

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

Revised section	Source (U.S. Code)	Source (Statutes at Large)
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

Revised section	Source (U.S. Code)	Source (Statutes at Large)
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

Revised section	Source (U.S. Code)	Source (Statutes at Large)
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

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1376(a) .....	50:927(a) (less 1st 11 words).	Oct. 12, 1949, ch. 681, §401 (less (a)), 63 Stat. 816.
	50:927(b) (less last 7 words of 1st sentence).	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

Revised section	Source (U.S. Code)	Source (Statutes at Large)
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.

- Sec.
- 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.
- 1415. Lump sum payment of certain retired pay.

AMENDMENTS

- 2015—Pub. L. 114-92, div. A, title VI, §633(a)(2), Nov. 25, 2015, 129 Stat. 850, added item 1415.
- 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