

duty; Regular Marine Corps, colonels: retirement for length of service”, 6377 “Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders; Regular Marine Corps, colonels designated for supply duty; retirement for length of service”, 6378 “Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders: continuation on active list; retirement”, 6379 “Regular Navy, commanders; Regular Marine Corps, lieutenant colonels: retirement for length of service and failures of selection for promotion”, 6380 “Regular Navy, lieutenant commanders; Regular Marine Corps, majors: retirement for length of service and failures of selection for promotion”, 6381 “Officers retired under preceding sections; retired grade and pay; general rule”, and 6382 “Regular Navy, lieutenants and lieutenants (junior grade); Regular Marine Corps, captains and first lieutenants: discharge for failures of selection for promotion; severance pay”, substituted “retired pay” for “retired or severance pay” in item 6383, struck out items 6384 “Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge for unsatisfactory performance of duty; severance pay; reversion of limited duty officers to prior status”, 6385 “Officers appointed under sections 5231, 5232, 5787, or 5787d of this title; grade for purpose of preceding sections”, 6386 “Suspension: preceding sections”, 6387 “Regular Navy, male line officers: Regular Marine Corps, male officers: computation of total commissioned service”, 6388 “Regular Navy; certain staff corps officers: computation of total commissioned service”, 6390 “Regular Navy and Regular Marine Corps; officers: retirement at age 62”, 6392 “Regular Navy and Regular Marine Corps, officers having less than three years of service: revocation of appointments; reversion of certain officers to prior status”, 6393 “Regular Navy and Regular Marine Corps; women officers: termination of appointments”, 6394 “Regular Navy, rear admirals and commodores; Regular Marine Corps, major generals and brigadier generals: retirement on recommendation of board”, 6395 “Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge during war or emergency for unsatisfactory performance of duty”, 6396 “Regular Navy; officers in Nurse Corps in grades below commander: retirement or discharge”, 6398 “Regular Navy; women captains and commanders; Regular Marine Corps; women colonels and lieutenant colonels: retirement for length of service: retired grade and pay”, 6400 “Regular Navy, women lieutenant commanders; Regular Marine Corps, women majors: retirement for length of service; retired grade and pay”, 6401 “Regular Navy, women lieutenants; Regular Marine Corps, women captains: discharge for length of service; severance pay”, and 6402 “Regular Navy, women lieutenants (junior grade); Regular Marine Corps, women first lieutenants: discharge for length of service; severance pay”, substituted “separation pay” for “severance pay” in item 6404, and struck out item 6407 “Communication with selection board”.

1978—Pub. L. 95-377, §8(d), Sept. 19, 1978, 92 Stat. 721, inserted reference to section 5787d in item 6385.

1970—Pub. L. 91-482, §2E, Oct. 21, 1970, 84 Stat. 1082, struck out item 6406 “Regular Navy and Regular Marine Corps; officers: furlough; furlough pay”.

1968—Pub. L. 90-235, §§3(b)(5), 4(a)(13), Jan. 2, 1968, 81 Stat. 758, 760, struck out item 6405 “Effect of acceptance of appointment in Foreign Service”, and item 6409 “Navy and Marine Corps; warrant officers: suspension of laws for mandatory retirement and separation during war or emergency”.

1967—Pub. L. 90-130, §1(24)(B), (G), (H), Nov. 8, 1967, 81 Stat. 380, 382 struck out “or for age” after “length of service” in item 6377, substituted “officers in Nurse Corps in grades below commander: retirement or discharge” for “officers in Nurse Corps: retirement for age or length of service; retired grade and pay” in item 6396, substituted “Regular Navy; women captains and commanders; Regular Marine Corps; women colonels and lieutenant colonels: retirement for length of serv-

ice; retired grade and pay” for “Regular Navy, women commanders; Regular Marine Corps, women lieutenant colonels: retirement for age of length or service; retired grade and pay” in item 6398, and eliminated item 6399 which read: “Regular Navy, women lieutenant commanders and below; Regular Marine Corps, women majors and below: retirement at age 50; retired grade and pay”.

1961—Pub. L. 87-123, §5(30), Aug. 3, 1961, 75 Stat. 267, struck out “not restricted in performance of duty” after “brigadier generals” and “colonels” in items 6374 and 6376, respectively, “; Regular Marine Corps, colonels designated for supply duty” after “Nurse Corps commanders;” in items 6377 and 6378, and struck out item 6375 “Regular Marine Corps; brigadier generals designated for supply duty: retention on active list; retirement”.

1958—Pub. L. 85-861, §1(144)(G), Sept. 2, 1958, 72 Stat. 1512, added items 6389, 6391, 6397, 6403, 6410.

1957—Pub. L. 85-155, title II, §201(14), Aug. 21, 1957, 71 Stat. 383, included Nurse Corps commanders and retirement for age in item 6377, and included Nurse Corps commanders in item 6378.

§ 8371. Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority

(a) MANDATORY RETIREMENT.—Upon the termination of the detail of an officer to the position of Superintendent of the United States Naval Academy, the Secretary of the Navy shall retire the officer under any provision of chapter 841 of this title under which the 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)(2)(A), Oct. 5, 1999, 113 Stat. 603, §6371; amended Pub. L. 108-375, div. A, title V, §541(a)(2), (c)(2)(A), Oct. 28, 2004, 118 Stat. 1902, 1904; renumbered §8371 and amended Pub. L. 115-232, div. A, title VIII, §§807(b)(16), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

PRIOR PROVISIONS

A prior section 8371, added Pub. L. 85-861, §1(178)(C), Sept. 2, 1958, 72 Stat. 1527, related to promotion of officers to grade of colonel to fill vacancies in Air Force Reserve, prior to repeal by Pub. L. 103-337, div. A, title XVI, §1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14301 et seq. of this title.

AMENDMENTS

2018—Pub. L. 115-232, §807(b)(16), renumbered section 6371 of this title as this section.

Subsec. (a). Pub. L. 115-232, §809(a), substituted “chapter 841” for “chapter 571”.

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

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.

APPLICATION OF SECTION TO SUPERINTENDENTS SERVING
ON OCTOBER 5, 1999

Section not applicable to an officer serving on Oct. 5, 1999, in the position of Superintendent of the United States Military Academy, Naval Academy, or 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, see section 532(a)(5) of Pub. L. 106-65, set out as a note under section 7321 of this title.

§ 8372. Regular Navy and Regular Marine Corps; officers designated for limited duty; retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay

(a) MANDATORY RETIREMENT.—(1) Except as provided in subsection (k), each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer designated for limited duty shall be retired on the last day of the month following the month in which he completes 30 years of active naval service, exclusive of active duty for training in a reserve component.

(2) Except as provided in subsection (k), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision of law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed for promotion to the grade of captain for a second time; or

(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

(3) Except as provided in subsection (k), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

(4) Except as provided in subsection (k), each regular officer of the Navy designated for limited duty who is serving in the grade of captain

shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

(b) LIEUTENANT COMMANDERS AND MAJORS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—Except as provided in subsections (f) and (k), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant commander who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of major who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel, respectively, for the second time and whose name is not on a promotion list shall be retired, if eligible to retire, or be discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time.

(c) RETIRED GRADE AND RETIRED PAY.—Each officer retired under subsection (a) or (b)—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under section 1370¹ of this title; and

(2) is entitled to retired pay computed under section 8333 of this title.

(d) NAVY LIEUTENANTS AND MARINE CORPS CAPTAINS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—Except as provided in subsections (f) and (k), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant who is an officer designated for limited duty, and each regular officer on the active duty list of the Marine Corps serving in the grade of captain who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time and whose name is not on a list of officers recommended for promotion shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.

(e) OFFICERS IN PAY GRADES O-2 AND O-1 WHO TWICE FAIL OF SELECTION FOR PROMOTION OR ARE FOUND NOT QUALIFIED FOR PROMOTION.—(1) Each regular officer on the active-duty list of the Navy serving in the grade of lieutenant (junior grade) who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of first lieutenant who is an officer designated for limited duty, who is considered as having failed

¹ See References in Text note below.