

words before the proviso and the proviso of the Act of February 14, 1885, as restated, are not contained in 10:947a. They are also omitted from the revised section, since the proviso is executed and the 21 words before the proviso are omitted as covered by formula E of section 3991 of this title.

§ 3918. Thirty years or more: regular commissioned officers

A regular commissioned officer of the Army who has at least 30 years of service computed under section 3926 of this title may be retired upon his request, in the discretion of the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 226.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 3918 | 10:943. | R.S. 1243; Dec. 16, 1930, ch. 14, §1 (as applicable to R.S. 1243), 46 Stat. 1028. |

The word “commissioned” is inserted, since the retirement of warrant officers for length of service is covered by section 1293 of this title. The word “regular” is inserted, since 10:943 is applicable historically only to officers of the Regular Army. The words “and placed on the retired list” are omitted as surplusage. The words “computed under section 3926 of this title” are inserted for clarity.

DELEGATION OF FUNCTIONS

Functions of the President under this section to approve the request of a regular commissioned officer of the Army to retire after at least 30 years of service delegated to the Secretary of Defense to perform, without approval, ratification, or other action of the President, and with authority for the Secretary to redelegate, see Ex. Ord. No. 12396, §§1(f), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

[§ 3919. Repealed. Pub. L. 96-513, title II, § 217(a), Dec. 12, 1980, 94 Stat. 2886]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 226, authorized Secretary of the Army, when he determined that there were too many commissioned officers on active list of Regular Army in any grade who have at least 30 years of service, to convene a board of at least five general officers of Regular Army to make recommendations for retirement and to retire any officer so recommended.

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.

§ 3920. More than thirty years: permanent professors and the Director of Admissions of the United States Military Academy

(a) The Secretary of the Army may retire an officer specified in subsection (b) who has more than 30 years of service as a commissioned officer.

(b) Subsection (a) applies in the case of the following officers:

- (1) Any permanent professor of the United States Military Academy.
- (2) The Director of Admissions of the United States Military Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 226; Pub. L. 104-106, div. A, title V, §509(a)(1), Feb. 10, 1996, 110 Stat. 297.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|------------------------|--|
| 3920 | 10:1079a(c) (proviso). | Aug. 7, 1947, ch. 512, § 520(c) (proviso), 61 Stat. 912. |

The word “retire” is substituted for the words “direct the retirement of”. The words “as a commissioned officer” are substituted for the word “commissioned”.

AMENDMENTS

1996—Pub. L. 104-106 substituted “permanent professors and the Director of Admissions of the United States Military Academy” for “permanent professors of United States Military Academy” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Secretary of the Army may retire any permanent professor of the United States Military Academy who has more than 30 years of service as a commissioned officer.”

§ 3921. Mandatory retirement: Superintendent of the United States Military Academy; waiver authority

(a) MANDATORY RETIREMENT.—Upon the termination of the detail of an officer to the position of Superintendent of the United States Military Academy, the Secretary of the Army shall retire the officer under any provision of this chapter under which that officer is eligible to retire.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment.

(Added Pub. L. 106-65, div. A, title V, §532(a)(1)(A), Oct. 5, 1999, 113 Stat. 602; amended Pub. L. 108-375, div. A, title V, §541(a)(1), (c)(1)(A), Oct. 28, 2004, 118 Stat. 1902, 1903.)

PRIOR PROVISIONS

A prior section 3921, acts Aug. 10, 1956, ch. 1041, 70A Stat. 226; Nov. 2, 1966, Pub. L. 89-718, §3, 80 Stat. 1115, provided for retirement of a promotion-list colonel, except as provided by section 8301 of title 5, on the 30th day after he completes 30 years of service or the 5th anniversary of the date of his appointment in that regular grade, whichever is later, with authority for the Secretary of the Army to defer retirement in certain cases, prior to repeal by Pub. L. 96-513, title II, §217(a), title VII, §701, Dec. 12, 1980, 94 Stat. 2886, 2955, effective Sept. 15, 1981. See section 634 of this title.

AMENDMENTS

2004—Pub. L. 108-375 inserted “; waiver authority” at end of section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Pub. L. 106-65, div. A, title V, §532(a)(5), Oct. 5, 1999, 113 Stat. 604, provided that: “The amendments made by this subsection [enacting this section and sections 4333a, 6371, 6951a, 8921, and 9333a of this title] shall not apply to an officer serving on the date of the enactment of this Act [Oct. 5, 1999] in the position of Superintendent of the United States Military Academy, Super-

intendent of the United States Naval Academy, or Superintendent of the United States Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service.”

[§§ 3922, 3923. Repealed. Pub. L. 96-513, title II, § 217(a), Dec. 12, 1980, 94 Stat. 2886]

Section 3922, acts Aug. 10, 1956, ch. 1041, 70A Stat. 227; Nov. 2, 1966, Pub. L. 89-718, § 3, 80 Stat. 1115, provided for retirement of a regular grade brigadier general, other than a professor of the United States Military Academy, except as provided by section 8301 of title 5, on the 30th day after he completes 30 years of service or the 5th anniversary of the date of his appointment in that regular grade, whichever is later, with authority for the Secretary of the Army to defer retirement in certain cases. See section 635 of this title.

Section 3923, acts Aug. 10, 1956, ch. 1041, 70A Stat. 227; Nov. 2, 1966, Pub. L. 89-718, § 3, 80 Stat. 1115, provided for retirement of a regular grade major general, except as provided by section 8301 of title 5, on the 30th day after he completes 35 years of service or the 5th anniversary of his appointment in that regular grade, whichever is later, with authority for the Secretary of the Army to defer retirement in certain cases. See section 636 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.

§ 3924. Forty years or more: Army officers

(a) Except as provided in section 1186 of this title, a commissioned officer of the Army who has at least 40 years of service computed under section 3926 of this title shall be retired upon his request.

(b) Any warrant officer of the Army who has at least 40 years of service computed under section 3926(a) of this title shall be retired upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 227; Pub. L. 96-513, title V, § 502(17), Dec. 12, 1980, 94 Stat. 2910.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---|--|
| 3924(a) | 10:942 (as applicable to commissioned officers). | June 30, 1882, ch. 254 (last 21 words of 3d proviso under “Pay Department”), 22 Stat. 118. |
| 3924(b) | 10:942 (less applicability to commissioned officers). | |

In subsection (a), the words “except as provided in section 3786 of this title” are inserted, since, under that revised section, when board proceedings are pending against a commissioned officer, his right to retire under this revised section, which is otherwise absolute, is discretionary with the Secretary under that revised section.

In subsections (a) and (b), the words “or volunteer service, or both” are omitted as obsolete in accordance with an opinion of the Attorney General, 22 Ops. Atty. Gen. 199, August 30, 1898, holding that such words refer to volunteer service in the Civil War. The words “upon his request” are substituted for the words “if he make application therefor to the President”.

In subsection (b), the applicability of 10:942 to warrant officers is based on an opinion of the Judge Advocate General of the Army (JAGA 1950/6951, 4 Jan. 1951), which holds that 10:594 (less provisos) makes 10:942 applicable to warrant officers.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-513 substituted “1186” for “3786”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513, effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 3925. Computation of years of service: voluntary retirement; enlisted members

(a) For the purpose of determining whether an enlisted member of the Army may be retired under section 3914 or 3917 of this title, his years of service are computed by adding all active service in the armed forces and service computed under section 3683¹ of this title.

(b) Time required to be made up under section 972(a) of this title may not be counted in determining years of service under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 228; Pub. L. 85-861, § 1(97), Sept. 2, 1958, 72 Stat. 1488; Pub. L. 96-343, § 9(a)(2), Sept. 8, 1980, 94 Stat. 1128; Pub. L. 99-348, title II, § 202(c), July 1, 1986, 100 Stat. 695; Pub. L. 103-337, div. A, title VI, § 635(a)(1), Oct. 5, 1994, 108 Stat. 2788; Pub. L. 104-106, div. A, title V, § 561(d)(2)(A), Feb. 10, 1996, 110 Stat. 322.)

**HISTORICAL AND REVISION NOTES
1956 ACT**

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|------------------------------|---|
| 3925(a) | 10:947 (proviso). 10:958. | Mar. 2, 1907, ch. 2515, § 1 (proviso), 34 Stat. 1218. |
| 3925(b) | [No source]. | Aug. 10, 1946, ch. 952, § 6(b), 60 Stat. 996. |

In subsection (a), the words “active service” are substituted for the word “service”, in 10:947, and “active Federal service performed”, in 10:958, for uniformity. The words “service computed under section 3683 of this title” are inserted, since a person entitled to count service under that revised section might cease to be a nurse or woman medical specialist and thereafter become entitled to retire under one of the revised sections referred to in subsection (a) of this revised section.

Subsection (b) is inserted because of section 3638 of this title and in accordance with long-standing interpretation of the effect of 10:629 upon the computation of years of service for retirement.

1958 ACT

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 3925 | [No source]. | [No source]. |

The amendment reflects the repeal of section 3638 of this title and the enactment of a similar provision in section 972 of this title.

REFERENCES IN TEXT

Section 3683 of this title, referred to in subsec. (a), was repealed (subject to a savings clause) by Pub. L. 99-145, title XIII, § 1301(b)(1)(A), (C), Nov. 8, 1985, 99 Stat. 735.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-106 substituted “section 972(a)” for “section 972”.

1994—Subsec. (a). Pub. L. 103-337, § 635(a)(1)(A), struck out “and of computing his retired pay under section 3991 of this title,” after “3917 of this title.”

¹ See References in Text note below.