

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---|--|
| 3924(a) | 10:942 (as applicable to commissioned officers). | June 30, 1882, ch. 254 (last 21 words of 3d proviso under "Pay Department"), 22 Stat. 118. |
| 3924(b) | 10:942 (less applicability to commissioned officers). | |

In subsection (a), the words "except as provided in section 3786 of this title" are inserted, since, under that revised section, when board proceedings are pending against a commissioned officer, his right to retire under this revised section, which is otherwise absolute, is discretionary with the Secretary under that revised section.

In subsections (a) and (b), the words "or volunteer service, or both" are omitted as obsolete in accordance with an opinion of the Attorney General, 22 Ops. Atty. Gen. 199, August 30, 1898, holding that such words refer to volunteer service in the Civil War. The words "upon his request" are substituted for the words "if he make application therefor to the President".

In subsection (b), the applicability of 10:942 to warrant officers is based on an opinion of the Judge Advocate General of the Army (JAGA 1950/6951, 4 Jan. 1951), which holds that 10:594 (less provisos) makes 10:942 applicable to warrant officers.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232, § 808(b)(12), renumbered section 3924 of this title as this section.

Subsec. (a). Pub. L. 115-232, § 809(a), substituted "section 7326" for "section 3926".

Subsec. (b). Pub. L. 115-232, § 809(a), substituted "section 7326(a)" for "section 3926(a)".

1980—Subsec. (a). Pub. L. 96-513 substituted "1186" for "3786".

Statutory Notes and Related Subsidiaries

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 1980 AMENDMENT

Amendment by Pub. L. 96-513, effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 7325. Computation of years of service: voluntary retirement; enlisted members

(a) For the purpose of determining whether an enlisted member of the Army may be retired under section 7314 or 7317 of this title, his years of service are computed by adding all active service in the armed forces and service computed under section 3683¹ of this title.

(b) Time required to be made up under section 972(a) of this title may not be counted in determining years of service under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 228, § 3925; Pub. L. 85-861, § 1(97), Sept. 2, 1958, 72 Stat. 1488; Pub. L. 96-343, § 9(a)(2), Sept. 8, 1980, 94 Stat. 1128; Pub. L. 99-348, title II, § 202(c), July 1, 1986, 100 Stat. 695; Pub. L. 103-337, div. A, title VI, § 635(a)(1), Oct. 5, 1994, 108 Stat. 2788; Pub. L. 104-106, div. A,

¹ See References in Text note below.

title V, § 561(d)(2)(A), Feb. 10, 1996, 110 Stat. 322; renumbered § 7325 and amended Pub. L. 115-232, div. A, title VIII, §§ 808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840.)

HISTORICAL AND REVISION NOTES
1956 ACT

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|------------------------------|---|
| 3925(a) | 10:947 (proviso). 10:958. | Mar. 2, 1907, ch. 2515, § 1 (proviso), 34 Stat. 1218. |
| 3925(b) | [No source]. | Aug. 10, 1946, ch. 952, § 6(b), 60 Stat. 996. |

In subsection (a), the words "active service" are substituted for the word "service", in 10:947, and "active Federal service performed", in 10:958, for uniformity. The words "service computed under section 3683 of this title" are inserted, since a person entitled to count service under that revised section might cease to be a nurse or woman medical specialist and thereafter become entitled to retire under one of the revised sections referred to in subsection (a) of this revised section.

Subsection (b) is inserted because of section 3638 of this title and in accordance with long-standing interpretation of the effect of 10:629 upon the computation of years of service for retirement.

1958 ACT

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 3925 | [No source]. | [No source]. |

The amendment reflects the repeal of section 3638 of this title and the enactment of a similar provision in section 972 of this title.

Editorial Notes

REFERENCES IN TEXT

Section 3683 of this title, referred to in subsec. (a), was repealed (subject to a savings clause) by Pub. L. 99-145, title XIII, § 1301(b)(1)(A), (C), Nov. 8, 1985, 99 Stat. 735.

AMENDMENTS

2018—Pub. L. 115-232, § 808(b)(12), renumbered section 3925 of this title as this section.

Subsec. (a). Pub. L. 115-232, § 809(a), substituted "section 7314 or 7317" for "section 3914 or 3917".

1996—Subsec. (b). Pub. L. 104-106 substituted "section 972(a)" for "section 972".

1994—Subsec. (a). Pub. L. 103-337, § 635(a)(1)(A), struck out "and of computing his retired pay under section 3991 of this title," after "3917 of this title".

Subsec. (c). Pub. L. 103-337, § 635(a)(1)(B), struck out subsec. (c) which read as follows: "In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 3991 of this title—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded."

1986—Subsec. (c). Pub. L. 99-348 added subsec. (c).

1980—Pub. L. 96-343, § 9(a)(2)(A), struck out "regular" before "enlisted members" in section catchline.

Subsec. (a). Pub. L. 96-343, § 9(a)(2)(B), substituted "an enlisted" for "a regular enlisted".

1958—Subsec. (b). Pub. L. 85-861 substituted "section 972 of this title" for "section 3638 of this title".

Statutory Notes and Related Subsidiaries

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 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective Feb. 10, 1996, and applicable to any period of time covered by section 972 of this title that occurs after that date, see section 561(e) of Pub. L. 104-106, set out as a note under section 972 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 OF 1980 AMENDMENT

Amendment by Pub. L. 96-343 effective with respect to retired pay payable for months beginning after Sept. 8, 1980, see section 9(c) of Pub. L. 96-343, set out as a note under section 7314 of this title.

§ 7326. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) For the purpose of determining whether an officer of the Army may be retired under section 7311, 7318, or 7324 of this title, his years of service are computed by adding—

- (1) all active service performed as a member of the Army, the Air Force, or the Space Force;
- (2) all service in the Navy or Marine Corps that may be included in determining the eligibility of an officer of the Navy or Marine Corps for retirement;
- (3) all service computed under section 3683¹ of this title; and
- (4) if an officer of the Regular Army, all active service performed as an officer of the Philippine Constabulary.

(b) For the purpose of determining whether a commissioned officer of the Regular Army in the Medical Corps may be retired under section 7311, 7318, or 7324 of this title, his years of service are computed by adding to his service under subsection (a) all service performed as a contract surgeon, acting assistant surgeon, or contract physician, under a contract to serve full time and to take and change station as ordered.

(c) For the purpose of determining whether a commissioned officer of the Regular Army in the Dental Corps may be retired under section 7311, 7318, or 7324 of this title, his years of service are computed by adding to his service under subsection (a) all service as a contract dental surgeon or acting dental surgeon.

(d) For the purpose of determining whether a commissioned officer of the Army Nurse Corps or the Army Medical Specialist Corps may be retired under section 7311 of this title, all service computed under section 3683¹ of this title shall be treated as if it were service as a commissioned officer.

¹ See References in Text note below.

(e) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 228, § 8926; Pub. L. 86-197, § 1(5), Aug. 25, 1959, 73 Stat. 426; Pub. L. 104-106, div. A, title V, § 561(d)(2)(B), Feb. 10, 1996, 110 Stat. 322; renumbered § 7326 and amended Pub. L. 115-232, div. A, title VIII, §§ 808(b)(12), 809(a), Aug. 13, 2018, 132 Stat. 1838, 1840; Pub. L. 116-283, div. A, title IX, § 924(c)(2), Jan. 1, 2021, 134 Stat. 3826.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 3926(a) | 10:951 (less applicability to 10:166g(a)). 10:951a. 10:951b (less applicability to 10:166g(a)). [Uncodified: June 18, 1878, ch. 263, § 7 (less applicability to 10:166g(a)), 20 Stat. 150]. | June 3, 1916, ch. 134, § 127a (6th par., less 1st 13 words, and less applicability to § 108(a) of the Act of Apr. 16, 1949, ch. 38, as amended); added June 4, 1920, ch. 227, subch. I, § 51 (6th par., less 1st 13 words, and less applicability to § 108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 41 Stat. 785. May 23, 1928, ch. 716, 45 Stat. 720. June 15, 1935, ch. 257 (less applicability to § 108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 49 Stat. 377. June 18, 1878, ch. 263, § 7 (less applicability to § 108(a) of the Act of Apr. 16, 1949, ch. 38, as amended), 20 Stat. 150. May 29, 1928, ch. 902, 45 Stat. 996; Jan. 29, 1938, ch. 12, § 2, 52 Stat. 8. |
| 3926(b) | 10:953a (1st sentence). | |
| 3926(c) | 10:953a (less 1st sentence). | |

Subsection (a) consolidates the various service computation provisions applicable to voluntary retirement of commissioned officers. Clause (1) is substituted for 10:951. Clause (2) is substituted for 10:951b. The words "pay period and", in 10:951a, are omitted as superseded by section 202 of the Career Compensation Act of 1949, 63 Stat. 807 (37 U.S.C. 233). The words "longevity pay and", in section 7 of the act of June 18, 1878, ch. 263, 20 Stat. 150, are omitted for the same reason. The last sentence of section 7 of that act is omitted, since the distinction between limited and unlimited retired lists was abolished by section 201 of the act of June 29, 1948, ch. 708, 62 Stat. 1084. Clause (3) is inserted, since a person entitled to count service under section 3683 of this title might cease to be a nurse or woman medical specialist and thereafter become entitled to retire under one of the revised sections referred to in subsection (a) of this revised section.

In subsection (b), the words "as a member of the Medical Reserve Corps", in 10:953a, are omitted as covered by subsection (a)(1). The words "are computed by adding to his service under subsection (a)" are substituted for the words "shall be credited to the same extent as service under a Regular Army commission".

Subsection (c) is substituted for 10:953a (less 1st sentence).

Editorial Notes

REFERENCES IN TEXT

Section 3683 of this title, referred to in subsecs. (a)(3) and (d), was repealed (subject to a savings clause) by Pub. L. 99-145, title XIII, § 1301(b)(1)(A), (C), Nov. 8, 1985, 99 Stat. 735.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 116-283 substituted " , the Air Force, or the Space Force" for "or the Air Force".