

L. 109-163, div. A, title V, §515(b)(1)(K), Jan. 6, 2006, 119 Stat. 3233; renumbered §8331 and amended Pub. L. 115-232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6331	34 U.S.C. 854c (4th proviso).	June 25, 1938, ch. 690, §204 (4th proviso), 52 Stat. 1179; Aug. 10, 1946, ch. 952, §. 60 Stat. 993.
	34 U.S.C. 854e (2d and 4th provisos).	June 25, 1938, ch. 690, §206 (2d and 4th provisos), 52 Stat. 1179; Apr. 25, 1940, ch. 153, 54 Stat. 162.
	34 U.S.C. 854 (note).	July 9, 1952, ch. 608, §803 (3d sentence), 66 Stat. 505.

In subsection (a) the words “transferred * * * in accordance with the provisions of this section and of sections 853 and 854b of this title”, in the fourth proviso of 34 U.S.C. 854c, and the words “transferred after sixteen years” or more service in the Regular Navy”, and “men coming under the cognizance of sections 853 and 854b of this title”, in the second proviso of 34 U.S.C. 854e, are omitted as surplusage since the classes designated by these phrases comprise all members of the Fleet Reserve and Fleet Marine Corps Reserve.

Subsection (b) is worded so as to cover all members of the Fleet Reserve and the Fleet Marine Corps Reserve regardless of the law under which they attained that status. A member transferring under 34 U.S.C. 854b may count only active naval service in computing the service required for that transfer, but in determining his eligibility for retirement he may add to his active naval service all previous active or inactive service in the Army, Navy, Marine Corps, Air Force, or Coast Guard, and his time in the Fleet Reserve. A member transferring to the Fleet Reserve under 34 U.S.C. 854c may count active service in any armed force toward that transfer, and he determines his eligibility for retirement by adding to the service credited to him at the time of transfer any previous inactive service in the armed forces and his time in the Fleet Reserve. As to the latter member the words “active service” in clause (2) are superfluous, since such service would have been credited to him upon his transfer to the Fleet Reserve, but they are needed in the case of a member transferred under 34 U.S.C. 854b.

In subsection (c) references to the “allowances to which enlisted men of the Navy are entitled on retirement after thirty years’ service”, in the second and fourth provisos of 34 U.S.C. 854e, are omitted because of the repeal, by §19 of the Pay Readjustment Act of 1942, 56 Stat. 369, of the laws authorizing such allowances.

AMENDMENTS

2018—Pub. L. 115-232, §807(b)(15), renumbered section 6331 of this title as this section.

Subsec. (a). Pub. L. 115-232, §809(a), substituted “section 8385” for “section 6485” in introductory provisions.

2006—Subsec. (a)(2). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

1958—Subsec. (a). Pub. L. 85-583, §1(4), provided for the transfer to the appropriate Retired Reserve of those members of the Fleet Reserve or the Fleet Marine Corps Reserve who had transferred thereto from the Naval Reserve or the Marine Corps Reserve.

Subsec. (b). Pub. L. 85-583, §1(5), struck out “of clause (2)”.

Subsec. (c). Pub. L. 85-583, §1(6), inserted “or the Retired Reserve” after “retired list” wherever appearing.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by 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.

§ 8332. Conclusiveness of transfers

When a member of the naval service is transferred by the Secretary of the Navy—

- (1) to the Fleet Reserve;
- (2) to the Fleet Marine Corps Reserve;
- (3) from the Fleet Reserve to the retired list of the Regular Navy or the Retired Reserve; or
- (4) from the Fleet Marine Corps Reserve to the retired list of the Regular Marine Corps or the Retired Reserve;

the transfer is conclusive for all purposes. Each member so transferred is entitled, when not on active duty, to retainer pay or retired pay from the date of transfer in accordance with his grade and number of years of creditable service as determined by the Secretary. The Secretary may correct any error or omission in his determination as to a member’s grade and years of creditable service. When such a correction is made, the member is entitled, when not on active duty, to retainer pay or retired pay in accordance with his grade and number of years of creditable service, as corrected, from the date of transfer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 397, §6332; Pub. L. 85-583, §1(7), Aug. 1, 1958, 72 Stat. 480; Pub. L. 85-861, §33(a)(33), Sept. 2, 1958, 72 Stat. 1566; renumbered §8332, Pub. L. 115-232, div. A, title VIII, §807(b)(15), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6332	34 U.S.C. 854a (provisos).	June 25, 1938, ch. 690, §202 (provisos), 52 Stat. 1178.
	34 U.S.C. 854 (note).	July 9, 1952, ch. 608, §803 (3d sentence), 66 Stat. 505.

The words “when not on active duty, to retainer pay or retired pay” are substituted for the words “pay and allowances”. The pay and allowances of a member on active duty are covered by the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). When not on active duty a member of the Fleet Reserve receives retainer pay and a retired member receives retired pay without allowances, the provision for allowances for retired members having been repealed as pointed out in the note on the preceding section. In the last sentence the words “from the date of transfer” are added to make it clear that a correction is retroactive to that date. The Court of Claims has so held (*Dugan v. United States* (1943), 100 Ct. Cl. 7).

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 6332 of this title as this section.

1958—Pub. L. 85-861 substituted “to retainer pay or retired pay in accordance” for “to retain pay or retired pay in accordance”.

Pub. L. 85-583 inserted “or the Retired Reserve” after “Navy” in cl. (3) and after “Marine Corps” in cl. (4).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by 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 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of this title.

§ 8333. Computation of retired and retainer pay

(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 8470 or 8372 of this title is computed in accordance with the following table.

Formula	For sections	Column 1 Take	Column 2 Multiply by
A	8325(a) 6326	Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to the member under section 1405.
B	8323 8325(b) 8470 8372	Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.
C	8330	Retainer pay base computed under section 1406(d) or 1407.	Retainer pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.

(b)(1) Retired pay or retainer pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

(2) References in the table in subsection (a) are to sections of this title.

(c) In the case of a Reserve enlisted member whose grade upon transfer to the Fleet Reserve or Fleet Marine Corps Reserve is determined under section 8336 of this title and who first became a member of a uniformed service before September 8, 1980, the retainer pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the grade in which the member is so transferred (determined based upon the rates of basic pay applicable on the date of the member's transfer), and that amount shall be used for the purposes of the table in subsection (a) rather than the amount computed under section 1406(d) of this title.

(Added Pub. L. 98-94, title IX, §922(a)(10)(A), Sept. 24, 1983, 97 Stat. 641, §6333; amended Pub. L. 99-348, title II, §203(a), July 1, 1986, 100 Stat. 695; Pub. L. 103-337, div. A, title VI, §635(b), Oct. 5, 1994, 108 Stat. 2789; Pub. L. 104-106, div. A, title XV, §1503(b)(3), Feb. 10, 1996, 110 Stat. 512; Pub. L. 104-201, div. A, title V, §532(d)(2), Sept. 23, 1996, 110 Stat. 2520; Pub. L. 109-163, div. A, title V, §509(d)(2), Jan. 6, 2006, 119 Stat. 3231; Pub. L. 110-181, div. A, title VI, §646(a), Jan. 28, 2008, 122 Stat. 160; renumbered §8333 and amended Pub. L. 115-232, div. A, title VIII, §§807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

AMENDMENTS

2018—Pub. L. 115-232, §807(b)(15), renumbered section 6333 of this title as this section.

Subsec. (a). Pub. L. 115-232, §809(a), substituted “section 8470 or 8372” for “section 6970 or 6383” in introductory provisions and, under “For sections” column in

table, substituted “8325(a)” for “6325(a)” and “8326” for “6326” in Formula A, “8323” for “6323”, “8325(b)” for “6325(b)”, “8470” for “6970”, and “8372” for “6383” in Formula B, and “8330” for “6330” in Formula C.

Subsec. (c). Pub. L. 115-232, §809(a), substituted “section 8336” for “section 6336”.

2008—Subsec. (a). Pub. L. 110-181 substituted “Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to the member under section 1405.” for “75 percent.” in Formula A under Column 2 in table.

2006—Subsec. (a). Pub. L. 109-163 inserted “6970 or” after “section” in text and “6970” below “6325(b)” in Formula B under “For sections” column in table.

1996—Subsec. (a). Pub. L. 104-106 struck out first period after “section 1405” in Formula C under Column 2 in table.

Subsec. (c). Pub. L. 104-201 added subsec. (c).

1994—Subsec. (a). Pub. L. 103-337 substituted “the years of service that may be credited to him under section 1405.” for “his years of active service in the armed forces” in Formula C under Column 2 in table.

1986—Pub. L. 99-348 amended section generally, designating existing provision as subsec. (b)(1), substituting “under this section” for “under this chapter”, and adding subsecs. (a) and (b)(2).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by 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 2008 AMENDMENT

Amendment by Pub. L. 110-181 effective as of Jan. 1, 2007, and applicable with respect to retired pay and retainer pay payable on or after that date, see section 646(c) of Pub. L. 110-181, set out as a note under section 1402 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103-337, set out as a note under section 1405 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1983, see section 922(e) of Pub. L. 98-94, set out as an Effective Date of 1983 Amendment note under section 1401 of this title.

§ 8334. Higher grade after 30 years of service: warrant officers and enlisted members

(a) Each member of the naval service covered by subsection (b) who, after December 4, 1987, is retired with less than 30 years of active service or is transferred to the Fleet Reserve or Fleet Marine Corps Reserve is entitled, when his active service plus his service on the retired list or his service in the Fleet Reserve or the Fleet Marine Corps Reserve totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Navy.

(b) This section applies to—

- (1) warrant officers of the naval service;
- (2) enlisted members of the Regular Navy and Regular Marine Corps; and
- (3) reserve enlisted members of the Navy and Marine Corps who, at the time of retirement