

of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

(a) A member of the Navy Reserve or Marine Corps Reserve described in subsection (b) who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 8330 of this title shall be transferred in the highest enlisted grade in which the member served on active duty satisfactorily, as determined by the Secretary of the Navy.

(b) This section applies to a Reserve enlisted member who—

(1) at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve is serving on active duty in a grade lower than the highest enlisted grade held by the member while on active duty; and

(2) was previously administratively reduced in grade not as a result of the member's own misconduct, as determined by the Secretary of the Navy.

(c) This section applies with respect to enlisted members of the Navy Reserve and Marine Corps Reserve who are transferred to the Fleet Reserve or the Fleet Marine Corps Reserve after September 30, 1996.

(Added Pub. L. 104-201, div. A, title V, § 532(b)(1), Sept. 23, 1996, 110 Stat. 2519, § 6336; amended Pub. L. 109-163, div. A, title V, § 515(b)(1)(L), Jan. 6, 2006, 119 Stat. 3233; renumbered § 8336 and amended Pub. L. 115-232, div. A, title VIII, §§ 807(b)(15), 809(a), Aug. 13, 2018, 132 Stat. 1836, 1840.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 8351 and 8352 were renumbered sections 12212 and 12214 of this title.

Prior sections 8353 and 8354 were repealed by Pub. L. 103-337, div. A, title XVI, § 1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8353, added Pub. L. 85-861, § 1(178)(A), Sept. 2, 1958, 72 Stat. 1520; amended Pub. L. 86-559, § 1(49), June 30, 1960, 74 Stat. 275; Pub. L. 96-513, title II, § 205(b), Dec. 12, 1980, 94 Stat. 2882; Pub. L. 97-22, § 7, July 10, 1981, 95 Stat. 131; Pub. L. 98-94, title X, § 1007(c)(5), Sept. 24, 1983, 97 Stat. 662; Pub. L. 100-180, div. A, title VII, § 714(d), Dec. 4, 1987, 101 Stat. 1113; Pub. L. 103-160, div. A, title V, § 509(d), Nov. 30, 1993, 107 Stat. 1648, related to service credit upon original appointment as reserve commissioned officer in Air Force. See section 12207 of this title.

Section 8354, acts Aug. 10, 1956, ch. 1041, 70A Stat. 520; Sept. 2, 1958, Pub. L. 85-861, § 1(178)(B), 72 Stat. 1520, related to appointment of warrant officers and enlisted members of Air National Guard of United States as reserve officers.

A prior section 8355, acts Aug. 10, 1956, ch. 1041, 70A Stat. 520; Sept. 2, 1958, Pub. L. 85-861, § 33(a)(22), 72 Stat. 1565, related to appointment of graduates of junior or senior division of Air Force Reserve Officers' Training Corps as reserve commissioned officers, prior to repeal by Pub. L. 88-647, title III, § 301(21), Oct. 13, 1964, 78 Stat. 1073.

A prior section 8356, act Aug. 10, 1956, ch. 1041, 70A Stat. 520, related to appointment and promotion of aviation cadets as commissioned officers in Air Force Reserve, prior to repeal by Pub. L. 103-337, div. A, title XVI, § 1636(b), Oct. 5, 1994, 108 Stat. 2968, effective Feb. 10, 1996.

Prior sections 8358 to 8368 were repealed by Pub. L. 103-337, div. A, title XVI, § 1629(c)(1), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

Section 8358, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1520, related to service credit upon original appointment as commissioned officer in grade below colonel. See section 12201 et seq. of this title.

Section 8359, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1521; amended Pub. L. 98-94, title X, § 1014(b), Sept. 24, 1983, 97 Stat. 666; Pub. L. 98-525, title V, § 521(b), Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99-145, title V, § 521(a), Nov. 8, 1985, 99 Stat. 631; Pub. L. 100-180, div. A, title V, § 502(a), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101-189, div. A, title V, § 503(a), Nov. 29, 1989, 103 Stat. 1437; Pub. L. 102-484, div. A, title V, § 519(a), Oct. 23, 1992, 106 Stat. 2408; Pub. L. 103-160, div. A, title V, § 514(a), Nov. 30, 1993, 107 Stat. 1649; Pub. L. 104-106, div. A, title V, § 511(a), Feb. 10, 1996, 110 Stat. 298, related to determination of grade upon original appointment as reserve officer of Air Force. See section 12201 et seq. of this title.

Section 8360, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1521; amended Pub. L. 100-456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 104-106, div. A, title XV, § 1501(c)(30), Feb. 10, 1996, 110 Stat. 500, related to service required for promotion of reserve commissioned officers. See section 14001 et seq. of this title.

Section 8361, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1522; amended Pub. L. 86-559, § 1(50), June 30, 1960, 74 Stat. 275, related to seniority for purposes of promotion of reserve commissioned officers. See section 14301 et seq. of this title.

Section 8362, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1522; amended Pub. L. 86-559, § 1(51), June 30, 1960, 74 Stat. 275, related to convening of selection boards to consider reserve commissioned officers for promotion. See section 14101 et seq. of this title.

Section 8363, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1522; amended Pub. L. 86-559, § 1(52), June 30, 1960, 74 Stat. 275; Pub. L. 100-456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to requirements and procedures for promotion of officers in reserve grades. See section 14301 et seq. of this title.

Section 8365, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1523, related to promotion of second lieutenants of Air Force Reserve. See section 14301 et seq. of this title.

Section 8366, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1523; amended Pub. L. 86-559, § 1(53), June 30, 1960, 74 Stat. 275; Pub. L. 90-130, § 1(28)(A), Nov. 8, 1967, 81 Stat. 382, related to promotion of first lieutenants, captains, and majors of Air Force Reserve or Air National Guard of United States. See section 14301 et seq. of this title.

Section 8367, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1525; amended Pub. L. 86-559, § 1(54), June 30, 1960, 74 Stat. 276, related to selection board procedures for promotion of first lieutenants, captains, and majors of Air Force Reserve or Air National Guard of United States. See section 14001 et seq. of this title.

Section 8368, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1525; amended Pub. L. 86-559, § 1(55), June 30, 1960, 74 Stat. 276; Pub. L. 90-130, § 1(28)(B), Nov. 8, 1967, 81 Stat. 382; Pub. L. 100-180, div. A, title XII, § 1231(19)(B), Dec. 4, 1987, 101 Stat. 1161, related to effect of failure of promotion of reserve officers in grades of first lieutenant, captain, and major. See section 14301 et seq. of this title.

A prior section 8370, added Pub. L. 85-861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1526; Pub. L. 86-559, § 1(56), June 30, 1960, 74 Stat. 276, placed restrictions on promotion consideration of Air Force nurses, medical specialists, and female officers being considered for promotion to the Reserve grades of lieutenant colonel and colonel, prior to repeal by Pub. L. 90-130, § 1(28)(C), Nov. 8, 1967, 81 Stat. 382.

AMENDMENTS

2018—Pub. L. 115-232, § 807(b)(15), renumbered section 6336 of this title as this section.

Subsec. (a). Pub. L. 115-232, §809(a), substituted “section 8330” for “section 6330”.

2006—Subsecs. (a), (c). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

CHAPTER 843—INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

Sec.	
8371.	Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority.
8372.	Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay.
8373.	Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service.
8374.	Treatment of fractions of years of service in computing retired pay and separation pay.
8375.	Navy and Marine Corps; warrant officers, W-1: limitation on dismissal.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 843, consisting of sections 8531 to 8549, related to Air Force special appointments, assignments, details, and duties, prior to renumbering as chapter 923 of this title.

AMENDMENTS

2018—Pub. L. 115-232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 573 of this title as this chapter and items 6371, 6383, 6389, 6404, and 6408 as 8371, 8372, 8373, 8374, and 8375, respectively.

2006—Pub. L. 109-163, div. A, title V, §515(b)(4)(C), Jan. 6, 2006, 119 Stat. 3235, substituted “Navy Reserve” for “Naval Reserve” in item 6389.

2004—Pub. L. 108-375, div. A, title V, §541(c)(2)(B), Oct. 28, 2004, 118 Stat. 1904, inserted “; waiver authority” after “Academy” in item 6371.

1999—Pub. L. 106-65, div. A, title V, §532(a)(4)(C), Oct. 5, 1999, 113 Stat. 604, added item 6371.

1994—Pub. L. 103-337, div. A, title XVI, §1673(b)(4), Oct. 5, 1994, 108 Stat. 3016, struck out items 6391 “Naval Reserve and Marine Corps Reserve; officers: retirement at age 62”, 6392 “Retention in active status of certain officers”, 6397 “Naval Reserves; officers in the Nurse Corps: elimination from active status”, 6403 “Naval Reserve and Marine Corps Reserve; women officers: elimination from active status”, and 6410 “Naval Reserve and Marine Corps Reserve; officers: elimination from active status to provide a flow of promotion”.

1987—Pub. L. 100-180, div. A, title VII, §717(b)(2), Dec. 4, 1987, 101 Stat. 1114, added item 6392.

1980—Pub. L. 96-513, title V, §503(48), Dec. 12, 1980, 94 Stat. 2915, struck out items 6371 “Regular Navy; line rear admirals not restricted in performance of duty; continuation on active list; retirement”, 6372 “Regular Navy; line rear admirals restricted in performance of duty and staff corps rear admirals: retention on active list; retirement”, 6373 “Regular Marine Corps; major generals: retention on active list; retirement”, 6374 “Regular Marine Corps; brigadier generals: retirement for failures of selection for promotion”, 6376 “Regular

Navy, line captains not restricted in performance of duty; Regular Marine Corps, colonels: retirement for length of service”, 6377 “Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders; Regular Marine Corps, colonels designated for supply duty; retirement for length of service”, 6378 “Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders: continuation on active list; retirement”, 6379 “Regular Navy, commanders; Regular Marine Corps, lieutenant colonels: retirement for length of service and failures of selection for promotion”, 6380 “Regular Navy, lieutenant commanders; Regular Marine Corps, majors: retirement for length of service and failures of selection for promotion”, 6381 “Officers retired under preceding sections; retired grade and pay; general rule”, and 6382 “Regular Navy, lieutenants and lieutenants (junior grade); Regular Marine Corps, captains and first lieutenants: discharge for failures of selection for promotion; severance pay”, substituted “retired pay” for “retired or severance pay” in item 6383, struck out items 6384 “Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge for unsatisfactory performance of duty; severance pay; reversion of limited duty officers to prior status”, 6385 “Officers appointed under sections 5231, 5232, 5787, or 5787d of this title; grade for purpose of preceding sections”, 6386 “Suspension: preceding sections”, 6387 “Regular Navy, male line officers: Regular Marine Corps, male officers: computation of total commissioned service”, 6388 “Regular Navy; certain staff corps officers: computation of total commissioned service”, 6390 “Regular Navy and Regular Marine Corps; officers: retirement at age 62”, 6392 “Regular Navy and Regular Marine Corps, officers having less than three years of service: revocation of appointments; reversion of certain officers to prior status”, 6393 “Regular Navy and Regular Marine Corps; women officers: termination of appointments”, 6394 “Regular Navy, rear admirals and commodores; Regular Marine Corps, major generals and brigadier generals: retirement on recommendation of board”, 6395 “Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge during war or emergency for unsatisfactory performance of duty”, 6396 “Regular Navy; officers in Nurse Corps in grades below commander: retirement or discharge”, 6398 “Regular Navy; women captains and commanders; Regular Marine Corps; women colonels and lieutenant colonels: retirement for length of service: retired grade and pay”, 6400 “Regular Navy, women lieutenant commanders; Regular Marine Corps, women majors: retirement for length of service; retired grade and pay”, 6401 “Regular Navy, women lieutenants; Regular Marine Corps, women captains: discharge for length of service; severance pay”, and 6402 “Regular Navy, women lieutenants (junior grade); Regular Marine Corps, women first lieutenants: discharge for length of service; severance pay”, substituted “separation pay” for “severance pay” in item 6404, and struck out item 6407 “Communication with selection board”.

1978—Pub. L. 95-377, §8(d), Sept. 19, 1978, 92 Stat. 721, inserted reference to section 5787d in item 6385.

1970—Pub. L. 91-482, §2E, Oct. 21, 1970, 84 Stat. 1082, struck out item 6406 “Regular Navy and Regular Marine Corps; officers: furlough; furlough pay”.

1968—Pub. L. 90-235, §§3(b)(5), 4(a)(13), Jan. 2, 1968, 81 Stat. 758, 760, struck out item 6405 “Effect of acceptance of appointment in Foreign Service”, and item 6409 “Navy and Marine Corps; warrant officers: suspension of laws for mandatory retirement and separation during war or emergency”.

1967—Pub. L. 90-130, §1(24)(B), (G), (H), Nov. 8, 1967, 81 Stat. 380, 382 struck out “or for age” after “length of service” in item 6377, substituted “officers in Nurse Corps in grades below commander: retirement or discharge” for “officers in Nurse Corps: retirement for age or length of service; retired grade and pay” in item 6396, substituted “Regular Navy; women captains and commanders; Regular Marine Corps; women colonels