

REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a)(1), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note under section 580 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-417 designated existing provisions as par. (1), substituted “A regular warrant officer (other than a regular Army warrant officer) who has at least 30 years of active service that could be credited to the officer” for “A regular warrant officer who has at least 30 years of active service as a warrant officer that could be credited to him”, and added par. (2).

2006—Subsec. (a). Pub. L. 109-364 substituted “A regular warrant officer” for “(1) Except as provided in paragraph (2), a regular warrant officer (other than a regular Army warrant officer in the grade of chief warrant officer, W-5)”, inserted “as a warrant officer” after “years of active service” and “the date on which” after “60 days after”, and struck out par. (2) which read as follows:

“(2)(A) A regular Army warrant officer in the grade of chief warrant officer, W-5, who has at least 30 years of active service as a warrant officer that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114), shall be retired 60 days after the date on which he completes that service, except as provided by section 8301 of title 5.

“(B) A regular Army warrant officer in a warrant officer grade below the grade of chief warrant officer, W-5, who completes 24 years of active service as a warrant officer before he is required to be retired under paragraph (1) shall be retired 60 days after the date on which he completes 24 years of active service as a warrant officer, except as provided by section 8301 of title 5.”

1991—Subsec. (a). Pub. L. 102-190 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), a regular warrant officer (other than a regular Army warrant officer in the grade of chief warrant officer, W-5)” for “A permanent regular warrant officer”, and added par. (2).

1966—Subsec. (a). Pub. L. 89-718 substituted “8301” for “47a”.

1962—Subsec. (a). Pub. L. 87-649 substituted “section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114)” for “section 311 of title 37.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

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 a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 1315. Computation of retired pay: law applicable

A member of the armed forces retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 101.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1315	[No source].	[No source].

The revised section is based on the various retirement provisions in this chapter and is inserted to make

explicit the entitlement to retired pay upon retirement.

CHAPTER 67—RETIRED PAY FOR NON-REGULAR SERVICE

Sec. 1331. Reference to chapter 1223.

PRIOR PROVISIONS

A prior chapter 67 was transferred to part II of subtitle E of this title and renumbered chapter 1223.

AMENDMENTS

1996—Pub. L. 104-106, div. A, title XV, §1503(a)(13), Feb. 10, 1996, 110 Stat. 511, substituted “NON-REGULAR” for “NONREGULAR” in chapter heading.

§ 1331. Reference to chapter 1223

Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).

(Added Pub. L. 103-337, div. A, title XVI, §1662(j)(7), Oct. 5, 1994, 108 Stat. 3005.)

PRIOR PROVISIONS

Prior sections 1331 to 1338 were renumbered sections 12731 to 12738 of this title, respectively.

CHAPTER 69—RETIRED GRADE

- Sec. 1370. Commissioned officers: general rule; exceptions.
- 1371. Warrant officers: general rule.
- 1372. Grade on retirement for physical disability: members of armed forces.
- 1373. Higher grade for later physical disability: retired officers recalled to active duty.
- [1374. Repealed.]
- 1375. Entitlement to commission: commissioned officers advanced on retired list.
- 1376. Temporary disability retired lists.

AMENDMENTS

1994—Pub. L. 103-337, div. A, title XVI, §1671(b)(11), Oct. 5, 1994, 108 Stat. 3013, struck out item 1374 “Reserve commissioned officers: grade on retirement or transfer to Retired Reserve” and substituted “Temporary disability retired lists” for “Retired lists” in item 1376.

1980—Pub. L. 96-513, title V, §501(20), Dec. 12, 1980, 94 Stat. 2908, added item 1370.

1958—Pub. L. 85-861, §1(30), Sept. 2, 1958, 72 Stat. 1451, added item 1374.

§ 1370. Commissioned officers: general rule; exceptions

(a) RULE FOR RETIREMENT IN HIGHEST GRADE HELD SATISFACTORILY.—(1) Unless entitled to a higher retired grade under some other provision of law, a commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps who retires under any provision of law other than chapter 61 or chapter 1223 of this title shall, except as provided in paragraph (2), be retired in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

(2)(A) In order to be eligible for voluntary retirement under any provision of this title in a grade above major or lieutenant commander, a commissioned officer of the Army, Navy, Air

Force, or Marine Corps must have served on active duty in that grade for not less than three years, except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years.

(B) In the case of an officer to be retired in a general or flag officer grade, authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be exercised with respect to that officer only if approved by the Secretary of Defense or another civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

(C) Authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be delegated within that military department only to a civilian official of that military department appointed by the President, by and with the advice and consent of the Senate.

(D) The President may waive subparagraph (A) in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under the preceding sentence may not be delegated.

(E) In the case of a grade below the grade of lieutenant general or vice admiral, the number of members of one of the armed forces in that grade for whom a reduction is made during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed the number equal to two percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade.

(F) Notwithstanding subparagraph (E), during the period ending on December 31, 2007, the number of lieutenant colonels and colonels of the Air Force, and the number of commanders and captains of the Navy, for whom a reduction is made under this section during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed four percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade.

(3) A reserve or temporary officer who is notified that he will be released from active duty without his consent and thereafter requests retirement under section 3911, 6323, or 8911 of this title and is retired pursuant to that request is considered for purposes of this section, to have been retired involuntarily. An officer retired pursuant to section 1186(b)(1) of this title is considered for purposes of this section to have been retired voluntarily.

(b) **RETIREMENT IN NEXT LOWER GRADE.**—An officer whose length of service in the highest grade he held while on active duty does not meet the service in grade requirements specified in subsection (a) shall be retired in the next lower grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

(c) **OFFICERS IN O-9 AND O-10 GRADES.**—(1) An officer who is serving in or has served in the grade of general or admiral or lieutenant general or vice admiral may be retired in that grade

under subsection (a) only after the Secretary of Defense certifies in writing to the President and Congress that the officer served on active duty satisfactorily in that grade.

(2) In the case of an officer covered by paragraph (1), the three-year service-in-grade requirement in paragraph (2)(A) of subsection (a) may not be reduced or waived under that subsection—

(A) while the officer is under investigation for alleged misconduct; or

(B) while there is pending the disposition of an adverse personnel action against the officer for alleged misconduct.

(3)(A) The Secretary of Defense may delegate authority to make a certification with respect to an officer under paragraph (1) only to the Under Secretary of Defense for Personnel and Readiness or the Deputy Under Secretary of Defense for Personnel and Readiness.

(B) If authority is delegated under subparagraph (A) and, in the course of consideration of an officer for a certification under paragraph (1), the Under Secretary or (if such authority is delegated to both the Under and Deputy Under Secretary) the Deputy Under Secretary makes a determination described in subparagraph (C) with respect to that officer, the Under Secretary or Deputy Under Secretary, as the case may be, may not exercise the delegated authority in that case, but shall refer the matter to the Secretary of Defense, who shall personally determine whether to issue a certification under paragraph (1) with respect to that officer.

(C) A determination referred to in subparagraph (B) is a determination that there is potentially adverse information concerning an officer and that such information has not previously been submitted to the Senate in connection with the consideration by the Senate of a nomination of that officer for an appointment for which the advice and consent of the Senate is required.

(d) **RESERVE OFFICERS.**—(1) Unless entitled to a higher grade, or to credit for satisfactory service in a higher grade, under some other provision of law, a person who is entitled to retired pay under chapter 1223 of this title shall, upon application under section 12731 of this title, be credited with satisfactory service in the highest grade in which that person served satisfactorily at any time in the armed forces, as determined by the Secretary concerned in accordance with this subsection.

(2) In order to be credited with satisfactory service in an officer grade (other than a warrant officer grade) below the grade of lieutenant colonel or commander, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than six months.

(3)(A) In order to be credited with satisfactory service in an officer grade above major or lieutenant commander, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years.

(B) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in grade may be credited with satisfactory service in the grade in which serving at the time of transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade, if that person is transferred from an active status or discharged as a reserve commissioned officer—

(i) solely due to the requirements of a non-discretionary provision of law requiring that transfer or discharge due to the person's age or years of service; or

(ii) because the person no longer meets the qualifications for membership in the Ready Reserve solely because of a physical disability, as determined, at a minimum, by a medical evaluation board and at the time of such transfer or discharge such person (pursuant to section 12731b of this title or otherwise) meets the service requirements established by section 12731(a) of this title for eligibility for retired pay under chapter 1223 of this title, unless the disability is described in section 12731b of this title.

(C) If a person covered by subparagraph (A) has completed at least six months of satisfactory service in grade, the person was serving in that grade while serving in a position of adjutant general required under section 314 of title 32 or while serving in a position of assistant adjutant general subordinate to such a position of adjutant general, and the person has failed to complete three years of service in that grade solely because the person's appointment to such position has been terminated or vacated as described in section 324(b) of such title, then such person may be credited with satisfactory service in that grade, notwithstanding the failure to complete three years of service in that grade.

(D) To the extent authorized by the Secretary of the military department concerned, a person who, after having been recommended for promotion in a report of a promotion board but before being promoted to the recommended grade, served in a position for which that grade is the minimum authorized grade may be credited for purposes of subparagraph (A) as having served in that grade for the period for which the person served in that position while in the next lower grade. The period credited may not include any period before the date on which the Senate provides advice and consent for the appointment of that person in the recommended grade.

(E) To the extent authorized by the Secretary of the military department concerned, a person who, after having been found qualified for Federal recognition in a higher grade by a board under section 307 of title 32, serves in a position for which that grade is the minimum authorized grade and is appointed as a reserve officer in that grade may be credited for the purposes of subparagraph (A) as having served in that grade. The period of the service for which credit is afforded under the preceding sentence may only be the period for which the person served in the position after the Senate provides advice and consent for the appointment.

(F) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in a grade above colonel or (in the

case of the Navy) captain and, while serving in an active status in such grade, is involuntarily transferred (other than for cause) from active status may be credited with satisfactory service in the grade in which serving at the time of such transfer, notwithstanding failure of the person to complete three years of service in that grade.

(4) A person whose length of service in the highest grade held does not meet the service in grade requirements specified in this subsection shall be credited with satisfactory service in the next lower grade in which that person served satisfactorily (as determined by the Secretary of the military department concerned) for not less than six months.

(5)(A) The Secretary of Defense may authorize the Secretary of a military department to reduce the 3-year period required by paragraph (3)(A) to a period not less than two years.

(B) In the case of a person who, upon transfer to the Retired Reserve or discharge, is to be credited with satisfactory service in a general or flag officer grade under paragraph (1), authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be exercised with respect to that person only if approved by the Secretary of Defense or another civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

(C) Authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be delegated within that military department only to a civilian official of that military department appointed by the President, by and with the advice and consent of the Senate.

(6) The number of reserve commissioned officers of an armed force in the same grade for whom a reduction is made during any fiscal year in the period of service-in-grade otherwise required under paragraph (5) may not exceed the number equal to 2 percent of the strength authorized for that fiscal year for reserve commissioned officers of that armed force in an active status in that grade.

(e) ADVANCE NOTICE TO CONGRESSIONAL COMMITTEES.—(1) In the case of an officer to be retired in a grade that is a general or flag officer grade who is eligible to retire in that grade only by reason of an exercise of authority under paragraph (2) of subsection (a) to reduce the three-year service-in-grade requirement otherwise applicable under that paragraph, the Secretary of Defense, before the officer is retired in that grade, shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the exercise of authority under that paragraph with respect to that officer.

(2) In the case of a person to be credited under subsection (d) with satisfactory service in a grade that is a general or flag officer grade who is eligible to be credited with such service in that grade only by reason of an exercise of authority under paragraph (5) of that subsection to reduce the three-year service-in-grade requirement otherwise applicable under paragraph (3)(A) of that subsection, the Secretary of Defense, before the person is credited with such

satisfactory service in that grade, shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the exercise of authority under paragraph (5) of that subsection with respect to that officer.

(3) In the case of an officer to whom subsection (c) applies, the requirement for notification under paragraph (1) is satisfied if the notification is included in the certification submitted with respect to that officer under paragraph (1) of such subsection.

(Added Pub. L. 96-513, title I, § 112, Dec. 12, 1980, 94 Stat. 2876; amended Pub. L. 101-510, div. A, title V, § 522, Nov. 5, 1990, 104 Stat. 1561; Pub. L. 103-160, div. A, title V, § 561(d), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 103-337, div. A, title XVI, §§ 1641, 1671(c)(7)(B), Oct. 5, 1994, 108 Stat. 2968, § 514; Pub. L. 104-106, div. A, title V, § 502(a), (b), (f), (g), Feb. 10, 1996, 110 Stat. 292, 293; Pub. L. 104-201, div. A, title V, § 544(a), Sept. 23, 1996, 110 Stat. 2522; Pub. L. 105-261, div. A, title V, §§ 512(a), 513(a), 561(d), (o), Oct. 17, 1998, 112 Stat. 2007, 2025, 2026; Pub. L. 106-65, div. A, title X, § 1066(a)(9), (b)(3), Oct. 5, 1999, 113 Stat. 770, 772; Pub. L. 106-398, § 1 [[div. A], title V, § 571(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A-134; Pub. L. 107-107, div. A, title V, §§ 502, 514, Dec. 28, 2001, 115 Stat. 1080, 1093; Pub. L. 107-314, div. A, title V, § 505, Dec. 2, 2002, 116 Stat. 2533; Pub. L. 108-136, div. A, title V, § 506, Nov. 24, 2003, 117 Stat. 1457; Pub. L. 109-163, div. A, title V, § 501, Jan. 6, 2006, 119 Stat. 3225.)

AMENDMENTS

2006—Subsec. (a)(2)(F). Pub. L. 109-163 added subpar. (F).

2003—Subsec. (a)(2)(A). Pub. L. 108-136, § 506(a), struck out “in the case of retirements effective during the period beginning on October 1, 2002, and ending on December 31, 2003” after “two years”.

Subsec. (d)(5)(A). Pub. L. 108-136, § 506(b), substituted “two years” for “2 years in the case of transfers to the Retired Reserve and discharges of retirement-qualified officers effective during the period beginning on October 1, 2002, and ending on December 31, 2003”.

2002—Subsec. (a)(2)(A). Pub. L. 107-314, § 505(a)(1), substituted “during the period beginning on October 1, 2002, and ending on December 31, 2003” for “during the period beginning on October 1, 1990, and ending on December 31, 2001”.

Subsec. (a)(2)(B) to (E). Pub. L. 107-314, § 505(a)(2), (3), added subpars. (B) and (C) and redesignated former subpars. (B) and (C) as (D) and (E), respectively.

Subsec. (d)(5), (6). Pub. L. 107-314, § 505(b), designated first sentence as subpar. (A), substituted “in the case of transfers to the Retired Reserve and discharges of retirement-qualified officers effective during the period beginning on October 1, 2002, and ending on December 31, 2003” for “in the case of retirements effective during the period beginning on October 17, 1998, and ending on December 31, 2001”, and added subpars. (B) and (C), and designated second sentence as (6) and substituted “paragraph (5)” for “this paragraph”.

Subsec. (e). Pub. L. 107-314, § 505(c), added subsec. (e).
2001—Subsec. (c)(3). Pub. L. 107-107, § 502, added par. (3).

Subsec. (d)(3)(B). Pub. L. 107-107, § 514, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “A person covered by subparagraph (A) who has completed at least six months of satisfactory service in grade and is transferred from an active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge

due to the person’s age or years of service may be credited with satisfactory service in the grade in which serving at the time of such transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade.”

2000—Subsecs. (a)(2)(A), (d)(5). Pub. L. 106-398 substituted “December 31, 2001” for “September 30, 2001”.

1999—Subsec. (d)(1). Pub. L. 106-65, § 1066(a)(9)(A), substituted “chapter 1223” for “chapter 1225”.

Subsec. (d)(3)(F). Pub. L. 106-65, § 1066(b)(3), made technical amendment to Pub. L. 105-261, § 513(a). See 1998 Amendment note below.

Subsec. (d)(5). Pub. L. 106-65, § 1066(a)(9)(B), substituted “October 17, 1998,” for “the date of the enactment of this paragraph”.

1998—Subsec. (a)(2)(A). Pub. L. 105-261, § 561(d), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Subsec. (d)(3)(E). Pub. L. 105-261, § 512(a), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “To the extent authorized by the Secretary of the military department concerned, a person who, after having been extended temporary Federal recognition as a reserve officer of the Army National Guard in a particular grade under section 308 of title 32 or temporary Federal recognition as a reserve officer of the Air National Guard in a particular grade under such section, served in a position for which that grade is the minimum authorized grade may be credited for purposes of subparagraph (A) as having served in that grade for the period for which the person served in that position while extended the temporary Federal recognition, but only if the person was subsequently extended permanent Federal recognition as a reserve officer in that grade and also served in that position after being extended the permanent Federal recognition.”

Subsec. (d)(3)(F). Pub. L. 105-261, § 513(a), as amended by Pub. L. 106-65, § 1066(b)(3), added subpar. (F).

Subsec. (d)(5). Pub. L. 105-261, § 561(o), added par. (5).
1996—Subsec. (a). Pub. L. 104-106, § 502(g)(1), inserted heading.

Subsec. (a)(2)(A). Pub. L. 104-106, § 502(a)(1), struck out “and below lieutenant general or vice admiral” after “commander”.

Subsec. (a)(2)(C). Pub. L. 104-106, § 502(f), substituted “In the case of a grade below the grade of lieutenant general or vice admiral, the number of members of one of the armed forces in that grade” for “The number of officers in an armed force in a grade”.

Subsec. (b). Pub. L. 104-106, § 502(g)(2), inserted heading.

Subsec. (c). Pub. L. 104-106, § 502(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Upon retirement an officer of the Army, Navy, Air Force, or Marine Corps who is serving in or has served in a position of importance and responsibility designated by the President to carry the grade of general or admiral or lieutenant general or vice admiral under section 601 of this title may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade held by him while serving on active duty.”

Subsec. (d). Pub. L. 104-106, § 502(g)(3), inserted heading.

Subsec. (d)(2). Pub. L. 104-201, § 544(a)(2), redesignated subpar. (A) as entire par. (2). Former subpar. (B) redesignated subsec. (d)(3).

Subsec. (d)(2)(B). Pub. L. 104-106, § 502(a)(2), struck out “and below lieutenant general or vice admiral” after “commander” in first sentence.

Subsec. (d)(3). Pub. L. 104-201, § 544(a)(3), (4), redesignated subsec. (d)(2)(B) as par. (3), designated first and second sentences as subpars. (A) and (B), respectively, in subpar. (B), substituted “subparagraph (A)” for “the preceding sentence”, and added subpars. (C) to (E). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 104-201, § 544(a)(1), redesignated par. (3) as (4).

1994—Subsec. (a)(1). Pub. L. 103-337, § 1671(c)(7)(B), substituted “chapter 1223” for “chapter 67”.

Subsec. (d). Pub. L. 103-337, §1641, added subsec. (d).
 1993—Subsec. (a)(2)(A). Pub. L. 103-160 substituted “nine-year period” for “five-year period”.
 1990—Subsec. (a)(2). Pub. L. 101-510 inserted “(A)” after “(2)”, inserted before period at end of first sentence “, except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years in the case of retirements effective during the five-year period beginning on October 1, 1990”, designated second and third sentences as subpar. (B), substituted “subparagraph (A)” for “the preceding sentence”, and added subpar. (C).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title X, §1066(b), Oct. 5, 1999, 113 Stat. 772, provided that the amendment made by section 1066(b) is effective Oct. 17, 1998, and as if included in the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. 105-261, as enacted.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title V, §512(b), Oct. 17, 1998, 112 Stat. 2007, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 17, 1998] and shall apply with respect to appointments to higher grades that take effect after that date.”
 Pub. L. 105-261, div. A, title V, §513(b), Oct. 17, 1998, 112 Stat. 2008, provided that: “Subparagraph (F) of such section [subsec. (d)(3)(F) of this section], as added by subsection (a), shall take effect on the date of the enactment of this Act [Oct. 17, 1998] and shall apply with respect to transfers referred to in such subparagraph that are made on or after that date.”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 502(e) of Pub. L. 104-106 provided that: “The amendment made by subsection (a)(2) [amending this section] shall take effect on October 1, 1996, immediately after subsection (d) of section 1370 of title 10, United States Code, takes effect under section 1691(b)(1) of the Reserve Officer Personnel Management Act (108 Stat. 3026) [Pub. L. 103-337, set out as a note under section 10001 of this title].”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1671(c)(7)(B) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1641 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 this title.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions relating to the time-in-grade requirement for voluntary retirement of officers not subsequently promoted, see section 629 of Pub. L. 96-513, set out as a note under section 611 of this title.

§ 1371. Warrant officers: general rule

Unless entitled to a higher retired grade under some other provision of law, a warrant officer retires, as determined by the Secretary concerned, in the permanent regular or reserve warrant officer grade, if any, that he held on the day before the date of his retirement, or in any higher warrant officer grade in which he served

on active duty satisfactorily, as determined by the Secretary, for a period of more than 30 days. (Aug. 10, 1956, ch. 1041, 70A Stat. 104.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1371	10:600(d) (1st sentence). 10:600(f) (1st sentence, as applicable to retired grade). 34:430(d) (1st sentence). 34:430(f) (1st sentence, as applicable to retired grade).	May 29, 1954, ch. 249, §14(d) (1st sentence), (f) (1st sentence, as applicable to retired grade), 68 Stat. 163, 164.

The first 13 words are substituted for 10:600(f) (1st sentence, as applicable to retired grade) and 34:430 (1st sentence, as applicable to retired grade). The words “for a period of more than 30 days” are substituted for the words “under * * * orders specifying that the period of such duty shall be for a period in excess of thirty days or for an indefinite period”, to conform to the definition of those words in section 101(23) of this title. The words “any full time duty” are omitted, since the duty specified would necessarily be full time duty. The words “under this section” and “competent” are omitted as surplusage.

PUBLIC HEALTH SERVICE

Authority vested by this chapter in “military departments”, “the Secretary concerned”, or “the Secretary of Defense” to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this chapter in “military departments”, “the Secretary concerned”, or “the Secretary of Defense” to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary’s designee, see section 3071 of Title 33, Navigation and Navigable Waters.

§ 1372. Grade on retirement for physical disability: members of armed forces

Unless entitled to a higher retired grade under some other provision of law, any member of an armed force who is retired for physical disability under section 1201 or 1204 of this title, or whose name is placed on the temporary disability retired list under section 1202 or 1205 of this title, is entitled to the grade equivalent to the highest of the following:

- (1) The grade or rank in which he is serving on the date when his name is placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is retired.
- (2) The highest temporary grade or rank in which he served satisfactorily, as determined by the Secretary of the armed force from which he is retired.
- (3) The permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired and which was found to exist as a result of a physical examination.
- (4) The temporary grade to which he would have been promoted had it not been for the physical disability for which he is retired, if eligibility for that promotion was required to be based on cumulative years of service or

years of service in grade and the disability was discovered as a result of a physical examination.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105; Pub. L. 104-201, div. A, title V, §577, Sept. 23, 1996, 110 Stat. 2536.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1372	37:272(d) (104th through 128th words, as applicable to retired grade; and 2d and 5th provisos). 37:279 (less applicability to 37:272(d) (last proviso)).	Oct. 12, 1949, ch. 681, §§402(d) (104th through 128th words, as applicable to retired grade; and 2d and 5th provisos), 409 (less applicability to §402(d) (last proviso)), 63 Stat. 818, 823.

Clause (1) is substituted for 37:272(d) (104th through 128th words, as applicable to retired grade). The words “if his name was not carried on that list” are substituted for the words “whichever is earlier”.

AMENDMENTS

1996—Pars. (3), (4). Pub. L. 104-201 substituted “a physical examination” for “his physical examination for promotion”.

§ 1373. Higher grade for later physical disability: retired officers recalled to active duty

Unless entitled to a higher retired grade under some other provision of law, a member of an armed force whose retired pay is computed under section 1402(d) or 1402a(d) of this title is entitled, upon his release from active duty, to the grade equivalent to the grade or rank upon which his retired pay is based under that section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105; Pub. L. 96-342, title VIII, §813(b)(3)(C), Sept. 8, 1980, 94 Stat. 1104.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1373	37:272(d) (last proviso, as applicable to retired grade). 37:279 (as applicable to 37:272(d) (last proviso)).	Oct. 12, 1949, ch. 681, §§402(d) (last proviso, as applicable to retired grade), 409 (as applicable to §402(d) (last proviso)), 63 Stat. 819, 823.

The applicability of the rule stated in 37:279 to all members whose retired pay is computed under 37:272(d) (last proviso) is based on an opinion of the Judge Advocate General of the Army (JAGA 1953/3305, 24 Apr. 1953).

AMENDMENTS

1980—Pub. L. 96-342 inserted reference to section 1402a(d) of this title.

[§ 1374. Repealed. Pub. L. 103-337, div. A, title XVI, § 1662(k)(2), Oct. 5, 1994, 108 Stat. 3006]

Section, added Pub. L. 85-861, §1(29), Sept. 2, 1958, 72 Stat. 1451; amended Pub. L. 86-559, §1(4), June 30, 1960, 74 Stat. 265; Pub. L. 99-661, div. A, title V, §508(d)(2), Nov. 14, 1986, 100 Stat. 3867, related to reserve commissioned officers' grade on retirement or transfer to Retired Reserve. See sections 12771 to 12773 of this title.

EFFECTIVE DATE OF REPEAL

Repeal 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 this title.

§ 1375. Entitlement to commission: commissioned officers advanced on retired list

A commissioned officer of the Army, Navy, Air Force, or Marine Corps who is advanced on a retired list is entitled to a commission in the grade to which he is advanced.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1375	10:1014. 34:394.	Mar. 4, 1911, ch. 266, 36 Stat. 1354.

The words “has been or shall hereafter”, “by operation of or in accordance with law”, and “and shall receive” are omitted as surplusage. The words “in the grade to which he is advanced” are substituted for the words “in accordance with such advanced rank”.

§ 1376. Temporary disability retired lists

The Secretary concerned shall maintain a temporary disability retired list containing the names of members of the armed forces under his jurisdiction placed thereon under sections 1202 and 1205 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105; Pub. L. 85-861, §1(31), Sept. 2, 1958, 72 Stat. 1451; Pub. L. 103-337, div. A, title XVI, §1662(k)(3), Oct. 5, 1994, 108 Stat. 3006.)

HISTORICAL AND REVISION NOTES
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1376(a)	50:927(a) (less 1st 11 words). 50:927(b) (less last 7 words of 1st sentence).	Oct. 12, 1949, ch. 681, §401 (less (a)), 63 Stat. 816. July 9, 1952, ch. 608, §207(a) (less 1st 11 words), (b) (less last 7 words of 1st sentence), 66 Stat. 483.
1376(b)	37:271 (less (a)).	

In subsection (a), the word “maintained” is substituted for the word “established”, and in subsection (b), the word “maintain” is substituted for the word “established”, since the lists have been established and are published annually.

In subsection (a), the words “who are in the Retired Reserve” are substituted for 50:927(a) (last 11 words), since section 271 of this title prescribes the conditions for being placed in the Retired Reserve. 50:927(b) (last sentence) is omitted, since the revised section provides that both lists be maintained.

In subsection (b), the words “containing the names placed thereon under section 1202 or 1205 of this title” are substituted for the words “upon which shall be placed the names of all members of his service entitled to such placement pursuant to the provisions of this subchapter”.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1376	[Uncodified].	July 24, 1956, ch. 677, §2 (less clauses (a)-(i), as applicable to 10:1376), 70 Stat. 623.

AMENDMENTS

1994—Pub. L. 103-337 substituted “Temporary disability retired lists” for “Retired lists” as section catchline, struck out “(b)” before “The Secretary concerned”, and struck out subsec. (a) which read as follows: “Under regulations prescribed by the Secretary

concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under his jurisdiction who are in the Retired Reserve.” See section 12774 of this title.

1958—Subsec. (b). Pub. L. 85-861 struck out provisions requiring publication of the temporary disability retired list annually in the official register or other official publication of the armed force concerned.

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 this title.

CHAPTER 71—COMPUTATION OF RETIRED PAY

- Sec.
- 1401. Computation of retired pay.
- 1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index.
- 1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980.
- 1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980.
- 1403. Disability retired pay: treatment under Internal Revenue Code of 1986.
- 1404. Applicability of section 8301 of title 5.
- 1405. Years of service.
- 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay.
- 1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average.
- 1407a. Retired pay base: officers retired in general or flag officer grades.
- 1408. Payment of retired or retainer pay in compliance with court orders.
- 1409. Retired pay multiplier.
- 1410. Restoral of full retirement amount at age 62 for certain members entering on or after August 1, 1986.
- 1411. Rules of construction.
- 1412. Administrative provisions.
- [1413. Repealed.]
- 1413a. Combat-related special compensation.
- 1414. Members eligible for retired pay who are also eligible for veterans’ disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans’ disability compensation.

AMENDMENTS

2011—Pub. L. 111-383, div. A, title VI, §632(b)(2), Jan. 7, 2011, 124 Stat. 4240, added item 1412 and struck out former item 1412 “Rounding to next lower dollar”.

2006—Pub. L. 109-364, div. A, title VI, §641(b), Oct. 17, 2006, 120 Stat. 2259, added item 1407a.

2003—Pub. L. 108-136, div. A, title VI, §641(d), (e)(2), Nov. 24, 2003, 117 Stat. 1516, 1517, struck out item 1413 “Special compensation for certain severely disabled

uniformed services retirees”, and substituted “Combat-related special compensation” for “Special compensation for certain combat-related disabled uniformed services retirees” in item 1413a and “Members eligible for retired pay who are also eligible for veterans’ disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans’ disability compensation” for “Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans’ disability compensation; contingent authority” in item 1414.

2002—Pub. L. 107-314, div. A, title VI, §636(a)(3), Dec. 2, 2002, 116 Stat. 2576, added item 1413a.

2001—Pub. L. 107-107, div. A, title VI, §641(c), Dec. 28, 2001, 115 Stat. 1150, added item 1414.

1999—Pub. L. 106-65, div. A, title VI, §§643(b)(3)(B), 658(a)(2), Oct. 5, 1999, 113 Stat. 664, 669, inserted “certain” before “members” in item 1410 and added item 1413.

1987—Pub. L. 100-26, §7(h)(2)(B), Apr. 21, 1987, 101 Stat. 282, substituted colon for semicolon and “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” in item 1403.

1986—Pub. L. 99-348, title III, §304(b)(2), July 1, 1986, 100 Stat. 703, inserted “of members who first became members before September 8, 1980” in item 1402, substituted “Retired pay base for members who first became members before September 8, 1980: final basic pay” for “Limitations on revocation of retired pay” in item 1406 and “Retired pay base for members who first became members after September 7, 1980: high-36 month average” for “Retired pay base” in item 1407, and added items 1409 to 1412.

1982—Pub. L. 97-252, title X, §1002(b), Sept. 8, 1982, 96 Stat. 735, added item 1408.

1980—Pub. L. 96-513, title V, §511(51)(C), (52)(C), Dec. 12, 1980, 94 Stat. 2924, 2925, substituted “of members who first became members after September 7, 1980” for “in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981” in item 1402a, and substituted “Internal Revenue Code of 1954” for “title 26” in item 1403.

Pub. L. 96-342, title VIII, §813(a)(2), (b)(3)(B), 94 Stat. 1101, 1104, added items 1402a and 1407.

1966—Pub. L. 89-718, §3, Nov. 2, 1966, 80 Stat. 1115, substituted “8301” for “47a” in item 1404.

Pub. L. 89-652, §2(2), Oct. 14, 1966, 80 Stat. 902, added item 1406.

1963—Pub. L. 88-132, §5(g)(2), Oct. 2, 1963, 77 Stat. 214, added item 1401a.

1958—Pub. L. 85-422, §11(a)(1)(B), May 20, 1958, 72 Stat. 131, added item 1405.

§ 1401. Computation of retired pay

(a) DISABILITY, NON-REGULAR SERVICE, WARRANT OFFICER, AND DOPMA RETIREMENT.—The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed “For sections”, retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, 3, and 4,¹ as modified by the applicable footnotes.

Formula No.	For sections	Column 1 Take	Column 2 Multiply by	Column 3 Add
1	1201 1204	Retired pay base as computed under section 1406(b) or 1407.	As member elects— (1) 2½% of years of service credited to him under section 1208; ¹ or (2) the percentage of disability, not to exceed 75%, on date when retired.	

¹ So in original. Column 4 has been struck out.