

ability, is determined under section 1370 of this title.

(b) Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Army not covered by subsection (a) who retires other than for physical disability retires in the regular or reserve grade that he holds on the date of his retirement.

(Aug. 10, 1956, ch. 1041, 70A Stat. 230; Pub. L. 96-513, title V, §502(18), Dec. 12, 1980, 94 Stat. 2910; Pub. L. 103-337, div. A, title XVI, §1672(c)(2), Oct. 5, 1994, 108 Stat. 3015; Pub. L. 106-398, §1 [[div. A], title V, §506(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-102.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 3961 | 10:941a(a)(3) (31st through 42d words; and proviso, as applicable to retired grade). 10:941a(e) (17th through 25th words of clause (1); and 1st proviso of clause (1), as applicable to retired grade). 10:947a (last 11 words). 10:1025. 10:1026 (proviso). | Aug. 7, 1947, ch. 512, §§514(a)(3) (31st through 42d words; and proviso, as applicable to retired grade), 514(e) (17th through 25th words of clause (1); and 1st proviso of clause (1), as applicable to retired grade), 61 Stat. 893, 902. Feb. 14, 1885, ch. 67 (43d through 53d words); restated Sept. 30, 1890, ch. 1125 (43d through 53d words), 26 Stat. 504, R.S. 1254. June 3, 1916, ch. 134, §4c (proviso); added June 29, 1945, ch. 197 (proviso); restated Aug. 7, 1947, ch. 512, §513(c) (proviso), 61 Stat. 902. |

The applicability of the rule stated in the revised section to situations not expressly covered by the laws named in the source credits above is necessarily implied from laws providing for retirement in higher grade in those situations.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-398 struck out “or for nonregular service under chapter 1223 of this title” before “, is determined”.

1994—Subsec. (a). Pub. L. 103-337 substituted “chapter 1223” for “chapter 67”.

1980—Pub. L. 96-513 added subsec. (a), designated existing provisions as subsec. (b), and inserted “not covered by subsection (a)” after “Regular or Reserve of the Army”.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title V, §506(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-102, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 8961 of this title] shall apply to Reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion by a board convened under chapter 36 or 1403 of title 10, United States Code, or having been found qualified for Federal recognition in a higher grade under chapter 3 of title 32, United States Code, after October 1, 1996.”

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.

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.

§ 3962. Higher grade for service in special positions

Upon retirement, any permanent professor of the United States Military Academy whose grade is below brigadier general, and whose service as such a professor has been long and distinguished, may, in the discretion of the President, be retired in the grade of brigadier general.

(Aug. 10, 1956, ch. 1041, 70A Stat. 230; Pub. L. 85-861, §1(99), Sept. 2, 1958, 72 Stat. 1489; Pub. L. 89-288, §2, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 96-343, §13(a)(1)-(3), Sept. 8, 1980, 94 Stat. 1131; Pub. L. 96-513, title V, §502(19), Dec. 12, 1980, 94 Stat. 2910; Pub. L. 97-22, §10(a)(2)(B), July 10, 1981, 95 Stat. 136; Pub. L. 104-106, div. A, title V, §502(c), (d)(1), Feb. 10, 1996, 110 Stat. 293.)

HISTORICAL AND REVISION NOTES
1956 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---|---|
| 3962(a) | 10:506b(d) (less 1st and last provisos). | Aug. 4, 1947, ch. 459, §102(c) (1st 6, and 9th through 43d, words), 61 Stat. 735. |
| 3962(b) | 10:156c (1st 6, and 9th through 43d, words). 10:1026 (less 24 words before proviso, and less proviso). | June 3, 1916, ch. 134, §4c (less 24 words before proviso, and less proviso); added June 4, 1920, ch. 227, §4 (less last 18 words of 4th sentence of 7th par.); June 6, 1924, ch. 275, §2; July 2, 1926, ch. 721, §7; Apr. 22, 1938, ch. 167; May 12, 1939, ch. 127 (less 75th through 91st words); Oct. 14, 1940, ch. 858, §1 (less last 26 words); restated June 29, 1945, ch. 197 (less 24 words before proviso, and less proviso); restated Aug. 7, 1947, ch. 512, §513(c) (less 24 words before proviso, and less proviso), 61 Stat. 902. |
| 3962(c) | 10:166g(b) (1st 5, and 8th through 76th, words; and proviso). 10:316b(b) (1st 6, and 9th through 54th, words). | Aug. 7, 1947, ch. 512, §§504(d) (less 1st and last provisos), 520(b) (less proviso), 61 Stat. 888, 912. |
| 3962(d) | 10:1079a(b) (less proviso). | Apr. 16, 1947, ch. 38, §108(b) (1st 5, and 8th through 76th, words; and proviso); restated May 16, 1950, ch. 186, §3(d)(b) (1st 5, and 8th through 76th, words; and proviso), 64 Stat. 161. June 12, 1948, ch. 449, §103(b) (1st 6, and 9th through 54th, words), 62 Stat. 357. |

In subsection (a), the words “who has served (1) as Chief of Staff to the President, (2) as Chief of Staff of the Army, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 3066 of this title” are substituted for the words “while serving in accordance with the provisions of subsection (b) or (c) of this section”.

In subsection (b), or 10:156c (1st 6, and 9th through 43d, words) is omitted as covered by 10:1026 (less 24 words before proviso, and less proviso), since the Medical Service Corps is a branch of the Army. The references to the Commanding General of the General Headquarters Air Force are omitted as executed.

In subsection (c), 10:166g(b) (proviso) is omitted as executed.

In subsection (d), the words “Upon retirement” are substituted for the words “When * * * is retired”. The word “allowances” is omitted, since retired officers are

not entitled to allowances. The words “grade is below brigadier general” are inserted, since any permanent professor who has the grade of brigadier general retires in that grade under section 4335 of this title.

1958 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 3962 | [No source]. | [No source]. |

The amendment reflects section 1 of the Act of May 31, 1956, ch. 348 (70 Stat. 222), which in effect amended section 3963 of this title to cover regular officers covered by section 3962(c).

AMENDMENTS

1996—Pub. L. 104-106 designated subsec. (b) as entire section and struck out subsec. (a) which read as follows: “Upon retirement, a commissioned officer of the Army who has served (1) as Chief of Staff to the President, (2) as Chief of Staff of the Army, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) as Surgeon General of the Army in the grade of lieutenant general may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade in which he served on active duty.”

1980—Pub. L. 96-343, §13(a)(3), substituted “positions” for “positions: regular commissioned officers” in section catchline.

Subsec. (a). Pub. L. 96-513, §502(19)(A), as amended by Pub. L. 97-22, struck out cl. (4) which had referred to service in a position of importance and responsibility designated by the President to carry out the grade of general or lieutenant general under section 3066 of this title, and redesignated cl. (5) as (4).

Pub. L. 96-343, §13(a)(1), substituted “Army who has” for “Regular Army who has” and “in which he served on active duty” for “held by him at any time on the active list”.

Subsec. (b). Pub. L. 96-513, §502(19)(B), (C), redesignated subsec. (c) as (b). Former subsec. (b), which provided that, upon retirement, a commissioned officer of the Army who had served at least four years as chief or assistant chief of a branch was entitled to retire in the highest grade, prescribed for such an office, that he had held while so serving, was struck out.

Pub. L. 96-343, §13(a)(2), struck out “Regular” before “Army”.

Subsec. (c). Pub. L. 96-513, §502(19)(C), redesignated subsec. (c) as (b).

1965—Subsec. (a). Pub. L. 89-288 added the Surgeon General of the Army to the list of commissioned officers who 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 at any time on the active list.

1958—Subsecs. (c), (d). Pub. L. 85-861 redesignated former subsec. (d) as (c) and repealed former subsec. (c) which related to retirement of commissioned officers who served as Director or Deputy Director of the Women’s Army Corps, Chief of the Army Nurse Corps, or Chief or assistant chief of the Women’s Medical Specialist Corps.

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.

APPOINTMENT BY PRESIDENT OF RETIRED COMMISSIONED OFFICER OF RESERVE COMPONENT TO HIGHER RETIRED GRADE; RECALCULATION OF PAY

Pub. L. 96-343, §13(c), Sept. 8, 1980, 94 Stat. 1132, provided that:

“(1) The President may, by and with the advice and consent of the Senate, appoint any commissioned officer of a reserve component of the Armed Forces who re-

tired after December 31, 1967, to the retired grade in which such officer could have been retired had such officer retired on or after the date of the enactment of this Act [Sept. 8, 1980].

“(2) The retired pay of any retired officer who is appointed to a higher retired grade under paragraph (1) shall be recalculated as if such officer had retired in the grade to which appointed, but any increase in such retired pay by virtue of such appointment or this subsection shall be effective only with respect to periods beginning on or after the date on which such appointment is made.”

RETIRED GRADE FOR CERTAIN GENERAL OFFICERS

Act Aug. 10, 1956, ch. 1041, §38, 70A Stat. 635, provided that the President, by and with the advice and consent of the Senate, could extend privilege granted by former sections 3962(a) and 8962(a) of this title to retired officers who served in grade of general or lieutenant general after Dec. 7, 1941, and before July 1, 1946.

§3963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member’s misconduct

(a) A Reserve enlisted member of the Army described in subsection (b) who is retired under section 3914 of this title shall be retired in the highest enlisted grade in which the member served on active duty satisfactorily (or, in the case of a member of the National Guard, in which the member served on full-time National Guard duty satisfactorily), as determined by the Secretary of the Army.

(b) This section applies to a Reserve enlisted member who—

(1) at the time of retirement is serving on active duty (or, in the case of a member of the National Guard, on full-time National Guard duty) in a grade lower than the highest enlisted grade held by the member while on active duty (or full-time National Guard duty); and

(2) was previously administratively reduced in grade not as a result of the member’s own misconduct, as determined by the Secretary of the Army.

(c) This section applies with respect to Reserve enlisted members who are retired under section 3914 of this title after September 30, 1996.

(Added Pub. L. 104-201, div. A, title V, §532(a)(1), Sept. 23, 1996, 110 Stat. 2518.)

PRIOR PROVISIONS

A prior section 3963, acts Aug. 10, 1956, ch. 1041, 70A Stat. 230; Sept. 2, 1958, Pub. L. 85-861, §1(60), (100), 72 Stat. 1462, 1489; Dec. 12, 1980, Pub. L. 96-513, title V, §502(20), 94 Stat. 2910, related to higher grade for service during certain periods for regular and reserve commissioned officers, prior to repeal by Pub. L. 99-145, title XIII, §1301(b)(2)(A), (C), Nov. 8, 1985, 99 Stat. 735, with such repeal not applicable in the case of a member of the Regular Army described in section 3963 of this title, as such section was in effect on the day before Nov. 8, 1985.

§3964. Higher grade after 30 years of service: warrant officers and enlisted members

(a) Each retired member of the Army covered by subsection (b) who is retired with less than 30 years of active service is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest grade in which he served on ac-