

## **IC 10-16-6**

### Chapter 6. Organization and Personnel

#### **IC 10-16-6-1**

##### **Age of personnel**

Sec. 1. Under Article 12, Section 1 of the Constitution of the State of Indiana, the militia consists of all persons who are at least eighteen (18) years of age except those persons who are exempted by the laws of the United States or of Indiana.

*As added by P.L.2-2003, SEC.7. Amended by P.L.115-2003, SEC.17.*

#### **IC 10-16-6-2**

##### **Classes of militia**

Sec. 2. The militia shall be divided into two (2) classes, the sedentary militia and the national guard, as follows:

(1) The sedentary militia consists of all persons subject to bear arms under the Constitution of the State of Indiana who do not belong to the national guard.

(2) The national guard consists of those able-bodied citizens between the proper ages as established by this article who may be enrolled, organized, and mustered into the service of the state as provided in this article. The organized militia of the state constitutes and shall be known as the Indiana national guard.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-6-3**

##### **National guard**

Sec. 3. (a) The Indiana national guard consists of those units:

(1) specified by:

(A) the Secretary of the Army; and

(B) the Secretary of the Air Force; and

(2) approved by the governor.

(b) The composition of authorized units shall be the same as those prescribed for the regular army and the regular air force. The forces of the Indiana national guard shall be fully armed, uniformed, organized, and equipped in accordance with the provisions of the national military establishment regulations governing the regular army and regular air force.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-6-4**

##### **National guard; officers; eligibility**

Sec. 4. (a) Officers shall be commissioned by the governor. The governor is, ex officio, the commander in chief.

(b) A commission may not be issued to any officer of the Indiana national guard except to general officers until the officer has passed a satisfactory examination before a board demonstrating:

(1) the officer's knowledge of military affairs proportionate to the office to be held; and

- (2) the officer's general knowledge and fitness for the service.
- (c) A person is not eligible for appointment:
  - (1) to the office of adjutant general;
  - (2) as a major general; or
  - (3) as a brigadier general;

unless the person has served at least ten (10) years as a commissioned officer of the national guard, army, or air force of the United States.

(d) A person is not eligible for appointment to any staff (other than the governor's honorary staff), corps, or department unless the person has the technical training requisite to qualify for the appointment, to be determined by an examining board appointed for the purpose.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-6-5**

##### **Officers eligibility; preference in appointment**

Sec. 5. (a) A person may not be commissioned as an officer of the Indiana national guard unless the person:

- (1) is temperate and of good moral character; and
- (2) has successfully passed tests as to physical, mental, and professional fitness as may be prescribed by the laws and regulations applicable to the federally recognized national guard.

(b) In the selection and appointment of commissioned officers, preference shall be given to:

- (1) a person with prior active military service;
- (2) an enlisted person;
- (3) a member of the air national guard; and
- (4) a graduate of a school teaching military science.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-6-6**

##### **Officers discharge; inactive national guard**

Sec. 6. (a) At any time, the moral character, capacity, and general fitness for the service of any Indiana national guard officer may be determined by an efficiency board of three (3) commissioned officers, senior in rank to the officer whose fitness for service is under investigation.

(b) The governor may convene the efficiency board. If the findings of the board are:

- (1) unfavorable to the officer; and
- (2) approved by the governor;

the officer shall be discharged.

(c) The commission of an officer in the Indiana national guard may be vacated:

- (1) upon the officer's resignation;
- (2) upon the officer's absence without leave for three (3) months;
- (3) upon the recommendation of an efficiency board; or

(4) under a sentence of a court-martial.

However, an officer who has not returned or accounted for all the public property or funds for which the officer is responsible may not receive an honorable discharge or separation.

(d) Officers rendered surplus by the disbandment of their organization or other causes shall be separated from the Indiana national guard or placed in the inactive national guard at the discretion of the governor.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-6-7**

##### **Officers oath**

Sec. 7. A commissioned officer of the Indiana national guard, before entering upon the duties of the officer's office, shall take and subscribe to the following oath, or other oath as may be required by national guard regulations:

"I, \_\_\_\_\_, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Indiana 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 the governor of the state of Indiana, 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 Indiana upon which I am about to enter, so help me God."

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-6-8**

##### **Period of enlistment; oath**

Sec. 8. (a) The period of enlistment in the Indiana national guard is for the time prescribed by national guard regulations. The qualifications for enlistment must be the same as those prescribed by regulations for admission to the regular army or regular air force or national guard regulations. However, the privilege of continuing the active service during the whole of an enlistment period and of reenlisting in the service may not be denied except as otherwise provided.

(b) An enlisted person of the Indiana national guard shall sign an enlistment contract and take and subscribe to the oath required by national guard regulations.

(c) A federally recognized officer of the Indiana national guard may administer the enlistment oath.

(d) The adjutant general may authorize officers of the services on duty at armed forces entrance stations to administer the oath of enlistment to an applicant presented to them by an authorized representative of the Indiana national guard for enlistment in the Indiana national guard. The state adjutant general's authorization must be in writing.

*As added by P.L.2-2003, SEC.7.*

### **IC 10-16-6-9**

#### **Discharge from service**

Sec. 9. An enlisted person who is discharged from service in the Indiana national guard shall receive a discharge in writing in the form and with the classification prescribed by national guard regulations. In time of peace, a discharge may be given before the expiration of an enlistment term in the following cases:

- (1) By sentence of a general court-martial.
- (2) By direction of the governor on account of disability.
- (3) On account of sentence of imprisonment by a civil court, whether suspended or not.
- (4) On account of a bona fide permanent change of residence to another state.
- (5) For the purpose of enlisting in the United States Army, Air Force, Navy, or Marine Corps.
- (6) For other causes prescribed by national guard regulations or the commander in chief.

However, an enlisted person who has not returned or accounted for all of the public property for which the enlisted person is responsible may not receive an honorable discharge.

*As added by P.L.2-2003, SEC.7.*

### **IC 10-16-6-10**

#### **Uniform code of military justice; customs and usage of armed forces of the United States**

Sec. 10. All matters relating to:

- (1) organization, commissioning, and separation of officers;
- (2) enlisting and discharge of enlisted persons; and
- (3) discipline and government of the Indiana national guard;

that are not otherwise provided in this article shall be decided by the uniform code of military justice governing the armed forces of the United States, the regulations, customs, and usage of the armed forces of the United States, or national guard regulations.

*As added by P.L.2-2003, SEC.7.*

### **IC 10-16-6-11**

#### **Inactive national guard**

Sec. 11. (a) The inactive national guard of Indiana consists of those federally recognized officers and persons placed in the inactive national guard under the provisions of national guard regulations.

(b) The administration of the inactive national guard shall be in accordance with applicable national guard regulations.

*As added by P.L.2-2003, SEC.7.*

### **IC 10-16-6-12**

#### **Retirement**

Sec. 12. (a) A commissioned officer:

- (1) who serves in the Indiana national guard for at least five (5) years; or
- (2) who becomes permanently disabled from performing the

officer's duties, irrespective of length of service; may, upon honorable retirement from the service, whether by resignation or otherwise, and upon application to the adjutant general, be carried upon a roll to be established and maintained in the office of the adjutant general. The roll shall be designated the Indiana national guard retired list.

(b) The commissioned officer may wear, on occasion of ceremony, the uniform of the highest rank held by the officer.

(c) An officer carried on the Indiana national guard retired list, if qualified, is eligible for detail or appointment on the general staff or the staff of any commander when not physically disqualified for military duty. However, if an officer carried on the Indiana national guard retired list is appointed to a staff position as described in this section, the officer shall be recommissioned in the rank to which the officer has been appointed. The officer shall hold this rank during the time of the staff appointment unless the officer is promoted to a higher rank.

(d) If the officer retires for a second time from active service, the officer shall be entered on the Indiana national guard retired list with the officer's highest rank.

(e) An officer whose name appears on the national guard retired list is not entitled to receive any military pay or emolument from the state during the time the officer remains on the national guard retired list unless the officer is specifically assigned to duty on orders from the governor. If the officer is assigned to duty on orders from the governor, the officer is entitled only to the military pay and allowance provided by law for officers of the rank to which appointed.

*As added by P.L.2-2003, SEC.7.*