

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 2019 AMENDMENT

Pub. L. 116-92, div. A, title V, § 509(c), Dec. 20, 2019, 133 Stat. 1346, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 20, 2019], and shall apply to an increase in the retired grade of an officer that occurs through a reopening of the determination or certification of the officer’s retired grade

on or after that date, regardless of when the officer retired.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 809(a) of Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

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

Pub. L. 104-106, div. A, title V, § 502(e), Feb. 10, 1996, 110 Stat. 293, 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 shall be retired in the highest regular or reserve warrant officer grade in which the warrant officer served satisfactorily, as determined by the Secretary concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 104; Pub. L. 114-92, div. A, title V, § 505, Nov. 25, 2015, 129 Stat. 808.)

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.

AMENDMENTS

2015—Pub. L. 114-92 amended section generally. Prior to amendment, text read as follows: “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.”

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

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.