 12, 1980, 94 Stat. 2884]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 200; Sept. 2, 1958, Pub. L. 85-861, § 1(83), 72 Stat. 1481, authorized the President to order any retired member of the Regular Army to active duty and assign him duties considered necessary in the interests of national defense and provided that, when ordered to active duty, a retired commissioned officer of the Army any part of whose service was in the Corps of Engineers be eligible to fill any position required by law to be filled by a commissioned officer of the Corps of Engineers and that any officer who served four years as Chief of the Medical Service Corps, any officer who served two and one-half years as Chief of the Army Nurse Corps or as Chief or an assistant chief of the Women's Medical Specialist Corps or the Army Medical Specialist Corps, or any officer who served two and one-half years as Director or Deputy Director of the Women's Army Corps be ordered to active duty in his retired grade. See section 688 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

CHAPTER 343—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

- Sec. [3531, 3532. Repealed.]
- 3533. Corps of Engineers: assignment or transfer of officers to duties involving civil functions.
- 3534. Corps of Engineers: detail of officers to assist Mayor of District of Columbia.
- [3535. Repealed.]
- 3536. Leader of Army Band: appointment.
- [3538 to 3540. Repealed.]
- 3541. National Guard Bureau: assignment of officers of regular or reserve components.
- 3542. Chief and assistant chief of staff of divisions of Army National Guard in Federal service: detail.
- 3543. Aides: detail; number authorized.
- [3544 to 3546. Repealed.]
- 3547. Duties: chaplains; assistance required of commanding officers.
- 3548. Duties: warrant officers; limitations.

AMENDMENTS

1980—Pub. L. 96-513, title V, §§ 502(13), 512(5)(C), Dec. 12, 1980, 94 Stat. 2910, 2929, struck out items 3531