

(2) retirement or separation for physical disability under the provisions of subchapter III. (Pub. L. 107-372, title II, §236, as added Pub. L. 116-259, title III, §307(a), Dec. 23, 2020, 134 Stat. 1174.)

SUBCHAPTER III—SEPARATION AND RETIREMENT OF OFFICERS

§ 3041. Involuntary retirement or separation

(a) Transfer of officers to retired list; separation from service

As recommended by a personnel board convened under section 3022 of this title—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

(b) Computations

In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

(c) Effective date of retirements and separations

A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

(d) Deferment of retirement or separation for medical reasons

(1) In general

If the Secretary determines that the evaluation of the medical condition of an officer requires hospitalization or medical observation that cannot be completed with confidence in a manner consistent with the officer's well-being before the date on which the officer would otherwise be required to retire or be separated under this section, the Secretary may defer the retirement or separation of the officer.

(2) Consent required

A deferment may only be made with the written consent of the officer involved. If the officer does not provide written consent to the deferment, the officer shall be retired or separated as scheduled.

(3) Limitation

A deferment of retirement or separation under this subsection may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.

(Pub. L. 107-372, title II, §241, Dec. 19, 2002, 116 Stat. 3088; Pub. L. 116-259, title IV, §401, Dec. 23, 2020, 134 Stat. 1177.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853g of this title prior to repeal by Pub. L. 107-372.

AMENDMENTS

2020—Subsec. (d). Pub. L. 116-259 added subsec. (d).

§ 3042. Separation pay

(a) Authorization of payment

An officer who is separated under section 3041(a)(2) of this title and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) Amount of separation pay

(1) Six or more years

In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) Three to six years

In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) Other conditions, requirements, and administrative provisions

The provisions of subsections (f), (g), and (h) of section 1174 of title 10 shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

(d) Exception

An officer discharged for twice failing selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer—

(1) expresses a desire not to be selected for promotion; or

(2) requests removal from the list of selectees.

(Pub. L. 107-372, title II, §242, Dec. 19, 2002, 116 Stat. 3088; Pub. L. 116-259, title IV, §402, Dec. 23, 2020, 134 Stat. 1178.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853h of this title prior to repeal by Pub. L. 107-372.

AMENDMENTS

2020—Subsec. (d). Pub. L. 116-259 added subsec. (d).

§ 3043. Mandatory retirement for age**(a) Officers below grade of rear admiral (lower half)**

Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) Flag officers

Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

(Pub. L. 107-372, title II, §243, Dec. 19, 2002, 116 Stat. 3089.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853k of this title prior to repeal by Pub. L. 107-372.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Secretary of Commerce by section 1(e) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.

§ 3044. Retirement for length of service

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

(Pub. L. 107-372, title II, §244, Dec. 19, 2002, 116 Stat. 3089.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853l of this title prior to repeal by Pub. L. 107-372.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce by section 1(f) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.

§ 3045. Computation of retired pay**(a) Officers first becoming members before September 8, 1980**

Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1406(g) of title 10; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

(b) Officers first becoming members on or after September 8, 1980

Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

(c) Treatment of full and fractional parts of months in computing years of service**(1) In general**

In computing the number of years of service of an officer for the purposes of subsection (a)—

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as $\frac{1}{12}$ of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) Rounding

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

(Pub. L. 107-372, title II, §245, Dec. 19, 2002, 116 Stat. 3089; Pub. L. 114-92, div. A, title VI, §631(c)(3), Nov. 25, 2015, 129 Stat. 844.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853o of this title prior to repeal by Pub. L. 107-372.

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114-92 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “ $\frac{2}{3}$ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 114-92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114-92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

§ 3046. Retired grade and retired pay

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on ac-