

§ 9321. Mandatory retirement: Superintendent of the United States Air Force Academy; waiver authority

(a) MANDATORY RETIREMENT.—Upon the termination of the detail of an officer to the position of Superintendent of the United States Air Force Academy, the Secretary of the Air Force shall retire the officer under any provision of this chapter 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)(3)(A), Oct. 5, 1999, 113 Stat. 603, § 8921; amended Pub. L. 108-375, div. A, title V, § 541(a)(3), (c)(3)(A), Oct. 28, 2004, 118 Stat. 1902, 1904; renumbered § 9321, Pub. L. 115-232, div. A, title VIII, § 806(b)(13), Aug. 13, 2018, 132 Stat. 1833.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 8921 of this title as this section.

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).

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.

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 3921 of this title.

§ 9324. Forty years or more: Air Force officers and Space Force officers

(a) Except as provided in section 1186 of this title, a commissioned officer of the Air Force or the Space Force who has at least 40 years of service computed under section 9326 of this title shall be retired upon his request.

(b) Any warrant officer of the Air Force or the Space Force who has at least 40 years of service computed under section 9326(a) of this title shall be retired upon his request.

(Aug. 10, 1956, ch. 1041, 70A Stat. 552, § 8924; Pub. L. 96-513, title V, § 504(18), Dec. 12, 1980, 94 Stat.

2917; renumbered § 9324 and amended Pub. L. 115-232, div. A, title VIII, §§ 806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116-283, div. A, title IX, § 923(c)(17)(A), (B), Jan. 1, 2021, 134 Stat. 3812.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---|--|
| 8924(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. |
| 8924(b) | 10:942 (less applicability to commissioned officers). | |

In subsection (a), the words “Except as provided in section 8786 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, Aug. 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

2021—Pub. L. 116-283 substituted “Forty years or more: Air Force officers and Space Force officers” for “Forty years or more: Air Force officers” in section catchline and inserted “or the Space Force” after “Air Force” in subsections (a) and (b).

2018—Pub. L. 115-232, § 809(a), substituted “section 9326” for “section 8926” in subsec. (a) and “section 9326(a)” for “section 8926(a)” in subsec. (b).

Pub. L. 115-232, § 806(b)(13), renumbered section 8924 of this title as this section.

1980—Subsec. (a). Pub. L. 96-513 substituted “section 1186” for “section 8786”.

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.

§ 9325. Computation of years of service: voluntary retirement; enlisted members

(a) For the purpose of determining whether an enlisted member of the Air Force or the Space Force may be retired under section 9314 or 9317 of this title, his years of service are computed by adding all active service in the armed forces.

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

(Aug. 10, 1956, ch. 1041, 70A Stat. 552, § 8925; Pub. L. 85-861, § 1(195), Sept. 2, 1958, 72 Stat. 1540; Pub.

L. 96-343, §9(b)(2), Sept. 8, 1980, 94 Stat. 1129; Pub. L. 99-348, title II, §204(c), July 1, 1986, 100 Stat. 698; Pub. L. 101-189, div. A, title VI, §652(a)(6), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 103-337, div. A, title VI, §635(c)(1), Oct. 5, 1994, 108 Stat. 2789; Pub. L. 104-106, div. A, title V, §561(d)(4)(A), Feb. 10, 1996, 110 Stat. 323; renumbered §9325 and amended Pub. L. 115-232, div. A, title VIII, §§806(b)(13), 809(a), Aug. 13, 2018, 132 Stat. 1833, 1840; Pub. L. 116-283, div. A, title IX, §923(c)(18), Jan. 1, 2021, 134 Stat. 3812.)

HISTORICAL AND REVISION NOTES
1956 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|------------------------------|--|
| 8925(a) | 10:947 (proviso). 10:958. | Mar. 2, 1907, ch. 2515, §1 (proviso), 34 Stat. 1218. |
| 8925(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 8683 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 8638 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

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 8925 | [No source]. | [No source]. |

The amendment reflects the repeal of section 8638 of this title and the enactment of a similar provision in section 972 of this title.

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283 inserted “or the Space Force” after “Air Force”.

2018—Pub. L. 115-232, §806(b)(13), renumbered section 8925 of this title as this section.

Subsec. (a). Pub. L. 115-232, §809(a), substituted “section 9314 or 9317” for “section 8914 or 8917”.

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

1994—Subsec. (a). Pub. L. 103-337, §635(c)(1)(A), struck out “and of computing his retired pay under section 8991 of this title,” after “8917 of this title.”.

Subsec. (c). Pub. L. 103-337, §635(c)(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 8991 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.”

1989—Subsec. (a). Pub. L. 101-189 struck out “and service computed under section 8683 of this title” before period at end.

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

1980—Pub. L. 96-343, §9(b)(2)(B), struck out “regular” before “enlisted members” in section catchline.

Subsec. (a). Pub. L. 96-343, §9(b)(2)(A), substituted “an enlisted” for “a regular enlisted”.

1958—Subsec. (b). Pub. L. 85-861 substituted “section 972 of this title” for “section 8638 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.

§ 9326. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) For the purpose of determining whether an officer of the Air Force or the Space Force may be retired under section 9311, 9318, or 9324 of this title, the officer’s 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; and

(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.

(b) For the purpose of determining whether a medical officer of the Regular Air Force may be retired under section 9311, 9318, or 9324 of this title, the officer’s years of service are computed by adding to the officer’s 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 dental officer of the Regular Air Force may be retired under section 9311, 9318, or 9324 of this title, the officer’s years of service are computed by adding to the officer’s service under subsection (a) all service as a contract dental surgeon or acting dental surgeon.

(d) 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. 552, §8926; Pub. L. 86-197, §1(8), Aug. 25, 1959, 73 Stat. 426; Pub. L.