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10 USCS @ 6323 (1998) printed in FULL format.

UNITED STATES CODE SERVICE

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*** THIS SECTION IS CURRENT THROUGH 105-165, APPROVED 3/20/98 ***

*** WITH A GAP OF 160 AND 164 ***

TITLE 10. ARMED FORCES
SUBTITLE C. NAVY AND MARINE CORPS
PART II. PERSONNEL
CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6323 (1998)

@ 6323. Officers: 20 years

(a)(1) An officer of the Navy or the Marine Corps who applies for retirement after completing more than 20 years of active service, of which at least 10 years was service as a commissioned officer, may, in the discretion of the President be retired on the first day of any month designated by the President.

(2) The Secretary of Defense may authorize the Secretary of the Navy, during the nine-year period beginning on October 1, 1990, to reduce the requirement under paragraph (1) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary) of not less than eight years.

(b) For the purposes of this section--

(1) an officer's years of active service are computed by adding all his active service in the armed forces; and

(2) his years of service as a commissioned officer are computed by adding all his active service in the armed forces under permanent or temporary appointments in grades above warrant officer, W-1.

(c) The retired grade of an officer retired under this section is the grade determined under section 1370 of this title.

(1) in the highest grade, permanent or temporary, in which he served satisfactorily on active duty as determined by the Secretary of the Navy; or

(2) if the Secretary determines that he did not serve satisfactorily in his highest temporary grade, in the next lower grade in which he has served, but not lower than his permanent grade.

(d) A warrant officer who retires under this section may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title. If the pay of that highest grade is less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay shall be based on the higher pay.

(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay computed under section 6333 of this title.

(f) Officers of the Naval Reserve and the Marine Corps Reserve who were transferred to the Retired Reserve from an honorary retired list under section 213(b) of the Armed Forces Reserve Act of 1952 (66 Stat. 485), or are transferred to the Retired Reserve under section 6327 of this title, may be retired under this section, notwithstanding their retired status, if they are otherwise eligible.

HISTORY: (Aug. 10, 1956, ch 1041, @ 1, 70A Stat. 394; Sept. 2, 1958, P.L. 85-861, @ 1(142), 72 Stat. 1509; Oct. 2, 1963, P.L. 88-132, @ 5(h)(4), 77 Stat. 214.)

(As amended Sept. 8, 1980, P.L. 96-342, Title VIII, @ 813(d)(2), 94 Stat. 1104; Dec. 12, 1980, P.L. 96-513, Title V, Part A, @ 503(47)(A), Part B, @ 513(17), 94 Stat. 2914, 2932; July 1, 1986, P.L. 99-348, Title II, @ 203(b)(2), 100 Stat. 696; Nov. 5, 1990, P.L. 101-510, Div A, Title V, Part B, @ 523(b), 104 Stat. 1562; Nov. 30, 1993, P.L. 103-160, Div A, Title V, Subtitle F, @ 561(c), 107 Stat. 1667.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

PRIOR LAW AND REVISION:

1956 Act

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6323(a), (b)	34 U.S.C. 410b.	Feb. 21, 1946, ch 34, Sec. 6, 60 Stat. 27.
6323(c)	34 U.S.C. 410b-1.	Apr. 14, 1949, ch 52, Sec. 1 (less applicability to Act of June 29, 1948, ch 708, Sec. 301(b), 62 Stat. 1087), 63 Stat. 47.

In subsec. (b) the words "or the Reserve Components thereof" are omitted because the terms "Navy", "Marine Corps", and "Coast Guard" include the reserve components. The words "including active duty for training" are omitted because the term "active duty" is defined in this title as including training duty.

The Act of April 14, 1949 (34 U.S.C. 410b-1), extending the benefits of 34 U.S.C. 410b to officers on the honorary retired lists, was enacted because the Comptroller General had held that these officers, being already in a retired status, could not be retired under 34 U.S.C. 410b (U.S. Code Congressional Service, 1949, p. 1179). The provisions of the Naval Reserve Act of 1938 relating to the honorary retired lists were repealed by @ 803 of the Armed Forces Reserve Act of 1952, but insofar as they provided for retirement and retired pay they were reenacted, for a period of 20 years, in @ 413 of that Act (50 U.S.C. 1052). Persons on the honorary retired lists when the Armed Forces Reserve Act of 1952 was passed were transferred to the appropriate Retired Reserve under @ 213 of the Act. Persons qualifying for retirement under @ 413 are likewise placed in the Retired Reserve. The purpose of Congress in enacting @ 413 was to preserve the accrued rights of persons who were members of reserve components on January 1, 1953, the effective date of the Act (U.S. Code Congressional and Administrative News, 1952, p. 3584). One of their rights was the right to apply for retirement under 34 U.S.C. 410b upon completion of the required service, notwithstanding the fact that, before qualifying for

retirement under that section, they had already acquired a retired status. Subsec. (c) is worded accordingly.

1958 Act

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6323(a), (b)	34 App.:410b.	Aug. 4, 1955, ch 553, Sec. 1, 69 Stat. 493; Aug. 9, 1955, ch 678, Sec. 1(a), (b), 69 Stat. 614.
6323(c), (e)	[No source].	[No source].
6323(d)	[No source].	[No source].
6323(f)	[No source].	[No source].

In subsec. (b), the words "armed forces" are substituted for the words "Navy, Marine Corps, Army, Air Force, or Coast Guard, or the Reserve Components thereof" because "armed forces", as defined in this title, is a collective term for these elements.

Subsecs. (c) and (e) state rules, formerly stated in section 6325, with respect to officers retired under this section.

Subsec. (d) states a rule, formerly stated in 10 USCS @ 6325, with respect to warrant officers retired under this section.

In subsecs. (c) and (e), the words "Unless otherwise entitled to a higher grade" and "Unless otherwise entitled to higher pay" are substituted for 34 App.:410c(b).

In subsec. (d), the second and third provisos of 34 App.:410b, relating to officers whose basic pay is not based on years of service, is omitted as obsolete. Under the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.), the basic pay of all officers is based on years of service. The subsec. is worded to conform to the terminology of the Career Compensation Act of 1949 and to make clear the fact that the amount of retired pay is not permanently fixed at the time of retirement but is subject to change when rates of basic pay are changed, as provided in 34 App.:410q.

Subsec. (f) was formerly subsec. (c).

REFERENCES IN TEXT:

"Section 213(b) of the Armed Forces Reserve Act of 1952," referred to in subsec. (f), was repealed by @ 53 of Act Aug. 10, 1956.

AMENDMENTS:

1958. Act Sept. 2, 1958, in subsec. (a), substituted "any" for "the" preceding "month"; in subsec. (b), inserted "--(1)", substituted "armed forces; and" for "Navy, Marine Corps, and Coast Guard.", and added para. (2); added subsecs. (c)--(e); and redesignated former subsec. (c) to be subsec. (f).

1963. Act Oct. 2, 1963, (effective 10/1/63 as provided by @ 14 of such Act), in subsec. (e), substituted "of" for "to which he would be entitled if serving on active duty in".

1980. Act Sept. 8, 1980 substituted subsec. (e) for one which read: "Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay at the rate of 2 1/2 percent of the basic pay of the grade in which retired multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.".

Act Dec. 12, 1980 (effective upon enactment on 12/12/80, as provided by @ 701(b)(3) of such Act, which appears as 10 USCS @ 101 note, in subsec. (e)(1) and (2), substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981".

Such Act further (effective 9/15/81, as provided by @ 701(a) of such Act, which appears as 10 USCS @ 101 note), substituted subsec. (c) for one which read:

"(c) Unless otherwise entitled to a higher grade, each officer retired under this section shall be retired--

"(1) in the highest grade, permanent or temporary, in which he served satisfactorily on active duty as determined by the Secretary of the Navy; or

"(2) if the Secretary determines that he did not serve satisfactorily in his highest temporary grade, in the next lower grade in which he has served, but not lower than his permanent grade."

1986. Act July 1, 1986, in subsec. (e), substituted "retired pay computed under section 6333 of this title". for "retired pay--

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before September 8, 1980, at the rate of 2 1/2 percent of the basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after September 8, 1980, at the rate of 2 1/2 percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based."

1990. Act Nov. 5, 1990, in subsec. (a), designated the existing provisions as para. (1), and added para. (2).

1993. Act Nov. 30, 1993, in subsec. (a)(2), substituted "nine-year period" for "five-year period".

OTHER PROVISIONS:

Delegation of functions. For delegation to the Secretary of the Treasury of the certain authority vested in the President, by this section, see Ex. Or. No. 10637, Sept. 16, 1955, 20 Fed. Reg. 7025, @ 2(g), set out at 3 USCS @ 301 note.

Applicability of section during period of active force drawdown. For applicability of the provisions of this section during period of active force drawdown to individuals with at least 15 but less than 20 years of service, see Act Oct. 23, 1992, P.L. 102-484, Div D, Title XLIV, Subtitle A, @ 4403, 106 Stat. 2702, which appears as 10 USCS @ 1293 note.

NOTES:

CROSS REFERENCES

Composition of Retired Reserve, 10 USCS @ 274.

Savings provision for 10 USCS @ 6323, 37 USCS @ 203.

This section is referred to in 10 USCS @@ 274, 1006, 1405, 6325.

INTERPRETIVE NOTES AND DECISIONS

I. IN GENERAL

1. Construction
2. Amount of retirement pay due

II. RETIREMENT BENEFITS

3. Generally
4. Amount of retirement pay due
5. Effect of change in citizenship
6. Retirement benefits and divorce settlements

I. IN GENERAL

1. Construction

There is no necessity for any construction of words of 10 USCS @ 6323(e) by court since their meaning is clear. *Powers v United States* (1968) 185 Ct Cl 481, 401 F2d 813.

2. Amount of retirement pay due

Plaintiff who had retired from active military service in 1950, under 10 USCS @ 6323, was twice recalled to active duty in 1961, and upon his release in 1961 applied for retirement pay under @ 6323, which would have permitted him to credit concurrent periods of civilian and military service for military retired pay as well as civil service annuity under 10 USCS @ 1336, was excluded by 10 USCS @ 1331(a)(4), because he was still qualified in 1961 for retirement pay under @ 6323. *Merrill v United States* (1964) 168 Ct Cl 1, 338 F2d 372.

Where retirement of lieutenant, when he had reached mandatory retirement age, was validated, action of Secretary of Navy in advancing him upon retired list to commodore, retroactive to date of retirement, was valid under predecessor of 10 USCS @ 6321, and officer was entitled to retired pay of commodore from time of retirement. *Delaney v U.S.*, 67 Ct Cl 277.

Where rear admiral was ordered detached from duty and to proceed to his home, and reached age of retirement while en route, between date of his detachment and date of his retirement he was entitled to full pay of his grade with 10 per cent increase for shore duty beyond the seas; and from date of his retirement to his arrival home he was entitled only to retired pay of his grade. *Terry v U.S.*, 81 Ct Cl 958.

Where commodore was nominated to rank of rear admiral, to fill vacancy caused by retirement, and such officer reached retirement age before confirmation of nomination by Senate, and was placed upon retired list as commodore, he was entitled to receive pay of rear admiral from date of appointment, and if Senate confirmed nomination, could be placed on retired list as rear admiral. 18 Op Atty Gen 393.

Under 10 USCS @ 6323, determination of retired grade of officer who retires voluntarily is made pursuant to 10 USCS @ 1370, which provides for retirement in highest grade in which officer served on active duty satisfactorily, as determined by Secretary of military department. *Captain William G. Peters, U.S. Marine Corps (Retired)* (1991) 70 Comp Gen 398.

II. RETIREMENT BENEFITS

3. Generally

Retired pay received under 10 USCS @ 6323 was not pension entitled to exemption from state income taxes. *Court v Commonwealth* (1966) 207 Va 556, 151 SE2d 384.

4. Amount of retirement pay due

Denial of petitions to retire Navy assistant judge advocates general in higher pay grade than that of captain in which they served was not arbitrary

or capricious, since "grade" as used in Title 10 refers to "officer grade" rather than "pay grade". *Selman v United States* (1983, CA FC) 723 F2d 877.

Highest rate of basic pay received while on active duty is proper barometer by which to measure retirement benefits under 10 USCS @ 6323; navy officer who, when retired under 10 USCS @ 6323, had been serving in temporary grade of rear admiral of upper half and who had never served in grade of rear admiral of lower half was entitled to have retirement pay based upon maximum basic pay for rear admiral of upper half. *Powers v United States* (1968) 185 Ct Cl 481, 401 F2d 813.

Retired pay grade for Marine Corps retiree was that of captain, where retiree was major on April 1, when he first became eligible for voluntary retirement, and board of inquiry (following conviction by general court-martial) had recommended on February 16 retirement in grade of captain and had found that member's record was not otherwise so meritorious as to demonstrate his satisfactory service as major, despite fact that Secretary did not concur in board's recommendation and finding until April 6, because any request for retirement on April 1 as major would not have been approved under 10 USCS @ 1370. *Captain William G. Peters, U.S. Marine Corps (Retired)* (1991) 70 Comp Gen 398.

5. Effect of change in citizenship

When officer in naval reserve who had been receiving retirement pay under 10 USCS @ 6323 acquired citizenship in foreign country, continuation of retirement payments could not be approved in absence of specific statutory authority authorizing continued membership in reserve organization. (1962) 41 Op Comp Gen 715.

6. Retirement benefits and divorce settlements

Under supremacy clause of United States Constitution (Art. VI, cl. 2), Maryland state courts are precluded by federal law (10 USCS @@ 3911 et seq., @@ 6321 et seq.) from dividing military nondisability retired pay as marital property pursuant to state law, notwithstanding that Maryland is "equitable distribution state" rather than community property state. *Hill v Hill* (1981, Md) 436 A2d 67.

Retirement pay received by navy officer after divorce under 10 USCS @ 6323, only condition upon right to retirement pay being officer's being subject to recall to active duty in time of war or national emergency, is compensation for services rendered in past and is subject to division as community property if earned during period of marriage. *Le Clert v Le Clert* (1969) 80 NM 235, 453 P2d 755.

If husband becomes irrevocably entitled to receive for the balance of his life retired pay and disability benefits under 10 USCS @ 6323, these benefits constitute assets subject to equitable distribution in a divorce action to the extent that his entitlement is based on military service rendered during the existence of the marriage. *Kruger v Kruger* (1976) 139 NJ Super 413, 354 A2d 340, mod 73 NJ 464, 375 A2d 659.

10 USCS @ 6325 (1998) printed in FULL format.

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*** THIS SECTION IS CURRENT THROUGH 105-165, APPROVED 3/20/98 ***

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TITLE 10. ARMED FORCES
SUBTITLE C. NAVY AND MARINE CORPS
PART II. PERSONNEL
CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6325 (1998)

@ 6325. Officers: retired grade and pay

(a) Except as provided in subsection (b) or section 1370 of this title, each officer who is retired under section 6321 or 6322 of this title--

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which he was serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(b) Each officer who is retired while serving in the grade of admiral, vice admiral, general, or lieutenant general by virtue of an appointment under section 601 of this title or who is retired while serving in a grade to which he was appointed or promoted under section 603 of this title or promoted under section 602 (as in effect before February 1, 1992) or section 5721 of this title--

(1) unless otherwise entitled to a higher grade, shall be retired in the grade he would hold if he had not received such an appointment; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(c) A warrant officer who retires under section 6321, 6322, or 6323 of this title may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title.

HISTORY: (Aug. 10, 1956, ch 1041, @ 1, 70A Stat. 394; May 20, 1958, P.L. 85-422, @ 11(a)(6)(B), 72 Stat. 131; Sept. 2, 1958, P.L. 85-861, @ 1(143), 72 Stat. 1509; Oct. 2, 1963, P.L. 88-132, @ 5(h)(4), 77 Stat. 214; Sept. 19, 1978, P.L. 95-377, @ 7, 92 Stat. 721.)

(As amended Sept. 8, 1980, P.L. 96-342, Title VIII, @ 813(d)(3), 94 Stat. 1104; Dec. 12, 1980, P.L. 96-513, Title V, Part A, @ 503(47)(B), Part B, @ 513(17), 94 Stat. 2914, 2932; July 10, 1981, P.L. 97-22, @ 10(b)(8), 95 Stat. 137; July 1, 1986, P.L. 99-348, Title I, @ 104(c)(2), Title II, @ 203(b)(3), 100 Stat. 691, 696; Oct. 23, 1992, P.L. 102-484, Div A, Title X, Subtitle F, @ 1052(39), 106 Stat. 2501.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

PRIOR LAW AND REVISION:

1956 Act

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6325	34 U.S.C. 410m.	Aug. 7, 1947, ch 512, Sec. 316(j), 61 Stat. 868.
	34 U.S.C. 626-1(a) (1st sentence).	Aug. 7, 1947, ch 512, Sec. 314(a) (1st sentence), 61 stat. 863; May 5, 1954, ch 180, Sec. 205, 68 Stat. 68.
	34 U.S.C. 389 (1st sen- tence as applicable to grade).	R.S. 1457 (1st sentence as applicable to grade).
	34 U.S.C. 410c(a) (as applicable to retired pay of officers retired under 34 U.S.C. 410b).	Feb. 21, 1946, ch 34, Sec. 7(a) (as applicable to retired pay of officers retired under Sec. 6) 60 Stat. 27; Aug. 7, 1947, ch 512, Sec. 432(a), 61 Stat. 881.
	34 U.S.C. 43g(d).	Apr. 16, 1947, ch 38; Sec. 207(e), 61 Stat. 49; redesignated (d), Aug. 7, 1947, ch 512, Sec. 434(d), 61 stat. 882; May 16, 1950, ch 186, Sec. 3(i) 64 Stat. 162.
	34 U.S.C. 43g(f).	Apr. 16, 1947, ch 38, Sec. 207(g), 61 Stat. 49; redesignated (f), Aug. 7, 1947, ch 512, Sec. 434(d), 61 Stat. 882.
	34 U.S.C. 410r(a), (g).	June 12, 1948, ch 449, Sec. 207(a), (g), 62 Stat. 366.
	34 U.S.C. 625h(a).	June 12, 1948, ch 449, Sec. 213(a), 62 Stat. 369.
	34 U.S.C. 430(f) (as ap- plicable to officers re- tired under 34 U.S.C. 381, 34 U.S.C. 383, and 34 U.S.C. 410b).	May 29, 1954, ch 249, Sec. 14(f), 68 Stat. 163 (as applicable to officers retired under R.S. 1443, Act of May 13, 1908, ch 166, 35 Stat. 128 (8th sentence, less proviso), and Act of Feb. 21, 1946, ch 34, Sec. 6, 60 Stat. 27).

Title III of the Officer Personnel Act of 1947 authorizes temporary

promotions to the grades of lieutenant through rear admiral. The purpose of @ 316(j) of that Act (34 U.S.C. 410m) was to insure that each officer who is temporarily promoted under that Title, and who retires before he receives a permanent appointment in the grade in which he is serving, will be considered, for the purposes of the laws relating to retired grade and pay, to be serving in the grade he holds pursuant to his temporary appointment. Since 10 USCS @ 5001 provides that an officer who holds a permanent appointment in one grade and a temporary appointment in a higher grade is considered as serving in the higher grade, a restatement of the substance of @ 316(j) is unnecessary and is omitted from subsection (a). The words "retired other than by reason of physical disability incurred in line of duty", in 34 U.S.C. 43g(d) and (f) and 34 U.S.C. 410r(g), are omitted as unnecessary, since this section relates only to officers who are voluntarily retired under this chapter. The words "basic pay to which he would be entitled if serving on active duty in the grade in which retired" are substituted for the words "active-duty pay with longevity credit of the rank with which retired" in 34 U.S.C. 410c(a), for the words "active-duty pay to which entitled at the time of retirement" in 34 U.S.C. 43g(d), and for the words "active-duty pay to which she would be entitled if serving, at the time of retirement, on active duty in the rank in which placed upon the retired list" in 34 U.S.C. 43g(f) and 34 U.S.C. 410r(g), to make clear the fact that the amount of retired pay is not permanently fixed at the time of retirement but is subject to change when rates of basic pay are changed, as provided in 34 U.S.C. 410q. The words "basic pay" are substituted for the words "active-duty pay" and the words "creditable for basic pay" are substituted for the words "for which entitled to credit in the computation of her active-duty pay", and for the words "for which entitled to credit in the computation of their pay while on active duty" to conform to the terminology used in the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.)

Unlike provisions of law authorizing retirement on various other grounds, R.S. 1443, which provides for the retirement of officers on their own application after 40 years of service, contains no provisions as to retired pay. R.S. 1588 provided, inter alia, that officers so retired should received retired pay at the rate of 75 percent of the sea pay of their respective grades, but that section was expressly repealed by @ 531(a)(7) of the Career Compensation Act of 1949, leaving no specific provision for the retired pay of officers retired under R.S. 1443. It would be absurd to assume, however, that Congress intended that an officer having 40 years of service should be retired without pay, when he could have been retired with pay at any time within the preceding 20 years. By the repeal of R.S. 1588 Congress intended merely to remove obsolete and superseded provisions as to retirement at age 62 and retirement after 45 years of service, references to sea pay, and provisions, inconsistent with later law, for half pay for officers retired for other reasons. Congress intended the retired pay of officers retired after 40 years of service to be computed according to the formula prescribed generally for retired officers, other than for officers retired by reason of physical disability, and this section is worded accordingly.

Subsec. (b) is added for clarity. With respect to officers appointed under 10 USCS @@ 5231 or 5232 it represents a necessary inference from 34 U.S.C. 410o and 623b(e), codified in 10 USCS @ 5233.

1958 Act

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6325	[No source].	[No source].

The reference to 10 USCS @ 6323 is deleted, since it is no longer appropriate to include in this section officers retired under 10 USCS @ 6323.

AMENDMENTS:

1958. Act May 20, 1958, (effective 6/1/58 as provided by @ 9 of such Act), in subsecs. (a)(2) and (b)(2), substituted "that may be credited to him under section 1405 of this title" for "creditable for basic pay".

Act Sept. 2, 1958, in subsec. (a), substituted "or 6322" for ", 6322, or 6323".

1963. Act Oct. 2, 1963, (effective 10/1/63 as provided by @ 14 of such Act), in subsecs. (a)(2) and (b)(2), substituted "of" for "to which he would be entitled if serving on active duty in".

1978. Act Sept. 19, 1978, in subsec. (b), inserted "or 5787d".

1980. Act Sept. 8, 1980 substituted subsec. (a)(2) for one which read: "unless otherwise entitled to higher pay, is entitled to retired pay at the rate of 2 1/2 percent of the basic pay of the grade in which retired multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based."; and substituted subsec. (b)(2) for one which read: "unless otherwise entitled to higher pay, is entitled to retired pay at the rate of 2 1/2 percent of the basic pay of the grade he would hold if he had not received such an appointment multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.".

Act Dec. 12, 1980 (effective upon enactment on 12/12/80, as provided by @ 701(b)(3) of such Act, which appears as 10 USCS @ 101 note), in subsecs. (a)(2)(A) and (B) and (b)(2)(A) and (B), substituted "September 8, 1980" for "the date of the enactment of the Department of Defense Authorization Act, 1981".

Such Act further (effective 9/15/81, as provided by @ 701(a) of such Act, which appears as 10 USCS @ 101 note), in subsec. (a), inserted "or section 1370 of this title"; in subsec. (b), substituted "601" for "5231 or 5232".

1981. Act July 10, 1981, (effective 9/15/81, as provided by @ 10(b)(1) in part of such Act), in subsec. (b), substituted "or promoted under section 603" for "under section 5597" and "602 or 5721" for "5787 or 5787d".

1986. Act July 1, 1986, in subsec. (a)(2), substituted "retired pay computed under section 6333 of this title." for "retired pay--

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before September 8, 1980, at the rate of 2 1/2 percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after September 8, 1980, at the rate of 2 1/2 percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

Such Act further, in subsec. (b)(2), substituted "retired pay computed under section 6333 of this title." for "retired pay--

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before September 8,

1980, at the rate of 2 1/2 percent of the basic pay of the grade he would hold if he had not received such an appointment; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after September 8, 1980, at the rate of 2 1/2 percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based."

Such Act further in subsec. (c), deleted "If the pay of that highest grade is less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay shall be based on the higher pay." following "provision of this title."

1992. Act Oct. 23, 1992 (applicable as if enacted immediately before the other provisions of such Act, as provided by @ 1055 of such Act, which appears as 10 USCS @ 101 note), in subsec. (b), in the introductory matter, substituted "section 602 (as in effect before February 1, 1992) or section 5721" for "section 602 or 5721".

OTHER PROVISIONS:

Recomputation of retired pay of admirals and vice admirals. Officers entitled to retired pay on May 31, 1958, who served on active duty before that day in the grade of admiral or vice admiral for a period of at least 180 days, are authorized to recompute retired pay, see section 7(b), (c) of Act May 20, 1958, P.L. 85-422, 72 Stat. 130.

NOTES:

CROSS REFERENCES

Limitation on amount of retired pay of officers of Navy holding civilian position with Government, 5 USCS @ 5532.

Higher retired grade and pay for members who serve satisfactorily under temporary appointments, 10 USCS @ 6151.

Savings provision for 10 USCS @ 6325, 37 USCS @ 203.

This section is referred to in 10 USCS @ 1405.

RESEARCH GUIDE

AM JUR:

54 Am Jur 2d, Military, and Civil Defense @@ 156, 170.

INTERPRETIVE NOTES AND DECISIONS

1. Rank and grades of retired personnel
2. Amount of retirement pay due
3. Jurisdiction of Secretary of Navy over retirees

1. Rank and grades of retired personnel

Question of grade was determined by President, and Secretary of Navy had no authority to place name upon retired list as of another grade. United States ex rel. Moser v Meyer (1912) 38 App DC 13.

Person holding commission of captain in navy, and appointed to office of chief of Bureau of Navigation, with relative rank of commodore, and who was retired while holding that office, should have been placed on retired list with rank of captain. 17 Op Atty Gen 154.

Status of retired officers who were withdrawn from command and line of promotion rested fundamentally on office and rank held at time of retirement. 25 Op Atty Gen 312.

Relative rank of higher grade sometimes conferred upon officers on retirement was only honorary distinction, serving merely to fix their places, in precedence, with fellow officers and such officers did not bear title of higher grade, but retained title actually held by them on retirement. 26 Op Atty Gen 57.

Retirement, on account of physical incapacity for active service, of officer of line of grade of captain in Navy, who had been appointed chief of Bureau of Steam Engineering, Department of Navy, vacated office of Engineer in Chief of Navy and left his legal status that of officer on retired list of navy holding rank of captain. 27 Op Atty Gen 337.

Line officer of navy, retired while serving as chief of bureau or Judge Advocate General, should be placed on retired list with rank attached by law to said position of chief of bureau or Judge Advocate General. 31 Op Atty Gen 505.

Temporary officers of Navy and Marine Corps, when retired for physical disability incurred in line of duty, were entitled to temporary grades or ranks held by them at time of their retirement. 32 Op Atty Gen 220.

2. Amount of retirement pay due

Where officer in naval reserve, including service before November 12, 1918, had served 24 years on active duty, he was entitled to retirement pay computed on basis of 62 1/2 percent of active duty pay, not 75 percent. *Berry v United States* (1952) 123 Ct Cl 530, 107 F Supp 849.

3. Jurisdiction of Secretary of Navy over retirees

Retirement under predecessor of 10 USCS @ 6325 did not terminate jurisdiction of Secretary of Navy over inmates of Government Hospital for Insane under predecessor of 24 USCS @ 191. *White v Treibly* (1927) 57 App DC 238, 19 F2d 712.

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*** THIS SECTION IS CURRENT THROUGH 105-165, APPROVED 3/20/98 ***

*** WITH A GAP OF 160 AND 164 ***

TITLE 10. ARMED FORCES
SUBTITLE C. NAVY AND MARINE CORPS
PART II. PERSONNEL
CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6327 (1998)

@ 6327. Officers and enlisted members of the Naval Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay

(a) A member of the Naval Reserve or the Marine Corps Reserve may be transferred to the Retired Reserve upon his request if he has completed--

(1) at least 30 years of active service in the armed forces, other than active duty for training; or

(2) at least 20 years of active service in the armed forces other than active duty for training, the last 10 of which he served in the 11-year period immediately preceding his transfer to the Retired Reserve.

(b) Each member who is transferred to the Retired Reserve under subsection (a) is entitled, when not on active duty, to retired pay at the rate of 50 percent of the basic pay of the grade in which retired.

(c) This section applies only to persons who were members of the Naval Reserve or the Marine Corps Reserve on January 1, 1953.

(d) This section terminates on January 1, 1973. However, its termination will not affect any accrued rights to retired pay.

(e) A member who is eligible for retirement under this section, and who is also eligible for retirement under another provision or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title, is entitled to elect which of these benefits he is to receive.

HISTORY: (Aug. 10, 1956, ch 1041, @ 1, 70A Stat. 395; Aug. 1, 1958, P.L. 85-583, @ 1(1), 72 Stat. 480; Oct. 2, 1963, P.L. 88-132, @ 5(h)(5), 77 Stat. 214.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

PRIOR LAW AND REVISION:

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6327	50 U.S.C. 1052(a), (b), (d), (e),	July 9, 1952, ch. 608, Sec. 413(a), (b), (d), (e), (f), 66 Stat. 499.

In subsec. (a) the word "Federal" is omitted and the words "in the armed forces, other than active duty for training" are inserted. The words "active Federal service" are not defined in 50 U.S.C. 1052. Section 310 of the Naval Reserve Act of 1938, which 50 U.S.C. 1052 replaced, specifies active service in the "Army, Navy, Marine Corps, Coast Guard, Naval Auxiliary Service, Naval Reserve Force, Naval Militia in Federal status, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, and Marine Corps Reserve." 50 U.S.C. 1052 was intended to preserve the rights of persons who, on January 1, 1953, were members of reserve components, so that they would not be prejudiced by the repeal of @ 310 of the Naval Reserve Act of 1938 (U.S. Code Congressional and Administrative News, 1952, p. 3584). To effect that purpose, the service that was creditable under the 1938 act must be creditable under 50 U.S.C. 1052. The words "active service in the armed forces, other than active duty for training" cover all creditable service. The Judge Advocate General of the Navy, in an opinion dated August 27, 1954 (JAG II:2:WGA:CA:mk), held that active duty for training was not creditable under the 1938 act and is, therefore, not creditable under the 1952 act.

AMENDMENTS:

1958. Act Aug. 1, 1958, substituted subsec. (e) for one which read: "This section does not prevent a member from retiring under another provision if he is eligible therefor."

1963. Act Oct. 2, 1963, (effective 10/1/63 as provided by @ 14 of such Act), in subsec. (b), substituted "of the grade in which retired" for "to which he would be entitled if on active duty".

NOTES:

CROSS REFERENCES

Regulations to carry out 10 USCS @ 6327, 10 USCS @ 280.

Savings provision for 10 USCS @ 6327, 37 USCS @ 203.

This section is referred to in 10 USCS @@ 280, 6148, 6323.

RESEARCH GUIDE

AM JUR:

54 Am Jur 2d, Military, and Civil Defense @@ 170, 175.

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TITLE 10. ARMED FORCES
SUBTITLE C. NAVY AND MARINE CORPS
PART II. PERSONNEL
CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6330 (1998)

@ 6330. Enlisted members: transfer to Fleet Reserve and Fleet Marine Corps Reserve; retainer pay

(a) The Fleet Reserve and the Fleet Marine Corps Reserve are composed of members of the naval service transferred thereto under this section.

(b) An enlisted member of the Regular Navy or the Naval Reserve who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Reserve. An enlisted member of the Regular Marine Corps or the Marine Corps Reserve who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Marine Corps Reserve.

(c) Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled when not on active duty, to retainer pay at the rate of 2 1/2 percent of the basic pay that he received at the time of transfer multiplied by the number of years of active service in the armed forces, except that in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, retainer pay shall be computed on the basis of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer. A member may recompute his retainer pay under section 1402 of this title to reflect active duty after transfer. If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent. However, in no case may a member's retainer pay be more than 75 percent of the basic pay upon which the computation of retainer pay is based.

(d) For the purposes of subsections (b) and (c), a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. A completed minority enlistment is counted as four years of active service, and an enlistment terminated within three months before the end of the term of enlistment is counted as active service for the full term.

HISTORY: (Aug. 10, 1956, ch 1041, @ 1, 70A Stat. 396; Aug. 1, 1958, P.L. 85-583, @ 1(2), (3), 72 Stat. 480; Dec. 16, 1967, P.L. 90-207, @ 3(4), 81 Stat. 653.)

(As amended Nov. 29, 1989, P.L. 101-189, Div A, Title VI, Part F, @ 652(a)(5), 103 Stat. 1461.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

PRIOR LAW AND REVISION:

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6330	34 U.S.C. 854 (less proviso).	June 25, 1938, ch 690, Sec. 201 (less proviso), 52 stat. 1178.
	34 U.S.C. 854 (note).	July 9, 1952, ch 608, Sec. 803 (2d sentence of 1st par.), 66 Stat. 505.
	34 U.S.C. 854c (less 4th, 5th, 6th (as applicable to 34 U.S.C. 854b) and 7th provisos).	June 25, 1938, ch 690, Sec. 204 (less 4th, 5th, 6th (as applicable to Sec. 203 of the Naval Reserve Act of 1938), and 7th provisos) 52 Stat. 1170; Aug. 10, 1946, ch 952, Sec. 2, 60 Stat. 993.
	34 U.S.C. 854a (less provisos).	June 25, 1938, ch 690, Sec. 202 (less provisos), 52 Stat. 1178.

In subsec. (a) the words "officers" and "assigned" are omitted, since they are applicable only to the proviso in 34 U.S.C. 854, which is recommended for repeal as obsolete. (See Table 2A.) The words "including (a) those former members of the Fleet Reserve who were transferred . . . but before the expiration of three months following discharge", appearing in @ 803 of the Armed Forces Reserve Act of 1952, 66 Stat. 505 (34 U.S.C. 854 (note) are omitted as surplusage. These words merely illustrate the class of persons transferred to the Fleet Reserve under the Naval Reserve Act of 1938, 52 Stat. 1178, as referred to in the section from which these words were taken, and in no way limit that class or impose a citizenship requirement for membership in it. (See the opinion of the Judge Advocate General of the Navy, JAG:II:1:JFG:imz of February 17, 1953.)

In subsec. (b) reference to the date July 1, 1925, is omitted, since members who were in the naval service on or before that date may, if they are qualified and so elect, be transferred to the Fleet Reserve or to the Fleet Marine Corps Reserve under 34 U.S.C. 854c instead of under 34 U.S.C. 854b, as provided in the fifth proviso of 34 U.S.C. 854c. That proviso and the provisions of 34 U.S.C. 854b, which are applicable only to persons who were in the naval service in 1925, are not codified because they relate to a small closed class and are therefore of limited interest. They are not repealed, however. (See Table 2D.)

In subsecs. (b) and (c) the term "active service in the armed forces" is substituted for the term "active Federal service" to execute the definition in the last sentence of 34 U.S.C. 854c.

In subsec. (c) the words "is entitled, when not on active duty, to retainer pay at the rate of 2 1/2 percent of the basic pay that he received at the time of transfer" are substituted for the words "except when on active duty, shall be paid at the annual rate of 2 1/2 per centum of the annual base and longevity pay they are receiving at the time of transfer" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

Subsec. (d) states the rule as to the method of counting minority and short-term enlistments, in connection with determining active service, in accordance with *White v United States*, 97 F. Supp. 698.

REFERENCES IN TEXT:

"Title II of the Naval Reserve Act of 1938 (52 Stat. 1178), as amended," referred to in subsec. (a), was Act June 25, 1938, ch 690, @@ 201-208, 52 Stat. 1178, and was repealed by @ 53 of Act Aug. 10, 1956.

AMENDMENTS:

1958. Act Aug. 1, 1958, in subsec. (a), substituted "naval service" for "Regular Navy and the Regular Marine Corps, respectively,"; and, in subsec. (b), inserted "or the Naval Reserve" and "or the Marine Corps Reserve".

1967. Act Dec. 16, 1967 (effective 10/1/67 as provided by @ 7 of such Act), in subsec. (c), substituted "Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled when not on active duty, to retainer pay at the rate of 2 1/2 percent of the basic pay that he received at the time of transfer multiplied by the number of years of active service in the armed forces, except that in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, retainer pay shall be computed on the basis of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer." for "Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to retainer pay at the rate of 2 1/2 percent of the basic pay that he received at the time of transfer multiplied by the number of years of active service in the armed forces.".

1980. Act Sept. 8, 1980 substituted subsec. (c) for one which read: "Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled when not on active duty, to retainer pay at the rate of 2 1/2 percent of the basic pay that he received at the time of transfer multiplied by the number of years of active service in the armed forces, except that in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, retainer pay shall be computed on the basis of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer. A member may recompute his retainer pay under section 1402 of this title to reflect active duty after transfer. If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent. However, in no case may a member's retainer pay be more than 75 percent of the basic pay upon which the computation of retainer pay is based.".

Act Dec. 12, 1980 (effective upon enactment on 12/12/80, as provided by @ 701(b)(3) of such Act, which appears as 10 USCS @ 101 note), in subsec. (c)(1)(A), substituted "master chief petty officer" for "senior enlisted advisor"; and, in subsec. (c)(1)(A) and (B), substituted "September 8, 1980" for "the date of enactment of the Department of Defense Authorization Act, 1981".

1983. Act Sept. 24, 1983, in subsec. (d), substituted "For the purposes of subsection (c), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded." for "For the purposes of subsections (b) and (c), a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.".

1986. Act July 1, 1986, in subsec. (c)(1), substituted "retainer pay computed under section 6333 of this title." for "retainer pay--

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before September 8, 1980, at the rate of 2 1/2 percent of the basic pay that he received at the time of transfer or, in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer; or

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after September 8, 1980, at the rate of 2 1/2 percent of the monthly retainer pay base computed under section 1407(d) of this title;

multiplied by the number of years of active service in the armed forces."

Such Act further, in subsec (c), deleted para. (4) which read: "In no case may a member's retainer pay be more than 75 percent of the basic pay or monthly retainer pay base upon which the computation of retainer pay is based."; and in subsec. (d), designated the existing provisions of para. (1), and in para. (1), as so designated, deleted: "A completed minority enlistment is counted as four years of active service, and an enlistment terminated within three months before the end of the term of enlistment is counted as active service for the full term." following "month is disregarded.", and added paras. (2) and (3).

1989. Act Nov. 29, 1989, in subsec. (a), substituted "under this section." for "under--

"(1) Title II of the Naval Reserve Act of 1938 (52 Stat. 1178), as amended; or

"(2) this section."

OTHER PROVISIONS:

Transfer of members of Navy and Marine Corps to Fleet Reserves; retired pay. Act July 24, 1956, ch 683, @@ 1-5, 70 Stat. 626, provided: "Section 1. Upon application by any former member of the Navy or Marine Corps--

"(1) who was discharged prior to August 10, 1946, under honorable conditions, and

"(2) who, at the time of his discharge, had at least twenty years' active Federal service,

"the Secretary of the Navy shall appoint such former member in the Fleet Reserve or Fleet Marine Corps Reserve, as may be appropriate, in the rank held by him at the time of such discharge.

"Sec. 2. Each person appointed to the Fleet Reserve or Fleet Marine Corps Reserve under the first section of this Act [this note] shall be transferred to the appropriate retired list (1) on the first day of the first calendar month beginning after such appointment, if his last discharge occurred ten or more years prior to the date of such appointment, and (2) in the case of individuals appointed under such section before the expiration of ten years from their last discharge, on the first day of the first calendar month, beginning after the expiration of ten years from the date of such discharge.

"Sec. 3. Each former member transferred to a retired list under clauses (1) and (2) of section 2 [this note] shall receive retired pay at the annual rate of 2 1/2 per centum of the annual base and longevity pay he was receiving at the time of his last discharge, multiplied by the number of his years of active Federal service at such time (not to exceed thirty), and adjusted to reflect the percentage increases made since such discharge in the retired pay of persons retired from the Armed Forces prior to October 12, 1949.

"Sec. 4. For the purposes of this Act [this note], all active service in

the Army of the United States, the Navy, the Marine Corps, the Coast Guard, or any component thereof, shall be deemed to be active Federal service.

"Sec. 5. No pay shall accrue to the benefit of any person appointed under the provisions of this Act [this note] prior to the date such person is actually appointed under the provisions of this Act [this note] and in no event prior to the first day of the first month following enactment of this Act [enacted July 24, 1956]."

Applicability of Sept. 24, 1983 amendment to this section. For provisions as to the application of the Sept. 24, 1983 amendment to this section, see @ 923(g) of such Act, which appears as 10 USCS @ 1174 note.

Repeal of provisions as to limitations on retainer pay for member transferred on or after Dec. 31, 1977. Act Oct. 12, 1984, P.L. 98-473, Title I, @ 101(h) in part, 98 Stat. 1930, which formerly appeared as a note to this section, was repealed by Act July 1, 1986, P.L. . 99-348, Title III, @ 305(a)(2), 100 Stat. 704. It provided for limitations on retainer pay for member transferred on or after December 31, 1977. Similar provisions now appear as subsec. (d)(2), (3) of this section.

Applicability of section during period of active force drawdown. For applicability of the provisions of this section during period of active force drawdown to individuals with at least 15 but less than 20 years of service, see Act Oct. 23, 1992, P.L. 102-484, Div D, Title XLIV, Subtitle A, @ 4403, 106 Stat. 2702, which appears as 10 USCS @ 1293 note.

NOTES:

CODE OF FEDERAL REGULATIONS

Add:

32 CFR Part 114.

CROSS REFERENCES

This section is referred to in 10 USCS @ 6327.

INTERPRETIVE NOTES AND DECISIONS

1. Purpose
2. Transfer to Fleet Reserve
3. Computation of retirement pay
4. -Law governing computations
5. Retirement and retainer pay in divorce settlements
6. Effect of change in citizenship
7. Miscellaneous

1. Purpose

One of purposes of legislation creating Fleet Reserve was to encourage seamen who had served in navy to re-enlist repeatedly and thus give government benefit of their training and experience. *Abad v United States* (1956) 136 Ct Cl 404, 144 F Supp 951.

Purpose of establishing and maintaining Fleet Reserve was to provide government with trained body of men subject to recall when needed. *Murphy v United States*, 165 Ct Cl 156.

2. Transfer to Fleet Reserve

Right of navy enlisted man to transfer to Fleet Reserve under @ 204 of Naval Reserve Act of 1938 (predecessor of 10 USCS @ 6330) is subject to discretion of Secretary of Navy exercised in proper manner, enlisted member of naval forces

must have been on active duty status to be entitled to transfer to Fleet Reserve under former @ 204 of Naval Reserve Act of 1938, as amended by former @ 2 of Act of August 10, 1946 (predecessors of 10 USCS @ 6330), and enlisted man whose application for transfer to Fleet Reserve had been approved but who went on absence without leave before transfer could be carried out and was therefore dropped from active roles as deserter, was not, while so absent, in sort of active duty status which would entitle him to have Secretary of Navy's order to transfer him carried out. *Murphy v United States* (1964) 165 Ct Cl 156.

3. Computation of retirement pay

Enlisted man in navy on retired list, with 30 years service, was entitled to retired pay and allowances from date of transfer to retired list, under provisions of predecessor of 10 USCS @ 6330, and not from date of correction of expiration date of 30 years service. *Dugan v United States* (1943) 100 Ct Cl 7.

Where plaintiff was transferred to Fleet Reserve as result of being credited with 20 years active service due to bonus for minority enlistment, he was entitled to have retired pay computed on basis of 20 years service. *White v United States* (1951) 121 Ct Cl 1, 97 F Supp 698.

Constructive service, defined in @ 202 of Naval Reserve Act of 1938 (predecessor of 10 USCS @ 6330), was included in active service upon which persons transferred to fleet reserve under 1938 Act were entitled to have their longevity increase calculated. *Callahan v United States* (1964) 164 Ct Cl 606, 328 F2d 350.

Where Navy or Marine Corps enlisted member is eligible for retired pay by reason of disability, his pay may be computed on retainer pay formula pursuant to 10 USCS @ 6330 adjusted to reflect any applicable changes authorized by 10 USCS @ 1401a, if he was qualified for transfer to Fleet Reserve or Fleet Marine Corps Reserve on date earlier than his disability retirement, terms, "retired pay" and "retainer pay" being interchangeable for purposes of computation authorized by 10 USCS @ 1401a(f). (1977) 56 Op Comp Gen 740.

Under predecessor of 10 USCS @ 6330, plaintiff who first enlisted in navy in 1915 and served continuously under successive enlistments until in 1931, when he was transferred to fleet reserve, credited with 16 years or more of active service and served continuously until in 1945, when he was released to inactive duty, was entitled to elect retirement pay of 2 1/2 per cent of his base and longevity pay times his years of active service instead of such pay based upon one third of his active duty pay as increased 50 per cent for longevity. *Hulse v United States* (1956) 133 Ct Cl 848, 137 F Supp 745, cert den 353 US 916, 1 L Ed 2d 663, 77 S Ct 663.

Trial court in divorce action properly computed community property interest in retired serviceman's Navy pension on basis of his 20 years of active service rather than combined 30 years of active and reserve service, since retirement benefits are earned solely by service on active duty. *In Re Marriage of Davis* (1980, Cal App) 169 Cal Rptr 863.

4. -Law governing computations

Under former 10 USC @ 564, longevity of individual transferred to Fleet Reserve in 1938, for purposes of determining retirement pay, should be computed under former 34 USCS @ 854(b) rather than under superseding provisions of 10 USCS @ 6330. *Callahan v United States* (1964) 164 Ct Cl 606, 328 F2d 350.

5. Retirement and retainer pay in divorce settlements

Payments received by fleet reservist under 10 USCS @ 6330 are for present services rendered, and do not become part of community estate, and are not subject to award as community property in divorce action. *Sprott v Sprott*

(1978, Tex Civ App 9th Dist) 576 SW2d 653 writ diss w o j.

Pay to be received by husband as member of Fleet Reserve up to time of dissolution of marriage by final decree of divorce is community property and should be so considered in fixing property rights of parties. French v French (1941) 17 Cal 2d 775, 112 P2d 235, 134 ALR 366 (ovrld on other grounds Re Marriage of Brown, 15 Cal 3d 838, 126 Cal Rptr 633, 544 P2d 561).

Distinction between "retainer pay" under 10 USCS @ 6330 and retirement pay under 10 USCS @ 6331 is one of semantics and community property interest in husband's Navy pay vested upon his transfer to Fleet Reserve, which event occurred while marriage of parties was still viable, although husband technically began drawing "retirement" pay after dissolution of marriage. Re Marriage of Mercier (1975, 1st Dist) 48 Cal App 3d 775, 121 Cal Rptr 886.

6. Effect of change in citizenship

Fleet Reserve member who acquired citizenship of foreign country after transfer to Fleet Reserve will forfeit rights to retainer or retired pay under 10 USCS @ 6330. (1964) 44 Op Comp Gen 227.

7. Miscellaneous

Fact that service member, based on years of service, is given right under 10 USCS @ 6330 to voluntarily elect retirement does not affect Navy's ability to mandate member's involuntary retirement. Brigante v United States (1996) 35 Fed Cl 526.

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TITLE 10. ARMED FORCES

SUBTITLE C. NAVY AND MARINE CORPS

PART II. PERSONNEL

CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6331 (1998)

@ 6331. Members of the Fleet Reserve and Fleet Marine Corps Reserve: transfer to the retired list; Retired pay

(a) When he has completed 30 years of service, or when he is found not physically qualified in an examination under section 6485 of this title [10 USCS @ 6485], a member of the Fleet Reserve or the Fleet Marine Corps Reserve shall be transferred--

(1) to the retired list of the Regular Navy or the Regular Marine Corps, as appropriate, if he was a member of the Regular Navy or the Regular Marine Corps at the time of his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve; or

(2) to the appropriate Retired Reserve, if he was a member of the Naval Reserve or the Marine Corps Reserve at the time of his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve.

(b) For the purpose of subsection (a), a member's years of service are computed by adding--

(1) the years of service credited to him upon his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve;

(2) his years of active and inactive service in the armed forces before his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve not credited to him upon that transfer; and

(3) his years of service, active and inactive, in the Fleet Reserve or the Fleet Marine Corps Reserve.

(c) Unless otherwise entitled to higher pay, each member transferred to the retired list or the Retired Reserve under this section is entitled to retired pay at the same rate as the retainer pay to which he was entitled at the time of his transfer to the retired list or the Retired Reserve.

HISTORY: (Aug. 10, 1956, ch 1041, @ 1, 70A Stat. 397; Aug. 1, 1958, P.L. 85-583, @ 1 (4)-(6), 72 Stat. 480.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

PRIOR LAW AND REVISION:

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6331	34 U.S.C. 854c (4th proviso).	June 25, 1938, ch 690, Sec. 204 (4th proviso), 52 stat. 1179; Aug. 10, 1946, ch 952, Sec. 2, 60 Stat. 993.
	34 U.S.C. 854e (2d and 4th provisos).	June 25, 1938, ch 690, Sec. 206 (2d and 4th provisos), 52 Stat. 1179; Apr. 25, 1940, ch 153, 54 Stat. 162.
	34 U.S.C. 854 (note).	July 9, 1952, ch 608, Sec. 803 (3d sentence), 66 Stat. 505.

In subsec. (a) the words "transferred . . . in accordance with the provisions of this section and of sections 853 and 854b of this title", in the fourth proviso of 34 U.S.C. 854c, and the words "transferred after sixteen years' or more service in the Regular Navy", and "men coming under the cognizance of sections 853 and 854b of this title", in the second proviso of 34 U.S.C. 854e, are omitted as surplusage since the classes designated by these phrases comprise all members of the Fleet Reserve and Fleet Marine Corps Reserve.

Subsec. (b) is worded so as to cover all members of the Fleet Reserve and the Fleet Marine Corps Reserve regardless of the law under which they attained that status. A member transferring under 34 U.S.C. 854b may count only active naval service in computing the service required for that transfer, but in determining his eligibility for retirement he may add to his active naval service all previous active or inactive service in the Army, Navy, Marine Corps, Air Force, or Coast Guard, and his time in the Fleet Reserve. A member transferring to the Fleet Reserve under 34 U.S.C. 854c may count active service in any armed force toward that transfer, and he determines his eligibility for retirement by adding to the service credited to him at the time of transfer any previous inactive service in the armed forces and his time in the Fleet Reserve. As to the latter member the words "active service" in cl. (2) are superfluous, since such service would have been credited to him upon his transfer to the Fleet Reserve, but they are needed in the case of a member transferred under 34 U.S.C. 854b.

In subsec. (c) references to the "allowances to which enlisted men of the Navy are entitled on retirement after thirty years' service", in the second and fourth provisos of 34 U.S.C. 854e, are omitted because of the repeal, by @ 19 of the Pay Readjustment Act of 1942, 56 Stat. 369, of the laws authorizing such allowances.

AMENDMENTS:

1958. Act Aug. 1, 1958, substituted subsec. (a) for one which read: "A member of the Fleet Reserve or the Fleet Marine Corps Reserve shall be transferred to the retired list of the Regular Navy or of the Regular Marine Corps, as appropriate--

"(1) upon being found not physically qualified in an examination under section 6485 of this title; or

"(2) when he has completed 30 years of service.";

Such Act further, in subsec. (b), deleted "of clause (2)"; and, in subsec. (c), inserted "or the Retired Reserve" in two places.

NOTES:

CODE OF FEDERAL REGULATIONS

Disposition of cases involving naval personnel with physical disability, 32 CFR Part 725.

This section is no longer cited as authority for:
32 CFR Part 725.

RESEARCH GUIDE

AM JUR:

54 Am Jur 2d, Military, and Civil Defense @ 170.
3 Fed Proc, L Ed @ 5:301.

INTERPRETIVE NOTES AND DECISIONS

Where plaintiff was transferred to Fleet Reserve as result of being credited with 20 years active service due to bonus for minority enlistment, he was entitled to have retired pay computed on basis of 20 years service. *White v United States* (1951) 121 Ct Cl 1, 97 F Supp 698.

Under predecessor of 10 USCS @ 6331, service during peacetime as well as service during time of war should be included in calculating retirement benefits. *Ebinger v United States* (1957) 140 Ct Cl 82, 155 F Supp 565.

Constructive service, defined in @ 202 of Naval Reserve Act of 1938 (predecessor of 10 USCS @ 6331), is included in active service upon which persons transferred to fleet reserve under 1938 Act are entitled to have their longevity increase calculated. *Callahan v United States* (1964) 164 Ct Cl 606, 328 F2d 350.

Fleet Reserve member who acquires citizenship of foreign country after transfer to retired list under 10 USCS @ 6331 will forfeit rights to retired pay. (1964) 44 Op Comp Gen 227.

Under predecessor of 10 USCS § 6331, plaintiff who first enlisted in Navy in 1915 and served continuously under successive enlistments until in 1931, when he was transferred to Fleet Reserve, credited with 16 years or more of active service and served continuously until in 1945, when he was released to inactive duty, was entitled to elect retirement pay of 2 1/2 % of his base and longevity pay times his years of active service instead of such pay based upon one third of his active duty pay as increased 50% for longevity. *Hulse v United States* (1956) 133 Ct Cl 848, 137 F Supp 745, cert den 353 US 916, 1 L Ed 2d 663, 77 S Ct 663.

Trial court in divorce action properly computed community property interest in retired serviceman's Navy pension on basis of his 20 years of active service rather than combined 30 years of active and reserve service, since retirement benefits are earned solely by service on active duty. *In Re Marriage of Davis* (1980, Cal App) 169 Cal Rptr 863.

Distinction between "retainer pay" under 10 USCS @ 6330 and retirement pay under 10 USCS @ 6331 is one of semantics and community property interest in husband's navy pay vested upon his transfer to Fleet Reserve, which event occurred while marriage of parties was still viable, although husband technically began drawing "retirement" pay after dissolution of marriage. *Re Marriage of Mercier* (1975, 1st Dist) 48 Cal App 3d 775, 121 Cal Rptr 886.

10 USCS @ 6334 (1998) printed in FULL format.

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*** THIS SECTION IS CURRENT THROUGH 105-165, APPROVED 3/20/98 ***

*** WITH A GAP OF 160 AND 164 ***

TITLE 10. ARMED FORCES

SUBTITLE C. NAVY AND MARINE CORPS

PART II. PERSONNEL

CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6334 (1998)

@ 6334. Higher grade after 30 years of service: warrant officers and enlisted members

(a) Each member of the naval service covered by subsection (b) who, after December 4, 1987, is retired with less than 30 years of active service or is transferred to the Fleet Reserve or Fleet Marine Corps Reserve is entitled, when his active service plus his service on the retired list or his service in the Fleet Reserve or the Fleet Marine Corps Reserve totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Navy.

(b) This section applies to--

(1) warrant officers of the naval service;

(2) enlisted members of the Regular Navy and Regular Marine Corps; and

(3) reserve enlisted members of the Navy and Marine Corps who, at the time of retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, are serving on active duty.

(c) An enlisted member of the naval service who is advanced on the retired list under this section is entitled to recompute his retired or retainer pay under formula A of the following table, and a warrant officer of the naval service so advanced is entitled to recompute his retired pay under formula B of that table. The amount recomputed, if not a multiple of \$ 1, shall be rounded to the next lower multiple of \$ 1.

Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(d) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years creditable for his retainer or retired pay at the time of retirement. <1>
B	Retired pay base as computed under section 1406(d) of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

<1> In determining the retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.

HISTORY: (Added Dec. 4, 1987, P.L. 100-180, Div A, Title V, @ 512(b), 101 Stat. 1089; Nov. 29, 1989, P.L. 101-189, Div A, Title XVI, Part C, @ 1622(g), 103 Stat. 1605.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

AMENDMENTS:

1989. Act Nov. 29, 1989, in subsec. (a), substituted "December 4, 1987" for "the date of the enactment of this section".

April 30, 1998

Rob,

You asked me to find any discretionary decisions or factors in the Navy retirement system. The retirement procedures carefully set forth what each retiring member is entitled to in terms of retirement pay. The retirement pay is dependent on two factors: length of service and pay rate at the time of retirement. There does not appear to be any way to increase McVeigh's length of service. Therefore to increase his retirement pay we should try to increase his rate of pay. The following is a list of possible ways to increase his rate of pay:

1. Promotion to E-9.
2. Special or Incentive Pay

Some of the special and incentive pay regulations state that members *may* qualify for special or incentive pay and only set forth payment caps. There is the possibility that McVeigh was not given each special pay that he was qualified for or not given the maximum amount for each special pay. If so, he could be retroactively granted each special or incentive pay or be given the difference between the amount he actually received and the maximum amount available. Section 1552 of title 10 permits the Secretary of a military department to "correct any military records . . . when the Secretary considers it necessary to correct an error or remove an injustice."

The following are the special or incentive pay that McVeigh may have been qualified for:

Enlistment bonus - *may* be paid to an enlistee when the enlistee enlists for a period of 4 or more years for the purpose of qualifying and serving in a military specialty designated as critical and is either a "non-prior service enlistee" or a "prior service enlistee." Enlistment bonus shall not be more than \$12,000. See ¶¶ 090101 A-B; 090102; 37 U.S.C. § 308a.

Re-enlistment bonus - "A member of the uniformed service who has completed at least twenty-one months of continuous active duty . . . but not more than fourteen years of active duty; is qualified in a military skill designated as critical by the Secretary of Defense . . . ; is not receiving special pay under section 312a of this title [duty in nuclear propulsion plants]; and reenlists or voluntarily extends his enlistment in a regular component of the service *may* be paid a bonus" 37 U.S.C. § 308(a)(1).

Submarine duty - "a member of the naval service who is entitled to basic pay but is not entitled to continuous monthly submarine duty incentive pay under paragraph (1) is entitled to submarine duty incentive pay in the amount set forth in subsection (b) for any period during which such member performs frequent and regular operational submarine duty (as defined in paragraph (5)) required by orders." 37 U.S.C. § 301c(a)(2).

Career sea pay - "a member of a uniformed service who is entitled to basic pay is also entitled, while on sea duty, to special pay at the applicable rate" 37 U.S.C. § 305a.

Sea duty - special pay - a member entitled to basic pay who is in pay grade E-4 or above *may* be entitled to career sea pay for sea duty as defined in paragraph 180103. See DoD Financial Management Regulations ¶ 180101.

Special duty assignment pay - enlisted member entitled to basic pay *may* qualify, when

→ DoD Financial Management Regulations

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member performs duties designated by the Secretary concerned as extremely difficult or involving an unusual degree of responsibility. The maximum pay may not exceed the pay set forth in ¶ 080105 B. See DoD Financial Management Regulations ¶ 080101 B.

3. Correction of military record under section 1552 of title 10 of the U.S. Code.

This section may provide grounds to increase McVeigh's pay or increase his rank, based on the discretionary finding of the Secretary of the Navy that some "error" or "injustice" occurred. It is not clear whether the rank needs to be increased in order to receive the benefits comensurate with that rank.

April 30, 1998

Rob,

Here is the latest information I have found regarding a possible promotion or 'correction' of McVeigh's record. The cases and regulations cited to are attached in the order they are cited. I am at ext. 65068.

Sean

Regarding promotion to E-9

In most situations, voluntarily retired members will only be retired in the highest grade they satisfactorily held after they have completed the service-in-grade requirements. An instruction from the Secretary of the Navy states that "[n]ondisability voluntary retirement of members serving in pay grades E-7, E-8, or E-9 shall require a minimum of two years active duty in grade unless such members are entitled by law to a higher retired grade upon retirement. . . . [However,] [i]n individual cases involving substantial hardship, unusual circumstances, or when the best interest of the service is concerned, waivers of obligated service in grade may be authorized by the Secretary." Paragraph 11.d. SECNAV Instruction 1811.3M dated 15-November 1989. If McVeigh is promoted to E-9, the Secretary is authorized to waive the normal time requirements for service-in-grade.

Regarding the corrections board and section 1552

I searched through the case law interpreting the power of the Boards of Correction under section 1552 of title 10 of the US Code. Several issues are clear from this case law.

1. Section 1552 "is remedial and to be liberally construed, rather than narrowly or technically." Oleson v. United States, 172 Ct. Cl. 9, 17 (1965). The Court of Claims has also stated that the findings of the Secretary or board of corrections are final and binding upon the Court of Claims and will not be disturbed without a showing by "clear and convincing evidence of arbitrary and capricious action." Armstrong v. United States, 205 Ct. Cl. 754, 760 (1974), and cases cited therein.
2. A court has ruled that the Navy Board of Corrections is not bound to follow, distinguish or overrule its prior equitable decisions, and that it is free to fashion equitable relief on a case-by-case basis. See Strang v. Marsh, 602 F. Supp. 1565 (D.R.I. 1985). The Navy may not be concerned about this, but it should be reassuring to them that whatever they settle on in this case, will not create precedent for future cases.
3. The Secretary of the Navy is given final decision making authority and courts have upheld rejections of the recommendations of the Board of Corrections. The recommendations should be given deference by the Secretary, but so long as the Secretary does not abuse his or her discretion, the Secretary is authorized to accept or reject the Boards recommendations. Miller v. Lehman, 801 F.2d 492 (D.C. Cir. 1986) (upholding Secretary's rejection of Board finding that the informal procedures, rather than a courts-martial, used against a former POW violated Navy tradition); Kolsea v. Lehman, 597 F. Supp. 463 (N.D.N.Y. 1984) (upholding the Secretary's

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rejection of the Boards recommendation not to force an NROTC student who violated the terms of his scholarship to enroll as an enlisted man upon graduation from college).

While it is clear that Board recommendations forwarded to the Secretary can be accepted or rejected, the current Code of Regulations grants the Board final decision making authority over all cases properly submitted, except in certain enumerated situations. The Board "is authorized to take final corrective action on behalf of the Secretary, unless" the boards recommendation is not unanimous, comments by naval authorities are inconsistent with the Board's recommendation, or it is in the category reserved for decision by the Secretary. See 32 C.F.R. 723.6(e). Among the three categories reserved for decision by the Secretary, the McVeigh decision could fall under the third category which states "[s]uch other petitions as, in the determination of the Office of the Secretary or the Executive Director [of the Board], warrant Secretarial review." 32 C.F.R. 723.6(e)(2)(iii).

4. In cases involving Board and Secretary action under 10 U.S.C. 1552, court opinions and opinions of the Attorney General have upheld board recommendations for:

retroactive promotions (for which member was otherwise entitled),

Caddington v. United States, 147 Ct. Cl. 629 (1960) (holding that plaintiff was entitled to be and would have been promoted under a "terminal leave promotion policy" but for administrative errors and complications associated with his injury and transfers to various hospitals in the Pacific, and is therefore entitled to the promotion and back pay at that rank from the time he should have been promoted); Horn v. Schlesinger, 514 F.2d 549, 552 n.11 (8th Cir, 1975) (holding that the plaintiff failed to exhaust administrative remedies available, and in dicta referring to the Board of Correction's power to review and to correct passover discharges, including corrections resulting in advancement in grade); but see Thornton v. Coffey, 618 F.2d 686, 692 (10th Cir. 1980) (holding that the Board does not have the authority to order a promotion, but can only order an opportunity for promotional consideration based upon an accurate record, payment for losses incurred because of incorrect record, reinstatement and back pay); 41 Op. Atty. Gen. 10 (October 11, 1948) (stating that Board is authorized to recommend a new retroactive promotion for a marine officer, but that the normal promotion procedures, in this case involving nomination by the President with the advice and consent of the Senate, must be utilized to effect the promotion)

changing the date of promotions,

41 Op. Atty. Gen. 71 (January 22, 1951) (stating that the Secretary of the Army is authorized to change the date of an officer's appointment from the actual date of August 1948 to April 1946, but raises concern that Secretary may not have the authority to make a new and retroactive appointment); Darby v. United States, 146 Ct. Cl. 211 (1959) (holding that because the Board changed plaintiff's "dates of rank changes" to correct an error, plaintiff was entitled to additional pay and allowances based on the changed dates),

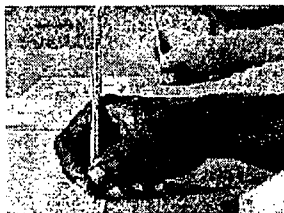
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and changing the date of retirement,

41 Op. Atty. Gen. 94 (March 20, 1952) (stating that the Secretary is authorized to change the date of a retiree's retirement from September 1916 to June 2, 1916 in order that he would benefit from a law, enacted after he applied for retirement but before his retirement was ordered, that authorized the promotion of retirees with his qualifications who retired before June 3, 1916).



GENERAL INFORMATION ON THE NAVY ENLISTED ADVANCEMENT SYSTEM (NEAS)



The Navy Enlisted Advancement System (NEAS) is administered by the Naval Education and Training Professional Development and Technology Center (NETPDTC) as directed by the Chief of Naval Operations (CNO) and the Chief of Naval Education and Training (CNET). The objective of the NEAS is to advance the best qualified petty officers to operate the Navy's ships, planes, and shore stations. Advancements provide opportunities for qualified enlisted personnel to progress to higher levels of responsibility and authority throughout their Navy careers.

ADVANCEMENT TO PAYGRADES E-2 AND E-3



The *Naval Military Personnel Manual* (MILPERSMAN) gives commanding officers the authority to advance qualified enlisted personnel to E-2 and E-3 without numerical limitations. No exam is required for advancement to E-2. However, commands have the option of administering E-3 apprenticeship exams for AN, FN, and SN.

Apprenticeship examinations consist of 150 questions. 100 questions are on the specific apprenticeship and 50 questions are on general military subjects.

ADVANCEMENT TO PAYGRADES E-4 THROUGH AND E-9

The Advancement Manual (BUPERSINST 1430.16) governs the advancement process for petty officer paygrades E-4 through E-9

The *Advancement Manual* (BUPERSINST 1430.16) governs the advancement process for petty officer paygrades E-4 through E-9. Paygrades E-4 through E-7 compete in Navywide Advancement-in-Rate Examinations that are administered to most candidates worldwide on the same day. Examinations are given according to a set schedule at locations and times that are announced in advance.

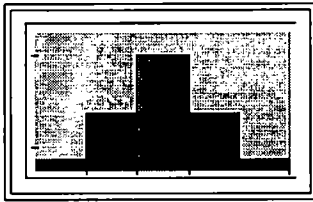
Petty officer examinations consist of 150 questions. Generally, 135 questions pertain to the rating and 15 questions pertain to general military subjects.

Candidates for chief petty officer (E-7) take the exam to become SELECTION BOARD ELIGIBLE (SBE). E-7 candidates are designated SBE if their FMS is in the top 60 percent for their rating. Exams are NOT required for advancement to E-8 and E-9. E-8 and E-9 candidates are designated SBE on the basis of their commanding officer's recommendation.

EXAMINATION DEVELOPMENT

Chief petty officers from each Navy rating develop advancement examinations. Examination questions are supported by Occupational Standards (OCCSTD) and Naval Standards (NAVSTD). Questions are supported by references that are listed in a ratings Bibliography (BIB) for advancement-in-rate exam study.

STANDARD SCORE



The standard score is a reflection of how well you did compared to your peers taking the same test. We first average all the scores to get the "arithmetic mean," and then average how far each score is from the mean. Your score is a direct reflection of any relative difference. Say, for example, you not only scored higher than anyone else, but scored way above the next highest candidate. Your score would reflect that and be relatively higher. On the other hand, let's say you had the highest score in a huge group of high scorers. You would still have the highest standard score, but it would be only slightly higher than the next highest score. In a general way a standard score of 20 means no one scored lower, 30 only 2% scored lower, 40 about 15% scored lower, 50 is average, 60 only 15% scored higher, 70 only 2% scored higher, and no one gets higher than 80, but there is still room to plug in the actual level of your performance. While this may look a little strange, remember most people are average, and only a few out at the extremes. It is the standard score, not raw score, that is a component of the final multiple.

Standard score is covered in all introductory statistics books in a chapter on descriptive statistics.

FINAL MULTIPLE SCORE (FMS)

Performance is shown in a person's day-to-day performance, work ethic, achievements, and so forth, and is documented in his or her performance evaluations

The advancement selection process uses the Final Multiple Score (FMS) system, which considers the whole person by calculating a candidate's performance, experience, and knowledge into the individual's final multiple score.

Performance is shown in a person's day-to-day performance, work ethic, achievements, and so forth, and is documented in his or her performance evaluations. Experience is indicated by elements such as length of service (LOS) and service in paygrade (SIPG). Knowledge is reflected as examination performance. Candidates may also earn PNA (passed but not advanced) Points that are calculated into the FMS. PNA points are awarded to candidates who pass the exam but are not advanced, and in some cases, for a relatively high performance mark average (PMA).

FMS results for all candidates are rank-ordered from the top to the bottom score - or from the most qualified to the least qualified. For example: There are 500 candidates for BM3 who meet all eligibility criteria for a given advancement cycle. However, there are only 400 vacancies to be filled. The rank-ordering process identifies the top 400 (based on FMS) who will actually be advanced.

The chart below shows the FMS score possible for those candidates with top exam scores and superior performance. For paygrades E-4 through E-7, a standard score of 80 (the highest a candidate can receive) on the exam and maximum point values for each of the other factors would yield an FMS as high as 230 for E-4 and E-5; 264 for E-6; and 132 for E-7.

Final Multiple Computation Chart

FACTOR	EXAM PAYGRADE	COMPUTATION	MAXIMUM POINTS and (%)		
			E-4/5	E-6	E-7
Standard Score (SS)	ALL	Indicated On Exam Profile Sheet	80(35%)	80(30%)	80(60%)
Performance	E-4/5	PMA X 50 -130	70(30%)	92(35%)	52(40%)
	E-6	PMA X 50 -108			
	E-7	PMA X 13			
Length of Service (LOS)	E-4/5	(TAS-SIPG)+15	30(13%)	34(13%)	
	E-6	(TAS-SIPG)+19			
Service in Paygrade (SIPG)	E-4/5	2 X SIPG +15	30(13%)	34(13%)	
	E-6	2 X SIPG +19			
Awards	E-4/5	Values in Advancement Manual	10(4.5%)	12(4.5%)	
	E-6				
PNA Points	E-4/5	As indicated on past Profile Form	10(4.5%)	12(4.5%)	
	E-6				
Max. FMS Possible	ALL		230(100%)	264(100%)	132(100%)
REFER TO THE ADVANCEMENT MANUAL (BUPERSINST 1430.16) FOR ADDITIONAL INFORMATION ON INDIVIDUAL FMS FACTORS					

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ADVANCEMENT ELIGIBILITY REQUIREMENTS

Candidates must meet the eligibility requirements, shown in the following paragraphs, to participate in the Navywide advancement-in-rate exam.

***** NOTE: Refer to the Advancement Manual (BUPERSINST 1430.16) and the current advancement cycle NAVADMIN message for the most current information about advancement eligibility requirements.

GENERAL ELIGIBILITY REQUIREMENTS



- ☐ Be recommended by the commanding officer
- ☐ Meet minimum performance mark average (PMA) of 2.6 for E-4 through E-6 and 3.0 for E-7
- ☐ Be within prescribed physical fitness standards
- ☐ Have minimum time in rate (TIR)
- ☐ Be in the proper path of advancement
- ☐ Meet special requirements (citizenship, security, medical, and so forth) for certain ratings
- ☐ Successfully complete service school, if required
- ☐ Evaluation completed within computation period for advancement cycle
- ☐ Not be involved in circumstances that render a person ineligible for advancement
- ☐ Not be a selectee for LDO
- ☐ Not have pending request for transfer to the Fleet Reserve (E-7/8/9 candidates) that is not high year tenure (HYT) mandated
- ☐ Eligibility documented and verified by service record entry
- ☐ Complete Personnel Advancement Requirements (PARS), including special requirements/performance tests
- ☐ Complete mandatory course requirements
- ☐ Complete Navy Leader Development LPO and CPO prerequisite courses
- ☐ Pass Navywide advancement-in-rate examination
- ☐ Naval Reservists: Satisfy the required drill participation in the Naval Reserve

MANDATORY TRAINING COURSE ELIGIBILITY REQUIREMENTS

Completion of certain courses is mandatory to meet advancement eligibility requirements. (See the *Catalog of Nonresident Training Courses*, NAVEDTRA 12061, for a complete listing of mandatory courses.)

E-3 Apprenticeship Mandatory Course Requirements

For E-3, completion of *Basic Military Requirements (BMR)* and *Airman (AN)*, *Fireman (FN)*, and *Seaman (SN)* satisfies the course eligibility requirements for members who did not attend apprenticeship training. Graduating from the Apprenticeship Training Program (ATP) satisfies the requirement for completion of the AN, FN, or SN requirement. Graduation from ATP DOES NOT satisfy the *Basic Military Requirements (BMR)* requirement.

E-4 through E-9 Mandatory Course Requirements



For E-4 through E-9, certain mandatory military and rate courses must be completed to satisfy advancement eligibility requirements. Successful completion of Class A school fulfills the requirement for completion of the mandatory rate course when participating in the E-4 examination ONLY (does not apply to CT and PH ratings). Any other advancement requirement at E-4 (e.g., military courses, PARS, performance tests) MUST be completed.

Not Repeating Completed Mandatory Course Requirements

Candidates are NOT required to complete the revised edition of a course if they have completed the previously required edition. For example, a candidate for STGC who has previously completed the STG 1&C course as a candidate for STG1 would not be required to complete a revised STG 1&C course for future examination cycles. Revisions may also involve splitting existing courses into modules or consolidating existing courses into single editions. In cases of rating mergers, candidates may be tasked with completing a revision that reflects knowledge and skills of the merged ratings.

Completing Added Mandatory Course Requirements

If a mandatory course is ADDED to the paygrade for which candidates are competing, they must complete the added requirement. For example, an E-4 has completed the mandatory course requirement for E-5, and a new mandatory course requirement, such as NEETS Module 18, is added to the E-5 paygrade. The E-4 MUST complete the added requirement.

Waiving Mandatory Course Requirements

If a course is not available in the supply system, the mandatory requirement for completion may be waived by BUPERS (PERS-262 or PERS-932) only; unless specifically delegated to commanding officers by NAVADMIN.

MANDATORY PERSONNEL ADVANCEMENT REQUIREMENTS (PARS)

PARS are mandatory for advancement to paygrades E-4 through E-7. PARS are not required for advancement to paygrades E-1, E-2, E-3, E-8, and E-9.

PARS only apply to the paygrade for which an individual is competing

PARS only apply to the paygrade for which an individual is competing. Once the PARS have been completed and entered in the service record, an individual is finished with the PARS associated with that paygrade. If PARS are subsequently changed, an individual is not required to go back and complete new or changed requirements. In cases of rating mergers, candidates may be tasked with completing new PARS that reflect skills of the merged ratings. In these cases, ONLY the items that are new to the candidate need be demonstrated and signed off.

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GETTING ADVANCED

After candidates have been selected for advancement, they will have to wait before being actually advanced. Advancements are subject to a ceiling control on the number of advancements per fiscal year. The Navy "fair-shares" proportionally by rate those advancements to selectees. Selectees are advanced in *increments*. Advancements are issued monthly as shown in the chart below.

CANDIDATES FOR PAYGRADE	EXAM OR NOMINATION	SELECTION BOARD CONVENES	SELECTEES NOTIFIED	ADVANCEMENT INCRMTS/ SEGMTS
E-4/5/6	MAR Reserve FEB ² SEP Reserve AUG ²	NA NA	JUN JUN NOV NOV	JUL-DEC JUL-DEC JAN-JUN JAN-JUN
E-7	JAN Reserve FEB ²	JUN JUL	AUG AUG	SEP-AUG SEP-AUG
E-8/9	NOV ¹	MAR Reserve APR ²	JUN JUN	JUL-JUN JUL-JUN
1 Month of nomination for advancement by commanding officer. 2 All Inactive Reserve advancement increments are issued on initial publication of examination selection board results.				

Remember, although NETPDTC issues the authority to advance a selectee, commanding officers will actually award the advancement if selectees have maintained their eligibility up to the effective date of advancement.

SELF-EVALUATION

Candidates not selected for advancement, should begin now to become better prepared for the next examination. Identify weaknesses. Use the BIB to identify study materials and study the contents of the listed references. Improve professional performance. Many good performers who are now in senior paygrades were not advanced the first time they were eligible, but they continued to study, be top performers, and were eventually advanced.

A PERSONAL NOTE TO REMEMBER

It is true that your opportunity to advance depends on current and predicted future vacancies within your rating. But, it is equally true that the ability to advance depends upon how well you perform, what you have learned from your rating experiences, and your rating knowledge.

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*** THIS SECTION IS CURRENT THROUGH 105-165, APPROVED 3/20/98 ***
*** WITH A GAP OF 160 AND 164 ***

TITLE 10. ARMED FORCES
SUBTITLE C. NAVY AND MARINE CORPS
PART II. PERSONNEL
CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6326 (1998)

@ 6326. Enlisted members: 30 years

(a) Each enlisted member of the Regular Navy or the Regular Marine Corps who applies for retirement after completing 30 or more years of active service in the armed forces shall be retired by the President.

(b) For the purpose of subsection (a), "enlisted member" includes a member of the Regular Navy or the Regular Marine Corps who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(c) Each person retired under this section--

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title [10 USCS @ 6333].

HISTORY: (Aug. 10, 1956, ch 1041, @ 1, 70A Stat. 395; May 20, 1958, P.L. 85-422, @ 6(9), 72 Stat. 129; Sept. 2, 1958, P.L. 85-861, @ 36B(20), 72 Stat. 1571; Oct. 2, 1963, P.L. 88-132, @ 5(h)(4), 77 Stat. 214; Dec. 16, 1967, P.L. 90-207, @ 3(3), 81 Stat. 653.)

(As amended Sept. 8, 1980, P.L. 96-342, Title VIII, @ 813(d)(4), 94 Stat. 1105; Dec. 12, 1980, P.L. 96-513, Title V, Part B, @ 513(17), (19), 94 Stat. 2932; July 1, 1986, P.L. 99-348, Title II, @ 203(b)(4), 100 Stat. 696.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

PRIOR LAW AND REVISION:

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6326	34 U.S.C. 431.	Mar. 3, 1899, ch 413, Sec. 17, 30 Stat. 1008; Mar. 2, 1907, ch 2515, Sec. 1, 34 Stat. 1217.
	34 U.S.C. 432.	Mar. 3, 1899, ch 413, Sec. 17, 30 Stat. 1008; June 22, 1906, ch 3518, 34 Stat. 451; Mar. 2, 1907, ch 2515,

10 USCS @ 6326 (1998)

	Sec. 1, 34 Stat. 1217; June 4, 1920, ch 228, Sec. 3 (3d proviso as applicable to enlisted men), 41 Stat. 835.
34 U.S.C. 879 (as applicable to enlisted men).	June 4, 1920, ch 228, Sec. 3 (3d proviso as applicable to enlisted men), 41 Stat. 835.
34 U.S.C. 3c(e).	Aug. 7, 1947, ch 512, Sec. 302(e), 61 Stat. 829.
34 U.S.C. 350f(a) (less provisos).	July 24, 1941, ch 320, Sec. 7(a), (less provisos), 55 Stat. 604; Nov. 30, 1942, ch 643, 56 Stat. 1023.
34 U.S.C. 410m.	Aug. 7, 1947, ch 512, Sec. 316(j), 61 Stat. 868.
34 U.S.C. 350i(e).	July 24, 1941, ch 320, Sec. 10(e), 55 Stat. 605; Feb. 21, 1946, ch 34, Sec. 8(a), 60 Stat. 28.

In subsec. (a) the word "Regular" is inserted before the words "Navy" and "Marine Corps" to reflect the longstanding interpretation that 34 U.S.C. 431 applies only to members of the Regular Navy and Regular Marine Corps. So much of the Act of March 2, 1907, ch 2515, @ 1, (34 U.S.C. 431), as pertains to allowances and rations was expressly repealed by the Act of June 16, 1942, ch. 413, 56 Stat. 369. The words "active service in the armed forces" are substituted for 34 U.S.C. 432 for brevity. The reference to the former Revenue Cutter Service in 34 U.S.C. 432 is omitted as obsolete, inasmuch as that Service was absorbed by the Coast Guard in 1915. If there are any enlisted men not yet retired who served in the Revenue Cutter Service, their right to count that service for the purpose of this section is protected by the saving provisions accompanying this title. The reference to active service in the Civil or Spanish-American war in 34 U.S.C. 432 is omitted as obsolete.

Subsec. (b) is inserted to cover into the section permanent enlisted members who are temporarily appointed to commissioned or warrant grades.

In subsec. (c) the word "grade" is substituted for the words "rating or rank" and the words "is entitled to retired pay at the rate of 75 percent of the basic pay, to which he would be entitled if serving on active duty in the grade in which retired" are substituted for the words "and with 75 per centum of the pay of the said rating or rank" to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

Subsec. (d) is substituted for 34 U.S.C. 350i(e) as that section pertains to voluntary retirement of enlisted members with 30 years of active service.

AMENDMENTS:

1958. Act May 20, 1958, (effective 6/1/58 as provided in @ 9 of such Act), in subsec. (c)(2), substituted "pay grade in which he was serving on the day before retirement" for "grade in which retired"

Act Sept. 2, 1958, deleted subsec. (d) which read: "For the purpose of subsection (c), a member who, at the time of retirement, was serving in a grade to which he was appointed under section 5597 or promoted under section 5787 of

this title is considered as serving in the grade he would hold had he not been so appointed or promoted."

1963. Act Oct. 2, 1963, (effective 10/1/63 as provided by @ 14 of such Act), in subsec. (c)(2), substituted "of" for "to which he would be entitled if serving on active duty in".

1967. Act Dec. 16, 1967 (effective 10/1/67 as provided by @ 7 of such Act), substituted subsec. (c)(2) for one which read: "unless otherwise entitled to higher pay, is entitled to retired pay at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement."

1980. Act Sept. 8, 1980 substituted subsec. (c)(2) for one which read: "unless otherwise entitled to higher pay, is entitled to retired pay at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement, or if he has served as senior enlisted advisor of the Navy or as sergeant major of the Marine Corps, he shall be entitled to retired pay at the rate of 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher."

Act Dec. 12, 1980 (effective upon enactment on 12/12/80, as provided by @ 701(b)(3) of such Act, which appears as 10 USCS @ 101 note), in subsec. (c)(2)(A), substituted "master chief petty officer" for "senior enlisted advisor"; and in subsecs. (c)(2)(A) and (B), substituted "September 8, 1980" for "the date of enactment of the Department of Defense Authorization Act, 1981".

1986. Act July 1, 1986, in subsec. (c)(2), substituted "retired pay computed under section 6333 of this title." for "retired pay--

"(A) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before September 8, 1980, at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he has served as master chief petty officer of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher; or

"(B) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after September 8, 1980, computed by multiplying the monthly retired pay base computed under section 1407(d) of this title by 75 percent."

OTHER PROVISIONS:

Application of 1958 amendment to retired persons. Amendment of this section by Act May 20, 1958, P.L. 85-422, was inapplicable to retired persons or to persons to whom retired pay is granted before May 31, 1958, see 10 USCS @ 3991 note.

NOTES:

CROSS REFERENCES

Savings provision for 10 USCS @ 6326, 37 USCS @ 203.

INTERPRETIVE NOTES AND DECISIONS

Navy may not lawfully order or recall enlisted man on retired list to active duty for avowed and only purpose of obtaining his consent to undesirable discharge or in alternative to subject him to court-martial, presumably for same objective. United States ex rel. Boscola v Bledsoe (1956, DC Wash) 152 F Supp 343, affd (CA9 Wash) 245 F2d 955.

Time served under fraudulent enlistment, such enlistment having been terminated by dishonorable discharge, should not be used when computing 30 year period required for retirement of enlisted men. 1923, 33 Op Atty Gen 404.

Petty officer serving as mate, retired after 30 years of service, was

10 USCS @ 6326 (1998)

entitled to 75 per cent of sea pay of his grade under predecessor of 10 USCS @ 6326. Creighton v U. S., 37 Ct Cl 327.

Person erroneously retired because of wrong interpretation of law by government was not barred from being retired under proper law. 26 Op Atty Gen 615; 27 Op Atty Gen 66.

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*** THIS SECTION IS CURRENT THROUGH 105-165, APPROVED 3/20/98 ***
*** WITH A GAP OF 160 AND 164 ***

TITLE 10. ARMED FORCES
SUBTITLE C. NAVY AND MARINE CORPS
PART II. PERSONNEL
CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6328 (1998)

@ 6328. Computation of years of service: voluntary retirement

(a) Enlisted members. Time required to be made up under section 972(a) of this title after the date of the enactment of this section [enacted Feb. 10, 1996] may not be counted in computing years of service under this chapter [10 USCS @@ 6321 et seq.].

(b) Officers. Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this chapter [10 USCS @@ 6321 et seq.] any time identified with respect to that officer under that section.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div A, Title V, Subtitle F, @ 561(d)(3)(A), 110 Stat. 322.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

EXPLANATORY NOTES:

A prior @ 6328 (Act Aug. 10, 1956, ch 1041, @ 1, 70A Stat. 396; Sept. 24, 1983, P.L. 98-94, Title IX, Part B, @ 923(c)(2), 97 Stat. 643) was repealed by Act July 1, 1986, P.L. 99-348, Title II, @ 203(b)(5), 100 Stat. 696. It provided for treatment of fractions of years of service in computing retired pay.

EFFECTIVE DATE OF SECTION:

This section took effect on enactment pursuant to @ 561(e) of Act Feb. 10, 1996, P.L. 104-106, which appears as 10 USCS @ 972 note.

OTHER PROVISIONS:

Applicability of section. Pursuant to @ 561(e) of Act Feb. 10, 1996, P.L. 104-106, which appears as 10 USCS @ 972 note, this section applies to any period of time covered by 10 USCS @ 972 that occurs after the date of enactment of such Act.

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*** THIS SECTION IS CURRENT THROUGH 105-165, APPROVED 3/20/98 ***
*** WITH A GAP OF 160 AND 164 ***

TITLE 10. ARMED FORCES
SUBTITLE C. NAVY AND MARINE CORPS
PART II. PERSONNEL
CHAPTER 571. VOLUNTARY RETIREMENT

10 USCS @ 6333 (1998)

@ 6333. Computation of retired and retainer pay

(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 6383 of this title is computed in accordance with the following table. Formula For Column 1

Column 2	sections Take	Multiply by
6325(a) <i>officer</i>	Retired pay base	75 percent. 6326 <i>enlist 30 yrs</i>
computed under.....		section 1406(d) or 1407.....
B..... 6323 <i>officer</i>	Retired pay base.....	Retired pay multiplier
..... 6325(b) <i>officer</i>	computed under.....	prescribed under
..... 6383 <i>mandatory</i>	section 1406(d) or 1407.	section 1409 for the
.....	years of service	
.....	may be credited to him	
.....	under section 1405	
C..... 6330 <i>did serve</i>	Retainer pay base.....	Retainer pay multiplier
.....	computed under.....	prescribed under
.....	section 1406(d) or 1407.	section 1409 for the
.....	years of service that may	
.....	be credited to him under	
.....	section 1405.	

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

(2) References in the table in subsection (a) are to sections of this title.

(c) In the case of a Reserve enlisted member whose grade upon transfer to the Fleet Reserve or Fleet Marine Corps Reserve is determined under section 6336 of this title and who first became a member of a uniformed service before September 8, 1980, the retainer pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the grade in which the member is so transferred (determined based upon the rates of basic pay applicable on the date of the member's transfer), and that amount shall be used for the purposes of the table in subsection (a) rather than the amount computed under section 1406(d) of this title.

HISTORY: (Added Sept. 24, 1983, P.L. 98-94, Title IX, Part B, @ 922(a)(10)(A), 97 Stat. 641; July 1, 1986, P.L. 99-348, Title II, @ 203(a), 100 Stat. 695; Oct. 5, 1994, P.L. 103-337, Div A, Title VI, Subtitle D, @ 635(b), 108 Stat. 2789;

Feb. 10, 1996, P.L. 104-106, Div A, Title XV, @ 1503(b)(3), 110 Stat. 512; Sept. 23, 1996, P.L. 104-201, Div A, Title V, Subtitle D, @ 532(d)(2), 110 Stat. 2520.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

EFFECTIVE DATE OF SECTION:

Act Sept. 24, 1983, P.L. 98-94, Title IX, Part B, @ 922(e), 97 Stat. 642, which appears as 10 USCS @ 1401 note, provides that this section shall take effect Oct. 1, 1983.

AMENDMENTS:

1986. Act July 1, 1986 substituted this section for one which read:

"@ 6333. Treatment of fractions of dollar amounts in computing retired and retainer pay

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

1994. Act Oct. 5, 1994 (applicable as provided by @ 635(e) of such Act, which appears as 10 USCS @ 1405 note), in subsec. (a), in formula C, column 2, of the table, substituted "the years of service that may be credited to him under section 1405." for "his years of active service in the armed forces".

1996. Act Feb. 10, 1996, in subsec. (a), in formula C, column 2, of the table, deleted a period after "section 1405".

Act Sept. 23, 1996 added subsec. (c).

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 104-106, see 1996 U.S. Code Cong. and Adm. News, p. 238.

CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

Sec.	Sec.
12731. Age and service requirements.	12735. Inactive status list.
12731a. Temporary special retirement qualification authority.	12736. Service credited for retired pay benefits not excluded for other benefits.
12732. Entitlement to retired pay: computation of years of service.	12737. Limitation on active duty.
12733. Computation of retired pay: computation of years of service.	12738. Limitations on revocation of retired pay.
12734. Time not creditable toward years of service.	12739. Computation of retired pay.
	12740. Eligibility: denial upon certain punitive discharges or dismissals.

HISTORICAL AND STATUTORY NOTES

1996 Amendments

Pub.L. 104-106, Div. A, Title VI, § 632(a)(2), Feb. 10, 1996, 110 Stat. 365, added item 12740.

1994 Amendments

Pub.L. 103-337, Div. A, Title XVI, § 1662(j)(1), Oct. 5, 1994, 108 Stat. 2998, renumbered chapter 67 of this title as this chapter and amended analysis generally, renumbering items

1331 to 1338 as items 12731 to 12738, respectively, substituting "Entitlement to retired pay: computation of years of service." for "Computation of years of service in determining entitlement to retired pay." in item 12732 and "Computation of retired pay: computation of years of service." for "Computation of years of service in computing retired pay." in item 12733, and adding item 12739.

CROSS REFERENCES

Dental insurance plan and certain retirees and their surviving spouses and other dependents, see 10 USCA § 1076c.

Officer considered for removal, retirement or discharge, see 10 USCA § 14905.

Reserve retirees under age 60 and recreational facilities, see 10 USCA § 1065.

Separation of chaplains for loss of professional qualifications, see 10 USCA § 14901.

Standby reserve status of members, see 10 USCA § 10153.

§ 12731. Age and service requirements

(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

(1) is at least 60 years of age;

(2) has performed at least 20 years of service computed under section 12732 of this title;

(3) performed the last eight years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve; and

(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Transportation, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

(A) the person performed active duty during World War I or World War II; or

(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

(2) In this subsection:

(A) The term "World War I" means the period beginning on April 6, 1917, and ending on November 11, 1918.

(B) The term "World War II" means the period beginning on September 9, 1940, and ending on December 31, 1946.

(C) The term "Korean conflict" means the period beginning on June 27, 1950, and ending on July 27, 1953.

(D) The term "Berlin crisis" means the period beginning on August 14, 1961, and ending on May 30, 1963.

(E) The term "Vietnam era" means the period beginning on August 5, 1964, and ending on March 27, 1973.

(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections.

(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed.

(f) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on October 5, 1994, and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting "the last six years" for "the last eight years".

(Aug. 10, 1956, c. 1041, 70A Stat. 102, § 1331; Aug. 21, 1958, Pub.L. 85-704, 72 Stat. 702; Sept. 2, 1958, Pub.L. 85-861, § 33(a)(8), 72 Stat. 1564; Oct. 14, 1966, Pub.L. 89-652, § 1, 80 Stat. 902; Aug. 13, 1968, Pub.L. 90-485, § 2, 82 Stat. 754; Sept. 30, 1978, Pub.L. 95-397, Title II, § 206, 92 Stat. 847; Dec. 12, 1980, Pub.L. 96-513, Title V, § 511(47), 94 Stat. 2924; Sept. 24, 1983, Pub. L. 98-94, Title IX, § 924(a), 97 Stat. 644; Nov. 29, 1989, Pub.L. 101-189, Div. A, Title XIV, § 1404(b)(1), 103 Stat. 1586; renumbered § 12731 and amended Oct. 5, 1994, Pub.L. 103-337, Div. A, Title VI, § 636, Title XVI, § 1662(j)(1), 108 Stat. 2790, 2999; Feb. 10, 1996, Pub.L. 104-106, Div. A, Title XV, § 1501(b)(20), 110 Stat. 497.)

HISTORICAL AND STATUTORY NOTES

1956 Act

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1331(a).....	10:1036a(a) (less' last proviso).....	June 29, 1948, ch. 708, §§ 302(a), (d), 305 (1st sentence), 62 Stat. 1087-1089; July 12, 1952, ch. 698, 66 Stat. 590.
	10:1036d (1st sentence).	
	34:440(a) (less last proviso).	
	34:440l (1st sentence).	
1331(b).....	10:1036a(d).	
	34:440i(d).	
1331(c).....	10:1036a(a) (last proviso).	
	34:440i(a) (last proviso).	

Explanatory Notes

In subsection (a), the words "is entitled" are substituted for the words "shall * * * be granted". The words "in the status of a commissioned officer, warrant officer, flight officer, or enlisted person" and the references to reserve components are omitted as surplusage. Reference to the Army and the Air Force without component is inserted, since the words "reserve component", as used in 10:1036a(a), include all members of the Army and the Air Force except

members of the regular components thereof. The words "service, computed under section 1332 of this title" are substituted for the words "satisfactory Federal service" to make it clear that some service that is not normally covered by the latter term may be counted in determining rights to retired pay under this chapter. Section 311 of the source statute, which made title III of that act applicable to the Coast Guard, was expressly repealed by the Act of August 4, 1949, ch. 393, § 20, 63 Stat. 565, the

Rewriting the fiscal constitution: The case of Gramm-Rudman-Hollings. Kate Stith, 76 Cal. L.Rev. 593 (1988).

LIBRARY REFERENCES

Armed Services $\S$ 10, 22.
C.J.S. Armed Services $\S\S$ 28, 80, 83 to 93, 95 to 103.

NOTES OF DECISIONS

For Notes of Decisions construing this section prior to renumbering, see Notes of Decisions under former section 1331 of this title.

5. Reserve service

Reservist who had been involuntarily released from active duty within two years of becoming eligible for retirement pay would be entitled to have his retirement benefits calculated as if he had remained on active duty until end of month following month on which he reached 20 years' service. *Ulmet v. U.S., Cl.Ct.1989, 17 Cl.Ct. 679, affirmed 935 F.2d 280.*

6. Entitlement to retired pay under other laws

Retired Air Force officer's retirement pay was not subject to recalculation under statute to

also reflect his Reserve grade of colonel and number of points he earned in his total military career pursuant to statute which precluded calculation of retirement under its provisions for officers "entitled" under any other provision of law to retirement pay; statute's language was plain indicating that retirement section was not to apply to persons, like officer, who were entitled to retirement benefits under other provisions. *Flurett v. U.S., Fed.Cl.1993, 28 Fed.Cl. 153.*

9. Notice

Army personnel officer's informal erroneous advice, that individual would be eligible for retired pay when he reached age 60, did not constitute official notice of completed service. *1983, 63 Op.Comp.Gen. 82.*

 $\S$ 12731a. Temporary special retirement qualification authority

(a) Retirement with at least 15 years of service.—For the purposes of section 12731 of this title, the Secretary concerned may—

(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 12732 of this title; or

(B) after that date and before October 1, 1999, completes 15 years of service computed under that section; and

(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

(b) Period of authority.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on October 1, 1999.

(c) Applicability subject to needs of the service.—(1) The Secretary concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2713).

(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 12731(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention

established by the Secretary concerned or was incurred during a period of unauthorized absence.

(d) Exclusion.—This section does not apply to persons referred to in section 12731(c) of this title.

(e) Regulations.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard.

(Added Pub.L. 102-484, Div. D, Title XLIV, $\S$ 4417(a), Oct. 23, 1992, 106 Stat. 2716, $\S$ 1331a, and amended Pub.L. 103-35, Title II, $\S$ 201(f)(2), May 31, 1993, 107 Stat. 99; Pub.L. 103-160, Div. A, Title V, $\S\S$ 561(d)(4), 564(c), Nov. 30, 1993, 107 Stat. 1668, 1670; renumbered $\S$ 12731a and amended Pub.L. 103-337, Div. A, Title V, $\S$ 517, Title XVI, $\S$ 1662(j)(1), Oct. 5, 1994, 108 Stat. 2754, 3000; Pub.L. 104-106, Div. A, Title XV, $\S$ 1501(b)(21), Feb. 10, 1996, 110 Stat. 497.)

HISTORICAL AND STATUTORY NOTES

References in Text

Section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (c)(2), is section 4414(a) of Pub.L. 102-484, Div. D, Title XLIV, Oct. 23, 1992, 106 Stat. 2713, as amended, which is set out as a note under section 1162 of this title. For complete classification of this Act to the Code, see Tables.

Section 4415(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, referred to in subsec. (c)(3), is section 4415(2) of Pub.L. 102-484, Div. D, Title XLIV, Oct. 23, 1992, 106 Stat. 2714, as amended, known as the National Defense Authorization Act for Fiscal Year 1993, which is set out as a note under section 1162 of this title. Division D of such Act is known as the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 2491 of this title and Tables.

1996 Amendments

Subsec. (c)(3). Pub.L. 104-106 in sentence beginning "Notwithstanding the provisions" inserted a comma following "Conversion".

1994 Amendments

Pub.L. 103-337, $\S$ 1662(j)(1), renumbered section 1331a of this title as this section and amended text generally, changing references to the other sections.

Subsec. (c)(3). Pub.L. 103-337, $\S$ 517, added par. (3) which read as follows: "Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 1331(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is a result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications

for retention established by the Secretary concerned or was incurred during a period of unauthorized absence."

1993 Amendments

Subsec. (a). Pub.L. 103-160, $\S$ 564(c)(1), in provisions preceding par. (1), substituted "Secretary concerned" for "Secretary of a military department".

Subsec. (a)(1)(B). Pub.L. 103-160, $\S$ 561(f)(4)(A), substituted "October 1, 1999" for "October 1, 1995".

Subsec. (a)(2). Pub.L. 103-160, $\S$ 561(f)(4)(B), struck out "within one year after the date of the notification referred to in paragraph (1)" after "Secretary".

Subsec. (b). Pub.L. 103-160, $\S$ 561(f)(4)(C), substituted "October 1, 1999" for "October 1, 1995".

Pub.L. 103-35, $\S$ 201(f)(2), substituted "October 23, 1992," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993".

Subsec. (c)(1). Pub.L. 103-160, $\S$ 564(c)(2), substituted "The Secretary concerned" for "The Secretary of the military department concerned".

Subsec. (e). Pub.L. 103-160, $\S$ 564(c)(3), inserted "and by the Secretary of Transportation with respect to the Coast Guard" before the period at the end thereof.

Effective Date of 1994 Amendments

Redesignation and amendment of section by section 1662(j)(1) of Pub.L. 103-337 effective December 1, 1994, see section 1691 of Pub.L. 103-337 set out as a note under section 10001 of this title.

Legislative History

For legislative history and purpose of Pub.L. 102-484, see 1992 U.S. Code Cong. and Adm. News, p. 1636. See, also, Pub.L. 103-35, 1993 U.S. Code Cong. and Adm. News, p. 150; Pub.L. 103-160, 1993 U.S. Code Cong. and Adm. News, p. 2013; Pub.L. 103-337, 1994 U.S. Code Cong. and Adm. News, p. 2091; Pub.L. 104-106, 1996 U.S. Code Cong. and Adm. News, p. 238.

CROSS REFERENCES

Transferees to Retired Reserve of a uniformed service under emergency special retirement authority—

"Members" for the purposes of Servicemen's group life insurance, see 38 USCA § 1965.

Servicemen's group life insurance continuation and conversion, see 38 USCA § 1968.

§ 12732. Entitlement to retired pay: computation of years of service

(a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under section 12731 of this title, the person's years of service are computed by adding the following:

(1) The person's years of service, before July 1, 1949, in the following:

(A) The armed forces.

(B) The federally recognized National Guard before June 15, 1933.

(C) A federally recognized status in the National Guard before June 15, 1933.

(D) The National Guard after June 14, 1933, if his service therein was continuous from the date of his enlistment in the National Guard, or his Federal recognition as an officer therein, to the date of his enlistment or appointment, as the case may be, in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

(E) The Naval Reserve Force.

(F) The Naval Militia that conformed to the standards prescribed by the Secretary of the Navy.

(G) The National Naval Volunteers.

(H) The Army Nurse Corps, the Navy Nurse Corps, the Nurse Corps Reserve of the Army, or the Nurse Corps Reserve of the Navy, as it existed at any time after February 2, 1901.

(I) The Army under an appointment under the Act of December 22, 1942 (ch. 805, 56 Stat. 1072).

(J) An active full-time status, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(i) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

(ii) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949; or before appointment in the Air Force before January 1, 1949, with a view to designation as an Air Force nurse or medical specialist.

(2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis:

(A) One point for each day of—

(i) active service; or

(ii) full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned;

if that service conformed to required standards and qualifications.

(B) One point for each attendance at a drill or period of equivalent instruction that was prescribed for that year by the Secretary concerned and conformed to the requirements prescribed by law, including attendance under section 502 of title 32.

(C) Points at the rate of 15 a year for membership—

(i) in a reserve component of an armed force;

(ii) in the Army or the Air Force without component, or

(iii) in any other category covered by subsection (a)(1) except a regular component.

(D) Points credited for the year under section 2126(b) of this title.

For the purpose of clauses (A), (B), (C), and (D) service in the National Guard shall be treated as if it were service in a reserve component, if the person concerned was later appointed in the National Guard of the United States, the Army National Guard of the United States, the Air National Guard of the United States, or as a Reserve of the Army or the Air Force, and served continuously in the National Guard from the date of his Federal recognition to the date of that appointment.

(3) The person's years of active service in the Commissioned Corps of the Public Health Service.

(4) The person's years of active commissioned service in the National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey).

(b) The following service may not be counted under subsection (a):

(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

(2) Service (other than active service) after June 30, 1949, while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

(3) Service in the inactive National Guard.

(4) Service in a non-federally recognized status in the National Guard.

(5) Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

(6) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of February 2, 1901 (ch. 192, 31 Stat. 753), as amended, and service before July 1, 1938, as an inactive Reserve nurse of the Navy Nurse Corps established by the Act of May 13, 1908 (ch. 166, 35 Stat. 146).

(7) Service in any status other than that as commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that described in clauses (I) and (J) of subsection (a)(1).

(Aug. 10, 1956, c. 1041, 70A Stat. 102, § 1332; Sept. 2, 1958, Pub.L. 85-861, § 33(a)(9), 72 Stat. 1565; Aug. 25, 1959, Pub.L. 86-197, § 1(1)-(3), 73 Stat. 425; Oct. 8, 1964, Pub.L. 88-636, § 1, 78 Stat. 1034; Dec. 26, 1974, Pub.L. 93-545, § 1, 88 Stat. 1741; Dec. 12, 1980, Pub.L. 96-513, Title V, § 511(48), 94 Stat. 2924; renumbered § 12732 and amended Oct. 5, 1994, Pub.L. 103-337, Div. A, Title XVI, § 1662(j)(1), 108 Stat. 3000; Sept. 23, 1996, Pub.L. 104-201, Div. A, Title V, § 543(b)(1), 110 Stat. 2522.)

HISTORICAL AND STATUTORY NOTES

1956 Act		
Revised section	Source (U.S. Code)	Source (Statutes at Large)
1332(a)	10:1036e (less (a)-(f)).	June 29, 1948, ch. 708, § 302(b), (c), 62 Stat. 1089; Sept. 7, 1949, ch. 547, §§ 1, 2, 63 Stat. 693.
	10:1036a(b).	
	10:1036a(c).	
	10:1036e(a).	
	10:1036e(b).	
	10:1036e(c) (less applicability to determination of retired pay).	June 29, 1948, ch. 708, § 306 (less (c) and (d), as applicable to determination of retired pay), 62 Stat. 1088.
	10:1036e(d) (less applicability to determination of retired pay).	
	34:440m (less (a)-(f)).	
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	34:440m(c) (less applicability to determination of retired pay).	
	34:440m(d) (less applicability to determination of retired pay).	

Recommendations Regarding Adoption of Reserve Retirement Initiatives

Section 531(c) of Pub.L. 104-201 provided that: "The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act [Sept. 23, 1996], the recommendations of the Secretary with regard to the adoption of the following Reserve retirement initiatives recommended in the August 1988 report of the Sixth Quadrennial Review of Military Compensation:

"(1) Elimination of membership points under subparagraph (C) of section 12732(a)(2) of title 10, United States Code [subsec. (a)(2)(C) of this section], in conjunction with a decrease from 50 to 35 in the number of points required for a satisfactory year under that section.

"(2) Limitation to 60 in any year on the number of points that may be credited under subparagraph (B) of section 12732(a)(2) of such title [subsec. (a)(2)(B) of this section] at two points per day.

"(3) Limitation to 360 in any year on the total number of retirement points countable for purposes of section 12733 of such title [section 12733 of this title]."

Coast Guard Women's Reserve; Constructive Service Credit; Retirement Benefits; Retroactive Pay

Pub.L. 87-482, June 12, 1962, 76 Stat. 95, provided:

"That any person who was a member of the Coast Guard Women's Reserve and who served on active duty therein for at least one year prior to July 25, 1947; who was separated therefrom under honorable conditions; and who also had membership therein for any period between November 1, 1949, and July 1, 1956, shall be deemed to have served on inactive duty with the Coast Guard Women's Reserve from July 25, 1947, to November 1, 1949, in the grade or rating satisfactorily held on active duty prior to July 25, 1947.

"Sec. 2. Creditable constructive service for a person qualified under section 1 hereof shall be applied when providing retirement benefits under the Army and Air Force Vitalization and Retirement Equalization Act of 1948, as amended, or any other Act under which the individual

Active duty, retention after becoming qualified for retired pay, see 10 USCA § 12308.
Board to recommend selective early removal from the reserve active-status list, see 10 USCA § 14704.

Deferment of retirement of certain officers twice failing selection for promotion, see 10 USCA § 6389.

Expenses for presentation of flag incident to death of member of Reserves dying under honorable circumstances if he performed at least twenty years of service as computed under this section, see 10 USCA § 1482.

Promotions, how made, see 10 USCA § 624.
Rank of commissioned officers, see 10 USCA § 741.

may be entitled to retirement from the Armed Forces.

"Sec. 3. Additional pay accruing to any person by virtue of increased creditable service resulting from the inclusion of constructive service creditable by application of section 1 hereof shall not be made for active or inactive duty for which pay is authorized by competent authority which is performed prior to the first day of the calendar quarter next succeeding the calendar quarter in which this Act becomes effective."

Additional Clerical Service Creditable under This Chapter

Section 15 of Pub.L. 85-861, Sept. 2, 1958, 72 Stat. 1558, provided that:

"(a) Notwithstanding section 1332(b)(6) of title 10, United States Code [now subsec. (b)(7) of this section] a person is entitled to count his service as an Army field clerk or as a field clerk, Quartermaster Corps, as active service in determining his entitlement to retired pay under chapter 67 of title 10, United States Code [this chapter], and in computing, his retired pay under that chapter.

"(b) Notwithstanding section 1332(b)(6) of title 10, United States Code [now subsec. (b)(7) of this section], a warrant officer is entitled to count classified service as an Army headquarters clerk or as a clerk of the Army Quartermaster Corps that he performed under any law in effect before August 29, 1916, as active service in determining his entitlement to retired pay under chapter 67 of title 10, United States Code [this chapter], and in computing his retired pay under that chapter."

Legislative History

For legislative history and purpose of Pub.L. 85-861, see 1958 U.S. Code Cong. and Adm. News, p. 4615. See also, Pub.L. 86-197, 1959 U.S. Code Cong. and Adm. News, p. 2164; Pub.L. 88-636, 1964 U.S. Code Cong. and Adm. News, p. 3893; Pub.L. 93-545, 1974 U.S. Code Cong. and Adm. News, p. 6633; Pub.L. 96-513, 1980 U.S. Code Cong. and Adm. News, p. 6333; Pub.L. 103-337, 1994 U.S. Code Cong. and Adm. News, p. 2091; Pub.L. 104-201, 1996 U.S. Code Cong. and Adm. News, p. 2948.

CROSS REFERENCES

Reserve credit for participation in health professions scholarship and financial assistance program, see 10 USCA § 2126.

Retention

Reserve commissioned officer in active status after completing 18 or more, but less than 20, years of service, see 10 USCA § 1006.

Standards and qualifications for reserve commissioned officer to be retained in active status, see 10 USCA § 12642.

Transfer to inactive status list instead of separation, see 10 USCA § 1209.

Uniform allowance, see 37 USCA § 416.

LIBRARY REFERENCES

Armed Services ☞ 13.5(1), 13.5(8), 23.2, WESTLAW Topic No. 34.
23.4(1).

C.J.S. Armed Services §§ 104, 114, 121.

NOTES OF DECISIONS

For Notes of Decisions constraining this section prior to renumbering, see Notes of Decisions under former section 1332 of this title.

§ 12733. Computation of retired pay: computation of years of service

For the purpose of computing the retired pay of a person under this chapter, the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

(1) The person's days of active service.

(2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

(3) One day for each point credited to the person under clause (B), (C), or (D) of section 12732(a)(2) of this title, but not more than 60 days in any one year of service before the year of service that includes September 23, 1996, and not more than 75 days in any subsequent year of service.

(4) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

(Aug. 10, 1956, c. 1041, 70A Stat. 103, § 1333; Sept. 2, 1958, Pub.L. 85-861, § 33(a)(10), 72 Stat. 1565; renumbered § 12733 and amended Oct. 5, 1994, Pub.L. 103-337, Div. A, Title XVI, § 1662(j)(1), 108 Stat. 3002; Sept. 23, 1996, Pub.L. 104-201, Div. A, Title V, §§ 531(a), 543(b)(2), 110 Stat. 2517, 2522; Nov. 18, 1997, Pub.L. 105-85, Div. A, Title X, § 1073(a)(67), (c)(4), 111 Stat. 1904.)

HISTORICAL AND STATUTORY NOTES

1956 Act		
Revised section	Source (U.S. Code)	Source (Statutes at Large)
1333	10:1036b (less 1st 91 words, and less 1st proviso)	June 29, 1948, ch. 708, §§ 303 (less 1st 91 words, and less 1st proviso), 306 (c) and (d), as applicable to determination of retired pay), 62 Stat. 1088-1090; Sept. 7, 1949, ch. 547, § 3, 63 Stat. 693.
	10:1036e(c) (as applicable to determination of retired pay).	
	10:1036e(d) (as applicable to determination of retired pay).	
	34:440j (less 1st 91 words, and less 1st proviso).	
	34:440m(c) (as applicable to determination of retired pay).	
	34:440m(d) (as applicable to determination of retired pay).	

Explanatory Notes

The revised section consolidates provisions of 10:1036b and 1036e, and 34:440j and 440m, relating to the years of service that may be counted in determining retired pay for persons entitled to that pay under this chapter.

[Former] clause (1) is substituted for 10:1036b(i). In clause (3) [now (4)], the words "and proportionately for each fraction of a year"

are inserted to make clear that parts of years must be counted. 10:1036e(d) and 34:440m(d) are omitted as covered by §§ 101(22) and 101(24) of this title.

1958 Act

The change is necessary so that active service and service described in § 1332(a)(2)(A)(ii) that was performed on or before July 1, 1949, may be

counted in computing retired pay, as provided by the source law, § 303(i) of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1088) and in accordance with the opinion of the Judge Advocate General of the Army (JAGA 1956/1908, Feb. 13, 1956).

References in Text

"The date of the enactment of the National Defense Authorization Act for Fiscal Year 1997", referred to in par. (3), means the date of the enactment of Pub.L. 104-201, 110 Stat. 2422, which was enacted Sept. 23, 1996.

1997 Amendments

Pub.L. 105-85, § 1073(c)(4), amended directory language of section 531(a) of Pub.L. 104-201, resulting in no change in text.

Par. (3). Pub.L. 105-85, § 1073(a)(67), inserted a comma following "(B)", and substituted "that includes September 23, 1996" for "in which the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 occurs".

1996 Amendments

Par. (3). Pub.L. 104-201, § 531(a), inserted reference to service before year of service in which National Defense Authorization Act for 1997 is enacted and provisions relating to 75-day limit.

Pub.L. 104-201, § 543(b)(2), inserted reference to cl. (D).

1994 Amendments

Pub.L. 103-337 renumbered section 1333 of this title as this section, substituted "Computation of retired pay: computation of years of service" for "Computation of years of service in computing retired pay" as section catchline, and

amended text generally, changing style and references to the other sections.

1958 Amendment

Pub.L. 85-861 eliminated former cl. (1), which permitted the addition of the days of service credited under § 1332(a)(2)(A) of this title, added cl. (1) and (2), and redesignated former cl. (2) and (3) as (3) and (4).

Effective Dates of 1997 Amendments

Amendments by Pub.L. 105-85, § 1073(c), effective Sept. 23, 1996, see effective dates note set out under section 2502 of this title.

Effective Date of 1994 Amendments

Redesignation and amendment of section by section 1662(j)(1) of Pub.L. 103-337 effective December 1, 1994, see section 1691 of Pub.L. 103-337 set out as a note under section 10001 of this title.

Effective Date of 1958 Amendment

Amendment by Pub.L. 85-861 effective Aug. 10, 1956, see § 33(g) of Pub.L. 85-861, set out as an Effective Date of 1958 Amendment note under § 101 of this title.

Coordination with Other Amendments

Amendments by section 1073 of Pub.L. 105-85 to be treated as having been enacted immediately before the other provisions of Pub.L. 105-85, see section 1073(i) of Pub.L. 105-85, set out as a note under section 5315 of Title 5, Government Organization and Employees.

Legislative History

For legislative history and purpose of Pub.L. 85-861, see 1958 U.S. Code Cong. and Adm. News, p. 4615. See, also, Pub.L. 103-337, 1994 U.S. Code Cong. and Adm. News, p. 2091; Pub.L. 104-201, 1996 U.S. Code Cong. and Adm. News, p. 2948; Pub.L. 105-85, 1997 U.S. Code Cong. and Adm. News, p. —

CROSS REFERENCES

Computation—
Reserve credit for participation in health professions scholarship and financial assistance program, see 10 USCA § 2126.

Retired pay, see 10 USCA § 1401.
Years of service, see 10 USCA § 1405.
Retirement or separation for physical disability, computation of service, see 10 USCA § 1208.

LIBRARY REFERENCES

Armed Services ⇨ 13.2(1), 13.5(1) et seq., 13.5(8), 23.2, 23.4(1,2).
C.J.S. Armed Services §§ 80, 104 et seq., 114 et seq.

WESTLAW Topic No. 34.

NOTES OF DECISIONS

For Notes of Decisions construing this section prior to renumbering, see Notes of Decisions under former section 1333 of this title.

§ 12734. Time not creditable toward years of service

(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

(Aug. 10, 1956, c. 1041, 70A Stat. 104, § 1334; Sept. 7, 1962, Pub.L. 87-651, Title I, § 108, 76 Stat. 509; renumbered § 12734 and amended Oct. 5, 1994, Pub.L. 103-337, Div. A, Title XVI, § 1662(j)(1), 108 Stat. 3003.)

HISTORICAL AND STATUTORY NOTES

1956 Act

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1334(a)	10:1036c (last sentence, as applicable to inactive status)	June 29, 1948, ch. 708, §§ 304 (last sentence), 308 (last 41 words of 2d sentence), 62 Stat. 1088, 1090.
	10:1036g (last 41 words of 2d sentence)	July 9, 1952, ch. 608, § 211(b) (less 1st 16 words), 66 Stat. 485.
	34:440k (last sentence, as applicable to inactive status)	
	34:440o (last 41 words of 2d sentence)	
	50:931(b) (less 1st 16 words)	
1334(b)	10:1036c (last sentence, less applicability to inactive status)	
	34:440k (last sentence, less applicability to inactive status)	

Explanatory Notes

Subsection (a) is substituted for 10:1036c (1st 17 words of last sentence, as applicable to inactive status), 10:1036g (last 41 words of 2d sentence), 34:440k (last 17 words of last sentence, as applicable to inactive status), and 34:440o (last 41 words of 2d sentence). 10:1036c (proviso of last sentence, as applicable to inactive status) and 34:440k (proviso of last sentence, as applicable to inactive status) are omitted as executed. 10:1036c (last sentence, less 1st 17 words and less proviso, as applicable to inactive status) and 34:440k (last sentence, less 1st 17 words and less proviso, as applicable to inactive status) are omitted as surplusage.

1962 Act

The change conforms § 1334(b) of title 10 to the source law, the last sentence of § 304 of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1089). Section 305 makes the change retroactive to August 10, 1956, the date of repeal of the source law by the original military codification act of that date.

In subsection (b), 10:1036c (proviso of last sentence, less applicability to inactive status) and 34:440k (proviso of last sentence, less applicability to inactive status) are omitted as executed. 10:1036c (last sentence, less 1st 17 words and less proviso, less applicability to inactive status) and 34:440k (last sentence, less 1st 17 words and less proviso, less applicability to inactive status) are omitted as surplusage.

1994 Amendments

Pub.L. 103-337 renumbered section 1334 of this title as this section and amended text generally, changing one section reference.

1962 Amendment

Subsec. (b). Pub.L. 87-651 substituted "retirement (without pay) for failure to conform to standards and qualifications prescribed under section 1001 of this title may not be credited in a computation" for "retirement or transfer to the Retired Reserve may not be credited in any computation".

Effective Date of 1994 Amendments

Redesignation and amendment of section by section 1662(j)(1) of Pub.L. 103-337 effective December 1, 1994, see section 1691 of Pub.L. 103-337 set out as a note under section 10001 of this title.

Effective Date of 1962 Amendment

Section 305 of Pub.L. 87-651 provided in part that the amendment of subsec. (b) of this section is effective Aug. 10, 1956, for all purposes.

Legislative History

For legislative history and purpose of Pub.L. 87-651, see 1962 U.S. Code Cong. and Adm. News, p. 2456. See, also, Pub.L. 103-337, 1994 U.S. Code Cong. and Adm. News, p. 2091.

CROSS REFERENCES

Standby reserve status of members, see 10 USCA § 10153.

LIBRARY REFERENCES

Armed Services ⇨ 13.5(8), 23.2, 23.4(1).
C.J.S. Armed Services §§ 104, 114, 121.

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PART ONE
NEW RETIREMENT ENTITLEMENTS AND COMPUTATIONS

CHAPTER 1
INITIAL ENTITLEMENTS--RETIREMENTS

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SERVICE CREDITABLE FOR
RETIREMENT PURPOSES

***10101. General**

a. A computation of creditable service may be required at any time during a member's military career for the purpose of retirement. A warrant officer or an enlisted member may be voluntarily retired after completion of 20 years of creditable service. An enlisted member of the Army and Air Force who retires upon completion of 20 years of creditable service then becomes a member of the Reserve force. A commissioned officer may be voluntarily retired after completion of 20 years of active service, at least 10 years of which is active commissioned service. (During the period 1 Oct 1990 through 30 Sep 1995, the Secretary concerned may reduce the active commissioned service requirement for retirement for officers from 10 years to 8 years.) Members who continue on active duty after completion of 20 years' service may be retired for voluntary or involuntary reasons. Members who incur a disability while serving on active duty or while called to active duty for training for 30 days or less in the military services may be retired, at which time a service computation is required.

b. Creditable service for the purpose of determining retirement eligibility or whether a member meets the requirements for retirement varies with each retirement type. Retirement types and the specific service creditable for each are in paragraphs 10102 through 10108. Service which is not creditable is in paragraph 10109.

10102. Voluntary Retirement--Enlisted Members
(Table 1-1-1)

a. All active service in the uniformed services.

b. Active service in the Army or Navy Nurse Corps as it existed at any time before 16 Apr 1947.

c. Active service performed under appointment under the Act of 22 Dec 1942, or the Act of 22 June 1944.

d. Active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee in the dietetic or physical therapy categories, if that service was performed after 6 Apr 1917 and before 1 Apr 1943.

e. Active full-time service, except as a student or apprentice, in the occupational therapy category, if that service was performed before appointment in the Army Nurse Corps or Women's Medical Specialist Corps or before appointment in the Air Force with a view to designation as an Air Force nurse or medical specialist and before 1 Jan 1949.

f. Service as a cadet or midshipman at a Service academy.

10103. Voluntary Retirement--Regular and Reserve Commissioned Officers (Table 1-1-1)

a. Active service in the uniformed services.

b. The following service computed under 10 U.S.C. 3683 in addition to any other service that may be credited:

(1) Active service performed in the Army Nurse Corps and Navy Nurse Corps as they existed at any time before 16 Apr 1947.

(2) Active service performed under appointment under the Act of 22 Dec 1942 and 22 June 1944.

(3) Active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee in the dietetic or physical therapy categories, if the service was performed after 6 Apr 1917 and before 1 Apr 1943.

(4) Active full-time service, except as a student or apprentice, in the occupational therapy category, if that service was performed before appointment in the Army Nurse Corps or Women's Specialist Corps and before 1 Jan 1949.

c. If an officer of the Regular Army or Air Force, all active service performed as an officer of the Philippine constabulary.

d. If an officer of the Regular Army or Regular Air Force in the Medical Corps, in addition

to the above service all full-time service performed as:

- (1) Contract surgeon.
- (2) Active assistant surgeon.
- (3) Contract physician, under a contract

to serve full-time and to take and change station as ordered.

e. If retiring as an officer of the Regular Army or Regular Air Force in the Dental Corps, in addition to the above service, all full-time service performed as:

- (1) Contract dental surgeon.
- (2) Acting dental surgeon.

f. To determine whether a commissioned officer of the Army Nurse Corps or the Army Medical Specialist Corps may be retired under 10 U.S.C. 3911, and whether an Air Force nurse or medical specialist may be retired under 10 U.S.C. 8911, treat all service credited under paragraph 10103b(1), (2), (3), and (4) as service as a commissioned officer.

10104. Voluntary or Mandatory Retirement---Warrant Officers (Table 1-1-1)

- a. Active service in the uniformed services.
- b. All service as:

1901.

- (1) Nurse or contract nurse before 2 Feb 1901.
- (2) Reserve nurse after 2 Feb 1901.
- (3) Contract surgeon.
- (4) Contract dental surgeon.
- (5) Acting dental surgeon.
- (6) Veterinarian in the quartermaster

department, cavalry, or field artillery.

c. Service on the active list, or on active duty, or while participating in full-time training or other full-time duty provided for or authorized under the National Defense Act as amended, or the Naval Reserve Act, as amended, as:

- (1) Army field clerk.
- (2) Field clerk, Army Quartermaster

Corps.

10105. Mandatory Retirement---Regular Commissioned Officers, Army, and Air Force

(Table 1-1-2)

Years of service credited at the time of original appointment in the Regular Army for the purpose of determining eligibility for promotion, except that in paragraph 10109b of this section, plus all years of active commissioned service in the Regular Army after that appointment, or years of service

computed as in a through 1 below, whichever applies:

a. Reserve judge advocate appointed in the Regular Army in grade of captain in the Judge Advocate General's department:

(1) Years of active commissioned service in the Army after becoming 21 years of age, after 7 Dec 1941 and before date of that appointment, or the number of days, months, and years by which the member's age at the time of appointment exceeded 25 years, whichever is greater, plus

(2) Years of active commissioned service in the Regular Army after that appointment.

b. Officer appointed in the Regular Army, except the Army Nurse Corps or Army Medical Specialist Corps before 31 Dec 1947, other than an officer covered by b above, or appointed in the Regular Army under the Act of 28 Dec 1945:

(1) Years of active commissioned service in the Regular Army after that appointment, plus

(2) Years of active commissioned service in the Army after becoming 21 years of age and after 7 Dec 1941, under any earlier appointment.

c. Officer appointed in the Regular Army, except the Army Nurse Corps or Army Medical Specialist Corps after 31 Dec 1947, other than an officer appointed in the Women's Army Corps, Regular Army, under Section 108 of the Women's Armed Services Integration Act of 1948:

(1) Years of active commissioned service in the Regular Army after that appointment, plus:

(2) Years of active commissioned service in the Army after becoming 21 years of age and after 31 Dec 1947, under any earlier appointment.

d. Officer of the Regular Air Force appointed in the Regular Air Force before 1 Jan 1948, under the Act of 28 Dec 1945, the sum of:

(1) The years credited under that Act at the time of appointment,

(2) Years of active commissioned service in the Regular Army or Regular Air Force after that appointment, plus

(3) The service, but not more than 2 years, by which the member's service on 20 July 1956 was authorized to be increased under Section 27 of Public Law 85-861 for the purpose of determining grade, position on the promotion list, seniority, eligibility for promotion, and mandatory retirement.

Officer appointed in the Regular Air Force under Section 308 of the Women's Armed Services Integration Act of 1948, the sum of:

(1) The years of service credited under that section at the time of appointment.

(2) Years of active commissioned service in the Regular Air Force after that appointment, plus:

(3) The service credited under subparagraph d(3) above.

f. Reserve judge advocate appointed in the Regular Army in the grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act, as amended:

(1) The years of active commissioned service in the Army after becoming 21 years of age, after 7 Dec 1941, and before the date of that appointment, or the number of days, months, and years by which the member's age at the time of that appointment exceeded 25 years, whichever is greater, plus:

(2) The years of active commissioned service in the Regular Army or Regular Air Force after that appointment plus the service credited under subparagraph d(3) above.

g. Air Force nurse or medical specialist:

(1) The period of service credited under the Army-Navy Nurses Act of 1947, as amended, or commissioned service in the Armed Forces, not to exceed 14 years, after 6 Dec 1941, performed after becoming 21 years of age and before appointment, plus

(2) The years of active commissioned service in the Regular Air Force after appointment in the Regular Air Force.

h. Officer of the Regular Air Force appointed in the Regular Army or Regular Air Force before 31 Dec 1947, other than an officer covered by d, f, and g above, the sum of:

(1) The years of active commissioned service in the Regular Army and Regular Air Force after that appointment,

(2) The years of active commissioned service in the Army and Air Force after becoming 21 years of age and after 7 Dec 1941, under any earlier appointment, plus

(3) The service credited under subparagraph d(3) above.

i. Officer of the Regular Air Force appointed in the Regular Army or Regular Air Force after 31 Dec 1947, under section 506 of the Officer Personnel Act of 1947, the sum of:

(1) The years of active commissioned service in the Regular Army or Regular Air Force after that appointment,

(2) The years of active commissioned service in the Armed Forces after becoming 21

years of age and after 6 Dec 1941, under any earlier appointment, plus

(3) The service credited under subparagraph e(3) above.

j. Officer of the Air Force who was appointed in the Regular Army or Regular Air Force after 31 Dec 1947, other than an officer covered by e, g, i, or k:

(1) The years of active commissioned service in the Regular Army or Regular Air Force after that appointment,

(2) Years of active commissioned service in the Air Force after becoming 21 years of age and after 31 Dec 1947, under any earlier appointment, plus

(3) The service credited under d(3) above.

k. Officer of the Regular Air Force who was appointed in the Regular Air Force after 19 July 1956, other than an officer covered by g or i above, or who is designated as a medical or dental officer, the sum of:

(1) The years of active commissioned service in the Regular Air Force after that appointment,

(2) Years of active commissioned service in the Armed Forces after becoming 21 years of age and before appointment, plus

(3) The years credited for the purpose of determining grade, position on a promotion list, seniority, and eligibility for promotion under one of these:

(a) Three years, if appointed in the Regular Air Force with a view to designation as a medical service officer, and if holding a degree of doctor of philosophy or comparable degree in science allied to medicine.

(b) Not more than 8 years, if one of not more than 100 persons in any calendar year who are appointed from civil life or from Reserves of the Air Force who have qualifications not otherwise available from members of the Air Force on active duty,

(c) Not more than 2 years, if appointed while on active duty in the Air Force.

l. An officer of the Army or Air Force under the Defense Officer Personnel Management Act is credited with:

(1) The years of active service.

(2) The years of service, not included in clause (1), with which member was entitled to be credited on 31 May 1958, in computing basic pay.

10106. Mandatory Retirement---Regular Officers-Navy and Marine Corps (Table 1-1-2)

a. The total commissioned service of a male officer on the active list in the line of the Navy or of the Marine Corps who has served continuously on the active list since appointment in the grade of ensign or second lieutenant either upon graduation from the Naval Academy or under 10 U.S.C. 2106, 2107, or 6909 is computed from 30 June of the fiscal year in which the officer accepted that appointment.

b. Every other male officer on the active list in the line of the Navy or Marine Corps is considered to have the same service as in a above who:

(1) Has not lost numbers or precedence, and

(2) Is, or at any time has been, junior to the other officer for the purposes of eligibility for promotion and selection for promotion during the other officer's latest period of continuous service on the active list.

c. The total commissioned service of each officer on the active list of the Navy in the Supply Corps or the Civil Engineer Corps who was originally appointed as a Regular or as a Reserve in the grade of ensign in the line, or any staff corps, or in the grade of lieutenant (junior grade) in the Civil Engineer Corps, and who has served continuously on active duty since that appointment, is computed from 30 June of the fiscal year in which the officer accepted that appointment, beginning 7 Aug 1947.

d. The total commissioned service of each officer originally appointed in the grade of lieutenant (junior grade) or ensign in any staff corps of the Navy, except the Supply Corps and the Civil Engineer Corps who has since that appointment served continuously on the active list of the Navy, is computed from 30 June of the fiscal year in which the officer accepted that appointment. However, this provision does not apply to officers appointed under the Act of 18 Apr 1946.

e. Every other commissioned officer on the active list of the Navy in any staff corps is considered to have the same total commissioned service as the officer in the same corps described in c and d above, having the maximum total commissioned service who:

(1) Has not lost numbers or precedence; and

(2) Is, or at any time has been, junior to the other officer for the purposes of eligibility for promotion and selection for promotion during that

other officer's latest period of continuous service on the active list.

f. Notwithstanding the provisions of e above, officers on the active list of the Navy in the Medical Service Corps appointed under the Act of 18 Apr 1946, are considered to have total commissioned service equivalent to that of their running mate.

g. Officers on the active list of the Navy in the Nurse Corps are credited with:

(1) Active service in the Nurse Corps and the Nurse Corps Reserve, and

(2) Active service in the Nurse Corps and the Nurse Corps Reserve abolished by the Army-Navy Nurses Act of 1947.

h. An officer of the Navy or Marine Corps under the Defense Officer Personnel Management Act is credited with:

(1) The years of active service;

(2) The years of service, not included in clause (1) with which member was entitled to be credited on 31 May 1958, in computing basic pay.

10107. Disability Retirement (Table 1-1-3)

a. A member of a Regular component of the armed forces is credited with the greater of all service he or she is considered to have for the purpose of separation or mandatory elimination from the active list, or the sum of:

(1) All active service as a member of the armed forces as a nurse, Reserve nurse after 2 Feb 1901, contract surgeon, contract dental surgeon, or acting dental surgeon;

(2) Active service as a commissioned officer of the National Oceanic and Atmospheric Administration (NOAA), or the Public Health Service (PHS). See paragraph 10111c for information regarding NOAA and its two predecessor organizations (Environmental Science Services Administration and the Coast and Geodetic Survey).

(3) Service while participating in exercises or performing active duty training and drills in the National Guard, under 32 U.S.C. 502, 503, 504, and 505.

b. A member who is not a member of a Regular component of the armed forces is credited with the sum of (1) through (4) below, divided by 360:

(1) All days of active service;

(2) All days of full-time service while performing annual training duty or attending prescribed periods of instruction designated as a

service school by law or by the Secretary concerned;

(3) One day for each point credited in the federally recognized National Guard before 15 June 1933, but not more than 60 days in any 1 year;

(4) Fifty days for each year before 1 July 1949, and proportionately for each fraction of a year, of service (other than active service) in a Reserve component of the armed forces, in the Army or Air Force without component, or in any other category covered by 10 U.S.C. 1332(a)(1).

10108. Age and Service Retirement---Non-Regular Member

a. Creditable service for retirement includes:

(1) Years of service before 1 July 1949 in:

(a) The uniformed services,
(b) Federally recognized National Guard before 15 June 1933,

(c) Federally recognized status in the National Guard before 15 June 1933,

(d) National Guard after 14 June 1933, if service was continuous from date of enlistment in the National Guard or Federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States,

(e) Naval Reserve force,

(f) Naval militia that conformed to the standards prescribed by the Secretary of the Navy,

(g) National naval volunteers,

(h) Army or Navy Nurse Corps, Reserve of the Army or Navy as it existed at any time after 2 Feb 1901,

(i) The Army under appointment under the Act of 22 Dec 1942,

(j) Active full-time status, except as a student or apprentice with the Medical Department of the Army as a civilian employee in:

1. The dietetic or physical therapy categories if the service was performed after 6 Apr 1917, and before 1 Apr 1943,

2. The occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or Women's Medical Specialist Corps and before 1 Jan 1949, or before appointment in the Air Force before 1 Jan 1949, with a view to designation as an Air Force nurse or medical specialist.

(2) Each 1-year period after 1 July 1949, in which the member has earned at least 50 points on this basis:

(a) One point for each day of active service. Service as a cadet or midshipman at a service academy is active service for non-regular enlisted members only.

(b) One point for each day of full-time service, while performing annual training or attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

(c) One point for each attendance at a drill or period of equivalent instruction prescribed for that year by the Secretary concerned.

(d) Points at the rate of 15 a year for membership in a Reserve component of the armed forces, in the Army or Air Force without component, or in any other category covered by 10 U.S.C. 1332(a)(1) except a regular component.

Note: For the purpose of paragraph 10108b(1), (2), and (3) all service in the National Guard is treated as if it were service in a Reserve component, if the member was later appointed in the National Guard of the United States or Air National Guard of the United States, or as a Reserve of the Army or Air Force and served continuously in the National Guard from date of Federal recognition to date of that appointment.

b. A member of the armed forces or National Guard is entitled to retired pay computed under table 1-3-1, rule 14, for non-regular service upon application if he or she:

(1) Is at least 60 years of age;

(2) Has performed at least 20 years' service as shown in paragraphs 10108a or b;

(3) Has performed the last 8 years of qualifying service as a member of any category named in 10 U.S.C. 1332(a)(1) but not while a member of a Regular component, the Fleet Reserve or the Fleet Marine Corps Reserve; and

(4) Is not entitled, under any other provision of law, to retired pay from the armed forces or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

c. A member who has been notified that the years of service requirement has been met for eligibility for retired pay at age 60, may not have that eligibility denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed, unless it resulted directly from fraud or misrepresentation of the person.

(1) Notification to the member of completion of 20 qualifying years of service will conform to applicable service regulations. However, nonconforming written notice, although administratively issued in error, may not result in the denial of retired pay if such notice is issued from one who has apparent responsibility for the issuance of such notice and the notice uses words advising the member that the member has completed the service requirements for eligibility for retired pay at age 60, provided that there is no evidence to show that the member caused the record of creditable service to be altered or confused.

(2) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination. When such a correction is made, the retiree is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the retiree is granted retired pay.

(3) Notwithstanding subparagraph (2) above, the granting of retired pay to a retiree under Chapter 67 of Title 10 U.S.C. is conclusive as to that retiree's entitlement to such pay only if the payment of retired pay began after 14 Oct 1966. A notification that a person has completed the years of service required for eligibility for retired pay under chapter 67 is conclusive as to that person's subsequent entitlement to such pay only if the notification is made after 14 Oct 1966.

d. Under 10 U.S.C. 1331, members of the Reserve who have reached age 60 and have at least 20 years of qualifying Federal service are qualified for retired pay. A member who has qualified for retired pay, but retained under 10 U.S.C. 676, with member's consent, may be credited with the service for all purposes. However, a member who elects to receive retired pay under 10 U.S.C. 1331 may not simultaneously be retained on active duty or in active service under 10 U.S.C. 676.

10109. Service Not Creditable for Determining Retirement Eligibility

a. Service may not be credited to enlisted member for the following time required to be made up:

- (1) Desertion.
- (2) Absence from organization, station, or duty for more than 1 day without proper authority, as determined by service concerned.
- (3) Confinement for more than one day awaiting trial and disposition of case, when

conviction has become final, or under a sentence that has become final.

(4) Inability for more than 1 day, as determined by competent authority, to perform duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from own misconduct.

b. Constructive service, credited under 10 U.S.C. 3287(a)(2)(A) or (B), 3294(b) or 506(c) of the Officer Personnel Act of 1947 (61 Stat 890), is not included in the service computation under paragraph 10105a. Constructive service creditable may be:

(1) Three years, if appointed as a chaplain, in the Judge Advocate General's Corps, or in the Veterinary Corps of the Regular Army.

(2) Three years, if appointed in the Medical Service Corps and if holding the degree of doctor of philosophy or comparable degree recognized by the Surgeon General.

(3) Four years (five, if member completed 1 year internship) credited at the time of appointment in the Medical or Dental Corps for the purpose of determining grade, position on a promotion list, seniority in grade in the Regular Army, and eligibility for promotion.

c. This service may not be counted for the purpose of determining retirement eligibility under paragraph 10107:

(1) Service, other than active service, in an inactive section of the Organized Reserve Corps or Army Reserve, or inactive section of the officers' section of the Air Force Reserve.

(2) Service, other than active service, after 30 June 1949 while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

(3) Service in the inactive National Guard or in a nonfederally recognized status of the National Guard.

(4) Inactive service in the Fleet Reserve or Fleet Marine Corps Reserve.

(5) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of 2 Feb 1901, as amended, and service before 1 July 1938, as an inactive Reserve nurse of the Navy Nurse Corps, established by the Act of 13 May 1908.

(6) Service in any status other than that as a commissioned officer, warrant officer, nurse, flight officer, appointed aviation cadet, or enlisted member, and that described in paragraph 10101 as creditable.

**SECTION B
SERVICE CREDITABLE FOR
BASIC PAY**

10111. Service for Basic Pay

Basic pay varies with the number of years of service to a member's credit. In computing cumulative years of service for this purpose, members are credited full-time service.

a. Organizations in General.

Active or inactive service as a commissioned officer, commissioned warrant officer, warrant officer, flight officer, or enlisted member in any of these:

- (1) Air Corps Reserve
- (2) Air Force Reserve
- (3) Air Force of the United States
(without specification of component)
- (4) Air National Guard
- (5) Air National Guard of the United States
- (6) Army of the United States (without specification of component)
- (7) Army National Guard
- (8) Army National Guard of the United States
- (9) Army Reserve
- (10) Coast and Geodetic Survey (see c below)
- (11) Coast Guard Reserve
- (12) Commissioned Corps of the Environmental Science Services Administration (see c below)
- (13) Commissioned Corps of the National Oceanic and Atmospheric Administration (see c below)
- (14) Dental Reserve Corps of the Navy
- (15) Enlisted Reserve Corps
- (16) Enlisted Section of the Air Force Reserve
- (17) Marine Corps Reserve
- (18) Marine Corps Reserve Force
- (19) Medical Reserve Corps of the Army
- (20) Medical Reserve Corps of the Navy
- (21) National Guard
- (22) National Guard of the United States
- (23) National Guard Reserve
- (24) National Naval Volunteers
- (25) Naval Reserve
- (26) Naval Reserve Force
- (27) Nurse Corps of the Public Health Service
- (28) Nurse Corps Reserve of the Public Health Service
- (29) Officers' Reserve Corps

- (30) Officers' Section of the Air Force Reserve
- (31) Organized Reserve Corps
- (32) Philippine Constabulary before 4 July 1946
- (33) Philippine Scouts
- (34) Public Health Service
- (35) Regular Air Force
- (36) Regular Army
- (37) Regular Army Reserve
- (38) Regular Coast Guard
- (39) Regular Marine Corps
- (40) Regular Navy
- (41) Reserve Corps of the Public Health Service

Service

b. Nurse Service Before 16 Apr 1947

Creditable periods are those during which members held appointments as nurses, Reserve nurses, or commissioned officers in the Army Nurse Corps or the Navy Nurse Corps, of the Reserve components thereof, as they existed before 16 Apr 1947.

c. National Oceanic and Atmospheric Administration (NOAA). Periods during which a member was an officer, deck officer, hydrographic and geodetic engineer, junior hydrographic and geodetic engineer or aid in the NOAA (includes periods served in the former corps of the Environmental Science Services Administration or the Coast and Geodetic Survey) is creditable service. Service as a shipkeeper, seaman, fireman, oiler, etc. under "shipping articles" is not creditable service.

d. Service Counted on 10 Jan 1962. All service is creditable which, under any law in effect on 10 Jan 1962, was creditable in computing basic pay.

e. Service on Retired List or as Member of Fleet Reserve or Fleet Marine Corps Reserve Creditable periods are those while on a temporary disability retired list, honorary retired list, or retired list of any uniformed service; and periods while entitled to retired pay, retirement pay, or retainer pay from any uniformed service or the Department of Veterans Affairs as a member of the Fleet Reserve or Fleet Marine Corps Reserve. Except for periods of active service and except as provided under subsections (b), (c), and (d) of 10 U.S.C. 1402 and 1402a, periods of service on a retired list, in a retired status, or in the Fleet Reserve or Fleet Marine Corps Reserve, may not be credited to increase retired or retainer pay. Under subsections (b), (c), and (d) of 10 U.S.C. 1402 and 1402a, where a member is retired (including a retirement other than for physical disability),

serves on active duty and is again retired, the inactive time on the retired list prior to the recall to active duty is included in a recomputation of retired pay for disability.

f. **Honorary Reserve.** All periods while a member of the Honorary Reserve of the Officers Reserve Corps or the organized Reserve Corps are creditable.

g. **Women's Army Auxiliary Corps** Effective 7 Aug 1959, active service during the period 14 May 1942 through 29 Sep 1943, as a member of the Women's Army Auxiliary Corps (WAAC) maybe counted if active military service was performed after 29 Sep 1943.

h. **Army and Air Force Officers Restored to Duty Under Act of 29 June 1948.** The period between the date of removal and the date of restoration of an Army or Air Force officer restored to the active list under the Army and Air Force Vitalization and Retirement Equalization Act of 1948 is creditable.

i. **Retention for Medical Care After Expiration of Term of Service.** Any period on and after 12 Dec 1941, when an enlisted member of the armed forces is retained in service after expiration of his or her term of service for medical treatment or hospitalization for disease or injury incident to service and not due to member's misconduct is creditable.

j. **Service Before Attainment of Statutory Age for Enlistment.** Any service which is otherwise creditable may be counted even if the service was performed before a member attained the statutory age for enlistment. Such service may not be counted if it is determined to be fraudulent and is voided for that reason.

k. **Temporary Member of Coast Guard Reserve.** Active service performed as a temporary member of the Coast Guard Reserve is creditable.

l. **Army of the United States Commissions--World War II.** Appointments made on and after 7 Dec 1941, in the Army of the United States, without component, under the Joint Resolution of 22 Sep 1941 are considered to have continued in effect through 31 Mar 1953 unless terminated before that date by administrative action or specific law. The period from the date of separation through 31 Mar 1953 may be credited for officers who:

(1) Did not have Reserve or National Guard status,

(2) Did not accept a Reserve commission, and

(3) Were separated on or before 31 Mar 1953, without vacating their Army of the United States status.

m. **Warrant Officer Appointment--World War II.** For a temporary appointment as a warrant officer under section 3 of the Act of 21 Aug 1941, the period from separation from active duty through 1 Apr 1953 is creditable unless the appointment was expressly terminated earlier.

n. **Flight Officer Appointment--World War II.** For an appointment as a flight officer under the Flight Officer Act of 8 July 1942, the period from separation from active duty through 27 Oct 1952 is creditable unless the appointment was expressly terminated earlier.

o. **Service Terminated By Desertion or Dishonorable Discharge.** Service in an enlistment terminated by desertion or dishonorable discharge is creditable unless the enlistment was fraudulent and was voided for that reason.

p. **Women's Army Corps.** Appointments in the Women's Army Corps in the Army of the United States, without component, if not previously terminated, were terminated on 31 Mar 1953. Such service is creditable for basic pay purposes.

q. **Service as Cadet or Midshipman**

Cadet or midshipman service is creditable in computing basic pay of enlisted members. For officers, see table 1-1-4.

r. **Detail to Agencies such as the Agency for International Development (AID), Department of State.** Service with AID and certain other agencies under agreement such as that between the Department of Defense and AID is creditable.

*s. **Reserve Officer's Training Corps**

Service as a member of the Army, Navy, or Air Force Reserve Officer's Training Corps is creditable service as follows:

(1) Before 14 Oct 1964. Any member who had concurrent Reserve status.

(2) After 13 Oct 1964. An enlisted member who had concurrent Reserve status.

t. **Aviation Midshipman.** Service in the aviation midshipman program, Act of 13 Aug 1946, Chapter 962, 60 Stat 1057, is creditable service for basic pay purposes effective on and after 26 Dec 1974.

*u. **Delayed Enlistment (Entry) Program**

(1) For a Regular Component. Service as an enlisted member in the Reserves before beginning active duty in a Regular component is creditable service if the member enlisted in the

Reserve component before 1 Jan 1985.

(2) For a Reserve Component. Service as an enlisted member in the Reserves before beginning service on active duty or active duty for training in a Reserve component is creditable service if the member enlisted in the Reserve component before 28 Nov 1989. For enlistments on or after 28 Nov 1989, it is creditable service if the Reserve member performs inactive duty training before beginning service on active duty for training.

10112. Constructive Service Credit for Medical and Dental Officers

a. **Crediting of Constructive Service after 14 Sep 1981.** Crediting of constructive service for medical or dental training or internship is not authorized after 14 Sep 1981 except as provided in b below.

b. **Savings Provisions for Constructive Service Previously Granted.** Prior to 15 Sep 1981, medical and dental officers who completed medical/dental training received 4 years' credit for such training. Medical officers who completed medical internship or its equivalent or entered military status while serving such internship received an additional 1 year credit. The 4 or 5-years' constructive service credit is reduced when required by c below. After 14 Sep 1981, medical/dental officers with military or Public Health Service status may be credited with constructive service if one of the following conditions exist:

(1) On 14 Sep 1981, they were enrolled in the Armed Forces Health Professions Scholarship Program or Uniformed Services University of the Health Sciences and completed such program or graduated on or after 15 Sep 1981 and are appointed as medical or dental officer (includes Public Health Service).

(2) On 14 Sep 1981, they were participating in a program leading to (a) an appointment as an officer in the Army, Navy, Air Force, or Marine Corps and (b) the crediting of years of service.

(3) On 15 Sep 1981, they were medical or dental officers (includes officers of the Public Health Service commissioned as medical or dental officers) entitled to include constructive service.

* (4) On or before 14 Sep 1981, the member had at any time been credited with constructive service as an officer, notwithstanding any subsequent break in service.

c. **Reduction of Constructive Service for Dual Credit.** Reduce the 4 or 5-years' credit by the amount of any service otherwise counted (such as active duty or reserve status) which covers any part of the actual periods spent in medical or dental school or as an intern.

(1) Constructive service credit for a medical or dental officer who accepts a commission during the time the officer is a medical or dental student is computed on a 4-year basis.

(2) Constructive service credit for a medical officer who accepts a commission while interning is computed on a 5-year basis.

(3) A medical or dental officer who was commissioned before entering medical or dental school is still entitled to any allowable constructive service credit.

(4) No reduction of constructive service credit is required for the period a medical or dental officer participated in the Armed Forces Health Professions Scholarship Program or while a student of the Uniformed Services University of Health Sciences, since the member was not given any creditable service for pay purposes for that period of service.

d. **Examples: Constructive Service Credit for Medical and Dental Officers.** All examples except (6) assume no creditable service before acceptance of commission.

(1) Dental officer completed all education requirements before accepting commission. Constructive service credit: 4 years.

(2) Medical officer completed internship before accepting commission. Constructive service credit: 5 years.

(3) Medical officer entered medical school 9 Sep 1970 and graduated 28 May 1974, interned at a civilian hospital from 1 July 1974 to 30 June 1975, and accepted a commission on 12 Jan 1972. Compute:

NOTE:	Year	Month	Day
a.	74	05	28
b.	72	01	12
c.	2	04	17

(1 day added for inclusive dates)

d.	3	11	30 (4 years)
e.	2	04	17
f.	1	07	13

NOTES:

- a. Graduated
- b. Accepted commission
- c. Dual status
- d. Maximum credit
- e. Less dual status
- f. Constructive credit

(4) Same as (3) above except officer accepted a commission on 12 Jan 1975. Since officer accepted a commission while interning, computation is based on 5 years' constructive credit.

NOTE:	Year	Month	Day
a.	75	06	30
b.	<u>75</u>	<u>01</u>	<u>12</u>
c.	0	05	19

(1 day added for inclusive dates)

d.	4	11	30 (5 years)
e.	<u>0</u>	<u>05</u>	<u>19</u>
f.	4	06	11

NOTES:

- a. Completed internship
- b. Accepted commission
- c. Dual status
- d. Maximum credit
- e. Less dual status
- f. Constructive credit

(5) This officer attended the same medical school as (3) above, but accepted a commission on 9 Sep 1962 (before entering medical school).

NOTE:	Year	Month	Day
a.	74	05	28
b.	<u>70</u>	<u>09</u>	<u>09</u>
c.	3	08	20

(1 day added for inclusive dates)

d.	3	11	30 (4 years)
e.	<u>3</u>	<u>08</u>	<u>20</u>
f.	0	03	10

NOTES:

- a. Graduated
- b. Entered school
- c. Dual status
- d. Maximum credit
- e. Less dual status
- f. Constructive credit

* NOTE: This member could have been on active duty during any or all of the medical or dental school attendance period, and it would make no difference in the computation. However, the effective date of the change to the basic date for pay purposes (paragraph 10117) is the date the officer was designated a medical officer. For any periods of active duty, active duty for training, or inactive duty training in a pay status, before being designated a medical or dental officer, the member would be paid based on the normal basic date for pay purposes.

(6) Member enlisted in the Army Reserve on 15 May 1969, and entered medical school on 1 Sep 1970, was discharged from the Army Reserve on 31 Aug 1972, accepted a commission in the Air Force Reserve on 1 Sep 1972, and graduated on 3 June 1974.

NOTE:	Year	Month	Day
a.	74	06	03
b.	<u>70</u>	<u>09</u>	<u>01</u>
c.	3	09	03

(1 day added for inclusive dates)

d.	3	11	30 (4 years)
e.	<u>3</u>	<u>09</u>	<u>03</u>
f.	0	02	27

NOTES:

- a. Graduated
- b. Entered school
- c. Dual status
- d. Maximum credit
- e. Less dual status
- f. Constructive credit

NOTE: This member could have been in any branch of service, active or inactive, enlisted, warrant or commissioned status, and it would make no difference in the computation of the dual status period and constructive service credit.

10113. Service Not Creditable

The types of service listed below are not creditable. This list is not all-inclusive, but shows some of the service precluded by law.

a. **Fraudulent Enlistment.** Time spent in an enlistment which is determined to be fraudulent and is specifically terminated by reason of fraud. (A member is entitled to credit for time in a fraudulent enlistment which is not voided by the government).

b. **Officer in Philippine Army.** Service as a commissioned officer in the Army of the Philippines.

c. **Constructive Service for Determining Grade and Eligibility for Promotion.** The constructive service authorized Army and Air Force officers by the Act of 28 Dec 1945 (59 Stat 664) for determining grade and eligibility for promotion.

d. **Emergency Officers Retired List.** The period of time a member was on the Emergency Officers Retired List.

e. **State, Home or Territorial Guard.** Time spent as a member of a state, home, or territorial guard.

*f. **Reserve Officers Training Corps.** For commissioned officers any period of service after 13 Oct 1964 as a member of the Army, Navy, or Air Force Reserve Officers' Training Corps, even if the member held concurrent Reserve status.

g. **Inactive National Guard.** Time when a person was a member of the inactive National Guard (as distinguished from the National Guard Reserve and National Guard of the United States) is not creditable. If a member held a commission or an enlisted status in the inactive National Guard and the National Guard of the United States at the same time, such service is creditable.

h. **Service Under Armed Forces Health Professions Scholarship Program.** Time served as a commissioned officer while training under the Armed Forces Health Professions Scholarship Program, is not creditable service (see paragraph 10112c).

i. **Service as a Student of Uniformed Services University of Health Sciences.** Time served as a commissioned officer while a student of the Uniformed Services University of Health Sciences is not creditable service.

j. **Service as a Cadet or Midshipman at the United States Military Academy, or United**

States Naval Academy Under an Appointment Accepted After 25 June 1956 (Table 1-1-5)

10114. Effect of Absence From Duty on Creditable Service

a. **Absence While in Officer Status.** Authorized or unauthorized absence while a member is in a commissioned or warrant officer status is counted as creditable service. Absence of commissioned or warrant officers because of sickness due to misconduct or because of confinement while awaiting (and during) trial, as distinguished from enlisted members under similar circumstances, is counted as creditable service. Absence during which a member was serving on active duty as an enlisted status and was a Reserve officer is creditable.

b. **Absence While in Enlisted Status** (Table 1-1-6)

c. **Making Up Time Lost During Enlistment.** After return to full duty, an enlisted member is liable to make up time lost. The time served to makeup lost time is creditable service. If a member is held (but not restored to a duty status) for trial or to serve sentence, this does not count as making uptime lost and is not creditable. Example: During a 4-year enlistment, a member was in a non-duty status for 1 year. He is retained in service 1 year beyond the date his enlistment would have expired. The year during which he was retained in service is counted in computing basic pay. He is entitled to total credit for 4 years (the period actually served) but not 5 years.

10115. Active Enlisted and Warrant Officer Service---Pay Grade O-1E, O-2E, or O-3E

a. Service Counted

(1) Commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if the officer has had over 4 years of active service as an enlisted member. In computing active enlisted service, include active duty for training in an enlisted status.

(2) Effective 1 Sep 1980, commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if the officer has had over 4 years of active service as a warrant officer. In computing this active warrant officer service, include active duty for training in a warrant officer status.

(3) Effective 1 Oct 1983, commissioned officers in pay grades O-1, O-2, or O-3 are entitled to the special rate of pay for O-1E, O-2E, or O-3E if

the officer has a combined total of over 4 years of active service as a warrant officer and enlisted member. In computing this active warrant officer and enlisted service, include active duty training in a warrant officer or enlisted status.

b. **Service Not Counted.** In computing active service, do not count active service in a dual status in the Navy or Marine Corps (temporary officer-permanent enlisted).

10116. How to Compute Total Creditable Service for Basic Pay

a. **Basic Method Without Regard to Lost Time.** To compute creditable service, use this method for all periods during which no time was lost:

(1) List all beginning dates. Never change these.

(2) List all ending dates. Change the ending date to 30 if it is the last day of the month and other than 30. Caution: if service ends on 28 Feb of a leap year, do not change the 28 to 30, since the 29th is the last day of month.

(3) Add all beginning dates.

(4) Add all ending dates.

(5) Subtract total beginning dates from total ending dates. (If more months are needed to make the subtraction, deduct 1 year from the total ending dates and add 12 months. If more days are needed, deduct 1 month from total of ending dates and add 30 days.)

(6) Add 1 day for each period of continuous service to account for inclusive dates.

(7) Convert the result into full years, months, and days. This is the amount of service creditable for basic pay purposes.

Example 1:

Component	From	To
RA (Enl)	51 Jan 1	54 Feb 28
AUS (Com)	54 June 1	61 May 26
AFUS (Com)	63 Aug 1	68 Mar 31
AFUS (Com)	68 Apr 1	75 June 4

Beginning Dates			Ending Dates		
Yr	Mo	Day	Yr	Mo	Day
51	1	1	54	2	30
54	6	1	61	5	26
63	8	1	75	6	4
168	15	3	190	13	60

(Note that period from 1 Aug 1963 through 4 June 1975 is continuous service.)

Yr	Mo	Day	
190	13	60	(total of ending dates)
168	15	3	(total of beginning dates)
21	10	57	
		+3	(day for each period to cover inclusive dates)
21	10	60	
22	00	00	(total creditable service converted to full years)

Member completed 22 years service 4 June 1975.

b. **Computing Periods of Service Involving Lost Time.** Compute separately periods of enlistment during which some time was lost. Add total of such periods to total computed under a above.

(1) **Lost Time Not Made Good.** When the lost time is not made up, compute the lost time on a 30-day-month basis, except that when the absence begins on the 31st day of a month, that day is counted as a day lost. Compute: Date of discharge minus date of enlistment, plus 1 day for inclusive dates, minus number of days lost computed on 30-day-month basis. Add this total to the total computed under a above.

Example 2: Member enlisted 18 July 1970 for 4 years, and was AWOL from 10 Feb 1972 through 16 Mar 1972. He was given a hardship discharge 10 Aug 1973; the lost time was not made good. He reenlisted 20 Feb 1975. Creditable service on reenlistment is computed:

Yr Mo Day

73 8 10 (ending date of last period of service)

72 19 40 (month changed to 30 days and 1 year to 12 months)

-70 7 18 (beginning date last period of service)

2 12 22
+1 (extra day for inclusive dates)

2 12 23 (service before deducting lost time)

-1 7 (lost time)

2 11 16 (total creditable service on date of reenlistment)

Lost time computed on a 30-day month basis:

10-30 Feb 21 days

1-16 Mar 16 days

37 days total lost time

(2) Lost Time Made Good. Time lost is made good on a day-for-day basis. When lost time is made good and the member completes the enlistment contract or period for which inducted, compute the lost time on a day-for-day basis (instead of 30-day-month basis) if this would be to the member's advantage. Under the day-for-day basis, an unauthorized absence on 30, 31 Mar and 1 Apr, for example, is counted as 3 days' lost time. An unauthorized absence on 28 and 29 February and 1 March is also counted as 3 days lost time. Time served on 30 and 31 Mar and 1 Apr, to make good lost time, is counted as 3 days' service. Time served on 28 and 29 Feb and 1 Mar, to make good lost time, is also counted as 3 days' service. When a period of service involves lost time made good, compute that period:

First Step. Subtract the enlistment date from the discharge date and add 1 day.

Second Step. Compute the total lost time both on a 30-day month basis and a day-for-day basis. Use whichever result shows the lesser number of days lost.

Third Step. Subtract the total of the second step from the total of the first step. If the resulting total equals or exceeds the period of the enlistment contract, use this total as the service creditable for this period of service. If the resulting total is less than the period of the enlistment contract, do not

use this total. Use the full period of the contract, since the member has completed the contract. (In some cases, neither the 30-day month nor the day-for-day basis will produce a total equal to the enlistment contract or induction period. This is because of the different dates of the year when time was lost and made good. (See example 3 below.)

Fourth Step. Add the total computed under the third step above to any other periods computed under a above to obtain the members' total creditable service.

Example 3: Assume the member in example 2 had not been given a hardship discharge, but completed the enlistment contract including time served to make good lost time. Member's discharge date would be 21 Aug 1974 (35 days lost time computed on a day-for-day basis -14 days made good 18-31 July and 21 days 1-21 Aug 1974). Compute creditable service on reenlistment 20 Feb 1975:

Yr Mo Day

74 8 21 (ending date last period of service)

70 7 18 (beginning date last period of service)

4 1 3

— — +1 (extra day for inclusive dates)

4 1 4 (service before deducting lost time)

As in example 2, the lost time computed on a 30-day month basis is 37 days. On a day-for-day basis it is 35 days (19 days from 10-28 Feb and 16 days from 1-16 Mar). Deduct the lesser number of days (35).

Yr Mo Day

4 1 4 (service before deducting lost time)

3 12 34 (change of year to months and months to days)

— -1 5 (lost time)

Since this amount of service is less than the enlistment contract, and the member completed the contract, do not use this amount. Credit the member with 4 years prior service on reenlistment 20 Feb 1975.

Example 4: Member enlisted 18 July 1970 for 4 years; was AWOL 28 July 1973 through 3 Sep 1973. Member was required to make up 38 days to complete the enlistment term (28-31 July = 4 days; 1-31 Aug = 31 days; 1-3 Sep = 3 days). In making up AWOL time at the end of the enlistment, member would be credited with 14 days from 18-31 July and 24 days from 1-24 Aug. Discharge date was 24 Aug 1974. On reenlistment 20 Feb 1975 compute prior service:

Yr	Mo	Day	
74	8	24	(ending date of last period of service)
-70	7	18	(beginning date last period of service)
4	1	6	
—	—	+1	(extra day for inclusive dates)
4	1	7	(service before deducting lost time)

Computation of lost time on 30-day-month basis:

28-30 July 1973	3 days
1-30 Aug 1973	30 days
1-3 Sep 1973	3 days
	36 days

As noted above, this lost time is 38 days computed on a day-for-day basis. Under the rule in the second step above, deduct 36 days (computed on 30-day-month basis) since it is the lesser.

Yr	Mo	Day	
4	1	7	(service before deducting lost time)
—	-1	-6	(lost time)
4	0	1	(total creditable service)

Although this member served the same number of days as the member in example 3, this member is credited with 4 years and 1 day of service on reenlistment on 20 Feb 1975.

10117. Computing Basic Date for Pay Purposes
After computation of creditable service, establish a basic date for use in determining the date when a member is entitled to increased basic pay. Names established for these dates are:

Army---pay entry basic date (PEBD)
Navy and Marine Corps---pay entry base date (PEBD)
Air Force---pay date
Compute the date:

a. Continuous Military Status

Except for medical and dental officers who receive constructive service credit, the date member enlists, is inducted, or accepts an appointment is the basic date for pay purposes. This date stays in effect if the military status continues without any breaks.

b. Noncontinuous Service. When military status has not been continuous, determine the date by deducting total prior creditable service from the date the current period of service began.

***Example:** Member reenlisted 20 Feb 1975. Total prior creditable service (computed under paragraph 10116) was 4 years and 1 day.

Yr	Mo	Day	
1975	2	20	(date of reenlistment)
-4	0	1	(prior creditable service)
1971	2	19	(basic date upon reenlistment)

***10118. Adjusting Basic Date for Pay Purposes for Lost Time**

When an enlisted member loses time in a non-duty status under table 1-1-6, advance the basic date for pay purposes by a period equal to the time lost computed on a 30-day month basis. (For officers, date is not affected by non-duty status.)

Example: An enlisted member with no prior service enlisted on 18 July 1973. He was AWOL from 10 Feb 1975 through 16 Mar 1975. On the member's return to full duty status the date changes from 18 July 1973 to 25 Aug 1973.

10-30 Feb	21 days
1-16 Mar	16 days
	37 days' lost time

Yr	Mo	Day	
1973	7	18	(original date)
	+1	7	(lost time)
1973	8	25	(adjusted date)

10119. Procedure When Basic Date for Pay Purposes Falls on 29 Feb

When the basic date for pay purposes falls on 29 Feb, use that date. In non-leap years, increased pay begins on 1 Mar. In leap years, it begins on 29 Feb.

SECTION C SERVICE CREDITABLE FOR PERCENTAGE PURPOSES

10121. Service for Percentage Multiple

Service authorized to be used as a percentage multiple is specified in each law section authorizing computation of retired pay for each type of retirement. Retirement types and service for percentage for each are:

- a. **Voluntary Retirement Enlisted Members.** Service credited under paragraph 10102.
- b. **Voluntary Retirement Commissioned Officers:**

(1) Active service in the uniformed services.

(2) For an officer of the Medical Corps or Dental Corps of the Army or Navy, an officer of the Air Force designated as a medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer, credit 4 years. For a medical officer who has completed 1 year of medical internship or the equivalent thereof, credit 1 additional year.

(a) A medical or dental officer who was in the Reserves for a period of time during which the member also was receiving educational training would be entitled to receive the same amount of constructive service credit which would have been credited had the member not been in the Reserves.

(b) Any credit otherwise accrued during the same period by reason of Reserve membership would not be for use in determining the multiplier for computing retired pay.

(3) The years of service, not included in (1) or (2) above, with which the member was entitled to be credited on 1 June 1958 in computing basic pay as stated in paragraph 10111.

(4) Years of service, not included in (1), (2), or (3), with which the member would be entitled to be credited under 10 U.S.C. 1333:

(a) Days of active service.

(b) Days of full-time service under 32 U.S.C. 316, 502-505 while performing annual training duty or attending a prescribed course of

instruction at a school designated as a service school by law or by the Secretary concerned.

(c) One day for each point, but not more than 60 days in any 1 year, credited for attendance at a drill or period of equivalent instruction that was prescribed for the year by the Secretary concerned and conformed to requirements prescribed by law, and including points at the rate of 15 a year for membership in a Reserve component of the armed forces, in the Army or Air Force without component, or in these categories before 1 July 1949:

1. Federally recognized National Guard before 15 June 1933.

2. Federally recognized status in the National Guard before 15 June 1933.

3. The National Guard after 14 June 1933, if service was continuous from date of enlistment in the National Guard, or Federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States,

4. The Naval Reserve Force.

5. Naval Militia that conformed to standards prescribed by the Secretary of the Navy.

6. National Naval Volunteers.

7. Army or Navy Nurse Corps or the Nurse Corps Reserve of the Army or Navy as it existed at any time after 2 Feb 1901.

(d) Fifty days for each year before 1 July 1949, and proportionately for each fraction of a year of service other than active service in a reserve component of the Armed Forces, in the Army or Air Force without component, or in any other category of:

1. Federally recognized National Guard before 15 June 1933.

2. Federally recognized status in the National Guard before 15 June 1933,

3. The National Guard after 14 June 1933, if service was continuous from date of enlistment in the National Guard, or Federal recognition as an officer therein, to date of enlistment or appointment in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

4. The Naval Reserve Force.

5. Naval Militia that conformed to standards prescribed by the Secretary of the Navy.

6. National Naval Volunteers.

7. Army or Navy Nurse Corps or the Nurse Corps Reserve of the Army or Navy as it existed at any time after 2 Feb 1901. The sum of the periods described in 10121(b)(4) is then divided by 360.

c. **Voluntary Retirement Warrant Officers**
Service credited under paragraph 10121b.

d. **Mandatory Retirement**

(1) Army and Air Force service credited under paragraph 10105 or 10121b, whichever is more favorable.

(2) Navy and Marine Corps service credited under paragraph 10106 or 10121b, whichever is more favorable.

e. **Disability Retirement**

Service credited under paragraph 10107.

f. **Age and Service Retirement, Reservist**

The years of service and any fraction of a year computed by adding:

(1) Days of active service.

(2) Days of full-time service while performing annual training duty or attending a prescribed course of instruction at a school designated as a Service school by law or by the Secretary concerned.

(3) One day for each point, but not more than 60 days in any 1 year, credited for service in the Federally recognized National Guard or a Federally recognized status in the National Guard before 15 June 1933.

(4) Fifty days for each year before 1 July 1949, and proportionately for each fraction of a year of service, other than active service, in a Reserve component of the Armed Forces, in the Army or Air Force without component, or in any other category except a regular component, the sum divided by 360.

g. **Other**

(1) Commissioned officers and warrant officers voluntarily retired before 1 June 1958 are authorized to use the years' service credited for basic pay purposes as the years for determining the percentage multiple. Service creditable for basic pay purposes is in paragraphs 10111 and 10112.

(2) Commissioned officers who served as members of the military or naval forces of the United States before 12 Nov 1918 are authorized to use a 75 percent multiple for retired pay computation.

(3) Enlisted members are authorized to count double time for service beyond the continental limits of the United States between 1898 and 1912 while serving in the Army, Navy, or Marine Corps of the United States.

(4) Members who were retired for disability before 1 Oct 1949, who did not elect within a 5-year period to receive retired pay under Section 511 of the Career Compensation Act of 1949, are still authorized to use a 75 percent multiple for computation of retired pay. Also see section D, chapter 3, this part.

SECTION D

UNIFORM RETIREMENT DATE ACT

(URDA) APPLICATION (5 U.S.C. 8301(b))

10131. Authority

a. Except as otherwise specifically provided by statute, retirement is effective on the first day of the month after that in which retirement would otherwise be effective.

b. Notwithstanding a above, the rate of pay is computed as of the date retirement would have occurred but for the provisions of a above. See table 1-1-7. Members who enter a uniformed Service after 7 Sep 1980 receive retired pay based on an average of basic pay rates for the period actually served not to exceed a 36-month period. See part one, chapter 3 for gross pay computation.

10132. Application

a. Voluntary Retirement

(1) Compute pay on the current active duty basic pay rate in effect on the first day of retirement if:

(a) Retired on other than an active duty basic pay rate change date.

(b) Retired on the same day as an active duty basic pay rate change, but was fully qualified for retirement or met requirements to be retired at least 1 month before the month immediately preceding the active duty basic pay rate change date, except for warrant officers retired under the provisions of 10 U.S.C. 564, 1255 (repealed), 1263, 1293, and 1305.

(c) Retired as an enlisted member regardless of qualification date.

(d) Retired as a commissioned officer under provisions of 10 U.S.C. 6323.

(2) Compute pay on the active duty basic pay rate in effect on the day before the first date of retirement if:

(a) Retired as a warrant officer under 10 U.S.C. 564, 1255 (repealed), 1263, 1293, and 1305.

(b) Retired on an active duty basic pay rate change date as a commissioned officer (other than an officer retired under 10 U.S.C. 6323) or warrant officer who first qualified for retirement during the month immediately preceding the active duty rate change date.

b. Mandatory Retirement

(1) Compute pay on the active duty basic pay rate in effect on the date when the member met the requirements for involuntary retirement, and is retired for mandatory reasons.

(2) The above provision does not apply, if:

(a) Before the date scheduled for mandatory retirement, the member qualifies for and requests voluntary retirement which is approved before the member is scheduled for mandatory retirement. See provisions for voluntary retirement in paragraph 10132a.

(b) The member is retained on active duty beyond mandatory retirement date for physical evaluation to determine eligibility for disability retirement and is retired for disability. See provisions for disability retirement.

c. FR/FMCR. The provisions of the URDA do not apply to members transferred to the Fleet Reserve/Fleet Marine Corps Reserve.

d. Disability Retirement

(1) Compute pay on the active duty rate in effect on the first day of retirement if the member:

(a) Retired on other than an active duty basic pay rate change date.

(b) Retired on an active duty pay rate change date and is otherwise eligible for voluntary retirement and met those requirements at least 1 month before the month immediately preceding the new basic pay rates. The new rates apply only to the formula for computation of entitlement for voluntary retirement.

(2) Compute pay on the active duty basic pay rate in effect on the day before the first day of retirement if the member:

(a) Retired on an active duty rate change date as a commissioned officer, warrant officer, or enlisted member, and

(b) Disability retirement findings approved without the Secretary concerned having designated an earlier retirement date under 10 U.S.C. 1221. The effective date of retirement is governed by the provisions of the URDA.

e. Non-Regular Service Reserve Retirement. Compute pay on the active duty basic pay rate in effect on the date when the member is granted retired pay.

10133. Special Provisions

Under specific circumstances, computation may be based on another basic pay rate that may provide greater pay. See chapter 3, sections B and C.

SECTION E

RANK AND PAY GRADE

10141. General Determination

a. Unless entitled to a higher grade under some other provisions of law, Regular and Reserve members, who retire other than for disability, retire in the regular or Reserve grade they hold on the date of retirement.

*b. A commissioned officer who voluntarily retires after 14 Sep 1981, in a grade above major or lieutenant commander and below lieutenant general or vice admiral, must have served on active duty in that grade for not less than 3 years. (During the period 1 Oct 1990 through 30 Sep 1995, the 3-year requirement may be reduced to 2 years). The President may waive this requirement in cases of extreme hardship or exceptional or unusual circumstances.

(1) An officer in a grade specified above who is on active duty 14 Sep 1981 and who is not promoted later to a grade higher or who on 14 Sep 1981 is on a list of officers recommended for promotion and is not promoted to a grade higher than the grade to which recommended must serve in that grade for not less than 2 years. The Secretary concerned may waive this requirement.

(2) An officer who does not meet the service-in-grade requirements retires in the next lower grade satisfactorily served on active duty for at least 6 months.

c. Unless entitled to a higher grade under some other provision of law, members of the Armed Forces who retire for disability are entitled to the highest of:

(1) The grade or rank in which serving when placed on the Temporary Disability Retired List or if not carried on that list, on the date retired.

(2) The highest grade or rank in which they satisfactorily served.

(3) The permanent regular or Reserve grade to which they would have been promoted had it not been for the disability for which retired

that was found to exist as the result of physical examination for promotion.

(4) The temporary grade to which they would have been promoted had it not been for the disability for which retired if eligibility for that promotion was required based on the cumulative years of service or years of service in grade and the disability was discovered as a result of physical examination for promotion.

d. An officer who is serving in or has served in a position of importance and responsibility designated by the President to carry the grade of general or admiral or lieutenant general or vice admiral may, in the discretion of the President, be retired by and with the advice and consent of the Senate, in the highest grade held on active duty.

10142. Special Provisions

a. Commissioned officers of the regular or Reserve component of the Army or Air Force and regular officers of the Navy or Marine Corps may, at the discretion of the President, be retired by and with the consent of the Senate, in the highest grade held at any time on the active list if they have served as:

(1) Chief of Staff to the President.

(2) Chief of Staff of the Army.

(3) Chief of Staff of the Air Force.

(4) Senior member of the Military Staff Committee of the United Nations.

(5) General or lieutenant general in a position of importance and responsibility designated by the President.

(6) Chief or assistant chief of a branch of the Regular Army for at least 4 years.

(7) Surgeon General of the Army or Air Force in the grade of lieutenant general.

(8) Permanent professor of the United States Military Academy or United States Air Force Academy. If the grade is below brigadier general and service as professor is long and distinguished, the professor may, at the discretion of the President, be retired in the grade of brigadier general.

(9) Chief of Naval Operations.

(10) Chiefs of Bureaus and Judge Advocate General.

(11) Admirals or vice admirals in positions of great importance and responsibility designated by the President under 10 U.S.C. 5231.

b. Regular and Reserve commissioned officers of the Army and Air Force are entitled to the grade equal to the highest temporary grade in which they served on active duty satisfactorily for

not less than 6 months. See exception in paragraph 10141b.

c. Members of the Regular Army in the Army Nurse Corps or Army Medical Specialist Corps and an Air Force nurse or medical specialist are entitled to a retired grade equal to the highest grade or relative rank in which they served on active duty satisfactorily after 8 Sep 1940 and before 1 July 1946, as:

(1) A member of the Army Nurse Corps established by the Act of 9 July 1918.

(2) A dietitian or physical therapist appointed under the Act of 22 Dec 1942.

(3) An officer appointed under the Act of 22 June 1944.

d. Where an existing statute authorizes computation of pay on the basis of a grade in which the member served satisfactorily which is higher than the pay of the grade otherwise entitled, computation is based on the higher grade:

(1) Without regard to whether that grade was temporary or permanent.

(2) Even though the armed service in which the member held that higher grade is not the service in which retired.

e. Retired warrant officers of the Army and Air Force, and enlisted members of the Regular Army and Regular Air Force are entitled to be advanced on the retired list to the highest grade in which they served on active duty satisfactorily, when their active service plus time on the retired list equals 30 years.

f. Unless otherwise entitled to a higher grade, officers of the Regular Navy or Regular Marine Corps holding a permanent grade of W-1 or above, retired with 30 or more years of service are retired in the grade in which they are serving at the time of retirement.

g. Unless otherwise entitled to a higher grade, members of the Navy and Marine Corps retired while serving in a temporary grade to which they were appointed in time of war or national emergency which terminates on date of detachment are retired in the grade they would hold if they had not received such appointment.

h. Warrant officers of the Navy and Marine Corps who retire after completion of 20 years of service may elect to be retired in the highest grade entitled under any provision of law.

i. Unless otherwise entitled to a higher grade, members, other than retired members of the Navy or Marine Corps, when retired are advanced on the retired list to the highest officer grade in

which they served satisfactorily under a temporary appointment.

j. A courtesy title is not to be used for computation of pay. The grade for pay purposes is determined under the above criteria of general determinations and special provisions with specific reference to the law section authorizing grade for pay purposes.

k. Members promoted while missing in action (MIA) whose status is changed to killed in action (KIA) are exempted from the 6-month time-in-grade requirement since promotions received while in a missing status are "fully effective for all purposes" under 37 U.S.C. 552(a). Applicable only to Air Force and Army.

l. A member who enters a uniformed service after 7 Sep 1980 and who later retires may receive retired pay computed from a retired pay base made up of active duty pay rates from more than one grade.

10143. Satisfactory Service

The determination as to what constitutes satisfactory service for the purpose of retirement in the highest grade is within the discretionary power of the Secretary of the service concerned.

SECTION F---NONCITIZENS

10151. Philippine Constabulary

The Act of 2 Feb 1901, as amended by the Act of 16 May 1908, authorized the President of the United States to organize a military component to be known as the Philippine Scouts and made a part of the Regular Army.

a. The total number of enlisted men was limited to 12,000 voluntary enlisted natives of the Philippine Islands. The pay and allowances of whatever nature and kind authorized were to be fixed by the Secretary of the Army, not to exceed or be of other classes than those authorized enlisted men of the Regular Army. Retirement eligibility was the same as for enlisted men of the Regular Army.

b. Officers were initially selected from the Regular Army on provisional appointments. Effective 1 July 1920, all officers who were citizens of the United States, if qualified, were recommissioned in the Regular service and if not recommissioned, continued to serve under their commissions as officers of the Philippine Scouts. Officers were later selected from citizens of the Philippine Islands, appointed in the grade of second lieutenant. Officers were entitled to the

same pay, privileges, and retirement benefits authorized officers of like grade and service of the Regular Army.

c. The Philippine Scouts are not now maintained as a continuing part of the Army.

10152. Insular Force

The Insular Force of the United States Navy was established by Executive Order on 5 Apr 1901, as amended on 25 June 1901, authorizing the Secretary of the Navy to enlist in the Insular Force a total of 500 natives of the Islands of the Philippines and the Island of Guam. The force was established primarily to use the services of these men in various positions throughout the area in which they were enlisted and to which they were particularly adapted or suited. Members of the Insular Force were eligible for transfer to the Fleet Reserve or to the Retired List. The Insular Force is not now maintained as a continuing part of the Navy.

10153. Payment

a. **Philippine Scouts.** The rates of pay prescribed from time to time for enlisted men of the Philippine Scouts on the active list formed the basis for computing the amount of retired pay. There was no increase in pay and allowances (including retired pay) for the period 1 June 1946 through 31 Aug 1965.

b. **Insular Force.** Pay and allowances were permanently fixed at one-half the current prevailing rates for other members of the Regular Navy of corresponding grades. Retired pay is computed as for the Regular Navy at one-half of the basic pay rate.

c. **Equalization of Pay.** Effective 1 Sep 1965, the Secretary of the Army authorized new rates of basic pay for Philippine Scouts computed per (1) or (2) below, whichever is greater:

(1) One-half of the basic pay of enlisted members of the Army with comparable grades and length of service authorized by the Military Pay Act of 1958; or

(2) One-half of the basic pay authorized enlisted members of the Army with comparable grades and length of service on the day before the effective date of the Military Pay Act of 1958, increased by 6 percent, and further increased by 5 percent.

(3) Retired pay of Philippine Scouts was also authorized to be recomputed on the basis of the rates of basic pay so established, and that amount, in turn, further increased by the same

percentage of increase in retired pay as that provided by section 5(a) of the Act of 21 Aug 1965, 79 Stat 547. Future adjustments of retired pay of Philippine Scouts will be made to reflect changes in the Consumer Price Index as provided by 10 U.S.C. 1401a.

SECTION G---HEROISM PAY

10161. Entitlement

a. **Service Retirement.** Enlisted members of the Army, Air Force, Navy, and Marine Corps retired after the completion of 20 but less than 30 years of active service are eligible to receive 10 percent additional retired or retainer pay if credited with extraordinary heroism in the line of duty. Total retired pay, including the 10 percent increases, may not exceed maximum pay of 75 percent. Enlisted members of the Coast Guard retired after completion of 20 years, voluntarily or involuntarily, are eligible to have retired pay increased by an amount equal to 10 percent of the active duty pay and permanent additions thereto of the grade or rating with which retired if credited with extraordinary heroism in the line of duty. See part one, chapter 2, for transfer of Navy and Marine Corps enlisted members to the Fleet Reserve and Fleet Marine Corps Reserve.

b. **Disability Retirement.** Enlisted members retired for disability who are otherwise eligible for voluntary retirement for more than 20 years of service and entitled to a 10 percent increase in pay for certified acts of extraordinary heroism are entitled to an additional computation under the service retirement. Payment is based on the most favorable computation. This "most favorable" rule does not apply to an enlisted member of the Navy or Marine Corps retired for disability even though the member is otherwise eligible for transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

10162. Determination of Entitlement

The Secretary of the service concerned has the authority to grant 10 percent additional retired pay to an individual who has performed an act of extraordinary heroism in the line of duty.

10163. Special Provisions

a. **Advancement on the Retired List** Retired enlisted members of the Regular Army or Air Force receiving the 10 percent additional increase in pay for extraordinary heroism are not entitled to the 10 percent increase when advanced

to a higher grade on the completion of 30 years of service. See part two, chapter 5.

b. Recomputation After a Period of Active Duty

*(1) Retired enlisted members of the Army and Air Force are entitled to the 10 percent increase in retired pay for extraordinary heroism when pay is recomputed to reflect active service performed after date of retirement. The retired pay may not exceed 75 percent of the monthly basic pay upon which retired pay is based. Regardless of when the member's retired pay was recomputed, benefits shall not accrue under this provision for any period prior to November 1, 1992.

(2) Enlisted members of the Navy and Marine Corps who elected to receive retainer or retired pay computed under laws in effect on 9 Aug 1945, are not entitled to the 10 percent increase in their pay for extraordinary heroism when that pay is recomputed to reflect active service performed after date of transfer or retirement.

(3) Enlisted members of the Navy and Marine Corps who elected to receive retainer or retired pay computed under the Act of 10 Aug 1946 and 10 U.S.C. 6330 and 6331 are entitled to the 10 percent increase in their pay for extraordinary heroism on and after 10 Aug 1956, when that pay recomputed to reflect active service performed after date of transfer or retirement.

SECTION H---PAYMENT

10171. Effective Date of Payment

Pay accrues on a day-to-day basis from and including the date on which retirement is effective, except members who are transferred to the Fleet Reserve/Fleet Marine Corps Reserve. These members become entitled to pay on the day after the date of transfer.

a. **Service Retirement.** Except as otherwise provided by law, the effective date of retirement eligibility is the first day of the month after the month in which service requirements are fully met.

b. **Disability Retirement.** Placement on the Temporary and Permanent Disability Retired Lists may become effective on any day of the month as specified by the Secretary of the service concerned.

c. **Mandatory Retirement for Age and Service.** Members attaining age and/or service requirements for involuntary retirements are retained on active duty through the last day of the

month in which age or service requirements are met.

d. Non-Regular Service Retirement

Reservists are entitled to pay effective on the date on which the requirements for age and service have been met, or on the first day of any later month that the retiree may elect.

10172. Revocation of Retirement and/or Transfers

a. A member who is placed on the retired list is legally retired and such status cannot thereafter be changed retrospectively because of a mistake or poor judgment on the part of the retiring authorities. Fully executed orders for retirement, if not cancelled before the date of retirement, are final and may not be reopened, revoked, or amended in the absence of fraud, manifest error, mathematical miscalculation, mistake of law, or substantial new evidence.

b. Transfer of members to the Fleet Reserve/Fleet Marine Corps Reserve and to the retired list of the Regular Navy or Marine Corps or the Retired Reserve is conclusive for all purposes. The Secretary may correct any error or omission in the determination as to the member's grade and years of creditable service.

c. Payment of active duty pay and

allowances may be permitted after the first of the month in which retirement is effective until retirement orders are actually delivered to member later in the same month, provided prior notice of retirement orders had not been received.

d. Where advance notice of retirement orders is given but orders are not delivered, an attempt may be made to revoke them after they become effective and replace them with orders directing retirement at a later date. When the member apparently had no knowledge of the lack of legal authority for this action and active duty pay and allowances were received "under color of authority," the "defacto rule" permits repayment of active duty pay and allowances paid for the period and later collected.

10173. Computation

a. **Monthly Pay.** Compute monthly pay as if each month had 30 days. The daily rate is 1/30 of the monthly rate.

b. **Intermediate Day.** When retirement begins on an intermediate day of the month, compute pay at the rate of 1/30 for the actual number of days after date of retirement but only through the 30th day of that month. If pay begins on 28 February, pay accrues for 3 days, but if on 29 February, pay accrues for 2 days.

TABLE 1-1-1

VOLUNTARY RETIREMENT

R U L E	A	B	C	D	E	F
	A person who is	of the	and years of service total	including at least	may retire under 10 U.S.C.	with retired pay computed under table 1-3-1
1	an enlisted member	Army	20 (note 1)		3914	rule 3.
2		Air Force			8914	
3	a regular enlisted member	Army	30		3917	rule 5.
4		Air Force			8917	rule 6.
5	a commissioned officer	Army	20 (note 2)	10 years' active commissioned service	3911	rule 5.
6		Air Force			8911	rule 6.
7		Army	30 (note 2)		3918	rule 5.
8		Air Force			8918	rule 6.
9		Army	40 (note 2)		3924	rule 5.
10		Air Force			8924	rule 6.
11	a warrant officer	Armed Forces	20 (note 3)		1293	rule 4.
12		Army	40 (note 3)		3924	rule 5.
13		Air Force			8924	rule 6.
14	a regular officer W-1 and above	Navy or Marine Corps Reserve	40 (note 2)		6321	rule 7.
15			30 (note 2)		6322	rule 8.
16			20 (note 2)	10 years' active commissioned service	6323 (note 4)	rule 7.
17	a regular enlisted member (note 5)				6326	rule 8.
18	an officer or enlisted member	Navy or Marine Corps Reserve	30 (note 2)		6327 (note 6)	rule 9.
19			20 (note 2)	10 years' active service served in the 11 years immediately before retirement		

NOTES:

1. Paragraph 10102 (10 U.S.C. 3683, 3925, 8683, and 8925).
2. Paragraph 10103 (10 U.S.C. 3926, 6321, 6323, and 8926).
3. Paragraph 10104 (CCA 1949, section 511; 10 U.S.C. 6321 and 6322).
4. Members mandatorily retired under Public Law 86-155 are thereafter considered as having retired voluntarily

pursuant to 10 U.S.C. 6323, see section 3, Public Law 85-155. No officer processed under Public Law 86-155 after 1 June 1966.

5. Including regular enlisted members holding temporary appointment as commission officer or warrant officer.

6. Section 6327 expired 1 Jan 1973.

TABLE 1-1-2

MANDATORY RETIREMENT - COMMISSIONED OFFICERS AND WARRANT OFFICER

UNIFORM RETIREMENT REGULATIONS FOR COMMISSIONED OFFICERS AND WARRANT OFFICERS										
R U L E	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the regular grade of	and time in grade is	and is age	is retired by Secretary concerned under 10 U.S.C.				with retired pay computed under table 1-3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
1	regular commissioned officer of the Army or Air Force		below MajGen (note 1)		60	3883 (note 22)	8883 (note 22)			rule 11 or 13.
2					62 (note 23)	1251	1251	1251	1251	rule 10.
3			35 years (note 2)		MajGen	5 years	60	3884 (note 22)	8884 (note 22)	
4					62	3885 (note 22)	8885 (note 22)			
5					64	3886 (note 22)	8886 (note 22)			
6		20 years (note 2)	any grade (note 3)			3913	8913 (note 22)			
7		28 years (note 2)	Lt Col (note 4)			3916	8916 (note 22)			
8	regular commissioned officer of the Army or Air Force	30 years (note 2)	any grade (note 5)	5 years		3919	8919 (note 22)			
9			Col (note 6)			3921	8921 (note 22)			
10			Brig Gen			3922	8922 (note 22)			
11			Maj Gen			3923	8923 (note 22)			
12	regular officer of the Navy or Marine Corps	35 years' commissioned service (note 2)	Rear Adm (notes 7 & 8)	7 years				6371 (notes 18 & 22)		rule 12.
13			Rear Adm (notes 8 & 9)					6372 (notes 19 & 22)		
14			Maj Gen (notes 8 & 10)		5 years				6373 (note 22)	

TABLE 1-1-2, CONTINUED

R U L E	A	B	C	D	E	F				G	
	A person who is a	and has at least	who holds the regular grade of	and time in grade is	and is age	is retired by Secretary concerned under 10 U.S.C.				with retired pay computed under table 1-3-1	
						Army	Air Force	Navy or Marine Corps	Armed Forces		
15	regular officer of the Navy or Marine Corps	35 years' commissioned service (note 2)	Brig Gen (note 7)					6374 (note 22)		rule 12.	
16			Brig Gen (notes 8 & 10)	5 years				6375 (note 24)			
17		30 years' total commissioned service (note 2)	Capt (Navy) Col (MC) (notes 7 & 11)					6376 (note 22)			
18		31 years' total commissioned service (note 2)	Capt (Navy) Col (MC) (notes 8 & 12)								
19			30 years' total commissioned service (note 2)	Capt (Navy) Col (MC) (notes 9 & 11)					6377 (notes 20 & 22)		
20			31 years' total commissioned service (note 2)	Capt (Navy) Col (MC) (notes 8, 9, & 12)							
21			26 years (note 2)	Commander (Nurse Corps) (notes 8, 9, & 12)							
22			35 years (note 2)	Capt (Navy) Commander (Nurse Corps) (notes 5 & 9)		62			6378 (notes 21 & 22)		
23			26 years' total commissioned service (note 2)	Commander Lt Col (note 11)					6379 (note 22)		rule 12.
24			20 years' total commissioned service (note 2)	Lt Commander Major (note 11)					6380 (note 22)		
25			30 years' active naval service	any grade (note 13)					6383		
26				Lt Commander Major (notes 11 & 13)							
27			any grade below Fleet Adm		62			6390 (note 22)			
28			Rear Admiral Maj Gen and Brig Gen					6394 (note 22)			

TABLE 1-1-2, CONTINUED

R U L E	A	B	C	D	E	F				G
	A person who is a	and has at least	who holds the regular grade of	and time in grade is	and is age	is retired by Secretary concerned under 10 U.S.C.				with retired pay computed under table 1-3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
29	regular officer of the Navy or Marine Corps	20 years' active commissioned service (note 2)	Lt Comdr and below (Nurse Corps)					6396 (note 22)		rule 12.
30		26 years' active commissioned service	Comdr (female Navy) LtCol (female MC)					6398 (note 22)		
31		30 years' active commissioned service	Captain (female Navy) Col (female MC) (note 14)							
32		20 years' active commissioned service	Lt Comdr Maj (note 3) and below (female)					6400 (note 22)		
33	commissioned officer of the Army	30 years' commissioned service (note 17)	permanent professor, USMA			3920				rule 11.
34	commissioned officer of the Air Force		permanent professor, USAFA				8920			rule 13.
35	commissioned officer of the Army, Air Force		permanent professor, USMA or USAFA		64	1251	1251			rule 10.
36	permanent regular warrant officer of the Armed Forces	20 years (note 15)	WO1, WO2, and WO3 (note 11)						0564	
37			WO1, WO2, WO3, and WO4		55 (note 16)				1255	
38					62				1263	
39		30 years' service							1305	
40	regular officer of the Army, Air Force, Marine Corps, or Navy	28 years' commissioned service	Lt Col, Commander (Navy)			633	633	633	633	
41		30 years' commissioned service	Col, Capt (Navy)			634	634	634	634	
42			Brig Gen Commodore (Navy)	5 years		635	635	635	635	
43		35 years' commissioned service	Maj Gen Commodore (Navy)			636	636	636	636	

NOTES:

1. Except professor or registrar of United States Military Academy or Air Force Academy.
2. Army or Air Force - Service under paragraph 10105 (10 U.S.C. 3927, 8927 were repealed by Public Law 96-513).
3. Not recommended for promotion.
4. Promotion list lieutenant colonel
5. Excessive number in any grade.
6. Promotion list colonel.
7. Not restricted in performance of duty.
8. Not recommended for continuation on active duty.
9. Restricted in performance of duty.
10. Serving as Commandant of Marine Corps.
11. Twice failed of selection for promotion to next higher grade not on promotion list.
12. Not on promotion list. Retirement subject to completion of 5 years' service in grade.
13. Designated for limited duty.
14. Except women officers on promotion list or serving as assistant to Chief of Naval Personnel with rank of captain, or assistant to Commandant of Marine Corps with rank of colonel.
15. Service computed under paragraph 10104.
16. Female regular warrant officer. This statute was repealed by Public Law 90-130, 8 Nov 1967 (61 Stat 374).
17. Service computed under paragraph 10103.
18. Section 6371 suspended by Executive Order 11284, 27 May 1966.
19. Section 6372 suspended by Executive Order 11436, 2 Dec 1968.
20. Section 6377(c) repealed by Public Law 90-130, 8 Nov 1967.
21. Any Navy captain or commander who will complete 35 years of total commissioned service or who will become age 62 in the fiscal year in which the selection board is convened is ineligible for consideration for retention.
22. Sections repealed by Public Law 96-513, 12 Dec 1980, effective 15 Sep 1981.
23. Except a permanent professor, director of Admissions, or Registrar of United States Military Academy or United States Air Force Academy or a commissioned warrant officer, effective 15 Sep 1981.
24. Section 6375 was repealed by Public Law 87-123, 3 Aug 1961.

TABLE 1-1-3						
DISABILITY RETIREMENT						
R U L E	A	B	C	D	E	F
	A person who is	of the	ordered to active duty for	and is determined	may retire under 10 U.S.C.	with retired pay computed under
	1	Armed Forces, entitled to basic pay	30 days or less (note 1)	unfit to perform duties of his or her office, grade, rank, or rating because of physical disability (note 2)	1204	rule 1.
	2				1205	rule 2.
	3		more than 30 days (note 1)		1201	rule 1.
4	1202				rule 2.	

Notes:

1. Paragraph 10107 (10 U.S.C. 1208).
2. Disability rating must be at least 30 percent unless the member has 20 years service (10 U.S.C. 1201, 1202, 1204, 1205).

TABLE 1-1-4

AGE AND SERVICE, NON-REGULAR RETIREMENT

R U L E	A	B	C	D	E	F
	A person who is	of the	and has at least	and is age	may retire under	with retired pay computed under
1	an enlisted member, warrant officer, or commissioned officer	Armed Forces, Reserve, or National Guard (note 1)	20 years' service (note 2)	60	10 U.S.C. 1331 (note 3)	table 1-3-1, rule 14.

Notes:

1. Who performed last 8 years of qualifying service as a member of a Reserve or National Guard component.

2. Paragraph 10108 (10 U.S.C. Sec 1332).

3. Not entitled to retired or retainer pay under any other provision of law.

TABLE 1-1-5**SERVICE AS CADET OR MIDSHIPMAN—OFFICERS—FOR BASIC PAY PURPOSES**

R U L E	A	B	C	D
	When a member currently serving as an officer has had service as a cadet or midshipman in	to which appointed	and	the period involved is
1	any of the military or naval academies		held no concurrent enlisted and /or Reserve status	not creditable.
2		after 25 Jun 1956	enlistment contract or period of obligated service was not terminated	
3		as a permanent midshipman before 26 Jun 1956		creditable.
4			concurrently retained a commission or warrant in the Army or Air Force Reserve	
5		on or after 1 Jan 1953	concurrently held an enlisted status in the Army or Air Force Reserve	
6		before 26 Jun 1956		
7		on or after 1 Jan 1953 and before 26 Jun 1956	concurrently held an enlisted status in the Naval Reserve	
8		as a temporary midshipman, Naval Reservist, before 16 Jun 1956		
9	an aviation cadet program	in the appointive grade of aviation cadet	performed active service	
10		as an enlisted aviation cadet on or after 3 Jun 1941		
11	a United States Merchant Marine or State Maritime Academy	under the Naval Reserve Act of 1938	concurrently held an inactive Naval Reserve status	not creditable.
12	NROTC program	as a temporary midshipman before 26 Jun 1956	concurrently held a Reserve status in a uniformed service	creditable through 12 Oct 1964.
13		as a contract student		
14	AROTC and AFROTC program	before 13 Oct 1964		

TABLE 1-1-6

ABSENCE FROM DUTY IN ENLISTED STATUS

R U L E	A	B	C
	When absence is	and	the period of absence is
1	authorized leave or authorized excess leave		creditable.
2	unauthorized absence of more than 1 day (24 consecutive hours), including detention of Army or Air Force members by or for civil authorities	is administratively excused as unavoidable	
3		is not administratively excused as unavoidable	not creditable (note 2).
4	civil detention of a Navy or Marine Corps member	occurred before 24 Jul 1956 and the member was not acquitted or released without trial and without making restitution	
5		occurred on or after 24 Jul 1956 and the member was absent under sentence or awaiting (and during) trial which resulted in conviction (note 1)	
6	inability to perform duty for more than 1 day (24 consecutive hours) because of intemperate use of alcohol or drugs, or disease or injury resulting from misconduct		
7	desertion		
8	because of confinement for more than 1 day (24 consecutive hours) while awaiting trial (if the trial results in conviction) or confinement as the result of a court-martial sentence (note 4)	member was a member of the Army or Air Force	
9	absence of a Navy or Marine Corps member because of confinement of more than 1 day (24 consecutive hours) while awaiting trial (if the trial results in conviction) or confinement as the result of a court-martial sentence	confinement occurred on or after 24 Jul 1956 (note 4)	
10		confinement occurred before 24 Jul 1956	creditable (note 3).

NOTES:

1. If the member is released without trial or acquitted, or if conviction is set aside on legal grounds (as distinguished from clemency), the period of absence is creditable. If the member is released upon agreement to make restitution or is later convicted by court-martial on the same facts, the period of absence is not creditable.
2. Absence during which a member was serving on active duty as an enlisted person and was also a reserve officer is creditable.

3. The period of absence is not creditable only if the confinement was under general court-martial sentence and/or while awaiting (and during) trial which resulted in sentence by a general court-martial to confinement and total loss of pay and allowances.

4. Period spent in confinement is creditable service when the member is acquitted or the sentence is set aside or disapproved.

TABLE 1-1-7

RATE OF BASIC PAY FOR RETIRED PAY COMPUTATION (5 U.S.C. 8301(b))(Note 7)

R U L E	A	B	C	D	E
	A member who	and is	who fully qualified or met requirements to be retired	and retirement is	may compute pay using active duty basic pay rates in effect on
1	retires on other than the first day of an active duty basic pay rate change	an enlisted member, warrant officer, or commissioned officer	at any time	voluntary, mandatory, disability, Reservist (age and service)	the first day of retirement (notes 1, 2, and 3).
2	retires on the first day of an active duty basic pay rate change	an enlisted member (note 4)		voluntary	the first day of retirement (notes 1 and 2).
3		a warrant officer			the day before the first day of retirement (notes 1, 2, and 3).
4		a commissioned officer	before the month immediately preceding the active duty basic pay rate change date (note 5)		the first day of retirement (notes 1 and 2).
5			at any time prior to the active duty basic pay rate change date	voluntary (note 5)	
6			during the month immediately preceding the active duty basic pay rate change date	voluntary	
7		a warrant officer	any time	mandatory	
8		a commissioned officer			
9		an enlisted member, warrant officer, or commissioned officer	during the month immediately preceding the active duty basic pay rate change date without Secretarial action designating an earlier retirement date	disability (note 6)	the day before the first day of retirement (note 1).
10			any time	Reservist (age and service)	the date the member is granted retired pay (note 1).

NOTES:

1. Under former section 10 U.S.C.1401(e) (repealed by Public Law 98-94, 24 Sep 1983), a member may use one prior rate of basic pay if more advantageous to the member provided the member is eligible for retirement on or before 24 Sep 1983 and retires on or before 24 Sep 1986. If such member retires after 24 Sep 1986, the retired or retainer pay may not be less than it would have been had the member actually retired on 23 Sep 1986.

2. For members who qualify for retirement on an earlier computation date under the same or some other provision of law, compute under rates in effect on that earlier date based on grade and service credited at that time, if that rate is greater (10 U.S.C. 1401a(f)).

3. Warrant officers voluntarily retired (10 U.S.C. 1401, formula 4).

4. Not applicable to Navy and Marine Corps enlisted members transferred to the Fleet Reserve or Fleet Marine Corps Reserve.

5. Applicable only to retirements under 10 U.S.C. 6323.

6. If otherwise retirement eligible, follow rule for that retirement.

7. A retired pay base is used in lieu of a basic pay rate in the computation of retired pay for members who enter the uniformed services after 7 Sep 1980.

CHAPTER 3

GROSS PAY COMPUTATION

SECTION A
BASIC COMPUTATION**10301. Disability**

(Table 1-3-1, Rules 1 and 2)

a. Members permanently retired for disability receive the basic pay of the grade authorized, multiplied at their election by either

(1) Two and one-half percent times the years of service credited for percentage purposes, or

(2) The percentage of disability with which retired, not to exceed 75 percent maximum retired pay.

b. Members placed on the Temporary Disability Retired List (TDRL) for disability receive the basic pay of the grade authorized, multiplied at their election by either:

(1) Two and one-half percent times the years of service credited for percentage purposes, or

(2) The percentage of disability with which retired, or

(3) If neither renders at least 50 percent of the basic pay upon which pay is computed, minimum pay of 50 percent is authorized while on the TDRL.

c. For members retired for disability who are also otherwise eligible to be retired under some other provision of law follow the rule applicable to that section of law.

d. Members who first enter a uniformed service after 7 Sep 1980, receive the retired pay base, as computed under section 1407(b), multiplied at their election by either:

(1) 2 1/2 percent times the years of service credited for percentage purposes, or

* (2) The percentage of disability with which retired. See paragraph 10332.

10302. Voluntary

(Table 1-3-1, Rules 3 through 9)

Members voluntarily retired receive the basic pay of the grade authorized, multiplied by two and one-half percent times the years of service credited for percentage purposes. Members who first enter a uniformed service after 7 Sep 1980 receive the retired pay base computed under 10 U.S.C. 1407,

multiplied by two and one-half percent times the years of service credited for percentage purposes.

a. **Enlisted Members.** See paragraph 10121a for service credited for percentage multiple.

b. **Commissioned Officers.** See paragraph 10121b for service credited for percentage multiple.

c. **Warrant Officers.** See paragraph 10121c for service credited for percentage multiple.

10303. Mandatory

(Table 1-3-1, Rules 10 through 13)

Members mandatorily retired receive the basic pay of the grade authorized multiplied by two and one-half percent times the years of service credited for percentage purposes. Members who first enter a uniformed service after 7 Sep 1980 receive the retired pay base as computed under 10 U.S.C. 1407, multiplied by two and one-half percent times the years of service credited for percentage purposes.

a. **Army and Air Force.** See paragraph 10121d(1) for service credited for percentage multiple.

b. **Navy and Marine Corps.** See paragraph 10121d(2) for service credited for percentage purposes.

10304. Reservist (Age and Service Retirement)

(Table 1-3-1, Rule 14)

Members of the Reserve or National Guard retired for age and service receive the basic pay of the grade authorized multiplied by two and one-half percent times the years of service credited for percentage purposes. Members who first enter a uniformed service after 7 Sep 1980 receive the retired pay base as computed under 10 U.S.C. 1407, multiplied by two and one-half percent times the years of service credited for percentage purposes. See paragraph 10121f for service credited for percentage multiple. (This is the formula for converting retirement points into percentage years: total number of retirement points divided by 360. Carry the result to three decimal places; then round to two decimal places.)

Example: 4735 retirement points divided by 360 = 13.152 or 13.15 years for percentage purposes.

10305. Fleet Reserve/Fleet Marine Corps Reserve (Table 1-3-1, Rule 15)

Members transferred to the Fleet Reserve/Fleet Marine Corps Reserve are entitled, when not on active duty, to have their retainer pay computed by:

* a. Multiplying monthly basic pay received at time of transfer by two and one-half percent times the number of years of active service (as adjusted in paragraph 10345) in the armed forces.

* b. Multiplying retainer pay base (if member became a member of a uniformed service after 7 Sep 1980) computed under 10 U.S.C. 1407 by two and one-half percent times the number of years of active service (as adjusted in paragraph 10345) in the armed forces.

b. Members transferred to the Fleet Reserve pay formulas to arrive at retainer pay. The (FR) or Fleet Marine Corps Reserve (FMCR) were administratively placed in separate classes to differentiate between laws and conditions governing the computation of these pay entitlements. The following classes are applicable to these members:

c. Longevity Pay. Longevity is the length of service performed by each member.

(1) Before 1 Oct 1949, longevity pay was a big factor in computing retainer pay. Certain pay laws contained provisions for computing longevity pay. Such pay was based on the length of service. During this period, base pay and longevity were fitted into the framework of

COMPONENT	CODE	APPLICABLE TO
FR	F-4c	
FMCR	1-b	Members who are in the Naval service on 1 July 1925 and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve after completion of 16 years but less than 20 years of active service.
FR	F-4d	
FMCR	1-c	Members who were in the Naval service on 1 July 1925 and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve after completion of 20 years but less than 30 years of active service.
FR	F-5	
FMCR	H-1	Members who first enlisted in the Naval service after 1 July 1925 and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve before 10 Aug 1946 after completion of 20 years but less than 30 years of active service.
FR	F-6	
FMCR	1-d	Members who first enlisted in the Naval service after 1 July 1925 and later transferred to the Fleet Reserve/Fleet Marine Corps Reserve on or after 10 Aug 1946 after completion of 20 years but less than 30 years of active service.

10306. Historical Pay Computations for Fleet Reserve/Fleet Marine Corps Reserve Members

a. The laws which governed the computation of retainer pay for members transferred to the Fleet Reserve/Fleet Marine Corps Reserve from its inception in 1916 through 30 June 1938, are of no value since they were assembled in the Naval Reserve Act of 1938, effective 1 July 1938. Therefore, the earlier computations are not included in this manual since they were restated effective 1 July 1938. See table 1-3-2 for the pay computations.

computation for the longevity pay changed several times before being superseded by basic pay. The various computations and the periods applicable are:

(a) Until 31 May 1942, for Navy members the computation was 10 percent of base pay for the first increment of 4 years' naval service, plus 5 percent of base pay for each 4-year increment thereafter, but not to exceed 16 years, or 25 percent.

EXAMPLE: Member served 18 years; on transfer to the Fleet Reserve the longevity pay credit was computed:

1. 10% - 4 years
2. 5% - 4 years
3. 5% - 4 years
4. 5% - 4 years
5. 0% - 4 years

(b) From 1 June 1942 to 30 Sep 1949, the computation was 5 percent of base pay of grade for each 3 years of service up to 30 years, maximum of 50 percent.

(2) On 1 Oct 1949, when basic pay became an important factor, longevity pay was not computed separately but was included in the rate of basic pay.

(a) Members transferring to the FR/FMCR on or after 1 Oct 1949 were required to elect the formula under which their pay would be computed. The two formulas were the fractional, under which a member would receive one-third or one-half of base pay, and the percentage two and one-half percent times years of active Federal service times basic pay. Such election was indicated on the authorization for transfer to the Fleet Reserve.

(b) Effective 10 Aug 1956, members transferring to the FR/FMCR would receive retainer pay computed on the formula included in the codification of the military pay laws under Title 10 of the U.S.C. The prior computations were still in effect for the members to whom they applied. Members who enter a uniformed service before 8 Sep 1980 receive retainer pay computed under this formula.

(c) Members who enter a uniformed service after 7 Sep 1980 receive retainer pay under the formula codified in 1956 except the retainer pay base is used instead of a monthly basic pay rate.

10307. Heroism Pay and Good Conduct (Markings). Enlisted members retired after 20 years of active service may be entitled to an additional 10 percent retired pay for extraordinary heroism, if authorized, not to exceed 75 percent of the basic pay on which their retirement pay is computed. See paragraph 10161. Navy and Marine Corps personnel may have been authorized an additional 10 percent for good conduct, but not both. See paragraph 10206c.

SECTION B APPLICATION OF SAVED PAY

10311. Career Compensation Act Effective 1 Oct 1949

a. An officer retired for disability before 1 Oct 1949 who failed to elect within a 5-year period to receive pay under the 1949 Act, or who did not qualify for pay under the 1949 Act, continued to receive pay under laws in effect before 1 Oct 1949 computed at 75 percent of the basic pay of the grade authorized.

b. Members who, on 1 Oct 1949 were hospital patients and who, before 1 Jan 1951, retired for disability as the result of the disease or injury for which they were hospitalized:

(1) Could elect to receive pay under laws in effect on 30 Sep 1949 computed at 75 percent of the basic pay of the grade authorized; or

(2) Could elect to receive retired pay computed under section 402(d) of Public Law 351, 81st Congress.

c. Members who, on 1 Oct 1949 were receiving or were entitled to receive pay under any provision of law were authorized to continue their entitlement to receive the pay which they were entitled to receive under laws in effect on 30 Sep 1949.

10312. Military Pay Act Effective 1 June 1958

a. Members who retired or transferred to Fleet Reserve/Fleet Marine Corps Reserve on or after 1 June 1958 and before 1 Apr 1963, who were receiving active duty basic pay under the 1 Apr 1955 "saved pay" rates continued to receive pay computed under those rates, based upon service credited for basic pay purposes as of 1 June 1958.

b. Members retired or transferred to Fleet Reserve/Fleet Marine Corps Reserve on 1 June 1958 were entitled to pay computed on the 1 June 1958 active duty basic pay rates, or on the 1 Apr 1955 active duty basic pay rates plus 6 percent, whichever was greater.

c. Members retired or transferred to Fleet Reserve/Fleet Marine Corps Reserve after 1 June 1958, who were receiving active duty saved pay were entitled to retired pay computed on the 1 Apr 1955 active duty basic pay rates, but were not entitled to the additional 6 percent increase.

10313. Military Pay Effective 1 Oct 1967

a. With respect to members described in subparagraph c, their retired or retainer pay may not be less than it would have been if they had become entitled to that pay based on the same basic pay grade, years of service for basic pay and percentage purposes, and percent of disability (if any) on the day before the effective date of the rates of monthly basic pay on which retired or retainer pay is based. Such members receive pay:

(1) Computed under the current basic pay rates in effect on date of retirement or transfer, or

(2) Computed under the rates of basic pay in effect immediately before the current rates, whichever is greater.

b. The above computations were in some instances subject to the provisions of the Uniform Retirement Date Act. For application of the URDA provisions, see paragraph 10132.

c. The "1-year look-back" provision codified at 10 U.S.C. 1401a(e) was repealed by section 921 of the DoD Authorization Act, FY 84 (Public Law 98-94, 24 Sep 1983). Under the provisions of that repeal, this paragraph now applies only to:

(1) Members retired or transferred to the Fleet Reserve/Fleet Marine Corps Reserve 1 Oct 1967 through 24 Sep 1983, inclusive; and

(2) Members eligible for retirement or transfer on or before 24 Sep 1983, provided such member retires or transfers on or before 24 Sep 1986. If such member retires or transfers after 24 Sep 1986, the retired or retainer pay may not be less than it would have been had the member actually retired or transferred on 23 Sep 1986.

SECTION C TOWER AMENDMENT

10321. Basic Provisions

a. Members who retire or transfer to Fleet Reserve/Fleet Marine Corps Reserve 1 Jan 1971 and thereafter, who fully qualify for retirement on a date earlier than their actual retirement date, receive the most favorable rate of pay they would have received had they actually retired or transferred on the earlier date

(1) After becoming retirement eligible on or after 1 Jan 1971 (see chapter 1, section A, Creditable Service for Retirement);

(2) Based upon the grade and service creditable on the earlier computation date; and

(3) Subject to the provisions of paragraph 10313.

b. Members who retired or transferred to Fleet Reserve/Fleet Marine Corps Reserve before 7 Oct 1975, effective date of the Tower Amendment, had their pay adjusted from 7 Oct 1975. No adjustments were authorized under provisions of the amendment for any period before 7 Oct 1975.

c. A member retiring 1 Oct 1988 or later who, after initially becoming eligible for retired pay, is reduced in grade pursuant to sentence of a

court-martial, may not be entitled to computation on a grade higher than the grade in which retired.

10322. Earlier Computation Dates

a. Predetermined earlier computation dates are established for uniformity in computing pay of members who qualify under 10 U.S.C. 1401a(f). Generally, the day immediately preceding an active duty basic pay rate change should be used as the earlier date of voluntary retirement eligibility, unless the computation would be more favorable based on the first day of the month preceding an active duty basic pay rate change.

b. Members of the Fleet Reserve/Fleet Marine Corps Reserve may be transferred on any intermediate day of a month. Therefore, the earlier computation date for these members is the day before new active duty basic pay rates become effective.

c. Warrant officers retired under provisions of 10 U.S.C. 1293 (see table 1-3-1, rule 4), on the effective date of a change in the active duty pay rates, compute retired pay using the rate of basic pay in effect on the day before the date of retirement (or one prior pay rate under 10 U.S.C. 1401a(e) if paragraph 10313c applies). Therefore, the earlier retirement eligibility date would be 1 year earlier with retired pay computed based on pay rates in effect on the day before the earlier eligibility date, (or one prior pay rate under 10 U.S.C. 1401a(e) if paragraph 10313c applies).

10323. Computation at Time of Retirement or Transfer to the FR/FMCR

a. Members receive the most favorable retired pay as adjusted by applicable cost-of-living adjustments (COLADJ) computed by using:

(1) The active duty basic pay rate applicable on the actual retirement or transfer date, or

(2) One prior active duty basic pay rate at the same grade and service applicable on the actual retirement or transfer date if the provisions of paragraph 10313c apply.

(3) Any active duty basic pay rate in effect on or after 1 Jan 1971 at the grade and service credited on the earlier computation date, if retirement eligible on the earlier date. After this rule is used, apply rule a(2) above without further loss of grade and service.

b. Members retiring for disability who are eligible for voluntary retirement or transfer to Fleet Reserve/Fleet Marine Corps Reserve on an earlier date may have gross retired pay entitlement computed in accordance with the provisions of the

Tower Amendment when more favorable. However, the basic pay rate applicable for an earlier retirement date under this condition for gross pay computation cannot be used for computing pay based upon the disability rating. The rate of pay based upon degree of disability may be calculated only on the basic pay rate applicable under a(1) or (2) above.

*SECTION D RETIRED BASE PAY

10331. Basic Provisions

a. Public Law 96-342, 8 Sep 1980 enacted the first major change in the computation of military retired or retainer pay since 1948. Public Law 96-342 revised the method for computing retired pay for a member who enters a uniformed service after 7 Sep 1980. Previously, retired or retainer pay was computed as a percentage of basic pay rate. Under 10 U.S.C. 1407 retired pay is computed as a percentage of member's retired pay base. The retired pay base is the average of the monthly basic pay rates a member receives or is entitled to for a period of 36 months, whether or not consecutive. This is commonly referred to as "High 36 months" or "High 3 average." If the member serves on active duty for less than 36 months, the retired pay base is equal to the total amount of monthly basic pay which the member receives during the period of active duty divided by the number of months, including any fraction, which the member serves on active duty.

b. A member is considered to have first entered a uniformed service when any individual, on or after 8 Sep 1980 is first appointed or enlisted in the uniformed services. A member who first enlists before 8 Sep 1980 under the delayed entry program, in a Reserve component as part of the Senior Reserve Officers' Training Corps (ROTC) or ROTC Financial Assistance programs, as a student at a Uniformed Services University of Health Sciences, or as a participant in the Armed Forces Health Professions Scholarship Program is considered to have first become a member before 8 Sep 1980.

10332. Computation of Pay

a. Monthly basic pay amounts, starting with the highest rate of pay, are added together until the total number of months equals 36 months. Divide the total pay derived from the sum of these months by 36, and round to the nearest cents to obtain the high-three average monthly basic pay rate applicable to the member. Any bad time the

member had should not be included in the computations.

(1) A full month served counts as one month regardless of any interruption by a pay rate change and regardless of the number of days in that month.

(a) Member serves the entire calendar month at a single rate of basic pay. This counts as one month of applicability under this rate of basic pay regardless of the number of days in the month—28, 29, 30, or 31.

(b) Member serves the entire calendar month with multiple rates of basic pay applicable. If a member is paid more than one rate during a given month which is a full month of service, each rate will be carried as applicable for the number of days paid at that rate. For example, if a member has a longevity pay increase effective February 11, the old rate is applicable for 10 days and the new rate is applicable for 20 days (regardless of any leap year). If a month has 31 days, the 31st is ignored; i.e., if the member has a longevity pay increase effective August 11, the old rate is applicable for 10 days and the new rate is applicable for 20 days. The 30-day months are allocated in a straight-forward manner.

(2) If the member has less than 36 months of service, add up all the member's basic pay and compute the number of months in the same manner described above for accumulating 36 months or more of pay. Divide the total pay by the total time expressed as months plus days where days less than 30 are counted as 1/30th of a month. Round to the nearest cent.

(3) When a member serves less than a full month, count only the number of days actually paid so that each total of 30 days equals 1 month. If a member serves less than a full month and one or more rates of basic pay apply, each rate should be carried as applicable for the number of days the member was actually paid at the particular rate. For example, assume the member had a break in service and returned to active duty on February 8, but has a longevity increase effective February 11. When a member serves through the end of February, the month is assumed to have 30 days. This member receives 3 days at one rate and 20 days at the new rate, or 23 days of pay even though only 21 or 22 days were served.

Example: Member receives monthly basic pay of \$17,658.30 over 14 months and 11 days.

$$\frac{\$17,658.30}{14 \text{ mos \& } 11} = \frac{\$17,658.30}{14.36667} = \$1,229.12 \quad \text{Retired Pay Base}$$

\$1,229.12	Retired Pay Base
x $\frac{\%}{100}$	Retired Pay Multiplier
\$x,xxx.xx	Retired Pay Rounded

b. When it is to the member's advantage, a saved pay rate under the provisions of 10 U.S.C. 1401a(e) may be used to compute retired pay. The saved pay provisions of 10 U.S.C. 1401a(e) were eliminated 24 Sep 1983. See paragraph 10313 for eligibility. 10 U.S.C. 1401a(e) authorizes the use of basic pay rates in effect on the day before the effective date of the rates of monthly basic pay on which the member's retired pay would otherwise be based.

c. Cost-of-living adjustments to military retired pay under 10 U.S.C. 1401 a(b), (c), (d), full and partial (or pro-rata) cost-of-living adjustments, also apply to military retired pay computed on the new retired pay base method provided for by 10 U.S.C. 1407, Retired Pay Base. The most recent active duty basic pay rate used to compute the retired pay base determines whether a member is entitled to a full or partial (or pro-rata) cost-of-living adjustment.

*SECTION E SPECIAL PROVISIONS

10341. Entitlement Under More Than One Pay Formula

Members who are entitled to pay computed under more than one pay formula or provision of law are entitled to be paid under the formula that is most favorable to them.

10342. Commissioned Officers With More Than 4 Years' Active Enlisted and/or Warrant Officer Service

Members who at the time of retirement are in pay grades O1E, O2E, and O3E, having served more than 4 years of active duty as enlisted members and/or warrant officers, receive pay computed on the special basic pay rates authorized for them.

10343. Commissioned Officers Serving in Special Positions

a. Officers who served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or other special positions of importance, as shown in paragraph 10142a, may receive retired pay computed on the highest rate of basic pay applicable to them while they served in that

position. The provision of sections 3963 and 8963 of Title 10 U.S.C., which requires 6 months in grade for Army and Air Force officers, does not apply to service in special positions of importance when computing retired pay under 10 U.S.C. 1401a(f).

b. On 14 Dec 1944, special grades of Fleet Admiral of the United States Navy and General of the Army were created with insignia of five stars. The pay was set at the same pay and allowances as a rear admiral of the upper half, plus personal money allowance of \$5,000 a year. When retired, these members were to receive pay equal to 75 percent of their active duty pay. The five-star grade was made permanent by an Act of Congress on 23 Mar 1946. Active duty pay remained the same as set by the 1944 Act. These members were exempted from mandatory retirement because of age. These members receive the same pay and allowances that they received while on active duty. The grade expired 1 July 1950.

10344. Enlisted Members Serving in Special Positions

Enlisted members who served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard may receive retired pay computed on the highest rate of basic pay applicable while serving in that special position.

10345. Service Credit Rounding of Months

For percentage purposes in computing retired or retainer pay:

a. Members who retired before 1 Jan 1982 receive credit for any fractional part of a year that is 6 months or more as an additional year. Any portion of a year that is less than 6 months is disregarded. This applies to any member who before 1 Jan 1982:

- (1) Applied for retirement;
- (2) Applied for transfer to the Fleet Reserve/Fleet Marine Corps Reserve;
- (3) Is being processed for retirement under the provisions of chapter 61 of Title 10;
- (4) Is on the temporary disability retired list and thereafter retired under the provisions of sections 1210(c) or (d) of Title 10.

b. Unless covered by subparagraph a., above, members who become entitled to retired or retainer pay 1 Jan 1982 through 30 Sep 1983, inclusive, will receive credit on a month-by-month basis for each full month served of 6 months or more; disregard a fraction of a year that is less than 6 months.

c. Members who become entitled to retired or retainer pay on or after 1 Oct 1983, receive credit for each full month actually served. Less than full months are disregarded. See table 1-3-4.

Note: If a member retires 1 Oct 1983 or later and the member is entitled to retired pay under 10 U.S.C. 1401a(f) using a hypothetical retirement date which is before 1 Jan 1982, service credit of 6 months or more is rounded to a full year effective 1 July 1986.

d. In calculating the percentage factor under subparagraphs b or c, the percent will be rounded at least to the nearest 1/100 of one percentage. For example, 20 years 7 months (20.58 years) times 2.5 percent equals 51.45 percent. See table 1-3-4. This rounding method will also be used for computing retired or retainer pay under 10 U.S.C. 1401a(e) and (f). (See paragraph 10301c.)

10346. Computation Under the Uniform Services Pay Act, 2 Oct 1963

a. Beginning 1 Oct 1963, members retired between 1 Oct 1949 and 31 May 1958, including members retired before 1 Oct 1949 receiving pay under the 1949 Act, received the greater of:

(1) An increase of 5 percent in the retired pay to which entitled on 30 Sep 1963, or

(2) Pay computed on the basic pay rates established under the 1 June 1958 Act without a 5 percent increase.

b. Beginning 1 Oct 1963, members retired for service before 1 Oct 1949, and being paid under laws in effect on 30 Sep 1949, receive the greater of

(1) An increase of 5 percent in the retired pay to which entitled on 30 Sep 1963; or

(2) Pay recomputed on the basic pay rates established by the Military Pay Act of 1958 without a 5 percent increase, based on actual active service creditable.

10347. Computation Under the Military Pay Act, 20 May 1958

a. Members who first became entitled to retired pay on 1 June 1958 were authorized to receive pay computed on the new 1 June 1958 basic pay rates or on the 1 Apr 1955 active duty basic pay rates plus 6 percent, whichever is greater.

b. Members retired after 1 June 1958 who were receiving active duty saved pay were entitled to retired pay computed on the 1 Apr 1955 active duty basic pay rates but were not entitled to the additional 6 percent increase.

c. An increment of \$200 for generals and admirals and \$100 for lieutenant generals and vice admirals was added to the basic pay rate used in the computation of pay before a 6 percent increase on 1 June 1958 for retired officers:

(1) Who had served in that grade for at least 180 days, and

(2) Who were entitled to retired pay on the day before the effective date of the Military Pay Act of 1958.

10348. Commissioned Officers With World War I Service

Members retired for any reason as regular commissioned officers, and those who retired for disability as nonregular commissioned officers, who served in any capacity as members of the military or naval forces of the United States before 12 Nov 1918, are entitled to receive pay computed at 75 percent of the basic pay of the grade in which retired.

10349. Emergency Officers Retired List (EORL)

All persons who served as officers of the Army, Navy, or Marine Corps during World War I, other than officers of the regular Army, Navy, or Marine Corps, and who during such service incurred a physical disability incurred in the line of duty, were placed on a separate retired list.

a. Payment was authorized at 75 percent of the pay and rank at time of discharge from commissioned service, with entitlement to the same privileges as provided by law for officers of the regular Army, Navy, or Marine Corps retired for physical disability incurred in the line of duty.

b. Payments are made by the Department of Veterans Affairs from funds appropriated to that agency.

***10350. Temporary Rate of Basic Pay for Certain Members With Over 24 Years of Service**

Members in pay grade E-7, E-8, E-9, W-4, W-5, or O-6 who have over 24, but less than 26 years of service, are entitled to a special rate of pay effective for months Jan 1993 through Sep 1995. However, a member who is entitled to a special temporary rate, as it is adjusted, on 1 Sep 1995 shall continue to be entitled to such rate so long as the member remains entitled to basic pay under 37 U.S.C. 204, and is in pay grade E-7, E-8, E-9, W-4, W-5, or O-6.

TABLE 1-3-1							
COMPUTATION OF RETIRED PAY							
R U L E	A	B	C	D	E	F	G
	A member of the	who is	under provisions of 10 U.S.C.	receives the (note 7)	multiplied by	plus	minus (note 8)
1	Armed Forces	retired for disability	1201 1204	monthly active duty pay of the grade in which pay is authorized to be computed (note 1)	2-1/2 percent times the years of service credited for percentage purposes, or the percentage of disability assigned (note 3)		excess over 75 percent of basic pay
2			1202 1205			amount necessary to increase the product of steps D and E to 50 percent of basic pay	
3	Army or Air Force	voluntarily retired	3914 8914		2-1/2 percent times the years of service credited for percentage purposes (note 3)	10 percent of the product of steps D and E (note 2)	
4	Armed Forces		1293				
5	Army		3911 3917 3918 3924				
6	Air Force		8911 8917 8918 8924				
7	Navy or Marine Corps		6321 6323				
8			6322 6326		75 percent		
9			6327		50 percent (note 5)		
10	Armed Forces	involuntarily retired	0564 0633 0634 0635 0636 1251 1255 1263 1305	2-1/2 percent times the years of service credited for percentage purposes (note 3)	amount necessary to increase the product of steps D and E to 50 percent of basic pay		
11	Army	3883 3884 3885 3886 3913 3916 3919 3920 3921 3922 3923 (note 6)					
12	Navy or Marine Corps	6371 6372 6373 6374 6375 6376 6377 6378 6379 6380 6383 6390 6391 6394 6396 6398 6400 (note 6)					

TABLE 1-3-1, CONTINUED

R U L E	A	B	C	D	E	F	G
	Member of the	who is	under provisions of 10 U.S.C.	receives the (note 7)	multiplied by	plus	minus (note 8)
13	Air Force	involuntarily retired	8883 8884 8885 8886 8913 8916 8919 8920 8921 8922 8923 (note 6)	monthly active duty pay of the grade in which pay is authorized to be computed (note 1)	2-1/2 percent times the years of service credited for percentage purposes (note 3)	amount necessary to increase the product of steps D and E to 50 percent of basic pay	excess over 75 percent of basic pay
14	Armed Forces, Reserve, or National Guard	Reservist (age and service requirement)	1331		2-1/2 percent times the years of service credited for percentage purposes (note 4)		
15	Navy or Marine Corps	transferred to the FR/FMCR	6330		2-1/2 percent times the years of service credited for percentage purposes (note 3)	10 percent of the product of steps D and E (note 2)	

NOTES:

1. For active duty basic pay rate applicable, see paragraphs 10132, 10311, 10321, 10322, 10323, 10341, 10342, and 10344. For a person who first became a member of a uniformed service after 7 Sep 1980, take the monthly retired pay base.

2. Enlisted members credited with an act of extraordinary heroism in the line of duty.

3. See chapter 1 for service creditable for percentage purposes:

Voluntary retirement:

Paragraph 10121a-Enlisted members

Paragraph 10121b-Commissioned

Officers

Paragraph 10121c-Warrant Officers

Mandatory retirement:

Paragraph 10121d(1)-Army and Air Force

Paragraph 10121d(2)-Navy and Marine Corps

Disability retirement:

Paragraph 10121e

Reservist age and service retirement:

Paragraph 10121f

4. Total number of retirement points divided by 360. Carry the resultant figure to three decimal places, then round to two decimal places.

EXAMPLE: 4735 retirement points divided by 360 = 13.152 or 13.15 years of service for percent-age purposes (for the 1331 retiree only) to be multiplied by 2 1/2 percent.

5. Members retired under 10 U.S.C. 6327 are authorized to receive retired pay at 50 percent of the active duty basic pay of their grade when not on active duty. This provision applies only to persons who were members of the Naval Reserve or Marine Corps Reserve on 1 Jan 1953. The provisions of 10 U.S.C. 6327 terminated on 1 Jan 73. However, termination of the section did not affect any accrued rights to retired pay.

6. Public Law 96-513, 12 Dec 1980, repealed the following sections: 3913, 3919, 3921-3923, 6371-6374, 6376-6380, 6390, 6394, 6396, 6398, 6400, 8883, 8913, 8915, 8916, 8919, 8921-8923, 8927. Section 6375 was repealed by Public law 87-123, 3 Aug 1961.

7. If member entered a uniformed service after 7 Sep 1980, substitute the retired pay base for the monthly active duty pay.

8. If member was initially retired on or after 1 Oct 1983, the amount computed, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Any future adjustments to such pay must be made on the rounded figure. Retired pay of members retired on 30 Sep 1983 will not be rounded until there is an adjustment under 10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. The rounded amount becomes the member's entitlement and any future adjustments shall be based on this rounded entitlement.

TABLE 1-3-2

HISTORICAL PAY COMPUTATIONS - FLEET RESERVE AND FLEET MARINE CORPS RESERVE

R U L E	A If member retires in class	B during period	C with years of service	D then pay computation formula is	E plus	F and applicable law is
1	F-4c 1-b	pre-1938 to 31 May 1942	at least 16; less than 20	1/3 x base pay rating in which transferred (note 1)	longevity pay (25% maximum), extraordinary heroism (10%)	52 Stat 1179, section 203, 34 U.S.C. 854b
2	F-4c 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 1)	longevity pay (25% maximum), extraordinary heroism (10%), or good conduct (10%)	
3	F-5 H-1					52 Stat 1179, section 204, 34 U.S.C. 854c
4	F-4c 1-b	1 June 1942 to 9 Aug 1946	at least 16; less than 20	1/3 x base pay rating in which transferred (note 1)	longevity pay (50% maximum), extraordinary heroism (10%)	56 Stat 359, Public Law 607, 4 June 1942
5	F-4d 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 1)	longevity pay (50% maximum), extraordinary heroism (10%), or good conduct (10%)	
6	F-5 H-1					
7	F-4c 1-b	10 Aug 1946 to 30 Sep 1949	at least 16; less than 20 (note 2)	1/3 x base pay rating in which transferred (note 1) or (note 2)	longevity pay (50% maximum), extraordinary heroism (10%)	60 Stat 993, Public Law 720, 10 Aug 1946
8	F-4d 1-c		at least 20; less than 30	1/2 x base pay rating in which transferred (note 2)	longevity pay (50% maximum), extraordinary heroism (10%), or good conduct (10%)	
9	F-6 (note 3) 1-d		at least 20	1/2 x base pay rating in which transferred (note 1) or 2 1/2% x years of active federal service multiplied by base pay of rating in which transferred	longevity pay (75% maximum), extraordinary heroism (10%)	
10	all classes	transferred before 1 Oct 1949, effective on 1 Oct 1949				Public Law 351, 1 Oct 1949

TABLE 1-3-2, CONTINUED

R U L E	A	B	C	D	E	F
	If member retires in class	during period	with years of service	then pay computation formula is	plus	and applicable law is
11	F-4c 1-b	on or after 1 Oct 1949	at least 20	1/3 x basic pay receiving at transfer (note 5) or 2 1/2% x years of active federal service = percent; percent x basic pay of rating in which transferred (note 6 and 8)	extraordinary heroism (10%)	Public Law 351, 1 Oct 1949
12	F-4d 1-c			1/2 x basic pay receiving at transfer (note 5) or 2 1/2% x years of active federal service = percent; percent x basic pay of rating in which transferred (note 6 and 8)	extraordinary heroism (10%), or good conduct (10%)	
13	F-6 1-d			1/2 x basic pay receiving at transfer (note 5) or 2 1/2% x years of active federal service = percent; percent x basic pay of rating in which transferred (note 6)	extraordinary heroism (10%)	
14		on or after 10 Aug 1956		2 1/2% x years of active service in Armed Forces = percent; percent x basic pay receiving at transfer (notes 7 and 8)		Public Law 1028, 10 Aug 1956, 10 U.S.C. 6330

NOTES:

- Fractional year of 6 months or more not creditable as 1 year for longevity or transfer.
- Fractional transfer of 6 months or more creditable equals full year for transfer and longevity effective 10 Aug 1946.
- Effective 10 Aug 1946 class F-5 changed to class F-6.
- Six months or more equals 1 year for active service; 6 months or more does not equal 1 year for basic pay; no good conduct or extraordinary heroism.
- Six months equals 1 year for basic pay and not for computing years of naval service for transfer.
- Six months or more equals 1 full year for active service and basic pay.
- Six months equals 1 year for active service (include constructive service in active service). Six months equals 1 year for basic pay (do not include constructive service in service for basic pay).
- If member entered a uniformed service after 7 Sep 1980, substitute the retainer pay base for the base or basic pay.

TABLE 1-3-3**EXAMPLES OF HOW YEARS, MONTHS, AND DAYS ARE CONVERTED TO YEAR AND PERCENTAGE MULTIPLE**

At Least			Not More Than			Converted Years	Percentage Multiple
Years	Months	Days	Years	Months	Days		
0	6	0	1	5	29	1	2-1/2
1	6	0	2	5	29	2	5
2	6	0	3	5	29	3	7-1/2
3	6	0	4	5	29	4	10
4	6	0	5	5	29	5	12-1/2
5	6	0	6	5	29	6	15
6	6	0	7	5	29	7	17-1/2
7	6	0	8	5	29	8	20
8	6	0	9	5	29	9	22-1/2
9	6	0	10	5	29	10	25
10	6	0	11	5	29	11	27-1/2
11	6	0	12	5	29	12	30
12	6	0	13	5	29	13	32-1/2
13	6	0	14	5	29	14	35
14	6	0	15	5	29	15	37-1/2
15	6	0	16	5	29	16	40
16	6	0	17	5	29	17	42-1/2
17	6	0	18	5	29	18	45
18	6	0	19	5	29	19	47-1/2
19	6	0	20	5	29	20	50
20	6	0	21	5	29	21	52-1/2
21	6	0	22	5	29	22	55
22	6	0	23	5	29	23	57-1/2
23	6	0	24	5	29	24	60
24	6	0	25	5	29	25	62-1/2
25	6	0	26	5	29	26	65
26	6	0	27	5	29	27	67-1/2
27	6	0	28	5	29	28	70
28	6	0	29	5	29	29	72-1/2
29	6					30	75

* NOTE: This table applies to members retired before 1 Jan 1982 with several exceptions covered in paragraph 10345b.

TABLE 1-3-4

SERVICE CONVERSIONS EFFECTIVE 1 JAN 1982

Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
		= 0.	2		= 5.00	4		= 10.00	6		= 15.00	8		= 20.00
	1	= 0.20	2	1	= 5.20	4	1	= 10.20	6	1	= 15.20	8	1	= 20.20
	2	= 0.43	2	2	= 5.43	4	2	= 10.43	6	2	= 15.43	8	2	= 20.43
	3	= 0.63	2	3	= 5.63	4	3	= 10.63	6	3	= 15.63	8	3	= 20.63
	4	= 0.83	2	4	= 5.83	4	4	= 10.83	6	4	= 15.83	8	4	= 20.83
	5	= 1.05	2	5	= 6.05	4	5	= 11.05	6	5	= 16.05	8	5	= 21.05
	6	= 1.25	2	6	= 6.25	4	6	= 11.25	6	6	= 16.25	8	6	= 21.25
	7	= 1.45	2	7	= 6.45	4	7	= 11.45	6	7	= 16.45	8	7	= 21.45
	8	= 1.68	2	8	= 6.68	4	8	= 11.68	6	8	= 16.68	8	8	= 21.68
	9	= 1.88	2	9	= 6.88	4	9	= 11.88	6	9	= 16.88	8	9	= 21.88
	10	= 2.08	2	10	= 7.08	4	10	= 12.08	6	10	= 17.08	8	10	= 22.08
	11	= 2.30	2	11	= 7.30	4	11	= 12.30	6	11	= 17.30	8	11	= 22.30
1		= 2.50	3		= 7.50	5		= 12.50	7		= 17.50	9		= 22.50
1	1	= 2.70	3	1	= 7.70	5	1	= 12.70	7	1	= 17.70	9	1	= 22.70
1	2	= 2.93	3	2	= 7.93	5	2	= 12.93	7	2	= 17.93	9	2	= 22.93
1	3	= 3.13	3	3	= 8.13	5	3	= 13.13	7	3	= 18.13	9	3	= 23.13
1	4	= 3.33	3	4	= 8.33	5	4	= 13.33	7	4	= 18.33	9	4	= 23.33
1	5	= 3.55	3	5	= 8.55	5	5	= 13.55	7	5	= 18.55	9	5	= 23.55
1	6	= 3.75	3	6	= 8.75	5	6	= 13.75	7	6	= 18.75	9	6	= 23.75
1	7	= 3.95	3	7	= 8.95	5	7	= 13.95	7	7	= 18.95	9	7	= 23.95
1	8	= 4.18	3	8	= 9.18	5	8	= 14.18	7	8	= 19.18	9	8	= 24.18
1	9	= 4.38	3	9	= 9.38	5	9	= 14.38	7	9	= 19.38	9	9	= 24.38
1	10	= 4.58	3	10	= 9.58	5	10	= 14.58	7	10	= 19.58	9	10	= 24.58
1	11	= 4.80	3	11	= 9.80	5	11	= 14.80	7	11	= 19.80	9	11	= 24.80

TABLE 1-3-4, CONTINUED

Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
10		= 25.00	12		= 30.00	14		= 35.00	16		= 40.00	18		= 45.00
10	1	= 25.20	12	1	= 30.20	14	1	= 35.20	16	1	= 40.20	18	1	= 45.20
10	2	= 25.43	12	2	= 30.43	14	2	= 35.43	16	2	= 40.43	18	2	= 45.43
10	3	= 25.63	12	3	= 30.63	14	3	= 35.63	16	3	= 40.63	18	3	= 45.63
10	4	= 25.83	12	4	= 30.83	14	4	= 35.83	16	4	= 40.83	18	4	= 45.83
10	5	= 26.05	12	5	= 31.05	14	5	= 36.05	16	5	= 41.05	18	5	= 46.05
10	6	= 26.25	12	6	= 31.25	14	6	= 36.25	16	6	= 41.25	18	6	= 46.25
10	7	= 26.45	12	7	= 31.45	14	7	= 36.45	16	7	= 41.45	18	7	= 46.45
10	8	= 26.68	12	8	= 31.68	14	8	= 36.68	16	8	= 41.68	18	8	= 46.68
10	9	= 26.88	12	9	= 31.88	14	9	= 36.88	16	9	= 41.88	18	9	= 46.88
10	10	= 27.08	12	10	= 32.08	14	10	= 37.08	16	10	= 42.08	18	10	= 47.08
10	11	= 27.30	12	11	= 32.30	14	11	= 37.30	16	11	= 42.30	18	11	= 47.30
11		= 27.50	13		= 32.50	15		= 37.50	17		= 42.50	19		= 47.50
11	1	= 27.70	13	1	= 32.70	15	1	= 37.70	17	1	= 42.70	19	1	= 47.70
11	2	= 27.93	13	2	= 32.93	15	2	= 37.93	17	2	= 42.93	19	2	= 47.93
11	3	= 28.13	13	3	= 33.13	15	3	= 38.13	17	3	= 43.13	19	3	= 48.13
11	4	= 28.33	13	4	= 33.33	15	4	= 38.33	17	4	= 43.33	19	4	= 48.33
11	5	= 28.55	13	5	= 33.55	15	5	= 38.55	17	5	= 43.55	19	5	= 48.55
11	6	= 28.75	13	6	= 33.75	15	6	= 38.75	17	6	= 43.75	19	6	= 48.75
11	7	= 28.95	13	7	= 33.95	15	7	= 38.95	17	7	= 43.95	19	7	= 48.95
11	8	= 29.18	13	8	= 34.18	15	8	= 39.18	17	8	= 44.18	19	8	= 49.18
11	9	= 29.38	13	9	= 34.38	15	9	= 39.38	17	9	= 44.38	19	9	= 49.38
11	10	= 29.58	13	10	= 34.58	15	10	= 38.58	17	10	= 44.58	19	10	= 49.58
11	11	= 29.80	13	11	= 34.80	15	11	= 38.80	17	11	= 44.80	19	11	= 49.80

TABLE 1-3-4, CONTINUED

Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
20		= 50.00	22		= 55.00	24		= 60.00	26		= 65.00	28		= 70.00
20	1	= 50.20	22	1	= 55.20	24	1	= 60.20	26	1	= 65.20	28	1	= 70.20
20	2	= 50.43	22	2	= 55.43	24	2	= 60.43	26	2	= 65.43	28	2	= 70.43
20	3	= 50.63	22	3	= 55.63	24	3	= 60.63	26	3	= 65.63	28	3	= 70.63
20	4	= 50.83	22	4	= 55.83	24	4	= 60.83	26	4	= 65.83	28	4	= 70.83
20	5	= 51.05	22	5	= 56.05	24	5	= 61.05	26	5	= 66.05	28	5	= 71.05
20	6	= 51.25	22	6	= 56.25	24	6	= 61.25	26	6	= 66.25	28	6	= 71.25
20	7	= 51.45	22	7	= 56.45	24	7	= 61.45	26	7	= 66.45	28	7	= 71.45
20	8	= 51.68	22	8	= 56.68	24	8	= 61.68	26	8	= 66.68	28	8	= 71.68
20	9	= 51.88	22	9	= 56.88	24	9	= 61.88	26	9	= 66.88	28	9	= 71.88
20	10	= 52.08	22	10	= 57.08	24	10	= 62.08	26	10	= 67.08	28	10	= 72.80
20	11	= 52.30	22	11	= 57.30	24	11	= 62.30	26	11	= 67.30	28	11	= 72.30
21		= 52.50	23		= 57.50	25		= 62.50	27		= 67.50	29		= 72.50
21	1	= 52.70	23	1	= 57.70	25	1	= 62.70	27	1	= 67.70	29	1	= 72.70
21	2	= 52.93	23	2	= 57.93	25	2	= 62.93	27	2	= 67.93	29	2	= 72.93
21	3	= 53.13	23	3	= 58.13	25	3	= 63.13	27	3	= 68.13	29	3	= 73.13
21	4	= 53.33	23	4	= 58.33	25	4	= 63.33	27	4	= 68.33	29	4	= 73.33
21	5	= 53.55	23	5	= 58.55	25	5	= 63.55	27	5	= 68.55	29	5	= 73.55
21	6	= 53.75	23	6	= 58.75	25	6	= 63.75	27	6	= 68.75	29	6	= 73.75
21	7	= 53.95	23	7	= 58.95	25	7	= 63.95	27	7	= 68.95	29	7	= 73.95
21	8	= 54.18	23	8	= 59.18	25	8	= 64.18	27	8	= 69.18	29	8	= 74.18
21	9	= 54.38	23	9	= 59.38	25	9	= 64.38	27	9	= 69.38	29	9	= 74.38
21	10	= 54.58	23	10	= 59.58	25	10	= 64.58	27	10	= 69.58	29	10	= 74.58
21	11	= 54.80	23	11	= 59.80	25	11	= 64.80	27	11	= 69.80	29	11	= 74.80
												30		= 75.00

NOTE:

To arrive at the above multipliers, divide the number of whole months by 12, carry the quotient 3, round to 2. Add this to the number of years and multiply by .025.

Example 1: 20 years, 7 months, 13 days
 $7 \text{ months} / 12 = .583 \text{ (.58)}$
 $20.58 \times .025 = 51.45\%$

Example 2: 20 years, 8 months, 28 days
 $8 \text{ months} / 12 = .667 \text{ (.67)}$
 $20.67 \times .025 = 51.68\%$

- * Exception: Members who retire between 1 Jan 1982 and 30 Sep 1983 and meet the requirements of paragraph 10345b will round service credit of 6 months or more as shown on the table.

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CHAPTER 4

BASIC PAY RATES, LEGISLATIVE AND COST-OF-LIVING
ADJUSTMENTS TO RETIRED PAY**20401. Purpose**

a. This chapter provides the capability to determine the accuracy of a member's current retired pay through a history of basic pay rates, retired pay increases, and the application of special provisions in determining retired pay since October 1949. Retired pay for members who enter a Uniformed Service after 7 Sep 1980, is computed using a retired or retainer pay base. See part one, chapter 3 for gross pay computation. This chapter explains the effect of legislative and cost-of-living adjustments on retired pay that has been computed using a retired or retainer pay base.

b. Before 1 June 1958, compiling tables showing the actual rates of retired pay was relatively simple since all members (except the pre-1 Oct 1949, "saved pay" accounts) received a direct percentage of the active duty basic pay rates in effect 1 Oct 1949 through 31 May 1958. With the enactment of Public Law 85-422, effective 1 June 1958, and later active duty and retired pay adjustments, it became increasingly more difficult to prepare and maintain tables reflecting the pay of members on the retired rolls, and eventually preparing such tables was no longer feasible. The applicable active duty pay tables are now the basis for determining the rate of retired pay.

c. Members who enter a Uniformed Service after 7 Sep 1980:

(1) The amount of retired pay is individualized. Generally, members who retire with the same grade and years of service for percentage and basic pay purposes may not receive the same amount of retired pay.

(2) The member's current retired pay can be verified from the retired or retainer pay base, years of service for percentage purposes or percentage of disability, retired pay increases, and the application of any special provisions in retired pay identified in this chapter.

20402 Definitions

a. The terms used in this chapter are:

(1) The designation by number (or other means) used by the respective Military Service to identify active duty pay rates in effect during the different time periods.

b. COLADJ (Cost-of-Living Adjustment)

Percentage change increases applied to retired pay based on laws using the Consumer Price Index (CPI) (Urban Wage Earners and Clerical Workers Consumer Price index), as published by the Bureau of Labor Statistics, to determine the amount of the increase.

(1) Full COLADJ. Members on the retired rolls receive the full COLADJ if their retired pay is computed using the basic pay rates which were effective before the previous COLADJ.

(2) Partial COLADJ. Members whose retired pay is computed using the basic pay rates which become effective at the same time or after the previous COLADJ receive a partial COLADJ. This increase is effective from the date of the full COLADJ or date of retirement, if later.

c. **One Percent Add-On.** An additional 1 percent added to all full COLADJ in retired pay from 1 Nov 1969 through March 1976. The 1 percent did not apply to partial COLADJ. The add-on was provided to make up for the 3-month time lag between the rise in the CPI and the actual increase in retired pay. Public Law 94-440, 1 Oct 1976, eliminated the 1 percent add-on.

d. **Legislative Increases.** An adjustment in retired pay authorized by legislation which provided a percentage increase rather than being based on the CPI.

e. **Recomputation.** The provision for recomputing retired pay using a pay table other than that used in the first computation of retired pay.

f. Uniform Retirement Date Act (URDA)

Provides, under certain retirement laws, that members cannot be retired before the first day of the month after the date of first eligibility, and determines the pay table used in computing retired pay. This provision is especially significant when the retirement date coincides with the effective date of an active duty basic pay rate increase, because of the additional requirement to compute pay on the rates in effect as of the date retirement would have occurred except for this restriction.

g. Otherwise Qualified.

Concerns members retired under a particular law who are eligible for retirement under another law which may provide greater benefits. Pertains primarily to

disability retirees when members have enough service to be retired for non-disability.

h. Years of Service for Basic Pay

Computation of service years creditable in determining the basic pay rate upon which retired pay is to be based, may vary depending upon retirement law. (See part 1, chapter 1.)

i. Years of Service for Percentage Multiplier. Service years creditable in determining the percentage multiplier factor (2-1/2 percent times years of service) of basic pay in retired pay computation. Computation of years of service may vary depending upon retirement law. For Reserve retirements under 10 U.S.C., chapter 67, Reserve service points (RSP) are converted to years of service (RSP divided by 360 = years of service). (See part one, chapter 1.)

j. Burchinal Decision. In this decision the Comptroller General held that under 10 U.S.C. 1401 a(e) retired pay is computed only under the current pay rates or the pay rates in effect immediately before the current rate.

k. Pay Inversion. A condition that exists during the periods when the cost-of-living adjustment in retired pay exceeds the percentage increases applied to active duty basic pay rates.

l. Retired Pay Base. An average of the highest monthly basic pay rates applicable to a member determined by the length of time member was a member of a Uniformed Service (less than or at least 36 months) and/or the type of retirement (disability, voluntary, etc). The retired pay base or retainer pay base applies to members who enter a uniformed service after 7 Sep 1980, and replaces the monthly basic rate formerly used in the computation of retired or retainer pay.

20403. Major Changes in the Use of Basic Pay Rates and Conditions Applicable to Computation of Retired Pay

a. The Career Compensation Act (Public Law 351, 81st Congress, effective 1 Oct 1949) provided for basic pay rates based on both pay grade and total years of service. The Career Compensation Act also establish new methods for computing disability retirements.

b. Before 1 June 1958, the pay of all members on the retired rolls (except "saved pay" accounts under the Career Compensation Act) represented a direct percentage of a basic pay rate of a member on active duty and whenever the active duty rates were increased, the retired pay was increased accordingly. With the enactment of Public Law 85-422, approved 20 May 1958, and effective 1 June 1958, recomputing retired pay based on changes in the active duty basic pay rates

after retirement was prohibited. Essentially, the date of retirement was an added factor in computing retired pay since the retired member's pay was fixed to the basic pay rate in effect on the date of retirement (with exceptions permitting members to use another basic pay rate under certain conditions and circumstances which are outlined in later paragraphs).

c. Retirees receiving saved pay under laws in effect on 30 Sep 1949, received legislative increases in 1952 and 1955. Retirees receiving pay computed under the Career Compensation Act had their pay recomputed on the 1952 and 1955 basic pay rates. Effective 1 Oct 1963, 10 U.S.C. 1401a, as added by Public Law 88-132, approved 2 Oct 1963, provided that future adjustments to retired pay would be based on the CPI. The Secretary of Defense, in January of each year, was to review the CPI for the previous calendar year and, if it had increased 3 percent or more, a percentage increase in retired pay would be effective from 1 April, using the percentages of increase in the CPI.

d. Public Law 89-132, effective 1 Sep 1965, changed the provisions for determining the retired pay COLADJ. Instead of the yearly determination, the increase would be determined by the Secretary of Defense when the CPI had increased at least 3 percent over the previous CPI base and remained at least 3 percent for 3 consecutive months. The adjustment in retired pay would be the highest percent of increase reached during the 3-month period. The COLADJ was effective the first day of the third month beginning after the 3-month period.

e. Public Law 90-207 of 16 Dec 1967, effective 1 Oct 1967, added subsections (c) through (e) under 10 U.S.C. 1401a. Subsections (c) and (d) provide that retired pay, when computed from the current basic pay rates, is increased on the next COLADJ, or retirement date, if later, by a partial adjustment. The partial adjustment represents the percent by which the new base index exceeds the index in effect on the day before the basic pay increase. Subsection (e) is a saved-pay provision that permits computation of retired pay on the basic pay rates immediately preceding those in effect on retirement date if they are more favorable because of a COLADJ. 10 U.S.C. 1401a(e) was repealed by Public Law 98-94, 24 Sep 1983. See paragraph 20403m. Section 8(a) of Public Law 90-207 provided that effective 1 Jan 1968, whenever the General Schedule of Compensation for Federal Classified Employees is increased, an adjustment in the monthly basic pay authorized members of the uniformed services is immediately placed into effect.

f. Public Law 91-179 of 30 Dec 1969, effective 31 Oct 1969, provided for 1 percent to be added to the percentage increase each time there was a general cost-of-living adjustment to retired pay. Partial COLADJ increases did not include the 1 percent.

g. Public Law 94-440, effective 1 Oct 1976, again changed the provisions for determining the cost-of-living adjustments to retired pay. Beginning with March 1977, COLADJ occurs twice each year; effective 1 March and 1 September. The March adjustment is determined by the percentage change in the CPI between June and December of the previous year. The September adjustment is determined by the percentage change in the CPI between the previous December and June. In accordance with Public Law 94-361, effective 1 Oct 1976, these adjustments are the actual percentage change (nearest 1/10th of 1 percent) without the additional 1 percent. From October 1976, partial COLADJ changes are made for members whose retired pay is computed using the basic pay rates which have become effective in months other than January or July. The partial COLADJ is the percentage (closest 1/10th of one percent) of change in the CPI between the month before establishment of the new basic pay rates and the next June or December which is used as the new base CPI.

h. Pay Inversion, Effective with Public Law 85-422 on 1 June 1958 (which prohibited recomputation of retired pay each time active duty pay was increased), it was assumed that members of the same pay grade and years of service retired under later active duty pay increases would receive a greater retired pay. However, beginning in 1971, in some instances the cumulative COLADJs applied to retired pay were greater than the increases in the active duty pay rates. This was popularly known as "pay inversion" and created some retention problems leading to early retirement since members could receive less retired pay by remaining on active duty. Under 53 Comp Gen 698, known as the "Burchinal Decision," members were restricted to the greater amount, based on two computations of retired pay:

(1) Pay computed on the active duty basic pay rates in effect at the time of retirement using the pay grade and years of service for both basic pay and percentage multiplier at the time of retirement, or

(2) Pay computed on the active duty basic pay rates in effect immediately before the active duty basic pay rates in effect on the date of retirement, plus the COLADJs in retired pay applicable to those basic pay rates. For this computation,

the same pay grade and years of service for both basic pay and multiplier at time of retirement were used even though the computation used the earlier basic pay rates.

i. Tower Amendment. Public Law 94-106 of 7 Oct 1975, amended 10 U.S.C. 1401a by adding subparagraph (f), provided another method to partially offset "pay inversion." This method involves computing pay based on any previous basic pay rates, on and after 1 Jan 1971, plus COLADJ, if the member was eligible for retirement at the time those rates were in effect, and the computation is restricted to the pay grade and years of service at that earlier time. The legislation applies to all members retired on or after 1 Jan 1971. However, no retroactive pay adjustments were authorized for the period before 7 Oct 1975. A member who is recalled to active duty after retirement is not entitled to recomputation of retired pay under the Tower Amendment upon release from that active duty. Pay recomputation upon that release is restricted to the methods prescribed in 10 U.S.C. 1402 as set forth in part 2, chapter 3. The Tower Amendment did not repeal or modify these provisions.

j. Basic Pay Average. Public Law 96-342, 8 Sep 1980, established 10 U.S.C. 1407, Retired Pay Base, for use in computing retired or retainer pay. Section 1407 applies to members who enter a uniformed service after 7 Sep 1980. The percentage of cost-of-living increases is determined by the most recent basic pay rate used in the computation of the retired or retainer pay base.

k. On 13 Aug 1981, Public Law 97-35 revised the frequency for cost-of-living adjustment from semiannual to annual for retired pay, retainer pay, survivor annuities, and dual compensation amounts. This amendment became effective with the amendment to 5 U.S.C. 8340(b), also enacted by Public Law 97-35. The annual cost-of-living adjustment, effective 1 March of each year, is based on the accumulative percentage change in the price index published for December of the preceding year over the price index published for December of the year prior to the preceding year, adjusted to the nearest 1/10th of 1 percent.

l. Public Law 97-253, 8 Sep 1982, revised the cost-of-living adjustment mechanism under government retirement systems during fiscal year 1983. The revision affected the eligibility, percentage, and effective dates of such adjustments. See paragraph 20120 for the civilian dollar offset reduction coincident to the military cost-of-living increase (repealed in Public Law 98-369).

(1) First (partial) Adjustment. The entitlement to a first adjustment in initial amounts

of retired or retainer pay under 10 U.S.C. as computed on the active duty base pay scale is entitled to a first adjustment in retired or retainer pay equal to the percentage increase in CPI occurring between September and December 1982.

(2) **Members Under Age 62.** Any member who is under 62 years of age on or before 1 Mar 1983, and entitled to an adjustment under 10 U.S.C. 1401a(b) on that date is entitled to an adjustment in retired or retainer pay equal to one-half the "assumed increase in the price index" for that year plus the amount by which the actual percentage increase in the price index from December through December of the preceding time period exceeds the assumed price index increase. The "assumed increase in the price index" was 6.6 percent for fiscal year (FY) 1983.

(3) **Members Age 62 or Over.** Any member who is age 62 or more on 1 Mar 1983, and entitled to an adjustment under 10 U.S.C. 1401 a(b) in retired or retainer pay on that date is entitled to that increase without limitation.

(4) **Military Disability Retirees.** Any member who is retired by reason of physical disability under 10 U.S.C., Chapter 61, and entitled to an adjustment of retired pay under 10 U.S.C. 1401a(b) on 1 Mar 1983, will receive such adjustment without limitation.

(5) **Effective Date.** The effective date for cost-of-living adjustments for FY 1983 is changed from 1 March to 1 April.

m. The DoD Authorization Act, FY 84 (Public Law 98-94, effective 24 Sep 1983) affected computation of retired and retainer pay.

(1) Section 921 of the Act repeals the 1-year look-back provision (10 U.S.C. 1401a(e)). Members who first become eligible to retire or transfer after 24 Sep 1983, may not use the 1-year look-back provision in computing their retired pay. However, Section 921 has a savings provision that permits any member who was eligible to retire on 24 Sep 1983, to use the provisions of the 1-year look-back as though those provisions had not been repealed, provided that the member retires on or before 24 Sep 1986. If such member retires after 24 Sep 1986, the retired or retainer pay may not be less than what it would have been if the member actually retired on 23 Sep 1, 1986.

NOTE: Section 921 of the Act does not affect the Tower Amendment, 10 U.S.C. 1401a(f). Under that statute, any members who use the Tower Amendment to compute their retired pay as though they had retired on a date when they would otherwise have been entitled to use the 1-year look-back provision may apply the 1-year look-back provision to ensure that their retired pay

is not less than what it would have been had they actually retired on the earlier date.

(2) Section 922 of the Act amends all statutes providing for rounding monthly retired or retainer pay. All members who retire on or after 1 Oct 1983 must have their retired or retainer pay rounded. In the initial computation of gross retired pay, an amount that is not a multiple of \$1 shall be rounded down to the next lower multiple of \$1. All further reductions, deductions, withholdings, and allotments are made from the rounded entitlement. Any future adjustments to such pay must be made on the rounded figure. For members retired on 30 Sep 1983, no rounding shall be made until there is an adjustment under 10 U.S.C. 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. This becomes the member's entitlement and any future adjustments shall be made based on this rounded figure.

n. Public Law 98-270, 18 Apr 1984, amended 5 U.S.C. 8340(a) and (b) concerning cost-of-living adjustments which also apply to military retired and retainer pay under 10 U.S.C. 1401a(b). The effective date for cost-of-living adjustments was changed from 1 March to 1 December. The cost-of-living adjustment equals the percentage change in the price index for the base quarter of such year over the price index for the base quarter of the preceding year. The price index for a base quarter is defined as the arithmetical mean of such index for the 3 months of the base quarter. The partial cost-of-living adjustment is equal to the percentage increase of the average CPI for July, August, and September over the CPI for the preceding December.

o. The Military Retirement Reform Act of 1986, Public Law 99-348, 1 July 1986:

(1) Reduces the retired pay multiplier for a member who first became a member of a uniformed service after 31 July 1986, and who retires before age 62 with less than 30 years' creditable service (excluding retirements under chapters 61 and 67 of Title 10). The multiplier is reduced by:

(a) 1 percentage point for each full year that the member's years of creditable service are less than 30; and

(b) 1/12 of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) are less than a full year,

(2) Provides cost-of-living increases for a member who first became a member of a uniformed service on or after 1 Aug 1986, when the increase in the CPI exceeds 1 percent. The cost-of-

living increase will be 1 percentage point less than the increase in CPI; and

(3) Restores the reduction in retired pay multiplier under (1) above at age 62 and provides a one-time restoral at age 62 for the reduction in cost-of-living increase under (2) above. Sample calculations of retired pay catch up at age 62 and the average monthly CPI by quarter are in Appendix 21.

p. Public Law 99-576, 28 Oct 1986, guarantees that military retired pay COLADJ is unaffected by Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1987, 12 Dec 1985, during FYs 87-89.

*q. The grade Chief Warrant Officer, W-5, was established effective 1 Feb 1992 for Army, Navy, Air Force, and Marine Corps.

*r. A longevity step for "over 24" years, but less than 26, was added for pay grades E-7, E-8, E-9, W-4, W-5, and O-6. This temporary step of active duty basic pay rates is effective for months Jan 1993 through Sep 1995. A member entitled to the temporary rate as it is adjusted on 1 Sep 1995, continues to be entitled to such rate so long as the member remains entitled to basic pay under 37 U.S.C. 204, and is in pay grade E-7, E-8, E-9, W-4, W-5, and O-6.

*s. Public Law 103-66, 10 Aug 1993, delayed the payment of the 1 Dec 1993, military retirement cost-of-living adjustment until 1 Mar 1994. Disability retirements and survivor annuities are unaffected.

20404. Provisions of Pay Changes, Exceptions, and Special Computations

a. Career Compensation Act, effective 1 Oct 1949 (Public Law 351, 81st Congress), provided:

(1) Establishment of new basic pay rates, using a combination of pay grade and total years of service pay.

(2) Disability retirement based on a percentage of disability, using the Department of Veterans Affairs Schedule of Ratings for establishing such percentages with pay computed based on years of service or percentage of disability, as the member elects.

(3) A revised method for recomputing pay for members who serve on active duty after retirement.

(4) Automatic recomputation for members retired for non-disability reasons before 1 Oct 1949, on the 1 Oct 1949 basic pay rates, if greater than pre-1 Oct 1949 rates.

(5) An option for members retired for disability before 1 Oct 1949, upon physical evaluation and assignment of a percentage of

disability, to elect not later than 1 Oct 1954, to:

(a) Remain at the pre-1 Oct 1949 rates (saved pay);

(b) Have pay computed on the 1 Oct 1949 rates, using either disability percentages assigned or years of active service; or

(c) Receive severance pay.

(6) An option for members who were hospitalized on 1 Oct 1949, and retired before 1 Jan 1951 for the disability for which they were hospitalized, to elect to receive pay based on the laws and pay tables in effect before 1 Oct 1949 (saved pay).

b. Public Law 346, 82nd Congress, approved 19 May 1952, effective 1 May 1952, provided for an increase of 4 percent applied to retired saved pay accounts, regular retired accounts, and active duty basic pay rates.

c. Public Law 20, 84th Congress, Career Incentive Act, effective 1 Apr 1955, provided:

(1) Increased basic pay rates.

(2) A 6 percent increase for disability retired saved pay accounts.

(3) Recomputation of retired accounts (other than saved pay) on the new basic pay rates.

(4) A 6 percent increase for non-disability retirees receiving pay computed on pre-1 Oct 1949 rates or recomputation on 1 Apr 1955 basic pay rates, whichever was greater.

(5) That officers with less than 3 years of service and warrant officers and enlisted members with less than 2 years of service retired for disability or placed on the TDRL would receive pay computed on the 1 Apr 1955 rates, plus 6 percent,

d. Public Law 85-422, approved 20 May 1958, effective 1 June 1958, provided:

(1) Increased basic pay rates.

(2) Retired pay increase of 6 percent for members receiving retired pay on 31 May 1958.

(3) That a member retired for disability on or after 1 June 1958, with 2 or less years of service, would receive pay computed on the 1 June 1958 basic pay rates plus 6 percent.

(4) Additional new basic pay rate for certain pay grades with more than 20 years' service.

(5) Two new enlisted pay grades, E-8 and E-9, and two new officer pay grades, O-9 and O-10.

(6) Basic pay rates for new pay grades O-1E, O-2E, O-3E, for officers in grades O-1, O-2, O-3 with 4 or more years' active enlisted service,

(7) Computation of retired pay on the 1 Apr 1955 basic pay rates (active duty saved-pay rates), if greater.

(8) That members retired after 1 June 1958, and receiving active duty saved-pay would receive retired pay computed on the 1 Apr 1955 pay rates, but not the 6 percent increase.

(9) That members retired on 1 June 1958 would receive the greater of pay computed on the 1 June 1958 basic pay rates or the 1 Apr 1955 rates plus 6 percent.

(10) That officers retired before 1 June 1958 who served on active duty before that date in grades of general, admiral, lieutenant general, or vice admiral for at least 180 days, would receive retired pay recomputed effective 1 June 1958. This recomputation was computed on the 1 Apr 1955 basic pay rates of pay grade O-8 increased by \$100 for pay grade O-9 and \$200 for pay grade O-10 with the result increased by 6 percent.

e. Public Law 88-132, Uniformed Services Pay Act, approved 2 Oct 1963 and effective 1 Oct 1963, provided:

(1) Increased basic pay rates.

(2) That members retired for disability on or after 1 Oct 1963, with 2 years of service or less would receive retired pay computed on the 1 Oct 1963 basic pay rates plus 6 percent.

(3) That members retired before 30 Sep 1963, would receive a 5 percent increase in retired pay except that:

(a) Nondisability retirees receiving pay computed on pre-1 Oct 1949 rate, were entitled to the 5 percent increase or recomputation on the 1 June 1958 basic pay rates, using the 2-1/2 percent formula, whichever was greater.

(b) Retirees receiving pay computed on the 1 Apr 1955 basic pay rates plus 6 percent were entitled to that pay plus 5 percent, or recomputation on the 1 June 1958 basic pay rates, whichever was greater.

(c) Members retired on 1 Apr 1963, who were not subject to the URDA (5 U.S.C. 8301) and members retired between 2 Apr 1963, and 30 Sep 1963, were entitled to a 5 percent increase or recomputation on the 1 Oct 1963 basic pay rates, whichever is greater.

(4) Amendment to 10 U.S.C. 1401a to provide for adjustments to retired pay based on the CPI.

f. Public Law 88-422, approved 12 Aug 1964, and effective 1 Sep 1964, provided:

(1) Increased basic pay rates.

(2) No increase in retired pay except that:

(a) Members retired for disability on 1 Sep 1964, with 2 years of service or less, were entitled to pay computed on the 1 Oct 1963 basic pay rates plus 6 percent.

(b) Members retired for disability on or after 2 Sep 1964, with 2 years of service or less, were entitled to pay computed on the 1 Sep 1964 basic pay rates plus 6 percent.

(3) Members retired on 1 Sep 1964, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Aug 1964 transfers) were not entitled to pay computed on the 1 Sep 1964 basic pay rates. Their pay was computed on the 1 Oct 1963 basic pay rates.

g. Public Law 89-132, approval 23 Aug 1965, and effective 1 Sep 1965, together with the cost-of-living formula, provided:

(1) Increased basic pay rates.

(2) A 4.4 percent COLADJ in retired pay for all members on the rolls on 31 Aug 1965.

(3) Pay computed on the 1 Sep 1964 basic pay rates, plus 4.4 percent for members retired on 1 Sep 1965 who were:

(a) Subject to the URDA,

(b) Navy Fleet Reservists and Fleet Marine Corps Reservists (31 Aug 1965 transfers), or

(c) Warrant officers.

(4) Members retired for disability on 1 Sep 1965, with 2 years of service or less, would receive pay computed on the 1 Sep 1964 basic pay rates, plus 6 percent and 4.4 percent.

h. Public Law 89-501, approved 13 July 1966, and effective 1 July 1966, provided:

(1) Increased basic pay rates.

(2) No increase for members on the retired rolls on 30 June 1966.

(3) That all members who first became entitled to retired pay on or after 1 July 1966, would receive pay computed on the 1 July 1966 basic pay rates, notwithstanding the URDA.

i. A COLADJ, effective 1 Dec 1966, provided:

(1) increased retired pay by 3.7 percent for all members on the rolls on 30 Nov 1966.

(2) Entitled members retired on or after 1 Dec 1966, to pay computed on the 1 July 1966 basic pay rates, plus 3.7 percent from date of retirement.

j. Public Law 90-207, approved 16 Dec 1967, and retroactive to 1 Oct 1967, provided:

(1) Increased basic pay rates,

(2) No increase in retired pay for members on the rolls on 30 Sep 1967.

(3) That all members who first became entitled to retired pay on or after 1 Oct 1967, would receive pay computed on the 1 Oct 1967 basic pay rates, notwithstanding the URDA.

(4) That members who retired after 30 Nov 1966, whose retired pay was computed

using the 1 July 1966 active duty pay rates, would receive a 3.7 percent increase in retired pay from the date of retirement.

(5) An adjustment of military active duty basic pay whenever the General Schedule for Classified Employees was adjusted upward, effective 1 Jan 1968.

k. A COLADJ, effective 1 Apr 1968, provided:

(1) Increased retired pay by 3.9 percent for all retirees receiving pay computed on basic pay rates in effect before 1 Oct 1967.

(2) Entitled members whose pay was computed on the 1 Oct 1967 basic pay rates to:

(a) An increase of 1.3 percent of the pay they were receiving on 31 Mar 1968, or

(b) Pay computed on the 1 July 1966 basic pay rates, increased by 7.7443 percent, from 1 Apr 1968, or date of retirement, if later.

l. Executive Order 11414 of 13 June 1968, effective 1 July 1968, provided:

(1) Increased basic pay rates.

(2) No increase to retired members on the rolls on 30 June 1968.

(3) That members retired on 1 July 1968, who were subject to the URDA, warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (30 June 1968 transfers) were not entitled to pay computed on 1 July 1968 basic pay rates. Their pay was computed on the 1 July 1966 basic pay rates, plus 7.7443 percent.

m. A COLADJ, effective 1 Feb 1969 provided:

(1) Increased retired pay by 4 percent for retirees receiving retired pay computed on the basic pay rates in effect before 1 July 1968.

(2) Entitled members whose pay was computed on the 1 July 1968 basic pay rates, to:

(a) A 2.1 percent increase in the pay they were receiving on 31 Jan 1969, or

(b) Recomputation of pay on the 1 July 1966 basic pay rates plus 7.7443 percent and 4 percent.

n. Executive Order 11475 of 19 June 1969, effective 1 July 1969, provided:

(1) Increased basic pay rates.

(2) No increase for retired members on the rolls on 30 June 1969.

(3) That members retired on 1 July 1969, who were subject to the URDA, warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (30 June 1969 transfers) were not entitled to pay computed on the 1 July 1969 basic pay rates. Their pay was computed on the 1 July 1968 basic pay rates, plus 2.1 percent.

o. A COLADJ, effective from 1 Nov 1969, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 July 1969, were entitled to an increase of 4.3 percent.

(2) Members whose retired pay was computed on the 1 July 1969 basic pay rates, received a .9 percent increase.

(3) Members who retired after 1 Nov 1969, received a .9 percent increase from the date of retirement.

p. Public Law 91-179, approved 30 Dec 1969, amended 10 U.S.C. 1401a(b) to provide an additional 1 percent to all COLADJ. The additional 1 percent was retroactive to the 1 Nov 1969 COLADJ, which effectively made the increase 5.3 percent.

q. Executive Order 11525 of 17 Apr 1970, effective 1 Jan 1970, provided:

(1) Increased basic pay rates.

(2) That members who first became entitled to retired pay on or after 15 Apr 1970, would receive pay computed on the 1 Jan 1970 basic pay rates.

(3) That members who first became entitled to retired pay before 15 Apr 1970, were not entitled to pay computed on the 1 Jan 1970 basic pay rates. Their pay was computed using the 1 July 1969 basic pay rates, plus .9 percent.

r. A COLADJ, effective from 1 Aug 1970, provided:

(1) Members whose retired pay was computed on-the-basic pay rates in effect before 1 Jan 1970, were entitled to a 5.6 percent increase, effective 1 Aug 1970.

(2) Members whose retired pay was computed on the 1 Jan 1970 basic pay rates, were entitled to a 2.5 percent increase in retired pay effective 1 Aug 1970, or date of retirement, if later.

s. Executive Order 11577 of 8 Jan 1971, increased active duty base pay rates, effective 1 Jan 1971, and provided:

(1) Increased basic pay rates.

(2) That members who retired on 1 Jan 1971, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1970 transfers) were not entitled to pay computed on 1 Jan 1971 basic pay rates. Their pay was computed on the rates effective 1 Jan 1970.

(3) No increase for retired members whose pay was computed on basic pay rates in effect before 1 Jan 1971.

t. A COLADJ, effective from 1 June 1971, provided:

(1) Members whose retired pay was computed on basic pay rates in effect before 1 Jan 1971, were entitled to an increase of 4.5 percent,

(2) Members whose retired pay was computed on the 1 Jan 1971 basic pay rates, were entitled to a .6 percent increase effective 1 June 1971, or date of retirement, if later.

u. Public Law 92-129, effective 1 Oct 1971, increased basic pay rates for only certain pay grades and years of service. (Because of an economic pay freeze, the rates were not effective until 14 Nov 1971.) It provided:

(1) Increased basic pay rates for:

(a) Pay grades E-1 through E-4, regardless of years of service,

(b) Pay grades E-5 through E-7 with less than 2 years of service,

(c) Pay grade O-1, regardless of years of service, and

(d) Pay grade O-2 with less than 2 years of service

(2) Computation of retired pay of members who retired on or after 1 Oct 1971, in all other pay grades, on the 1 Jan 1971 basic pay rates, increased by .6 percent.

v. Executive Order 11638 of 22 Dec 1971, increased active duty basic pay rates, effective 1 Jan 1972, and provided:

(1) Increased basic pay rates.

(2) That members retired on 1 Jan 1972, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1971 transfers) were not entitled to pay computed on the 1 Jan 1972 basic pay rates. Their pay was computed on the basic pay rates effective 1 Oct 1971, or 1 Jan 1971.

(3) No increase for retired members whose pay was computed on basic pay rates in effect before 1 Jan 1972.

w. A COLADJ, effective 1 July 1972, provided:

(1) Members whose pay was computed on basic pay rates in effect before 1 Oct 1971, were entitled to 4.8 percent.

(2) Members whose pay was computed on the basic pay rates effective 1 Oct 1971, were entitled to 1.7 percent increase.

(3) Members whose retired pay was computed on the 1 Jan 1972 basic pay rates, were entitled to a 1 percent increase, effective 1 July 1972, or date of retirement, if later.

x. Executive Order 11692 of 19 Dec 1972, increased active duty basic pay rates, effective 1 Jan 1973, and provided:

(1) Increased basic pay rates.

(2) No increase for members whose retired pay was computed on basic pay rates in effect before 1 Jan 1973. Executive Order 11778 of 12 Apr 1974, changed the effective date of the basic pay rates from 1 Jan 1973 to 1 Oct 1972.

(3) That members who on 1 Oct 1972, were subject to the URDA, warrant officers, Navy Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1972 transfers) were not entitled to pay computed on the 1 Oct 1972 basic pay rates. Their pay was computed on the basic pay rates effective 1 Jan 1972.

y. A COLADJ, effective 1 July 1973, provided:

(1) Members whose retired pay was computed on basic pay rates in effect before 1 Jan 1973, later changed to 1 Oct 1972, received a 6.1 percent increase.

(2) Members whose retired pay was computed on the 1 Jan 1973 basic pay rates were entitled to an increase of 2.7 percent from 1 July 1973, or date of retirement, if later. These accounts were later recomputed to provide 3.6 percent instead of 2.7 percent from 1 July 1973.

z. Executive Order 11740, effective 1 Oct 1973, provided:

(1) Increased basic pay rates.

(2) That members who retired on 1 Oct 1973, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1973 transfers) were not entitled to pay computed on the 1 Oct 1973 basic pay rates.

(3) No increase for members on retired rolls on 30 Sep 1973.

aa. A COLADJ, effective 1 Jan 1974, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1973 received an increase of 5.5 percent.

(2) Members whose retired pay was computed on the 1 Oct 1973 basic pay rates were entitled to .8 percent increase effective 1 Jan 1974, or retired pay computed on the 1 Jan 1973 basic pay rates, increased by 2.7 percent (later 3.6 percent) and 5.5 percent.

ab. A COLADJ, effective 1 July 1974, provided:

(1) Members whose retired pay was computed on basic pay rates in effect before 1 Oct 1973, were entitled to an increase of 6.4 percent.

(2) Members whose retired pay was computed on the 1 Oct 1973 basic pay rates were entitled to a 6.3 percent increase (.8 not applied) effective 1 July 1974, or date of retirement, if later.

(3) Because of an error in the Consumer Price Index, all accounts were overpaid by 1/10 of 1 percent from July 1974 through December 1974. (The Office of the Secretary of Defense waived collection of the overpayments.) The accounts were corrected on a current basis to 6.3 percent and 6.2 percent, effective January 1975.

ac. Executive Order 11812, effective 1 Oct 1974, provides:

(1) Increased basic pay rates.

(2) That members retired on or after 1 Oct 1974, would receive retired pay computed on the 1 Oct 1973 rates, plus 6.3 percent, which was reduced to 6.2 percent effective 1 Jan 1975.

(3) No increase for members on retired rolls on 30 Sep 1974.

ad. A COLADJ, effective 1 Jan 1975, provided that members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1974, received a 7.3 percent increase. To adjust accounts for the error in the CPI for 1 July 1974, the accounts were increased by 7.1992 percent, effective 1 Jan 1975.

ae. A COLADJ, effective 1 Aug 1975, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1974, were entitled to an increase of 5.1 percent.

(2) Members whose retired pay was computed on the 1 Oct 1974 basic pay rates were entitled to pay increased by 5 percent, or computed on the 1 Oct 1973 basic pay rates, plus 6.2 percent, 7.3 percent, and 5.1 percent.

af. Executive Order 11883, effective 1 Oct 1975, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1975.

(3) Members retired on 1 Oct 1975, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1975 transfers) were not entitled to pay computed on the 1 Oct 1975 basic pay rates. Their pay was computed on the 1 Oct 1974 basic pay rates.

(4) Members whose retired pay was computed on the 1 Oct 1975 basic pay rates, were also entitled to pay computed on the 1 Oct 1974 basic pay rates, plus 5 percent. In computing the first retirements, some members benefitted by using the 1 Oct 1974 rates, plus 5 percent and for others, the 1 Oct 1975 rates were slightly higher.

ag. A COLADJ, effective 1 Mar 1976, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1975, received an increase of 5.4 percent.

(2) Members whose retired pay was computed on the 1 Oct 1975 basic pay rates, were entitled to a 1.7 percent increase or recomputation on the 1 Oct 1974 basic pay rates, plus 5 percent and 5.4 percent.

ah. Executive Order 11941, effective 1 Oct 1976, provided:

(1) Increased basic pay rates.

(2) Members who retired on 1 Oct 1976, who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1976 transfers) were not entitled to pay computed on the 1 Oct 1976 basic pay rates. Their pay was computed on the 1 Oct 1975 basic pay rates.

(3) No increase in retired pay for members on the retired rolls on 30 Sep 1976.

ai. A COLADJ, effective 1 Mar 1977, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1976 were entitled to a 4.8 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1976 basic pay rates were entitled to a 1 percent increase or pay computed on the 1 Oct 1975 basic pay rates plus 1.7 percent and 4.8 percent.

aj. Special rates, effective 1 Mar 1977, for Executive Level V personnel, increased maximum rates for grades O-9 and O-10. Members entitled to retired pay computed under these new rates were also entitled to a 1 percent COLADJ from date of retirement.

ak. A COLADJ effective 1 Sep 1977, provided a 4.3 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1976. Members whose retired pay was computed on the 1 Oct 1976 basic pay rates were entitled to a 5.3 percent increase. The 1 percent COLADJ credited 1 Mar 1977 must be reversed prior to applying the 5.3 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on the 1 Oct 1976 basic pay rates.

al. Executive Order 12010, effective 1 Oct 1977, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1977.

(3) Members who retired on 1 Oct 1977, and were subject to the URDA, warrant officers,

Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1977 transfers), were not entitled to pay computed on the 1 Oct 1977 basic pay rates. Their pay was computed on the 1 Oct 1976 basic pay rates.

am. A COLADJ, effective 1 Mar 1978, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1977, were entitled to a 2.4 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1977 basic pay rates were entitled to a 1.1 percent increase or pay computed on the 1 Oct 1976 basic pay rates plus 5.3 percent and 2.4 percent.

an. A COLADJ, effective 1 Sep 1978, provided a 4.9 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1977. Members whose retired pay was computed on the 1 Oct 1977 basic pay rates were entitled to a 6.1 percent increase. The 1.1 percent COLADJ credited 1 Mar 1978, must be reversed prior to applying the 6.1 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on the 1 Oct 1977 basic pay rates.

ao. Executive Order 12087, effective 1 Oct 1978, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1978.

(3) Members who retired on 1 Oct 1978, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1978 transfers), were not entitled to pay computed on the 1 Oct 1978 basic pay rates. Their pay was computed on the 1 Oct 1977 basic pay rates.

ap. A COLADJ, effective 1 Mar 1979, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1978, were entitled to a 3.9 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1978 basic pay rates were entitled to a 1.9 percent increase or pay computed on the 1 Oct 1977 basic pay rates plus 6.1 percent and 3.9 percent.

aq. A COLADJ, effective 1 Sep 1979, provided a 6.9 percent increase for all members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1978. Members whose retired pay was computed on the 1 Oct 1978 basic pay rates were entitled to a 8.9 percent increase. The 1.9 percent COLADJ credited 1 Mar 1979, must

be reversed prior to applying the 8.9 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on 1 Oct 1978 basic pay rates.

ar. Executive Order 12165, effective 1 Oct 1979, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1979.

(3) Members who retired on 1 Oct 1979, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1979 transfers), were not entitled to pay computed on the 1 Oct 1979 basic pay rates. Their pay was computed on the 1 Oct 1978 basic pay rates.

as. A COLADJ, effective 1 Mar 1980, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1979, were entitled to a 6.0 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1979 basic pay rates were entitled to a 2.8 percent increase or pay computed on the 1 Oct 1978 basic pay rates plus 8.9 percent and 6.0 percent.

at. A COLADJ, effective 1 Sep 1980, provided, a 7.7 percent increase for all members whose retired pay was computed on the basic pay rates in effect before 1 Oct 1979. Members, whose retired pay was computed on the 1 Oct 1979 basic pay rates were entitled to a 10.8 percent increase. The 2.8 percent COLADJ credited 1 Mar 1980 must be reversed prior to applying the 10.8 percent increase. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on 1 Oct 1979 basic pay rates.

au. Public Law 96-342 of 8 Sep 1980, that became effective 1 Oct 1980, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1980.

(3) Members who retired on 1 Oct 1980, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1980 transfers), were not entitled to pay computed on the 1 Oct 1980 basic pay rates. Their pay was computed on the 1 Oct 1979 basic pay rates.

av. A COLADJ, effective 1 Mar 1981, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1980 were entitled to a 4.4 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1980 basic pay rates were entitled to a 2.7 percent increase or pay computed on the 1 Oct 1979 basic pay rates plus 10.8 and 4.4 percent.

aw. Executive Order 12330, effective 14 Oct 1981, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1981.

(3) Members who retired on 1 Oct 1981 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1981 transfers), were not entitled to pay computed on the 1 Oct 1981 basic pay rates. Their pay was computed on the 1 Oct 1980 basic pay rates.

ax. Public Law 97-92, approved 15 Dec 1981, effective 1 Jan 1982, established new rates for Executive Level V personnel which permitted an increase in the maximum amount payable under the 1 Oct 1981 basic pay rates, for grades O-7, O-8, O-9, O-10, and the Joint Chiefs of Staff. Members were entitled to a 7/10 of 1 percent COLADJ effective 1 Mar 1982.

ay. A COLADJ, effective 1 Mar 1982, provided:

(1) Members whose retired pay was computed on the basic pay rates in effect prior to 1 Oct 1981 were entitled to an 8.7 percent increase.

(2) Members whose retired pay was computed on the 1 Oct 1981 basic pay rates were entitled to a 7/10 of 1 percent increase or pay computed on the 1 Oct 1980 basic pay rates plus 2.7 and 8.7 percent. If determined to be advantageous to retired members, 10 U.S.C. 1401a(f) may be applied to members and former members whose retired pay was computed on the 1 Oct 1981 basic pay rates.

az. Executive Order 12387, effective 1 Oct 1982, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1982.

(3) Members who retired on 1 Oct 1982 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1982 transfers), were not entitled to pay computed on the 1 Oct 1982 basic pay rates. Their pay was computed on the 1 Oct 1981 basic pay rates.

ba. Public Law 97-377, approval 21 Dec 1982, effective 18 Dec 1982, established new rates for Executive Level V personnel which permitted an increase in the maximum amount payable

under October 1982 basic pay rates, for grades O-8, O-9, and O-10, and the Joint Chiefs of Staff.

bb. A COLADJ, effective 1 Apr 1983, provided:

(1) Members whose pay was computed on basic pay rates in effect before 1 Oct 1982 were entitled to a 3.3 or 3.9 percent adjustment. Members who are age 62 or more on 1 Mar 1983, or who retired by reason of physical disability under Chapter 61, 10 U.S.C., were entitled to a 3.9 percent increase. Members under age 62 on 1 Mar 1983, were entitled to a 3.3 percent increase.

(2) Members whose pay was computed on the basic pay rates effective 1 Oct 1982 were not entitled to a partial cost-of-living adjustment on 1 Apr 1983 since the CPI from Sep 1982, through Dec 1982 declined from 292.8 to 290.0.

bc. Executive Order 12456, effective 1 Jan 1984, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1984.

(3) Members who retired on 1 Jan 1984 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1983 transfers), were not entitled to pay computed on the 1 Jan 1984 basic pay rates. Their pay was computed on the 1 Oct 1982 basic pay rates.

bd. A COLADJ effective 1 Dec 1984, provided:

(1) Members whose pay was computed on basic pay rates in effect before 1 Jan 1984, were entitled to a 3.5 percent adjustment.

(2) Members whose pay was computed on the basic pay rates effective 1 Jan 1984 are entitled to a partial cost-of-living adjustment of 2.8 percent.

be. Executive Order 12496, effective 1 Jan 1985, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1985.

(3) Members who retired on 1 Jan 1985, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1984 transfers), were not entitled to pay computed on the 1 Jan 1985 basic pay rates. Their pay was computed on the 1 Jan 1984 basic pay rates.

bf. Executive Order 12540, effective 1 Oct 1985, provided:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Oct 1985.

(3) Members who retired on 1 Oct 1985, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (30 Sep 1985 transfers), were not entitled to pay computed on the 1 Oct 1985 basic pay rates. Their pay was computed on the 1 Jan 1985 basic pay rates.

bg. The COLADJ, effective 1 Dec 1985, of 3.1 percent (2.4 percent partial COLADJ) was suspended under Public Law 99-177, 24 Dec 1985.

bh. A COLADJ effective 1 Dec 1986, provided:

(1) Members whose pay was computed on basic pay rates in effect before 1 Oct 1985 were entitled to a 1.3 percent adjustment.

(2) Members whose pay was computed on the basic pay rates effective 1 Oct 1985 are entitled to a 1.3 percent adjustment.

bi. Executive Order 12578 effective 1 Jan 1987, provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1987.

(3) Members who retired on 1 Jan 1987 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1986 transfers), were not entitled to pay computed on the 1 Jan 1987 basic pay rates. Their pay was computed on the 1 Oct 1985 basic pay rates.

bj. Executive Level V rates increased to \$72,500 effective 1 Mar 1987. The increase in the salaries of senior government officials recommended in the 5 Jan 1987 Presidential Budget message to Congress, became effective on 4 Feb 1987. The new, maximum basic pay amounts for grades O-8, O-9, and O-10, and the Joint Chiefs of Staff, under 2 U.S.C. 359, are effective 1 Mar 1987. Note: Table 2-1-9 shows rate of \$72,500 effective 8 Feb 1987 (first full pay period), for pay cap purposes.

bk. A COLADJ effective 1 Dec 1987, provided:

(1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1987, were entitled to a 4.2 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986, and who became entitled to retired pay computed on the 1 Jan 1987 active duty pay rate are entitled to a 3.7 partial COLADJ.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986, and who

became entitled to retired pay before 1 Jan 1987, are entitled to a 3.2 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986, and who became entitled to retired pay on or after 1 Jan 1987, are entitled to a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1987-31 Mar 1987	3.7
1 Apr 1987-30 June 1987	2.5
1 July 1987-30 Sep 1987	1.2
1 Oct 1987-31 Dec 1987	-0-

bl. Executive Order 12622 effective 1 Jan 1988 provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1988.

(3) Members who retired on 1 Jan 1988, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1987 transfers) were not entitled to pay computed on the 1 Jan 1988 basic pay rates (exception: certain grades O-8, O-9, O-10 members were computed on rates effective 1 Mar 1987).

bm. A COLADJ effective 1 Dec 1988, provided:

(1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1988 receive a 4.0 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1988 active duty pay rate receive a 3.2 percent adjustment.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1988 receive a 3.0 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1988 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1988-31 Mar 1988	2.4
1 Apr 1988-30 June 1988	2.1
1 July 1988-30 Sep 1988	1.1
1 Oct 1988-31 Dec 1988	-0-

bn. Executive Order 12663 effective 1 Jan 1989 provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1989.

(3) Members who retired on 1 Jan 1989, and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1988 transfers) were not entitled to pay computed on the 1 Jan 1989 basic pay rates. Their pay was computed on the 1 Jan 1988 basic pay rates.

bo. A COLADJ effective 1 Dec 1988, provided:

(1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1989 receive a 4.7 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay on 1 Jan 1989 active duty pay rates receive a 3.6 percent adjustment.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1989 receive a 3.7 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1989 receive a pro rata initial adjustment as follows:

Retired Between Percent Increase

1 Jan 1989-31 Mar 1989	2.9
1 Apr 1989-30 June 1989	2.1
1 July 1989-30 Sep 1989	0.5
1 Oct 1989-31 Dec 1989	-0-

bp. Executive Order 12698 effective 1 Jan 1990, provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1990.

(3) Members who retired on 1 Jan 1990 and were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1989 transfers) were not entitled to pay computed on the 1 Jan 1990 basic pay rates.

*bq. A COLADJ effective 1 Dec 1990 provided:

(1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1990 receive a 5.4 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1990 active duty pay rate receive a 4.4 percent adjustment.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1990 receive a 4.4 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1990 receive a pro-rata initial adjustment as follows:

Retired Between Percent Increase

1 Jan 1990-31 Mar 1990	3.7
1 Apr 1990-30 Jun 1990	2.2
1 July 1990-30 Sep 1990	1.5
1 Oct 1990-31 Dec 1990	-0-

*br. Executive Order 12736 effective 1 Jan 1991 provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1991.

(3) Members who retired on 1 Jan 1991 and who were subject to the Uniform Retirement Date Act, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1990 transfers) were not entitled to pay computed on the 1 Jan 1991 basic pay rates.

*bs. A COLADJ effective 1 Dec 1991 provided:

(1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1991 receive a 3.7 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1991 active duty pay rate receive a 2 percent adjustment.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1991 receive a 2.7 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1991 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1991-31 Mar 1991	1.2
1 Apr 1991-30 June 1991	.9
1 July 1991-30 Sep 1991	.5
1 Oct 1991-31 Dec 1991	-0-

*bt. Executive Order 12786 effective 1 Jan 1992 provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1992.

(3) Members who retired on 1 Jan 1992 and who were subject to the Uniform Retirement Date Act, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1991 transfers) were not entitled to pay computed on the 1 Jan 1992 basic pay rates.

*bu. Effective 1 Feb 1992, pay rates were added for the new pay grade Chief Warrant Officer, W-5.

*bv. A COLADJ effective 1 Dec 1992 provided:

(1) Pre-Aug 1986 members:

(a) Members who first entered a Military Service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1992 receive a 3 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1992 active duty pay rate receive a 2.3 percent adjustment.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1992 receive a 2 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1992 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1992-31 Mar 1992	1.5
1 Apr 1992-30 Jun 1992	1.2
1 July 1992-30 Sep 1992	.5
1 Oct 1992-31 Dec 1992	-0-

*bw. Executive Order 12826 effective 1 Jan 1993 provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1993.

(3) Members who retired on 1 Jan 1993 and who were subject to the Uniform Retirement Date Act, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1992 transfers) were not entitled to pay computed on the 1 Jan 1993 basic pay rates.

*bx. A COLADJ effective 1 Dec 1993 provides the following increases. Public Law 103-66, 10 Aug 1993, prohibits the payment for months before Mar 1994 of any increase in retired pay associated with the COLADJ except for those members retired for disability under 10 U.S.C., chapter 67.

(1) Pre-Aug 1986 members:

(a) Members who first entered service before 1 Aug 1986 and whose retired pay has been computed on active duty pay rates in effect before 1 Jan 1993 receive a 2.6 percent adjustment.

(b) Members who first entered a Military Service before 1 Aug 1986 and who became entitled to retired pay computed on the 1 Jan 1993 active duty pay rate receive a 1.9 percent adjustment.

(2) Post-Aug 1986 members:

(a) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay before 1 Jan 1993 receive a 1.6 percent adjustment.

(b) Members who first entered a Military Service on or after 1 Aug 1986 and who became entitled to retired pay on or after 1 Jan 1993 receive a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
1 Jan 1993-31 Mar 1993	1.2
1 Apr 1993-30 Jun 1993	.7
1 Jul 1993-30 Sep 1993	.2
1 Oct 1993-31 Dec 1993	-0-

*by. Executive Order 12886 effective 1 Jan 1994 provides:

(1) Increased basic pay rates.

(2) No increase for members retired before 1 Jan 1994.

(3) Members who retired on 1 Jan 1994 and who were subject to the Uniform Retirement Date Act, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (31 Dec 1993 transfers) were not entitled to pay computed on the 1 Jan 1994 basic pay rates.

CHAPTER 6

CORRECTION OF RECORDS

20601. Authority

a. The Secretary of a Military Department, under procedures established by that Secretary and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that Military Department, may correct any military record of that department when the cognizant Secretary considers it necessary to correct an error or remove an injustice.

b. Corrections of military records are final and conclusive on all officers of the United States except when procured through fraud.

c. If there is to be a proper correction and a right to the payment of money as a result of that proper correction, there must be a change of facts as set out in the original record, or an addition or deletion of a fact. A reaffirmation of the existing facts already in the original record does not constitute a proper correction of that record. A recital of existing facts does not avoid the operation of a statute of limitations. The statute of limitations on a proper correction of the record begins to run from the date of the correction. For example, when the record of a member of the naval service transferred to the Fleet Reserve or the Fleet Marine Corps Reserve was corrected to show additional service credits, the 6-year (10-year before July 1975) limitation period started from the date of the correction of the member's records rather than from the date of the transfer, and upon correction, the member was entitled to retainer pay from the date of transfer in accordance with member's grade and number of years of creditable service, as corrected.

d. Corrections may be made:

(1) When the member, the member's heir, or legal representative filed a request before 26 Oct 1961, or within 3 years after member has discovered the error or injustice, whichever is later, or

(2) When the Board excuses a failure to file within 3 years when it is in the interest of justice.

20602. Pay Computation

a. Payments based on a correction of military records must be made in the amounts determined to be due by applying pertinent laws and regulations to all the material facts shown in the corrected record. Generally, the payments resulting from the correction of military records are based on

(1) The pay entitlement the member had before the correction,

(2) The actual payments made for these entitlements, and

(3) The new pay entitlements that accrue as a result of the correction. For specific computation, see the parts and chapters concerning the entitlement to and computation of retired or retainer pay, and participation in and payment of survivor annuities under the Retired Serviceman's Family Protection Plan (RSFPP) and/or the Survivor Benefit Plan (SBP).

b. The settlement of retired pay, retainer pay, or survivor annuities due as a result of the correction of a military record must be reduced, as applicable, by:

(1) Any previous settlements of active duty pay and allowances involving the same periods,

(2) Prior payments of readjustment pay or disability severance pay,

(3) Prior payments of disability compensation, pensions, or Dependency and Indemnity Compensation (DIC) made by the Department of Veterans Affairs,

(4) Federal income tax,

(5) Cost of participation in the Retired Serviceman's Family Protection Plan and/or Survivor Benefit Plan,

(6) Dual compensation statutes if a retired regular officer is employed by the Federal government,

(7) Prior payments of the mother's benefit received from social security and the amount of the spouse's social security entitlement, if any, resulting from the retiree's active military service.

c. When payment cannot be made to the member because of member's death, payment may be made to members legal representative. In the absence of a demand for payment by the legal representative, payments are made:

(1) To the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment,

(2) If there is no such law covering order of payment, in the order of precedence in part seven, chapter 1, or

(3) As otherwise prescribed by the law applicable to that kind of payment.

d. A claimant's acceptance of settlement fully satisfies the claim concerned. Settlement of

this claim does not preclude payment of a separate and distinct claim and acceptance of settlement does not preclude recomputation and adjustment when there is a mutual mistake. Payments are not authorized for any claim compensated by private law before 25 Oct 1951.

20603. Tax Adjustment

See paragraph 50112.

20604. Appropriation Charges

The payments that become due and payable as a result of the correction are charged to the

applicable current retired pay appropriation for all amounts due on and after the date of secretarial approval. Amounts due for periods before date of secretarial approval are charged to the Claims, Department of Defense appropriation.

20605. Restrictions

No payment resulting from a correction of records may be made for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of the Department of Veterans Affairs.