§ 10218. Army and Air Force Reserve technicians: conditions for retention; mandatory retirement under civil service laws

(a) Separation and Retirement of Military Technicians (Dual Status).—(1) An individual employed by the Army Reserve or the Air Force Reserve as a military technician (dual status) who after October 5, 1999, loses dual status is subject to paragraph (2) or (3), as the case may be.

(2) If a technician described in paragraph (1) is eligible at the time dual status is lost for an unreduced annuity and is age 60 or older at that time, the technician shall be separated not later than 30 days after the date on which dual status is lost.

(3) (A) If a technician described in paragraph (1) is not eligible at the time dual status is lost for an unreduced annuity or is under age 60 at that time, the technician shall be offered the opportunity to—
   (i) reapply for, and if qualified may be appointed to, a position as a military technician (dual status); or
   (ii) apply for a civil service position that is not a technician position.

(B) If such a technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician—
   (i) shall not be permitted, after October 5, 2000, to apply for any voluntary personnel action; and
   (ii) shall be separated or retired—
      (I) in the case of a technician first hired as a military technician (dual status) on or before February 10, 1996, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and
      (II) in the case of a technician first hired as a military technician (dual status) after February 10, 1996, not later than one year after the date on which dual status is lost.

(4) For purposes of this subsection, a military technician is considered to lose dual status upon—
   (A) being separated from the Selected Reserve; or
   (B) ceasing to hold the military grade specified by the Secretary concerned for the position held by the technician.

(b) Non-Dual Status Technicians.—

(1) An individual who on October 5, 1999, is employed by the Army Reserve or the Air Force Reserve as a non-dual status technician and who on that date is eligible for an unreduced annuity and is age 60 or older shall be separated not later than April 5, 2000.

(2) (A) An individual who on October 5, 1999, is employed by the Army Reserve or the Air Force Reserve as a non-dual status technician and who on that date is not eligible for an unreduced annuity or is under age 60 shall be offered the opportunity to—
   (i) reapply for, and if qualified be appointed to, a position as a military technician (dual status); or
   (ii) apply for a civil service position that is not a technician position.

(B) If such a technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician—
   (i) shall not be permitted, after October 5, 2000, to apply for any voluntary personnel action; and
(ii) shall be separated or retired—
   (I) in the case of a technician first hired as a technician on or before February 10, 1996, and who on October 5, 1999, is a non-dual status technician, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and
   (II) in the case of a technician first hired as a technician after February 10, 1996, and who on October 5, 1999, is a non-dual status technician, not later than one year after the date on which dual status is lost.

(3) An individual employed by the Army Reserve or the Air Force Reserve as a non-dual status technician who is ineligible for appointment to a military technician (dual status) position, or who decides not to apply for appointment to such a position, or who, during the period beginning on October 5, 1999, and ending on April 5, 2000, is not appointed to such a position, shall for reduction-in-force purposes be in a separate competitive category from employees who are military technicians (dual status).

(c) Unreduced Annuity Defined.— For purposes of this section, a technician shall be considered to be eligible for an unreduced annuity if the technician is eligible for an annuity under section 8336, 8412, or 8414 of title 5 that is not subject to a reduction by reason of the age or years of service of the technician.

(d) Voluntary Personnel Action Defined.— In this section, the term “voluntary personnel action”, with respect to a non-dual status technician, means any of the following:
   (1) The hiring, entry, appointment, reassignment, promotion, or transfer of the technician into a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).
   (2) Promotion to a higher grade if the technician is in a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).


Amendments

2011—Subsec. (a)(3)(A)(i). Pub. L. 112–81 substituted “if qualified may be appointed” for “if qualified be appointed”.


Subsec. (a)(2). Pub. L. 106–398, § 1 [[div. A], title V, § 525(a)(1)(A)], inserted “and is age 60 or older at that time” after “unreduced annuity”.


Subsec. (b)(1). Pub. L. 106–398, § 1 [[div. A], title X, § 1087(a)(20)(A), (C)], substituted “October 5, 1999,” for “the date of the enactment of this section” and “April 5, 2000” for “six months after the date of the enactment of this section”.

Pub. L. 106–398, § 1 [[div. A], title V, § 525(a)(2)(A)], inserted “and is age 60 or older” after “unreduced annuity”.

Pub. L. 106–398, § 1 [[div. A], title V, § 525(a)(2)(B)], inserted “or is under age 60” after “unreduced annuity” in introductory provisions.


Subsec. (b)(3). Pub. L. 106–398, § 1 [[div. A], title X, § 1087(a)(20)(D)], substituted “during the period beginning on October 5, 1999, and ending on April 5, 2000,” for “within six months of the date of the enactment of this section”.

**Transition Provision**


“(1) An individual who before the date of the enactment of this Act [Oct. 30, 2000] was involuntarily separated or retired from employment as an Army Reserve or Air Force Reserve technician under section 10218 of title 10, United States Code, and who would not have been so separated if the provisions of subsections (a) and (b) of that section, as amended by subsection (a), had been in effect at the time of such separation may, with the approval of the Secretary concerned, be reinstated to the technician status held by that individual immediately before that separation. The effective date of any such reinstatement is the date the employee resumes technician status.

“(2) The authority under paragraph (1) applies only to reinstatement for which an application is received by the Secretary concerned before the end of the one-year period beginning on the date of the enactment of this Act [Oct. 30, 2000].”

**Temporary Provision for Extension of Time for Separation or Retirement**