

section is entitled, while participating in the program, to the travel and transportation allowances authorized by section 452 of title 37 for—

(i) travel performed from the residence of the officer, at the time of release from active duty to participate in the program, to the location in the United States designated by the officer as the officer's residence during the period of participation in the program; and

(ii) travel performed to the residence of the officer upon return to active duty at the end of the participation of the officer in the program.

**(B) Single residence**

An allowance is payable under this paragraph only with respect to travel of an officer to and from a single residence.

**(5) Leave balance**

An officer who participates in a program under this section is entitled to carry forward the leave balance existing as of the day on which the officer begins participation and accumulated in accordance with section 701 of title 10, but not to exceed 60 days.

**(g) Promotion**

**(1) In general**

An officer participating in a program under this section shall not, while participating in the program, be eligible for consideration for promotion under this subchapter.

**(2) Return to service**

Upon the return of an officer to active duty after completion by the officer of participation in a program under this section—

(A) the Secretary may adjust the date of rank of the officer in such manner as the Secretary shall prescribe in regulations for purposes of this section; and

(B) the officer shall be eligible for consideration for promotion when officers of the same competitive category, grade, and seniority are eligible for consideration for promotion.

**(h) Continued entitlements**

An officer participating in a program under this section shall, while participating in the program, be treated as a member of the uniformed services on active duty for a period of more than 30 days for purposes of—

(1) the entitlement of the officer and of the dependents of the officer to medical and dental care under the provisions of chapter 55 of title 10, ; and

(2) retirement or separation for physical disability under the provisions of subchapter III.

(Pub. L. 107-372, title II, §236, as added Pub. L. 116-259, title III, §307(a), Dec. 23, 2020, 134 Stat. 1174; Pub. L. 117-263, div. A, title VI, §626(f), Dec. 23, 2022, 136 Stat. 2629.)

**Editorial Notes**

AMENDMENTS

2022—Subsec. (f)(4)(A). Pub. L. 117-263 substituted “section 452” for “section 474”.

SUBCHAPTER III—SEPARATION AND RETIREMENT OF OFFICERS

**§ 3041. Involuntary retirement or separation**

**(a) Transfer of officers to retired list; separation from service**

As recommended by a personnel board convened under section 3022 of this title—

(1) an officer in the permanent grade of captain or commander may—

(A) except as provided by subparagraph (B), be transferred to the retired list; or

(B) if the officer is not qualified for retirement, be separated from service; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

**(b) Computations**

In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

**(c) Effective date of retirements and separations**

A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

**(d) Deferment of retirement or separation for medical reasons**

**(1) In general**

If the Secretary determines that the evaluation of the medical condition of an officer requires hospitalization or medical observation that cannot be completed with confidence in a manner consistent with the officer's well-being before the date on which the officer would otherwise be required to retire or be separated under this section, the Secretary may defer the retirement or separation of the officer.

**(2) Consent required**

A deferment may only be made with the written consent of the officer involved. If the officer does not provide written consent to the deferment, the officer shall be retired or separated as scheduled.

**(3) Limitation**

A deferment of retirement or separation under this subsection may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.

(Pub. L. 107-372, title II, §241, Dec. 19, 2002, 116 Stat. 3088; Pub. L. 116-259, title IV, §401, Dec. 23, 2020, 134 Stat. 1177; Pub. L. 117-263, div. K, title CXVII, §11705(a), Dec. 23, 2022, 136 Stat. 4157.)

**Editorial Notes**

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853g of this title prior to repeal by Pub. L. 107-372.

## AMENDMENTS

2022—Subsec. (a)(1). Pub. L. 117-263 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “an officer in the permanent grade of captain or commander may be transferred to the retired list; and”.

2020—Subsec. (d). Pub. L. 116-259 added subsec. (d).

**§ 3042. Separation pay****(a) Authorization of payment**

An officer who is separated under section 3041(a)(2) of this title and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

**(b) Amount of separation pay****(1) Six or more years**

In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

**(2) Three to six years**

In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

**(c) Other conditions, requirements, and administrative provisions**

The provisions of subsections (f), (g), and (h) of section 1174 of title 10 shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

**(d) Exception**

An officer discharged for twice failing selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer—

(1) expresses a desire not to be selected for promotion; or

(2) requests removal from the list of selectees.

(Pub. L. 107-372, title II, §242, Dec. 19, 2002, 116 Stat. 3088; Pub. L. 116-259, title IV, §402, Dec. 23, 2020, 134 Stat. 1178.)

**Editorial Notes**

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853h of this title prior to repeal by Pub. L. 107-372.

## AMENDMENTS

2020—Subsec. (d). Pub. L. 116-259 added subsec. (d).

**§ 3043. Mandatory retirement for age****(a) Officers below grade of rear admiral (lower half)**

Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired or separated (as specified in section 1251(e) of title 10) on the first day of the month following the month in which the officer becomes 62 years of age.

**(b) Flag officers**

Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

(Pub. L. 107-372, title II, §243, Dec. 19, 2002, 116 Stat. 3089; Pub. L. 117-263, div. K, title CXVII, §11705(b), Dec. 23, 2022, 136 Stat. 4157.)

**Editorial Notes**

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853k of this title prior to repeal by Pub. L. 107-372.

## AMENDMENTS

2022—Subsec. (a). Pub. L. 117-263 substituted “be retired or separated (as specified in section 1251(e) of title 10)” for “be retired”.

**Executive Documents**

## DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Secretary of Commerce by section 1(e) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.

**§ 3044. Retirement for length of service**

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

(Pub. L. 107-372, title II, §244, Dec. 19, 2002, 116 Stat. 3089.)

**Editorial Notes**

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853l of this title prior to repeal by Pub. L. 107-372.

**Executive Documents**

## DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce by section 1(f) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.