

**§ 1375. Entitlement to commission: commissioned officers advanced on retired list**

A commissioned officer of the Army, Navy, Air Force, Marine Corps, or Space Force 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; Pub. L. 116-283, div. A, title IX, §924(b)(3)(W), Jan. 1, 2021, 134 Stat. 3821.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)  | Source (Statutes at Large)            |
|-----------------|---------------------|---------------------------------------|
| 1375 .....      | 10:1014.<br>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”.

**Editorial Notes**

AMENDMENTS

2021—Pub. L. 116-283 substituted “Marine Corps, or Space Force” for “or Marine Corps”.

**§ 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.   |
| 1376(b) .....   | 50:927(b) (less last 7 words of 1st sentence).<br>37:271 (less (a)). | July 9, 1952, ch. 608, §207(a) (less 1st 11 words), (b) (less last 7 words of 1st sentence), 66 Stat. 483. |

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. |

**Editorial Notes**

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.

**Statutory Notes and Related Subsidiaries**

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.
- 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.

**Editorial Notes**

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 enactment of the Department of Defense Authorization Act, 1981” in item 1402a, and substituted “Internal Revenue Code of 1954” for “title 26” in item 1403.

Pub. L. 96-342, title VIII, §813(a)(2), (b)(3)(B), 94 Stat. 1101, 1104, added items 1402a and 1407.

1966—Pub. L. 89-718, §3, Nov. 2, 1966, 80 Stat. 1115, substituted “8301” for “47a” in item 1404.

Pub. L. 89-652, §2(2), Oct. 14, 1966, 80 Stat. 902, added item 1406.

1963—Pub. L. 88-132, §5(g)(2), Oct. 2, 1963, 77 Stat. 214, added item 1401a.

1958—Pub. L. 85-422, §11(a)(1)(B), May 20, 1958, 72 Stat. 131, added item 1405.

**§ 1401. Computation of retired pay**

(a) **DISABILITY, NON-REGULAR SERVICE, WARRANT OFFICER, AND DOPMA RETIREMENT.**—The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed “For sections”, retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, and 3, as modified by the applicable footnotes.

| Formula No. | For sections                                     | Column 1<br>Take  | Column 2<br>Multiply by  | Column 3<br>Add   |
|-------------|--|---|--|---|
| 1           | 1201<br>1204                                     | Retired pay base as computed under section 1406(b) or 1407. | As member elects—<br>(1) the retired pay multiplier determined for the member under section 1409 of this title; <sup>1</sup> or<br>(2) the percentage of disability, not to exceed 75%, on date when retired.  |   |
| 2           | 1202<br>1205                                     | Retired pay base as computed under section 1406(b) or 1407. | As member elects—<br>(1) the retired pay multiplier determined for the member under section 1409 of this title; <sup>1</sup> or<br>(2) the percentage of disability, not to exceed 75%, on date when his name was placed on temporary disability retired list. | Amount necessary to increase product of columns 1 and 2 to 50% of retired pay base upon which computation is based. |
| 4           | 580<br>1263<br>1293<br>1305                      | Retired pay base as computed under section 1406(b) or 1407. | The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.   |   |
| 5           | 633<br>634<br>635<br>636<br>1251<br>1252<br>1253 | Retired pay base as computed under section 1406(b) or 1407. | The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.   |   |

<sup>1</sup> Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.

(b) **USE OF MOST FAVORABLE FORMULA.**—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or of any other provision of law, the person is entitled to be paid under the applicable formula that is most favorable to him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 106; Pub. L. 85-422, §§6(7), 11(a)(2), May 20, 1958, 72 Stat. 129, 131; Pub. L. 88-132, §5(h)(1), Oct. 2, 1963, 77 Stat. 214; Pub. L. 89-132, §6, Aug. 21, 1965, 79 Stat. 547; Pub. L. 90-207, §3(1), Dec. 16, 1967, 81 Stat. 653; Pub. L. 92-455, §1, Oct. 2, 1972, 86 Stat. 761; Pub. L. 96-342, title VIII, §813(b)(1), Sept. 8, 1980, 94

Stat. 1102; Pub. L. 96-513, title I, §113(a), title V, §511(49), Dec. 12, 1980, 94 Stat. 2876, 2924; Pub. L. 98-94, title IX, §§922(a)(1), 923(a)(1), (2)(A), Sept. 24, 1983, 97 Stat. 641, 642; Pub. L. 98-557, §35(b), Oct. 30, 1984, 98 Stat. 2877; Pub. L. 99-348, title II, §201(a), July 1, 1986, 100 Stat. 691; Pub. L. 102-484, div. A, title X, §1052(18), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-337, div. A, title XVI, §1662(j)(2), Oct. 5, 1994, 108 Stat. 3004; Pub. L. 109-163, div. A, title V, §509(d)(1)(A), Jan. 6, 2006, 119 Stat. 3231; Pub. L. 109-364, div. A, title V, §502(d)(1), Oct. 17, 2006, 120 Stat. 2177; Pub. L. 111-383, div. A, title VI, §631(a), Jan. 7, 2011, 124 Stat. 4239; Pub. L. 112-239, div. A, title X, §1076(f)(19), Jan. 2, 2013,