



DEPARTMENT OF DEFENSE

FINANCIAL MANAGEMENT REGULATION

**VOLUME 7B: “MILITARY PAY POLICY AND
PROCEDURES - RETIRED PAY”**

**UNDER SECRETARY OF DEFENSE
(COMPTROLLER)**

VOLUME 7B, CHAPTER 1: “INITIAL ENTITLEMENTS – RETIREMENTS”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version dated [August 2012](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated the hyperlinks and subparagraph titles. Revised the chapter to comply with current administrative instructions.	Revision
010201.C.1	Added the extended period of the Temporary Authority to reduce minimum length of active service requirement per Public Law 112-239, section 505, January 2, 2013.	Addition
010208.F.1	Revised, pursuant to Public Law 113-291, section 625, December 19, 2014, (National Defense Authorization Act 2015), subparagraph is amended to read, “...serves on active duty or performs such active service in any fiscal year after January 28, 2008, or in any two consecutive fiscal years after September 30, 2014.”	Revision
0106	Deleted section 0106, Federal Judges, is deleted; this pertains to civilian retirement which is covered in Volume 8.	Deletion
All	Renumbered Sections 0107 through 0109 to 0106 through 0108 to include paragraphs.	Revision
Table 1-1 and Table 1-2	Reorganized the numbering of notes to provide sequential order in table.	Revision
Table 1-1, Notes	Added note pertaining extension authority and reference to Public Law 112-239, section 505, January 2, 2013 to Note 3 of Table 1-1.	Addition
Table 1-4, Notes	Reorganized the numbering of notes to provide sequential order in table.	Revision
Table 1-5, Notes	Deleted Note 2 and reorganized the numbering of notes to provide sequential order in table.	Revision
Bibliography	Updated Bibliography accordingly.	Revision

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CHAPTER 1

INITIAL ENTITLEMENTS – RETIREMENTS

0101 GENERAL

010101. Overview

A general overview of the military retired pay entitlement is provided in this section. Specific details on eligibility, computation and payment are found in various chapters in Volume 7B.

A. Military retired pay is divided into three general categories: retired pay for regular service, retired pay for non-regular (reserve/guard) service, and retired pay for physical disability. With the exception of retirement for physical disability and certain temporary authorities for early retirement, a member must be credited with completion of at least 20 years of service in order to be eligible for retired/retainer pay. See Section 0102 for determining years of service for retired/retainer pay eligibility.

B. Retired pay for all categories is computed by applying a percentage multiplier to the member's monthly retired pay base, as determined in Section 0102. The percentage multiplier is generally 2.5 percent for each year of service; however, in the case of disability retirement, the percentage multiplier may optionally be the disability percentage awarded by the military service upon retirement.

C. All retiring members may participate in the Survivor Benefit Plan (SBP) that provides a continuing annuity for the lifetime of a surviving spouse or other beneficiary of up to 55 percent of the deceased member's retired pay. Both the retired pay and the survivor annuity are adjusted for inflation through annual Cost-of-Living Adjustments (COLA).

010102. Retired Pay Base

The retired pay base is determined based upon the date the member first entered military service and whether the member is retiring under regular, reserve, or disability provisions of law. Details are in Chapter 3.

A. The Date of Initial Entry into Military Service (DIEMS) determines whether the retired pay base is the monthly basic pay of the member just before retirement or an average of the highest 36-months of basic pay applicable during the member's career.

1. Final Basic Pay. For members who first entered military service before September 8, 1980, the retired pay base is generally the final basic monthly pay that the member is receiving at the time of retirement.

2. High-Three Average (High 36-Month Average). For members who entered the military service on or after September 8, 1980 the retired pay base is generally

the average of the highest three years (36-months) of [monthly](#) basic pay [to which](#) the member received for any 36-months of active service whether consecutive or not.

B. For a member entitled to retired pay for non-regular (reserve) service, the final basic pay or the high-36 average is usually determined using the rates to which the member was actually paid or to which the member would have been entitled if serving on active duty immediately before the date when retired pay is to begin.

010103. Retired Pay Multiplier

The retired pay multiplier is either 2.5 percent times the years of service creditable for computing retired pay or the percentage of disability awarded by military service at retirement. See Section 0103 for determining years of service creditable for computing retired pay.

A. The years of service for computing retired pay for regular retirement are generally the total of years of active service. For non-regular (reserve) members, the years of service are the total of accumulated drill points combined with one point each day of active duty divided by 360.

B. A member who retires for disability may choose a multiplier based on years of service or based on the disability percentage awarded by the Service. However, if the member chooses the Service disability percentage, then the percentage is capped at 75 percent.

C. Regular members who have a DIEMS date [on or](#) after August 1, 1986 may elect a reduced retirement (REDUX) accompanied by the Career Status Bonus (CSB). The retired pay multiplier is the same as computed in subparagraph [010103.A](#), except that it is reduced by one percentage point for each year the member retires short of completing 30 years of service. See Volume 7A, Chapter 66 for detailed information on the CSB entitlement and election.

010104. Retired Pay Formulae

If a member entitled to retired or retainer pay would otherwise be entitled to retired pay computed under more than one formula, then the member is entitled to be paid under the applicable formula that is most favorable to the member. The retired pay formulae are more fully covered in Chapter 3. The formulae are as follows:

A. For regular and non-regular (reserve) retirement, monthly retired pay is equal to retired pay base times 2.5 percent times Years of Service.

B. For disability retirement, the member may elect retired pay computed under subparagraph [010104.A](#), or monthly pay equal to retired pay base times military disability percentage.

C. For members retiring for regular service that elected the REDUX retirement and received the CSB, retired pay is as computed in subparagraph [010104.A](#), except

the multiplier is reduced by one percentage point for each year the member retires short of completing 30 years of service.

010105. Temporary Early Retirement Authority (TERA)

A. TERA provides the Secretary of Defense a temporary force management tool with which to affect the drawdown of military forces and yet maintain an adequate and effective well-trained military force. TERA provides the authority for voluntary retirement of members on active duty with at least 15 years, but less than 20 years of creditable service. An eligible member of the Armed Forces may apply for early retirement under the program and receive an annuity equivalent to 2.5 percent of retired pay base for each year of service completed and a deduction of 1 percent for each year short of 20 years of service. The request is subject to the approval of the Secretary concerned. Drawdown periods are referenced in subparagraph 010201.B. See Chapter 3 for computation of TERA payment.

B. A member of the Armed Forces approved for early retirement must:

1. Be currently serving on active duty;
2. Complete 15 or more years of active service upon the effective date of retirement;
3. Not be under evaluation for disability retirement under [Title 10, Chapter 61](#); and
4. Meet grade, skill, years of service, and other eligibility criteria as established by the Secretary of the Military Department concerned.

010106. Survivor Benefit Plan (SBP)

Retiring members may participate in the SBP program. The SBP program pays a lifetime annuity to the designated survivor of 55 percent of a base amount elected by the member not to exceed full retired pay. [Upon receiving notice of having completed sufficient service to qualify for retirement, a non-regular \(reserve\) member \(except for not having attained the requisite age\) may also participate in the SBP program](#) detailed information regarding the SBP program begins in Chapter 42.

010107. Cost of Living Adjustments (COLA)

Both retired pay and survivor annuities are adjusted annually by the change in the Consumer Price Index. [See Chapter 8 for detailed information on COLAs.](#)

0102 SERVICE CREDITABLE FOR RETIREMENT ELIGIBILITY

*010201. Creditable Service and Service Reduction for Retirement Eligibility

* A. Computation of Creditable Service for Determining Retirement Eligibility. A computation of creditable service for determining retirement eligibility may be required at any time during a member's military career. Generally, a member must complete at least 20 years of creditable service in order to qualify for retired or retainer pay. Upon completion of 20 years of creditable service, a member may request to be transferred to a retired or retainer status.

1. An enlisted member of the Army or Air Force who completes 20 years of creditable active service may request to be retired.

2. An enlisted member of the Navy or the Marine Corps who completes 20 years of creditable active service may request transfer to the Fleet Reserve or Fleet Marine Corps Reserve. See Chapter 2 for details regarding creditable service for transfers to the Fleet Reserve and Fleet Marine Corps Reserve.

3. An enlisted member of the regular Army, Navy, Marine Corps or Air Force who completes 30 years of creditable active service or an enlisted member in the Fleet Reserve or Fleet Marine Corps Reserve upon completion of a total of 30 years of combined active and fleet reserve service shall, upon request, be retired.

4. A regular or reserve commissioned officer may voluntarily be retired after completion of 20 years of active service, at least 10 years of which is active commissioned service.

5. A non-regular member who completes 20 years of creditable qualifying service, but has not yet attained the eligibility age applicable for retired pay, may request transfer to the inactive status list.

6. Members who incur a qualifying disability while serving on active duty; while called to active duty for training for 30 days or less; or while performing inactive duty training; may be retired for disability, at which time a service computation is required.

B. Reduction of the 20-Year Creditable Service Requirement. Under TERA The Secretary of the Military Department concerned may reduce the 20 years of creditable service requirement to as few as 15 years for retirements during the periods of December 31, 2011 and ending December 31, 2018 for regular retirements only. During the periods of October 23, 1992 and ending September 1, 2002, TERA provided for regular and non-regular retirements.

C. Reduction of the 10-Year Active Commissioned Service Requirement. The Secretary of the Military Department concerned may also reduce the 10-year active commissioned service requirement to not less than 8 years for retirements during the following periods:

- * 1. January 7, 2011 and ending [September 30, 2018](#);
2. January 6, 2006 and ending December 31, 2008; and
3. October 1, 1990 and ending December 31, 2001.

D. Active Duty Beyond 20 Years of Service. A member who continues on active duty after completion of 20 years of service may be retired for voluntary or involuntary reasons. Involuntary reasons include court martial sentence, poor performance, failure to qualify for promotion, high year tenure, and age.

E. Service Creditable for Retirement Eligibility. Service creditable for the purpose of determining retirement eligibility varies with each type of retirement. [For](#) retirement types and the specific service creditable for each type, [see](#) paragraphs 010202 through 010208. [See](#) paragraph 010209 [for](#) service that is not creditable.

010202. Service Creditable for Regular Voluntary Retirement – Enlisted Members (Table 1-1)

[The following is service creditable for regular voluntary retirement for enlisted members:](#)

- A. All active service in the Uniformed Services; and
- B. Service as a cadet or midshipman at Service academy.

010203. Service Creditable for Voluntary Retirement – Regular and Reserve Commissioned Officers (Table 1-1)

[The following is service creditable for voluntary retirement for regular and reserve commissioned officers:](#)

- A. Active service in the Uniformed Services.
- B. If an officer of the Regular Army or Regular Air Force in the Medical Corps, then include all full-time service performed as:
1. A contract surgeon;
2. An acting assistant surgeon; or
3. A contract physician, under a contract to serve full-time and to take and change station as ordered.
- C. If retiring as an officer of the Regular Army or Regular Air Force in the Dental Corps, then include all full-time service performed as:

1. A contract dental surgeon; or
2. An acting dental surgeon.

010204. Service Creditable for Voluntary or Mandatory Retirement – Warrant Officers

The following is service creditable for voluntary or mandatory retirement for warrant officers:

A. Active service in the Uniformed Services.

B. All service as:

1. A contract surgeon;
2. A Reserve nurse;
3. A contract dental surgeon;
4. An acting dental surgeon; and
5. A veterinarian in the quartermaster department, cavalry, or field

artillery.

010205. Service Creditable for Mandatory Retirement – Regular Commissioned Officers, Army and Air Force (Table 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 service in subparagraph 010209.C, plus all years of active commissioned service in the Regular Army after that appointment, or the applicable years of service computed as stated in 010205.A through 010205.G:

A. A Reserve judge advocate appointed in the Regular Army after becoming 21 years of age, after December 7, 1941, and before the date of that appointment, or the number of the days, months and years by which the member's age at the time of appointment exceeds 25 years, whichever is greater, plus years of active commissioned service in the Regular Army or Regular Air Force after that appointment;

B. Officer appointed in the Regular Army, except the Army Nurse Corps or Army Medical Specialist Corps before December 31, 1947, other than an officer covered by subparagraph 010205.A, or appointed in the Regular Army under the Act of December 28, 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 December 7, 1941, under any earlier appointment;

C. Officer appointed in the Regular Army, except the Army Nurse Corps or Army Medical Specialist Corps after December 31, 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 December 31, 1947, under any earlier appointment;

D. Officer of the Regular Air Force appointed in the Regular Army or Regular Air Force after December 31, 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 December 6, 1941, under any earlier appointment;

E. Officer of the Air Force who was appointed in the Regular Army or Regular Air Force after December 31, 1947, other than an officer covered by subparagraphs 010205.D, or 010205.F:

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 Air Force after becoming 21 years of age and after December 31, 1947, under any earlier appointment;

F. Officer of the Regular Air Force who was appointed in the Regular Air Force after July 19, 1956, other than an officer covered by subparagraph 010205.D, 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. The years of active commissioned service in the Armed Forces after becoming 21 years of age and before appointment; and

3. The years credited for the purpose of determining grade, position on a promotion list, seniority, and eligibility for promotion under one of the following conditions:

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; and

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

1. The years of active service; and

2. The years of service, other than active service in subparagraph 010205.G.1, with which the member was entitled to be credited on May 31, 1958, in computing basic pay.

010206. Service Creditable for Mandatory Retirement - Regular Officers, Navy and Marine Corps (Table 1-2)

The following is service creditable for mandatory retirement of regular officers of the Navy and Marine Corps:

A. The total commissioned service of an officer on the active list in the line of the Navy or of the Marine Corps is computed from June 30 of the fiscal year in which the officer accepted that appointment. The computation applies when the officer 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 Title 10, United States Code, [section 2106 \(10 U.S.C. 2106\)](#), [2107](#), or [6909](#) (repealed).

B. Every other officer on the active list in the line of the Navy or Marine Corps is considered to have the same service as in subparagraph 010206.A, 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 originally was 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 June 30 of the fiscal year in which the officer accepted that appointment, beginning August 7, 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 since that appointment has served continuously on the active list of the Navy, is computed from June 30 of the fiscal year in which the officer accepted that appointment. This provision does not apply, however, to officers appointed under the Act of April 18, 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 subparagraphs 010206.C and D, 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 subparagraph 010206.E, officers on the active list of the Navy in the Medical Service Corps, appointed under the Act of April 18, 1946, are considered to have total commissioned service equivalent to that of their running mates.

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, which was 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; and
2. The years of service, other than the service included in subparagraph 010206.H.1, with which member was entitled to be credited on May 31, 1958, in computing basic pay.

010207. Service Creditable for Disability Retirement (Table 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 February 2, 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). Active service as a member of the NOAA includes active service as a member of the Environmental Science Services Administration and of the Coast and Geodetic Survey, the predecessor organizations to NOAA and PHS; and

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 service calculated as the sum of subparagraphs 010207.B.1 through [010207.B.3](#), and 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 Military Service school by law or by the Secretary concerned; and

3. One day for each point, but not more than 130 days in the year of service that includes October 30, 2007 and in any subsequent year of service credited for attendance at drills or periods of equivalent instruction prescribed for that year by the Secretary concerned that conform to requirements by law or are credited as service in the Health Professions Scholarship and Financial Assistance Program under [10 U.S.C. 2126](#). Between October 30, 2000 and October 29, 2007, the maximum number was 90 days. Between September 23, 1996 and October 29, 2000, the maximum number was 75 days, and 60 days before September 23, 1996. The credit includes points at the rate of 15 per year for membership in a Reserve Component of an Armed Force, in the Army or the Air Force without component, or service before July 1, 1949 in the categories provided in [10 U.S.C. 12732](#).

*010208. Service Creditable for Age and Service Retirement – Non-Regular Member (Table 1-4)

A. Creditable service for [age and service](#) retirement [of](#) non-regular member includes:

1. The Uniformed Services,

2. Years of service before July 1, 1949 pursuant to 10 U.S.C. 12732,
or

3. Each 1-year period after July 1, 1949 in which the member earned at least 50 points on the following 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 per 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. 12732(a)(1), except a Regular Component; and

e. Points credited as service in the Health Professions Scholarship and Financial Assistance Program under 10 U.S.C. 2126.

B. A member of the Armed Forces Reserve or National Guard is entitled to retired pay computed under Chapter 3, Table 3-1, Rule 13, for non-Regular service upon application if he or she:

1. Has attained the eligibility age applicable to that member under subparagraph 010208.F;

2. Has performed at least 20 years of service (see subparagraph 010208.E), as shown in subparagraphs 010208.A;

3. Has completed at least 20 years of service as described in subparagraph 010208.B.2 before April 25, 2005, and performed the last 6 years of qualifying service while a member of any category named in 10 U.S.C. 12732(a)(1), but not while a member of a Regular Component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except in the case of a member who completed 20 years of service before October 5, 1994, the number of years of such qualifying service shall be 8;

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, except as provided in Chapter 7, section 0701.

NOTE: For the purpose of subparagraphs 010208.B.1 through [010208.B.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 [U.S.](#) or Air National Guard of the [U.S.](#), 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.

C. A member who has been notified that the years of service requirement has been met for eligibility for retired pay 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 member.

1. The notification of eligibility, which is based on the member's completion of the service requirement, conforms to applicable Military Department regulations. A nonconforming written notice, administratively issued, which shows completion of service requirements of eligibility for retired pay, may not result in the denial of retired pay unless evidence shows that the member caused the service record 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 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 010208.C.2, the granting of retired pay to a retiree under [10 U.S.C., Chapter 1223](#) is conclusive as to that retiree's entitlement to such pay only if the payment of retired pay began after October 14, 1966. A notification that a member has completed the years of service required for eligibility for retired pay under 10 U.S.C., Chapter 1223 is conclusive as to that member's subsequent entitlement to such pay only if the notification is made after October 14, 1966.

D. Under [10 U.S.C. 12731](#), members of a Reserve Component 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. 12308](#), with member's consent, may be credited with the service for all purposes. A member, however, who elects to receive retired pay under 10 U.S.C. 12731, may not be retained simultaneously on active duty or in active service under 10 U.S.C. 12308.

E. A temporary special retirement qualification authority, [10 U.S.C. 12731a](#), provides for the Secretary of the Military Department concerned to allow certain members with at least 15 years of creditable service to retire during the period beginning on October 23, 1992 and ending on December 31, 2001.

F. Subject to subparagraph 010208.F.1, the eligibility age for purposes of subparagraph 010208.B.1 is 60 years of age.

* 1. After January 28, 2008, the eligibility age for purposes of subparagraph 010208.F shall be reduced [subject to subparagraph 010208.F.5](#), below 60 years of age in the case of a member who, as a member of the Ready Reserve, serves on active duty or performs active service described in subparagraph 010208.F.2. The reduction shall be 3 months for each aggregate of 90 days on which the member [serves on such active duty or performs such active service in any fiscal year after January 28, 2008, or in any two fiscal years after September 30, 2014](#). A day of duty may be included in only one aggregate of 90 days for purposes of this subparagraph.

2. Service on active duty is pursuant to a call or order to active duty under a provision of law referred to in [10 U.S.C. 101\(a\)\(13\)\(B\)](#) or under [10 U.S.C. 12301\(d\)](#). Such service does not include a call or order to active duty under [10 U.S.C. 12310](#).

3. Active service is also service under a call to active service authorized by the President or the Secretary of Defense under 32 U.S.C. 502(f) for purposes of responding to a national emergency declared by the President or supported by Federal funds.

4. If the member is wounded, otherwise injured, or becomes ill while serving on active duty pursuant to a call or order to active duty under subparagraph 010208.F.2, and the member is ordered to active duty under section 10 U.S.C. 12301(h)(1) to receive medical care for the wound, injury, or illness, then each day of active duty under that order for medical care shall be treated as a continuation of the original call or order to active duty for purposes of reducing the eligibility age of the member under this subparagraph.

5. The eligibility age for purposes of subparagraph 010208.F may not be reduced below 50 years of age for any member under subparagraph 010208.F.1.

010209. Service Not Creditable for Determining Retirement Eligibility

A. Enlisted Member's Lost Time. The following periods of absence from duty during a term of enlistment are not creditable to an enlisted member unless they are made up by the member upon return to full duty so as to complete the term for which the member was enlisted. The periods of absence from duty are:

1. Desertion;
2. Absence from organization, station, or duty for more than 1 day without proper authority, as determined by competent authority;
3. Confinement by military or civilian authorities for more than 1 day in connection with a trial, whether before, during, or after the trial; and
4. The member's inability for more than 1 day, as determined by competent authority, to perform assigned duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from the member's misconduct.

B. Officer's Lost Time. Prior to February 11, 1996, a commissioned or warrant officer was entitled to credit for every day in a commissioned or warrant status, without regard to absence of any kind, whether authorized or unauthorized, and including confinement prior to and during trial. In addition, absence during which a member was serving on active duty as an enlisted member was creditable if the enlisted member also held a commission as a Reserve officer. After February 10, 1996, a commissioned or warrant officer may not count the following periods of absence for any purpose other than the computation of length of service for basic pay:

1. Desertion;
2. Absence from organization, station, or duty for more than 1 day without proper authority, as determined by competent authority;
3. Confinement by military or civilian authority for more than 1 day in connection with a trial, whether before, during, or after the trial; or
4. Inability to perform assigned duties for more than 1 day, as determined by competent authority, because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from the member's misconduct. The period of such desertion, absence, confinement, or inability to perform duties may not be counted in computing, for any purpose other than basic pay under [37 U.S.C. 205](#), the officer's length of service.

C. Constructive Service. Constructive service, credited under 10 U.S.C. 3287(a)(2)(A) or (B) (repealed), 10 U.S.C. 3294(b) (repealed), or section 506(c) of the Officer Personnel Act of 1947, is not included in the service computation under subparagraph 010205.A. Constructive service creditable may be:

1. Three years, if appointed as a chaplain, or for service 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, or
3. Four years (five, if member completed a 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.

D. Other Non-creditable Service. This service may not be counted for the purpose of determining retirement eligibility under paragraph 010207:

1. Service, other than active service, in an inactive section of the Organized Reserve Corps or Army Reserve, or inactive section of the officer's 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 or in a non-federally recognized status of the National Guard,

4. Inactive service in the Fleet Reserve or Fleet Marine Corps Reserve, or

5. Service in any status other than that as a commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that is described in paragraph 010201 as creditable.

0103 SERVICE CREDITABLE FOR COMPUTING RETIRED PAY

010301. 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. Information on retirement types and service for percentage multiple are provided in this section for each are:

010302. Voluntary Retirement - Enlisted Members

Service is credited under paragraph 010202.

010303. Voluntary Retirement Commissioned Officers

A. Active service is creditable in the Uniformed Services.

B. Crediting of constructive service for medical and dental officers or an internship is not authorized after September 14, 1981 unless a member was already enrolled in such a program and later graduated, and was commissioned as a medical or dental officer; however, post-September 14, 1981, time is creditable in computing retired pay provided the officer is retirement eligible.

Service creditable in computing retired pay should include time an officer served in the Uniformed Services University of Health Sciences (USUHS). 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 actual time served in the program. Any credit otherwise accrued during the same period by reason of Reserve membership would not be used in determining the multiplier for computing retired pay.

Example: An O-6 with 20 years and 6 months service under 37 U.S.C. 205 (excludes time at USUHS) is receiving basic pay for an O-6 over 20 years. If this member served 4 years and 6 months at USUHS, then, upon retirement, the member is to receive retired pay computed

at 62.5 percent of basic pay as an O-6. The 62.5 percent is computed as 2.5 percent times 25 (20.5 plus 4.5) years of service as this computation will include the USUHS time.

C. The years of service, not included in subparagraph 010303.A or B, with which the member was entitled to be credited on June 1, 1958, in computing basic pay as stated in Volume 7A, Chapter 1, section [0102](#).

D. Years of service not included in subparagraphs 010303. A, B, or C, with which the member would be entitled to be credited under [10 U.S.C. 12733](#):

1. Days of active service.

2. Days of full-time service under [32 U.S.C. 316](#) and 32 U.S.C. 502 thru 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 of the Military Department concerned (or designee).

3. One day for each point, but not more than 130 days in any year of service that includes October 30, 2007, and in any subsequent year of service credited for attendance at drills or periods of equivalent instruction prescribed that year by the Secretary concerned that conform to requirements by law or credited as service in the Health Professions Scholarship and Financial Assistance Program under 10 U.S.C. 2126. Between October 29, 2007 and October 29, 2000, the maximum number was 90 days; between September 23, 1996 and October 29, 2000, the maximum number was 75 days; and before September 23, 1996, the maximum was 60 days. The credit includes points at the rate of 15 per year for membership in a Reserve Component of an Armed Force, in the Army or the Air Force without component, or service before July 1, 1949 in the categories named in 10 U.S.C. 12732.

010304. Voluntary Retirement - Warrant Officers

Service credited under subparagraph 010303.

010305. Mandatory Retirement

A. Army and Air Force service credited under paragraph 010205 or subparagraph 010303, whichever is more favorable.

B. Navy and Marine Corps service credited under paragraph 010206 or subparagraph 010303 whichever is more favorable.

010306. Disability Retirement

Service credited under paragraph 010207.

010307. Age and Service Retirement - Reservist

Total days of service, as stated in subparagraphs 010303.D.1 through 3, divided by 360 equals equivalent years and any fraction of a year of service.

0104 UNIFORM RETIREMENT DATE ACT (URDA) APPLICATION ([5 U.S.C. 8301](#))

010401. Authority

A. Retirement is effective on the first day of the month after that in which retirement would otherwise be effective, [except as otherwise specifically provided by statute](#).

B. Notwithstanding subparagraph 010401.A, the rate of pay is computed as of the date retirement would have occurred but for the provisions of subparagraph 010401.A. See Table 1-5. Members who enter a Uniformed Service after September 7, 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 Chapter 3 for gross pay computation.

010402. Application

A. Voluntary Retirement

1. Compute pay on the current active duty basic pay 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 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. 580](#), [1255](#) (repealed), [1263](#), [1293](#), and [1305](#),

c. Retired as an enlisted member regardless of qualification date, or

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 the member:

a. Retired as a warrant officer under 10 U.S.C. 564 (repealed), 580, 1255 (repealed), 1263, 1293, and 1305, or

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; however, refer to Table 1-5, Rule 6 for an exception to this rule.

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; or

2. The provision in subparagraph 010402.B.1 does not apply if:

a. Before the date scheduled for mandatory retirement, the member qualifies for and requests voluntary retirement [that](#) is approved before he or she is scheduled for mandatory retirement. See provisions for voluntary retirement in subparagraph 010402.A, or

b. The member is retained on active duty beyond [the](#) mandatory retirement date for physical evaluation to determine eligibility for disability retirement and is retired for disability. See [paragraph 010207 to establish service creditable](#) for disability retirement.

C. Fleet Reserve and Fleet Marine Corps Reserve. The provisions of the URDA do not apply to members transferred to the Fleet Reserve and 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, or

b. Retired on an active duty pay rate change date and otherwise is 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. Retired under disability retirement findings approved without the Secretary concerned having designated an earlier retirement date under [10 U.S.C. 1221](#). If an earlier retirement date is not specified by the Secretary, then the provisions of the URDA govern the effective date of retirement.

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.

010403. Special Provisions

Under specific circumstances, computation may be based on another basic pay rate that may provide greater pay. See Chapter 3, sections 0302, 0303, and 0304.

0105 RANK AND PAY GRADE

010501. General Determination

A. Grade at Retirement. Unless entitled to a higher grade under some other provisions of law, those Regular and Reserve members who retire other than for disability will retire in the Regular or Reserve grade they hold on the date of retirement. See Volume 7A, Comparable Grades.

B. Time in Grade Requirement. A commissioned officer, other than a commissioned warrant officer, of the Army, Navy, Air Force, or Marine Corps, who voluntarily retires in a grade above major or lieutenant commander, must serve on active duty in that grade for not less than 3 years. The President may waive this requirement in cases of hardship or exceptional or unusual circumstances. The Secretary of the Military Department concerned (or designee) may reduce the service-in-grade requirement to 2 years. This authority was made permanent under [Public Law 108-136, section 506](#), dated November 24, 2003.

C. Retirement to the Next Lower Grade. An officer who does not meet the service-in-grade requirement retires in the next lower grade in which the member served on active duty satisfactorily for at least 6 months.

D. Officers in Grades 0-9 and 0-10

1. An officer in the grade of general or admiral, or lieutenant general or vice admiral, may retire in that grade if the Secretary of Defense certifies, in writing, to the President and the Congress that the officer served on active duty satisfactorily in that grade.

2. The 3-year service-in-grade requirement cannot be reduced or waived if the officer is under investigation for alleged misconduct or if an adverse personnel action is pending against the officer for alleged misconduct.

E. Reserve Officers

1. Unless entitled to a higher grade, or to credit for satisfactory service in a higher grade under some other provision of law, a member who becomes entitled to a non-Regular service Reserve retirement shall, upon application, receive credit for satisfactory service in the highest grade held in the Armed Forces, as determined by the Secretary of the Military Department concerned (or designee).

2. To receive credit for satisfactory service in a grade below lieutenant colonel or commander, other than a warrant officer grade, a member must serve satisfactorily in that grade, as determined by the Secretary of the Military Department concerned (or designee) as a Reserve commissioned officer in an active status, or in a retired status on active duty, for at least 6 months.

3. To receive credit for satisfactory service in a grade above major or lieutenant commander, a member must serve satisfactorily in that grade, as determined by the Secretary of the Military Department concerned (or designee), as a Reserve commissioned officer in an active status, or in a retired status on active duty, for at least 3 years.

a. A member who completes at least 6 months of satisfactory service in grade, upon transfer from an active status or upon discharge as a Reserve commissioned officer for mandatory age or years of service, receives credit for satisfactory service in the grade in which serving at time of transfer or discharge in that grade.

b. If a member completes at least 6 months of satisfactory service in grade while serving as adjutant general under [32 U.S.C. 314](#) or as assistant adjutant general to such adjutant general, and the member is unable to complete 3 years of service in such grade because the appointment is terminated or vacated under [32 U.S.C. 324\(b\)](#), then the member may be credited with satisfactory service in that grade.

c. The Secretary of the Military Department concerned (or designee) may allow credit in a higher grade to a member who has been recommended for promotion but before promotion to the recommended grade. Such credit may be allowed when a member who is in the next lower grade serves in a position after recommendation where the minimum authorized grade for the position the member is serving in is the higher grade to which the member is recommended for promotion. The period of service credit may not include any period before the date that the Senate provides advice and consent for the appointment in the recommended grade.

d. A member who qualifies for Federal recognition in a higher grade and then serves in that grade in a position for which the higher grade is the minimum authorized grade may receive credit for having served in that grade. The credit, determined by the Secretary of the Military Department concerned (or designee), is contingent upon the member being appointed as a Reserve officer in that grade. The service credit is allowed only for the period the member served in the position after Senate advice and consent for the appointment.

e. A member who completes at least 6 months of satisfactory service in a grade above colonel (or, in the case of the Navy, in a grade above captain), and while serving in an active status, is involuntarily transferred (other than for cause) from active status, may be credited with satisfactory service for the grade in which serving even though he or she does not complete 3 years of service in that grade.

4. When a member's length of service in the highest grade held does not meet the service-in-grade requirements, the member receives credit for satisfactory service in the next lower grade in which the member serves satisfactorily for at least 6 months as determined by the Secretary of the Military Department concerned (or designee).

5. The Secretary of Defense may authorize the Secretary of a Military Department concerned (or designee) to reduce the 3-year period required in subparagraph 010501.E.3 for an officer above major or lieutenant commander, to a period of not less than 2 years. However, in the case of an officer who, upon transfer to the Retired Reserve or discharge, is to be credited with satisfactory service in a general or flag officer grade, the authority provided by the Secretary of Defense to the Secretary of a Military Department concerned (or designee) may be exercised with respect to that officer only if approved by the Secretary of Defense or another civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

F. Grade on Retirement for Physical Disability. 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 date of retirement,

2. The highest temporary grade or rank in which member satisfactorily serves, as determined by the Secretary of the Armed Force from which he or she retired,

3. The permanent Regular or Reserve grade to which the member would have been promoted had it not been for the disability for which the member is retired that was found upon physical examination, or

4. The temporary grade to which the member would have been promoted had it not been for the disability for which the member is 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 found upon physical examination.

010502. 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 Naval Operations,
4. Chief of Staff of the Air Force,
5. Senior member of the Military Staff Committee of the United Nations,
6. General or lieutenant general in a position of importance and responsibility designated by the President,
7. Admirals or vice admirals in positions of great importance and responsibility designated by the President under 10 U.S.C. 601.
8. Chief or assistant chief of a branch of the Regular Army for at least 4 years,
9. Surgeon General of the Army or Air Force in the grade of lieutenant general,
10. Permanent professor of the U.S. Military Academy or U.S. Air Force Academy. If the grade is below brigadier general and service as professor is long and distinguished, then the professor may, at the discretion of the President, be retired in the grade of brigadier general, or
11. Chiefs of Bureaus and Judge Advocate General.

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 subparagraph 010501.B.

C. Where an existing statute authorizes computation of pay based on a grade in which the member served satisfactorily that 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 Military Service in which the member held that higher grade is not the Military Service in which retired.

D. 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.

E. 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.

F. 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 [that](#) terminates on date of detachment are retired in the grade they would hold if they had not received such appointment.

G. Warrant officers of the Navy and Marine Corps who retire after completion of 20 years service may elect to be retired in the highest grade entitled under any provision of law.

H. 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.

I. A courtesy title is not to be used for computation of pay. The grade for pay purposes is determined under the criteria of general determinations and special provisions as prescribed in this paragraph, with specific reference to the section of law that authorizes the grade for pay purposes.

J. Members promoted while missing in action, whose status is changed to killed in action, 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\(a\)](#). NOTE: This provision is applicable only to members of the Army and Air Force.

K. A member who enters a Uniformed Service after September 7, 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.

010503. 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 Military Department concerned (or designee).

0106 NON-CITIZENS

010601. Philippine Constabulary/Philippine Scout

The Act of February 2, 1901, as amended by the Act of May 16, 1908, authorized the President of the [U.S.](#) to organize a Military Component to be known as the Philippine Scouts and make it a part of the Regular Army. Retirement eligibility was the same as for enlisted men of the Regular Army. Officers were entitled to the same pay, privileges, and retirement benefits authorized officers of like grade and service of the Regular Army. The Philippine Constabulary/Philippine Scouts are not now maintained as a continuing part of the Army.

010602. Insular Force

The Insular Force of the [U.S.](#) Navy was established by Executive Order on April 5, 1901, as amended on June 25, 1901. The Secretary of the Navy was authorized to enlist 500 natives of the Islands of the Philippines and Guam. Members of the Insular Force were eligible for transfer to the Fleet Reserve or to the retired list. The Insular Force [no longer](#) maintained as a continuing part of the Navy.

010603. Payment

A. Philippine Scouts. 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](#).

B. Change in Citizenship of Non-Regular Retirees. If a member's citizenship status changes after retirement, then it may have an impact on the member's retired pay. See Chapter 6 for additional information on change or loss of [U.S.](#) citizenship.

0107 HEROISM PAY

010701. Entitlement

A. Regular Retirement. Enlisted members of the Army, Air Force, Navy, and Marine Corps, retired after the completion of 20 or more but less than 30 years of active service for regular retired pay computation purposes, who are credited by the Secretary concerned with extraordinary heroism in the line of duty, shall receive a 10 percent increase to retired or retainer pay. Enlisted members of the Army and the Air Force, with 20 or more, but less than 30, years of service may not exceed a retired pay multiplier of 75 percent, including any heroism pay. Enlisted members of the Navy, Marine Corps, and Coast Guard with 20 or more, but less than 30, years of active service are eligible to have retired or retainer pay increased by 10 percent without restriction to a final multiplier of 75 percent.

B. Non-Regular Retirement. Enlisted members of the Reserve Component retired after the completion of less than 30 years of service for non-Regular retired pay computation purposes, who are credited by the Secretary concerned with extraordinary heroism in the line of duty, shall receive a 10 percent increase to their retired pay. Enlisted members so entitled may not exceed a retired pay multiplier of 75 percent. Entitlement to increased Reserve retired pay for heroism [become](#) effective October 1, 2002, and applies with respect to retired pay for months beginning on or after that date.

C. Disability Retirement. Enlisted members retired for disability who otherwise are eligible for voluntary retirement for 20 or more, but less than 30, years of service, and who are entitled to a 10 percent increase in pay for certified acts of extraordinary heroism, are entitled to an additional computation under the computation for a length-of-service retirement. However, in no case may the retired pay multiplier for a disability retirement based upon less than 30 years of service exceed 75 percent.

010702. Determination of Entitlement

The Secretary of the Military Department concerned (or designee) has the authority to grant 10 percent of additional retired pay to an individual who has performed an act of extraordinary heroism in the line of duty. The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

010703. 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 Chapter 9.

B. Recomputation After a Period of Active Duty. For detailed information on recomputation after subsequent active duty, see Chapter 7, section 0702.

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 the 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 pay are 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.

0108 PAYMENT

010801. 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. Regular 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 Military Service concerned (or designee).

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 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.

010802. 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 the 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 it is apparent that the member 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 "de facto rule" permits repayment of active duty pay and allowances paid for the period and later collected.

010803. Computation

For detailed information on gross pay computation, see Chapter 3.

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 February 28, then pay accrues for 3 days. If the pay begins on February 29, then pay accrues for 2 days.

*Table 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 3-1
1	an enlisted member	Army	20 (note 1)		3914	rule 4.
2		Air Force			8914	
3	a Regular enlisted member	Army	30		3917	
4		Air Force			8917	
5	a commissioned officer	Army	20 (note 2)	10 years of active commissioned service (Note 3)	3911	rule 5.
6		Air Force			8911	
7		Army	30 (note 2)		3918	
8		Air Force			8918	
9		Army	40 (note 2)		3924	
10		Air Force			8924	
11	a warrant officer	Armed Forces	20 (note 4)		1293	rule 3.
12		Army	40 (note 4)		3924	rule 5.
13		Air Force			8924	rule 5.
14	a Regular officer W-1 and above	Navy or Marine Corps Reserve	40 (note 2)		6321	rule 6.
15			30 (note 2)		6322	rule 7.
16			20 (note 2)	10 years of active commissioned service (Note 3)	6323 (note 5)	rule 6.

Table 1-1. Voluntary Retirement (Continued)

Table 1-1. Voluntary Retirement (Continued)						
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 3-1
17	a Regular enlisted member (note 6)	Navy or Marine Corps Reserve	30 (note 1)		6326	rule 7.
18	an officer or enlisted member		30 (note 2)		10 years of active service served in the 11 years immediately before retirement	6327 (note 7)
19						

NOTES:

1. Paragraph 010201 ([10 U.S.C. 3683](#) (repealed), [3925](#), [8683](#) (repealed), and [8925](#)). Under Temporary Early Retirement Authority, the Secretary of the Military Department concerned (or designee) may reduce the 20 years of creditable service requirement to 15 years of creditable service. [Public Law 107-314, section 554](#), December 2, 2002, extended this authority to September 1, 2002. [Public Law 112-81, section 504](#), December 31, 2011, reinstated this authority to September 30, 2018.
2. Paragraph 010201 ([10 U.S.C. 3926](#), [6321](#), 6323, and [8926](#)). Under Temporary Early Retirement Authority, the Secretary of the Military concerned (or designee) may reduce the 20 years of creditable service requirement to 15 years of creditable service. Public Law 107-314, section 554, December 2, 2002, extended this authority to September 1, 2002. Public Law 112-81, section 504, December 31, 2011, reinstated this authority to September 30, 2018.
- * 3. Subparagraph 010201.C.1 ([10 U.S.C. 3911](#), 6323, and [8911](#)). Under the Temporary Authority to Reduce Minimum Length of Active Service as a Commissioned Officer Required for Voluntary Retirement as an Officer, the Secretary of the Military Department concerned (or designee) may reduce the 10-year active service requirement to not less than 8 years. [Public Law 111-383, section 506](#), January 7, 2011, extended this authority to September 30, 2013. [Public Law 112-239, section 505](#), January 2, 2013, extended this authority to September 30, 2018.
4. Paragraph 010201 (CCA 1949, Section 511; 10 U.S.C. 6321 and 6322). Under Temporary Early Retirement Authority, the Secretary of the Military Department concerned (or designee) may reduce the 20 years of creditable service requirement to 15 years of creditable service. Public Law 107-314, section 554, December 2, 2002, extended this authority to September 1, 2002. Public Law 112-81, section 504, December 31, 2011, reinstated this authority to September 30, 2018.
5. Members mandatorily retired under Public Law 86-155 thereafter are considered as having retired voluntarily pursuant to 10 U.S.C. 6323. See section 3, Public Law 86-155. No officers processed under Public Law 86-155 after June 1, 1966.
6. Including Regular enlisted members holding temporary appointment as commissioned officer or warrant officer.
7. Section [6327](#). This section applies only to persons who were members of the Navy Reserve or the Marine Corps Reserve on January 1, 1953. This section terminates on January 1, 1973.

*Table 1-2. Mandatory Retirement – 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 of the Military Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
1	regular commissioned officer of the Army or Air Force		below Maj Gen (note 1)		60	3883 (note 2)	8883 (note 3)			rule 10 or 12.
2					62 (note 23)	1251	1251	1251	1251	rule 9.
3		35 years (note 3)	Maj Gen	5 years	60	3884 (note 2)	8884 (note 2)			rule 10 or 12.
4					62	3885 (note 2)	8885 (note 2)			
5					64	3886 (note 2)	8886 (note 2)			
6		20 years (note 3)	any grade (note 5)			3913 (note 2)	8913 (note 2)			
7		28 years (note 3)	Lt Col (note 6)			3916 (note 2)	8916 (note 2)			
8		30 years (note 3)	any grade (note 7)	5 years		3919 (note 2)	8919 (note 2)			rule 10 or 12.
9			Col (note 8)			3921 (note 2)	8921 (note 2)			
10			Brig Gen			3922 (note 2)	8922 (note 2)			
11			Maj Gen			3923 (note 2)	8923 (note 2)			
12	regular officer of the Navy or Marine Corps	35 years of total commissioned service (note 3)	Rear Admiral (notes 9 and 11)					6371 (notes 10 and 2)		rule 11.
13			Rear Adm (notes 11 and 12)	7 years				6372 (notes 13 and 2)		
14			Maj Gen (notes 11 & 14)	5 years				6373 (note 2)		

Table 1-2. Mandatory Retirement – Commissioned Officers and Warrant Officers (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 of the Military Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
15	regular officer of the Navy or Marine Corps	35 years of total commissioned service (note 3)	Rear Admiral (Navy) - Brig Gen (USMC) (note 9)					6374 (note 2)		rule 11.
16			Rear Admiral (Navy) Brig Gen (USMC) (notes 11 & 14)	5 years				6375 (note 15)		
17		30 years of total commissioned service (note 3)	Capt (Navy) Col (USMC) (notes 9 and 16)					6376 (note 2)		
18		31 years of total commissioned service (note 3)	Capt (Navy) Col (USMC) (notes 11 and 17)							
19		30 years of total commissioned service (note 3)	Capt (Navy) Col (USMC) (notes 12 & 16)					6377 (notes 18 & 2)		
20		31 years of total commissioned service (note 3)	Capt (Navy) Col (USMC) (notes 11, 12, & 17)					6377 (notes 18 & 2)		
21		26 years (note 3)	CDR (Nurse Corps) (notes 11, 12, & 16)							

Table 1-2. Mandatory Retirement – Commissioned Officers and Warrant Officers (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 of the Military Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
22	regular officer of the Navy or Marine Corps	35 years (note 3)	Capt (Navy) CDR (Nurse Corps) (notes 7 & 12)		62			6378 (notes 19 & 2)		
23		26 years of total commissioned service (note 3)	CDR Lt Col (note 16)					6379 (note 2)		rule 11.
24		20 years of total commissioned service (note 3)	LCDR Major (note 16)					6380 (note 2)		
25		30 years of active naval service	any grade (note 20)					6383		
26			LCDR, Major (notes 16 & 20)							
27			any grade below Fleet Adm		62			6390 (note 2)		
28			Rear Admiral Maj Gen and Brig Gen					6394 (note 2)		

Table 1-2. Mandatory Retirement – Commissioned Officers and Warrant Officers (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 of the Military Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
29	regular officer of the Navy or Marine Corps	20 years of active commissioned service (note 3)	LCDR and below (Nurse Corps)					6396 (note 2)		rule 11.
30	female regular officer of the Navy or Marine Corps	26 years of active commissioned service	CDR Lt Col (USMC)					6398 (note 2)		
31		30 years of active commissioned service	Captain Col (USMC) (note 21)							
32		20 years of active commissioned service	LCDR Maj (note 5) and below					6400 (note 2)		
33	commissioned officer of the Army	30 years of commissioned service (note 22)	permanent professor, USMA			3920				rule 10.
34	commissioned officer of the Air Force		permanent professor, USAFA				8920			rule 12.
35	commissioned officer of the Army, Air Force	30 years of commissioned service (note 22)	permanent professor, USMA or USAFA		64	1251	1251			rule 9.

Table 1-2. Mandatory Retirement – Commissioned Officers and Warrant Officers (Continued)

Table 1-2. Mandatory Retirement - Commissioned Officers and Warrant Officers (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 of the Military Department concerned under 10 U.S.C.				with retired pay computed under Table 3-1
						Army	Air Force	Navy or Marine Corps	Armed Forces	
36	perma- nent Regular warrant officer of the Armed Forces	20 years (note 23)	WO1, WO2, and WO3 (note 16)		64				0564 (repeal- ed), 580	rule 9.
37		20 years (note 23)	WO1, WO2, WO3, and WO4		55 (note 24)				1255 (repeal- ed)	rule 9.
38					62				1263	
39		30 years of service							1305	
40	Regular officer of the Army, Air	28 years of commis- sioned service	Lt Col, CDR (Navy)	5 years		633	633	633	633	
41	Force, Marine Corps, or	30 years of commis- sioned service	Col, Capt (Navy)			634	634	634	634	
42	Navy		Brig Gen Rear Admiral (Navy)			635	635	635	635	
43		35 years of commis- sioned service	Maj Gen Rear Admiral (Navy)			636	636	636	636	
44		38 years commis- sioned service	Lt General, Vice Admiral (Navy)							
45		40 years commis- sioned service	General, Admiral (Navy)							

Table 1-2. Mandatory Retirement – Commissioned Officers and Warrant Officers (Continued)

NOTES:

1. Except professor or registrar of [U.S. Military Academy](#) or [Air Force Academy](#).
2. Sections repealed by Public Law 96-513, December 12, 1980, effective September 15, 1981.
3. Army or Air Force – Service under paragraph 010205 ([10 U.S.C. 3927](#), [8927](#) were repealed by Public Law 96-513).
4. Except a permanent professor, Director of Admissions, or Registrar of U.S. Military Academy or U.S. Air Force Academy or a commissioned warrant officer, effective September 15, 1981.
5. Not recommended for promotion.
6. Promotion list lieutenant colonel.
7. Excessive number in any grade.
8. Promotion list colonel.
9. Not restricted in performance of duty.
10. [Section 6371](#) Executive Order 11284, May 27, 1966 was revoked by Executive Order 12553, February 25, 1986.
11. Not recommended for continuation on active duty.
12. Restricted in performance of duty.
13. [Section 6372](#) was repealed by Public Law 96-513, December 12, 1980 (94 Stat. 2898).
14. Serving as Commandant of Marine Corps.
15. Section 6375 was repealed by Public Law 87-123, August 3, 1961.
16. Twice failed selection for promotion to next higher grade not on promotion list.
17. Not on promotion list. Retirement subject to completion of 5 years of service-in-grade.
18. Section 6377(c) repealed by Public Law 90-130, November 8, 1967.
19. 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.
20. Designated for limited duty.
21. Except female 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.
22. Service computed under paragraph 010203.
23. Service computed under paragraph 010204.
24. Female regular warrant officer. This statute was repealed by Public Law 90-130, November 8, 1967 (81 Stat. 374).

Table 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 Table 3-1
1	an enlisted member, warrant officer, or commissioned officer	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 010207 ([10 U.S.C. 1208](#)).
2. Disability rating must be at least 30 percent unless the member has 20 years of service ([10 U.S.C. 1201](#), [1202](#), [1204](#), [1205](#)).

*Table 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 of service (note 2)	60 or is otherwise eligible (note 3)	10 U.S.C. 12731 (note 4)	Table 3-1, rule 13.

NOTES:

1. Who performed the last 6 years of qualifying service as a member of a Reserve Component, except that in the case of a member who completed 20 years of service computed under 10 U.S.C. 12732 before October 5, 1994, the number of years of such qualifying service shall be eight.
2. Paragraph 010208 (10 U.S.C. Sec 12732). Under Temporary Early Retirement Authority, the Secretary concerned may reduce the 20 years of satisfactory service requirement to 15 years of creditable service for retirement under 10 U.S.C. 12731(a). [Public Law 106-398, section 571](#), October 30, 2000, extended this authority to December 31, 2001.
3. The eligibility shall be reduced below 60 years of age by 3 months for each aggregate of 90 days on which the member so performs active duty or active service pursuant to a call or order under 10 U.S.C. 101(a)(13)(B) or section 12301(d) or 32 U.S.C. 502(f) in any fiscal year after January 28, 2008. The eligibility age may not be reduced below 50 years of age.
4. Not entitled to retired or retainer pay under any other provision of law.

*Table 1-5. Rate of Basic Pay for Retired Pay Computation (5 U.S.C. 8301(b))(note 1)

R U L E	A A member who	B and is	C who fully qualified or met requirements to be retired	D and retirement is	E shall have retired pay computed 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 2 and 3).
2	retires on the first day of an active duty basic pay rate change	an enlisted member (note 3)		voluntary	the first day of retirement (note 2).
3		a warrant officer			the day before the first day of retirement (notes 2 and 3).
4		a commissioned officer			the first day of retirement (note 2).
5			at any time prior to the active duty basic pay rate change date	voluntary (note 4)	
6			during the month immediately preceding the active duty basic pay rate change date	voluntary	the day before the first day of retirement unless the member specifically requests retirement on a day later than the first day of eligibility for voluntary retirement under the applicable statute; in which case, use active duty pay rates in effect on the first day of retirement. (notes 2 and 6).
7		a warrant officer	any time	mandatory	the day before the first day of retirement (note 2).
8		a commissioned officer			

Table 1-5. Rate of Basic Pay for Retired Pay Computation (5 U.S.C. 8301(b))(note 1)
(Continued)

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	shall have retired pay computed using active duty basic pay rates in effect on
9	retires on the first day of an active duty basic pay rate change	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 5)	the day before the first day of retirement (note 2).
10			any time	Reservist (age and service)	the date the member is granted retired pay (note 2).

NOTES:

1. 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 September 7, 1980.
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. Not applicable to Navy and Marine Corps enlisted members transferred to the Fleet Reserve or Fleet Marine Corps Reserve.
4. Applicable only to retirements under 10 U.S.C. 6323.
5. If otherwise retirement eligible, then follow rule for that retirement.
6. This rule is effective for retirements on or after December 1, 2000. For retirements prior to that date, compute retired pay using active duty basic pay rates in effect on the day before the first day of retirement, regardless of the date on which the member requested to be retired. See section 0104.

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VOLUME 7B, CHAPTER 2: “INITIAL ENTITLEMENTS - FLEET RESERVE/FLEET MARINE CORPS RESERVE”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [November 2015](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated this chapter with hyperlinks and formatted to comply with current administrative instructions.	Revision
020101	Added to the “Purpose” paragraph an introduction to the Modernized Retirement System, commonly known as the “Blended Retirement System (BRS),” which is effective January 1, 2018.	Addition
Bibliography	Updated “Bibliography” accordingly.	Revision

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CHAPTER 2

INITIAL ENTITLEMENT-FLEET RESERVE/
FLEET MARINE CORPS RESERVE

0201 GENERAL

*020101. Purpose

This chapter provides information for the entitlement to military retirement pay to the Fleet Reserve/Fleet Marine Corps Reserve. Pursuant to the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, as amended by the NDAA FY 2017, the Department of Defense (DoD) established the Modernized Retirement System, commonly known as the Blended Retirement System (BRS). The BRS is the retired pay system for all Service members who enter military service on or after January 1, 2018. Service members already in uniform before January 1, 2018, are grandfathered under the applicable legacy retirement system. The law permits active duty Service members with less than 12 years of service on December 31, 2017, or Service members in the Reserve Component who are in a paid status and have accrued less than 4,320 retirement points as of December 31, 2017, the option of electing to be covered under the BRS or to remain with their applicable legacy retirement system. The law provides a one year election period for those Service members eligible to opt into BRS from January 1, 2018, and ends on December 31, 2018. The decision to opt into BRS is irrevocable.

A. Fleet Reserve and Fleet Marine Corps Reserve.

The Fleet Reserve and Fleet Marine Corps Reserve were established to provide an available source of experienced former members of the Regular Navy or Navy Reserve and the Regular Marine Corps or Marine Corps Reserve. These members could be organized without further training to fill billets requiring experienced personnel in the first stages of mobilization during an emergency or in time of war.

1. Members of the Fleet Reserve and Fleet Marine Corps Reserve may be ordered to active duty without their consent in time of:

a. War or national emergency declared by the Congress, for the duration of the war or national emergency and for 6 months thereafter; or

b. National emergency declared by the President or when otherwise authorized by law.

2. In time of peace, any member of the Fleet Reserve or Fleet Marine Corps Reserve may be required to perform not more than 2 months' active duty for training during each 4-year period.

B. Retirement for Physical Disability.

If a member of the Fleet Reserve or Fleet Marine Corps Reserve is found physically unfit for duty, the member **will** be transferred to the Regular retired list or Reserve retired list of the Navy or Marine Corps, as appropriate. Such retirement is by reason of physical disability.

C. Retirement After 30 Years of Service.

1. Upon completion of 30 years of active and inactive service, a member of the Fleet Reserve or Fleet Marine Corps Reserve is transferred to the Regular retired list or the Reserve retired list of the Navy or Marine Corps, as appropriate.

2. Unless otherwise entitled to higher pay, each member transferred to the retired list or the Retired Reserve 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.

3. Upon placement on the retired list, a member may be advanced to the highest officer grade in which the member served satisfactorily under a temporary appointment with retired pay based on that grade. See Chapter 9, section 0903 for advancement on the retired list.

020102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

0202 TRANSFER ELIGIBILITY-SERVICE FOR PERCENTAGE MULTIPLE PURPOSES

020201. Minimum Required Service

Upon completion of at least 20 years of active service in the Armed Forces (to include service as a cadet or midshipman), enlisted members of the Regular Navy, Regular Marine Corps, Navy Reserve, or Marine Corps Reserve may request transfer to the Fleet Reserve or Fleet Marine Corps Reserve under [Title 10, United States Code \(U.S.C.\), section 6330\(d\)](#). In this section, service as a cadet or midshipman refers to service as a cadet at the [U.S. Military Academy](#), [U.S. Air Force Academy](#), or [U.S. Coast Guard Academy](#); or service as a midshipman at the [U.S. Naval Academy](#). This service is not creditable service for any Officer.

A. Prior to December 31, 1977, a member became eligible for transfer upon completion of 19 years and 6 months of active service since that part of a year that is 6 months or more was creditable as a whole year. If service is creditable to the member for such purpose before December 31, 1977, then:

1. A completed minority enlistment of the member is counted as 4 years of active service, and

2. An enlistment of the member terminated within 3 months before the end of the term of enlistment is counted as active service for the full term.

B. On or after December 31, 1977, a member must complete a total of 20 years of active service to be eligible for transfer to the Fleet Reserve or Fleet Marine Corps Reserve. For such members, service creditable under subparagraph 020201.A, which was not actually served by the member, may not be counted in determining eligibility for transfer.

020202. Service Creditable for Transfer to the Fleet Reserve or Fleet Marine Corps Reserve

The following service is creditable for transfer eligibility and percentage multiple purposes if performed in an active duty (and active duty for training) status after August 9, 1956:

- A. Service in the Army, Navy, Air Force, Marine Corps, and Coast Guard;
- B. Service as an appointed or enlisted aviation cadet in the Navy Reserve or Marine Corps Reserve; or
- C. Service as a cadet or midshipman at a Service academy.

020203. Service Not Creditable for Transfer to the Fleet Reserve or Fleet Marine Corps Reserve

The following service is not creditable for transfer eligibility and percentage multiple purposes:

- A. Service in the Philippine Constabulary;
- B. Furlough without pay (FWOP);
- C. Inactive service as a member of a Reserve Component;
- D. Inactive service while on the Temporary Disability Retired List (TDRL); and
- E. Time lost in excess of 1 day (24 consecutive hours) because of:
 - 1. Sickness due to misconduct (SKMC) before June 17, 1955, the Bureau of Naval Personnel credited time lost due to SKMC for transfer purposes;
 - 2. Nonperformance of duty before July 24, 1956, due to imprisonment because of a general court-martial sentence and while under arrest awaiting trial and during trial that results in conviction as finally approved;
 - 3. Nonperformance of duty after July 23, 1956, due to confinement under a sentence by any court-martial, as finally approved, before, during, and after trial. If the member is acquitted or sentence is set aside and charges dismissed, the period of confinement is not considered time lost;

4. Absence while the member is in civil arrest (while in custody of civil authorities), unless the member is acquitted or released without making restitution or reparation; or

5. Unauthorized absence, which includes absence without leave (AWOL), absence over leave (AOL), and desertion (the latter of which previously was shown as AOL or AWOL and now is shown as Unauthorized Absence).

020204. Constructive Service

Constructive service is service for which credit is given although not actually performed. Constructive service earned prior to December 31, 1977, is creditable as service for transfer eligibility and percentage multiple purposes. Constructive service is not creditable for determining basic pay rate upon which retainer pay is computed. No constructive service is creditable after December 31, 1977.

A. Minority Enlistments. A minority enlistment is the enlistment of a male between the age of 14 and 18 or female between the age of 18 and 21 who enlists with the consent of his or her parents or guardians to serve in the Navy or Marine Corps until reaching the age of 21. (The Navy policy is to accept members for enlistment at 17 years of age with written parental consent or 18 years of age without parental consent.) A completed minority enlistment, or a minority enlistment which terminates within 3 months of the expiration date of the enlistment, is counted as 4 years of active service when actual day-for-day service performed totals at least the period constituting the member's minority status upon enlistment, less 3 months. After December 31, 1977, time which is not actually served by the member may not be counted.

B. Short-Term Enlistment. A short-term enlistment refers to an enlistment that is terminated within 3 months before the end of the term of enlistment. This enlistment is counted as active service for the full term when the actual day-for-day active service performed amounts to at least the full term of the enlistment, less 3 months. After December 31, 1977, time which is not actually served by the member may not be counted.

C. Involuntary Extension. An involuntary extension is when an enlistment (including a minority enlistment) is extended involuntarily for a specific period. Compute service based on the constructive service principle for short-term enlistments, which applies equally for computing service for transfer by the Bureau of Naval Personnel on and after March 15, 1966, and by the Commandant of the Marine Corps on and after January 1, 1968.

D. Voluntary Extension. A voluntary extension is when the member agrees to serve beyond the scheduled term, modify the original minority or term enlistment contract by increasing the period agreed to by the member. The same rule established for crediting constructive service for short-term enlistments applies for voluntary extensions.

E. Lost Time and Inactive Service. Before crediting constructive service for a period of service, deduct any lost time and any inactive service from the member's day-for-day service. After these deductions, if the member is eligible to receive constructive service for the period of enlistment, credit it. If, after deductions, the member is not eligible for constructive service

for a period of enlistment, give credit only for the actual day-for-day service. For the definition of lost time, see Chapter 1, subparagraphs 010309.A and B.

F. Waiver of Recoupment of Time Lost for Confinement. The circumstances under which the Secretary concerned may waive recoupment of time lost for confinement are provided in [10 U.S.C. § 972\(c\)](#).

020205. Conclusiveness of Transfer

All transfers of members to the Fleet Reserve or Fleet Marine Corps Reserve, when effected, are conclusive for all purposes, except that the Chief of Naval Personnel or the Commandant of the Marine Corps, acting for the Secretary of the Navy, may correct any error or omission in the determination as to a member's grade and years of creditable service. When such a correction is made, the member is entitled, when not on active duty, to retainer pay based on the grade and number of years of creditable service, as corrected, from the effective date of transfer.

0203 SERVICE FOR BASIC PAY PURPOSES

The total service for basic pay purposes follows the same principle as service for percentage multiple purposes. For an explanation of service creditable for basic pay purposes, see Volume 7A, section 0102.

0204 DATE OF TRANSFER

020401. Effective Date of Transfer

Members are transferred to the Fleet Reserve and Fleet Marine Corps Reserve only by the authority of, and on the date specified by, the Chief of Naval Personnel or the Commandant of the Marine Corps. Commanding officers may defer transfers to the Fleet Reserve up to 30 days beyond the date authorized when urgent operational commitments demand the member's service. Transfers to the Fleet Marine Corps Reserve may not be made on a date other than the date specified in the authority for release. The Commandant of the Marine Corps must authorize any change in this date prior to the effective date of transfer. The date of transfer is the member's last day of active duty and the member is entitled to active duty pay and allowances for that date.

020402. Application of Uniform Retirement Date Act

Since a transfer to the Fleet Reserve or Fleet Marine Corps Reserve is not considered a retirement, the Uniform Retirement Date Act (URDA), [5 U.S.C. § 8301](#), does not apply. Once the member has completed a total of 30 years of active service and is eligible for retirement, the member's date of retirement comes under the URDA. A transfer to the Fleet Reserve may be made on any intermediate day of a month as approved by the Chief of Naval Personnel. Transfers to the Fleet Marine Corps Reserve are made on the last day of the month except where transfer has been requested on the effective date of an expiration of enlistment. Except in time of war or national emergency, personnel transferred to the Fleet Marine Corps Reserve are released from active duty on the date of such transfer, unless an order to the contrary is received.

020403. Modification of “Not Earlier Than Date”

The Chief of Naval Personnel normally does not approve a requested change of authorized date for transfer to the Fleet Reserve. In case of hardship, meritorious circumstances, or unusual conditions, a member may submit a request for a change of authorized date for the transfer to the Chief of Naval Personnel through the commanding officer and appropriate personnel distribution. If an earlier date of transfer is requested, the commanding officer's endorsement must state whether the member's services can be spared. If approved, the Chief of Naval Personnel issues a message to the commanding officer and sends a copy to the [Defense Finance and Accounting Service-Cleveland, Retired and Annuitant Pay](#).

020404. Effective Date of Retainer Pay

Members transferred to the Fleet Reserve and Fleet Marine Corps Reserve receive “retainer” pay versus “retired” pay, as they are considered to have their services retained for possible use. A member becomes entitled to retainer pay starting on the day after the effective date of transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

020405. Retainer Pay Effective on the First Day of New Active Duty Pay Rates

A. When a member is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, compute retainer pay using the rate of active-duty pay received at the time of transfer. For example, if a member is transferred on December 31, 1991, with retainer pay effective on January 1, 1992, compute the member's retainer pay using the January 1, 1991, active-duty pay rates. If a member transferred on January 1, 1992, with retainer pay effective on January 2, 1992, compute retainer pay using the January 1, 1992, active-duty pay rates.

B. If a member of the Fleet Reserve or Fleet Marine Corps Reserve first became entitled to a monthly retainer pay on or after January 1, 1971, that pay may not be less than the monthly retainer pay to which the member would be entitled if he or she had become entitled to retainer pay at an earlier date. Adjust this monthly retainer pay to reflect any applicable increase in such pay under [10 U.S.C. § 1401a\(f\)](#). In computing the amount of retainer pay to which the member would have been entitled on that earlier date, base the computation, subject to 10 U.S.C. § 1401a(f), on the member's grade, length of service, and the rate of basic pay applicable at that time. This subparagraph does not authorize any increase in the monthly retainer pay to which a member was entitled for any period before October 7, 1975.

0205 RANK AND GRADE

A member transferred to the Fleet Reserve or Fleet Marine Corps Reserve has retainer pay computed based on the pay grade in which serving on the date of transfer.

020501. Pay Grade

A member who served as a temporary officer but holds permanent enlisted status [will](#) revert to a permanent enlisted pay grade upon transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

020502. Retainer Pay

A member who has served as the Master Chief Petty Officer of the Navy or as Sergeant Major of the Marine Corps is entitled to retainer pay at the highest basic pay rate to which the member was entitled while so serving, if that rate is higher.

0206 GROSS PAY COMPUTATION

020601. Computation

See Chapter 3, section 0302 for basic computation.

020602. Extraordinary Heroism

See Chapter 1, section 0108 for guidance. See Chapter 3, subparagraph 030203.C and paragraph 030506 for computation rules.

020603. Good Conduct (Markings)

For members retired and being paid under laws in effect before October 1, 1949, a 10 percent credit for good conduct may apply. To qualify for this credit, a member must have been retired under the specific citation that contains the authority for this increase, and the member's average marks for conduct for 20 or more years must not have been less than 95 percent of the maximum.

A. Section 203 of the Naval Reserve Act of 1938, which authorized the 10 percent "good conduct" increase added to retired pay of enlisted members of the Coast Guard who retire from the Coast Guard after 20 years of service, was repealed by Public Law 88-114, dated September 6, 1963.

B. The saving provision of Public Law 88-114 retained the 10 percent increase for members on active duty with the Coast Guard on or before September 6, 1963. The provision may apply to retired enlisted members of the Coast Guard who served on active duty in the Regular Coast Guard on or before September 6, 1963. Members who served in the Regular Coast Guard before September 6, 1963, but who were not serving in the Coast Guard on September 6, 1963, and who later retired from the Coast Guard, are entitled to the 10 percent good conduct increase, if otherwise qualified.

020604. Insular Force

Members of the Insular Force were eligible for transfer to the Fleet Reserve or to the retired list. The Insular Force is no longer maintained as a continuing part of the Navy. See Chapter 1, paragraph 010702 for guidance.

0207 PAYMENT DATE

See Chapter 1, section 0109.

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020201	10 U.S.C. § 6330(b) and (d) Manuscript Comptroller General (MS Comp Gen) B-195448, April 3, 1980
020201.A & B	10 U.S.C. § 6330 (d)(2)(B)
020203	10 U.S.C. § 972 MS Comp Gen B-195448, April 3, 1980
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020204.F	10 U.S.C. § 972(c)
020205	10 U.S.C. § 6332

0203 – SERVICE FOR BASIC PAY PURPOSES

0203	10 U.S.C. § 6330(d)
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0204 – DATE OF TRANSFER

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0206 – GROSS PAY COMPUTATION

020603 Naval Reserve Act of 1938, section 203
34 U.S.C. § 854(b)(repealed)
Public Law 88-114, September 6, 1963
MS Comp Gen B-193199, Apr 11, 1979

VOLUME 7B, CHAPTER 3: “GROSS PAY COMPUTATION”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font***.

The previous version dated *April 2015* is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatted to comply with current administrative instructions.	Revision
030509	Added changes to modify the determination of retired pay base for officers retired in General and Flag Officer grades, pursuant to Title 10, United States Code, Section 1407a.	Addition

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CHAPTER 3**GROSS PAY COMPUTATION****0301 GENERAL****030101. Purpose**

This chapter provides the standard way of computing basic retired pay, which includes Application of Saved Pay, Tower Amendment, and Special Provisions.

030102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

0302 BASIC COMPUTATION**030201. Overview**

In most cases, retired or retainer pay is the product of multiplying the retired pay base by the years of service multiplier. In some military disability retirement cases, retired pay is the product of multiplying the retired pay base by the percentage of disability determined by the military service.

A. Retired Pay Base. The retired pay base is determined by using the active-duty basic pay entitlement of the member.

1. Pre-September 8, 1980 Member. For individuals who first became members before September 8, 1980, the retired or retainer pay base is the basic pay of the member on the day before retirement. See paragraphs 030202 through 030206 for exceptions.

2. Post-September 7, 1980 Member. For individuals who first became members after September 7, 1980, the retired or retainer pay base is the average of the highest 36-months of basic pay received.

a. The retired pay base for a member with 36 or more months of active service is the average monthly basic pay the member received over their highest earning 36-months. In the case of a Reserve component member, this is the total amount of basic pay to which the member was entitled during the member's high 36-months or to which the member would have been entitled if the member had served on "active-duty" during the entire period of the member or former member's high 36-months. Only months during which the individual was a member of a uniformed service may be used. Starting with the highest rate of pay, add together the monthly basic pay amounts until the total number of months equals 36-months. Divide the total pay derived from the sum of months by 36, and round to the nearest cent to obtain the retired pay base applicable to the member. Any lost time the member had is not to be included in the computation.

b. The retired pay base for a member with less than 36-months of active service is the member's basic pay for the entire period of the member's active service added together divided by the number of months (including any fractions thereof) of the member's active service. In the case of a Reserve component member, this is the total amount of basic pay to which the member was entitled or to which the member would have been entitled if the member had served on active-duty during the entire period before being retired. Divide the total pay by the total time expressed as months and days, count days that are less than 30 as 1/30th of a month. Round the result to the nearest cent.

c. A full month served counts as 1-month regardless of any interruption by a pay rate change and regardless of the number of days in that month. Service for an entire calendar month at a single rate of basic pay counts as 1-month under that rate of basic pay, regardless of the number of days in the month, i.e., 28, 29, 30, or 31-days. For a calendar month that has multiple rates of basic pay, compute service for an entire calendar month, for the number of days paid at each 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 leap year). If a month has 31-days, ignore the 31st. For example, 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. [Allocate the computation of pay for a 30-day month](#) in a straightforward manner.

d. 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 one month. If a member serves less than a full month and one or more rates of basic pay apply, compute each rate as applicable for the number of days paid the member 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, consider the month to have 30 days. This member receives 3-days at one rate and 20-days at the new rate or 23-days of pay.

Example: A member receives monthly basic pay of \$17,658.30 over 14-months and 11-days:

$$\frac{\$17,658.30}{14\text{-months} + 11\text{-days}} = \frac{\$17,658.30}{14.36667} = \$1,229.12 \text{ Retired Pay Base}$$

$$\begin{array}{ll} \$1,229.12 & \text{Retired Pay Base} \\ \times \underline{\quad\quad\quad} \% & \text{Retired Pay Multiplier} \\ \hline = \$x,xxx.xx & \text{Retired Pay Rounded} \end{array}$$

3. [Consider an](#) individual to have first become a member of a Uniformed Service when that individual, on or after September 8, 1980, is first appointed or [is](#) enlisted in the Uniformed Services. A member who first enlists before September 8, 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 the 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 September 8, 1980.

4. [DFAS may use](#) a save pay rate under the provisions of the Tower Amendment to compute retired pay when it is to the member's advantage. See paragraph 030403 for eligibility. The Tower Amendment authorizes the use of the 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.

B. Retired Pay Multiplier

1. In computing retired or retainer pay, other than for disability or non-regular service retirement, the retired pay or retainer pay multiplier is the product of two and one-half percent and the member's years of creditable service. The term "years of creditable service" means the number of years of service that are creditable to a member in computing the member's retired or retainer pay, including credit for each full month of service in addition to full years of service. See Chapter 1, section 0103 for determining creditable years of service for computing retired pay.

2. The retired pay or retainer pay multiplier for a post-July 1986 member who has accepted the Career Status Bonus (CSB) and who retires with less than 30 years of creditable service is reduced at the time of retirement, if under age 62. See [subparagraph 030210.B](#) for the restoring of retired pay at age 62.

3. If retired before January 1, 2007, the retired pay or retainer pay multiplier is limited to 75 percent for a member with more than 30-years of creditable service. If retired after December 31, 2006, for other than disability, there is no restriction on the retired pay multiplier.

030202. Disability Retirement (Table 3-1, Rules 1 and 2)

A. The retired pay base pay for a disability retirement is determined as follows:

1. For a member who entered service before September 8, 1980, the retired pay base is the monthly basic pay of the grade or rank in which the member was serving when placed on the Temporary Disability Retired List (TDRL) or the highest temporary grade or rank in which the member served satisfactorily or to which the member was entitled on the day before retirement or placement on the TDRL, whichever is the higher.

2. For a member who entered service after September 7, 1980, the retired pay base is determined as prescribed in subparagraph 030201.A.

B. The retired pay multiplier for a disability retirement is determined as follows:

1. A member permanently retired for disability receives retired pay that is equal to the retired pay base under Table 3-1, Rule 1, multiplied by the member's election of either:

a. Two and one-half percent times the years of service credited for percentage purposes, except as provided in subparagraph c; or,

b. Percentage of disability, not to exceed 75-percent, on date retired.

c. For a member with 30 or more years of service, retiring on or before January 7, 2011, the retired pay multiplier may not exceed 75-percent. The retired pay multiplier is not limited for members with 30 or more years of service who retire on or after January 8, 2011.

2. A member placed on the TDRL receives retired pay that is equal to the retired pay base under Table 3-1, Rule 2, multiplied by the member's election of either:

a. Two and one-half percent times the years of service credited for percentage purposes; or,

b. Percentage of disability, not to exceed 75-percent, on the date when [the concerned military department places the member's](#) name on the TDRL.

3. If neither multiplier [as described under subparagraphs 030202.B.1 and 030202.B.2](#) is at least 50-percent, [DFAS will pay](#) a minimum of 50-percent of the retired pay base while the member is on the TDRL.

4. For a member placed on the TDRL on or before January 7, 2011, the retired pay multiplier may not exceed 75-percent. The retired pay multiplier is not limited for members with 30 or more years of service who retire on or after January 8, 2011.

C. If a member is retired for disability and is eligible under another provision of law, follow the rule in Table 3-1 applicable to the section of law that is more advantageous to the member.

D. An adjustment under paragraph 030210 is unnecessary since disability retired pay is not computed using a retired pay multiplier that is determined under [Title 10, United States Code \(U.S.C.\) section 1409](#),

030203. Voluntary Retirement (Table 3-1, Rules 3 through 8)

A. The retired or retainer pay base pay for a voluntary retirement is determined as follows:

1. For a member who entered service before September 8, 1980, the retired or retainer pay base is the monthly basic pay rate applicable on the date of the member retirement for the grade or rank in which the member was retired or to which the member advances on the retired list. Compute the retired pay base as shown in Table 3-1, Rules 3 through 8, subject to subparagraphs a through d.

a. A Reserve enlisted member, who is retired in the highest enlisted grade satisfactorily held on active-duty (or in which the member served on full-time National Guard duty satisfactorily) after being administratively reduced in grade not as the result of the member's misconduct, may use the basic pay rate of the retired grade.

b. For Army and Air Force Reserve enlisted personnel, the basic pay applicable on the member's date of retirement for the retired grade is the retired pay base, in lieu of the retired pay base under 10 U.S.C. § 1406(c) or (e).

c. For Navy and Marine Corps Reserve enlisted personnel transferred to the Fleet Reserve/Fleet Marine Corps Reserve (FR/FMCR) in the highest grade satisfactorily held on active-duty after being administratively reduced in grade not as the result of the member's misconduct, use the basic pay rate of the grade in which the member transferred for the retired or retainer pay base. This subparagraph applies to the member who entered a Uniformed Service before September 8, 1980 and who retired (or transferred to the FR/FMCR) after September 30, 1996.

d. For warrant officers, compute the retired pay base on the monthly basic pay to which the member would be entitled if serving on active-duty in the retired grade on the day before retirement. If the member, however, is entitled to a higher rate of pay using any other warrant officer grade satisfactorily held by the member on active-duty, retired pay may be computed using the basic pay for that warrant officer grade.

2. For a member who entered service after September 7, 1980, the retired pay base is determined as prescribed in subparagraphs 030201.A.2.a and b.

a. An Army or Air Force enlisted member with less than 30-years of service who is retired under 10 U.S.C. § 3914 or § 8914 will have the retired pay base computed using only the rates of basic pay for months of active-duty as an enlisted member.

b. A Navy and Marine Corps enlisted member who is transferred to the FR/FMCR in accordance with 10 U.S.C. § 6330 will have the retired pay base computed using only the rates of basic pay for months of active-duty as an enlisted member.

B. The retired or retainer pay multiplier for a voluntary retirement is determined in accordance with subparagraph 030201.B.

1. For service credited for percentage purposes of enlisted members, see Chapter 1, paragraph 010302.

2. For service credited for percentage purposes of commissioned officers, see Chapter 1, paragraph 010303.

3. For service credited for percentage purposes of warrant officers, see Chapter 1, paragraph 010304.

4. The retired pay multiplier for a member who enters a Uniformed Service after July 31, 1986, and who has accepted the CSB, is determined under subparagraph 030201.B.2.

5. See paragraph 030211 for retired pay computation for a member retired under the Temporary Early Retirement Authority (TERA).

C. DFAS may increase retired or retainer pay by 10 percent of retired pay for extraordinary heroism in the line of duty. See paragraph 030506.

030204. Mandatory Retirement (Table 3-1, Rules 9 through 12)

A. The retired pay base pay for a mandatory retirement is determined as follows:

1. For a member who entered service before September 8, 1980, the retired pay base is the basic pay rate of member's grade that is applicable on member's date of retirement. Do not use the grade of brigadier general if the member was a permanent professor at a military academy and was conferred such a title upon retirement. If a warrant officer is entitled to a higher rate of pay using any other warrant officer grade satisfactorily held by the member on active-duty, retired pay may be computed using the basic pay for that warrant officer grade.

2. For a member who entered service after September 7, 1980, the retired pay base is determined as prescribed in subparagraph 030201.A.

B. The retired pay multiplier for a mandatory retirement is determined in accordance with subparagraph 030201.B.

1. For service credited for percentage purposes of Army and Air Force retirees, see Chapter 1, subparagraph 010305.A.

2. For service credited for percentage purposes of Navy and Marine Corps retirees, see Chapter 1, subparagraph 010305.B.

3. The retired pay multiplier for a member who enters a Uniformed Service after July 31, 1986, and who has accepted the CSB, is determined under subparagraph 030201.B.2.

030205. Non-Regular Service Retirement (Table 3-1, Rule 13)

A. The retired pay base pay for a non-regular retirement is determined as follows:

1. For a member who entered service before September 8, 1980, the retired pay base is the monthly basic pay at the rate applicable on the [date granted retired pay](#), at the highest grade held satisfactorily at any time in the Armed Forces.

2. For a member who entered service after September 7, 1980, the retired pay base is determined as prescribed in subparagraph 030201.A. The high 36-months of such a member are the 36-months for which the pay was the highest, whether or not consecutive, out of all the months before the member became entitled to retired pay or would have become entitled to retired pay. This will be the 36-months immediately preceding receipt of retired pay even though the member may not have been in an active status during such time. However, [DFAS may only use](#) months during which the individual was a member of a uniformed service for this purpose.

B. The retired pay multiplier for a non-regular retirement is determined by multiplying two and one-half percent times the years of service credited for percentage purposes. See Chapter 1; subparagraph 010207.B for service credited for percentage purposes. (Pursuant to [10 U.S.C. § 12733](#), the formula for converting retirement points into percentage years is total number of retirement points divided by 360. Carry the result to three decimal places; round to two decimal places. Example: 4,735 retirement points divided by 360 equals 13.152-years or 13.15-years for percentage purposes.)

030206. Fleet Reserve and Fleet Marine Corps Reserve (FR/FMCR) Transfer (Table 3-1, Rule 14)

When not on active duty, a member transferred to the FR/FMCR is entitled to retainer pay computed by multiplying the retainer pay base times two and one-half percent times the years of service credited for percentage purposes. In lieu of the retainer pay base computed in accordance with 10 U.S.C. § 1406(d), a Reserve enlisted member may use the monthly basic pay for the highest enlisted grade in which the member served satisfactorily, as determined by the Secretary of the Navy. This [paragraph](#) applies to an individual who first became a member of the Uniformed Service before September 8, 1980, and who at the time of transfer is serving on active-duty in a grade lower than the highest enlisted grade held by the member while on active-duty not as a result of the member's misconduct.

A. Pre-September 8, 1980 Member. The retainer pay base is the basic pay that the member received at the time of transfer to the FR/FMCR. The retainer pay base is multiplied by two and one-half percent times the number of years of active service (as adjusted in subparagraph 030201.A) in the Armed Forces.

B. Post-September 7, 1980 Member. The retainer pay base is the person's high-three average. The high-three average is the total amount of monthly basic pay for the

highest 36-months of member's active service, whether or not consecutive, divided by 36. When a member transfers to the FR/FMCR with less than 30-years of service, DFAS computes the high-36 average using only rates of basic pay applicable to months of active-duty as an enlisted member.

030207. Historical Pay Computations

A. The laws that governed the computation of retainer pay for a member transferred to the FR/FMCR from its inception in 1916 through June 30, 1938 are of no value since assimilated in the Naval Reserve Act of 1938, effective July 1, 1938. Therefore, the earlier computations are not included in this Regulation since they were restated effective July 1, 1938. See Table 3-2 for the pay computations.

B. A member transferred to the FR/FMCR was administratively placed in a class to differentiate between laws and conditions governing the computation of these pay entitlements. The following classes are applicable to these members:

<u>COMPONENT</u>	<u>CODE</u>	<u>APPLICABLE TO</u>
FR FMCR	F-4c 1-b	Member who is in the Naval service on July 1, 1925 and later transferred to the FR/FMCR after completion of 16-years but less than 20-years of active service.
FR FMCR	F-4d 1-c	Member who was in the Naval service on July 1, 1925 and later transferred to the FR/FMCR after completion of 20-years but less than 30-years of active service.
FR FMCR	F-5 H-1	Member who first enlisted in the Naval service after July 1, 1925, and later transferred to the FR/FMCR before August 10, 1946, after completion of 20-years but less than 30-years of active service.
FR FMCR	F-6 1-d	Member who first enlisted in the Naval service after July 1, 1925, and later transferred to the FR/FMCR on or after August 10, 1946, after completion of 20-years but less than 30-years of active service.

C. Longevity is the length of service performed by each member.

1. Before October 1, 1949, longevity pay was a significant factor in computing retainer pay. Certain pay laws contained provisions for computing longevity pay based on the member's length of service. During this period, base pay and longevity fitted into the framework of pay formulas to arrive at retainer pay. The computation for the longevity pay changed several times before being superseded by basic pay. The various computations and the periods applicable are:

a. Until May 31, 1942, for Navy members, the computation was 10-percent of base pay for the first increment of 4-years of Naval service, plus 5-percent of base pay for each 4-year increment thereafter, not to exceed 16-years, or 25-percent.

Example: Member served 18-years; on transfer to the Fleet Reserve, the longevity pay credit computed:

1. 10-percent – 4-years
2. 5-percent – 4-years
3. 5-percent – 4-years
4. 5-percent – 4-years
5. 0-percent – 4-years

b. From June 1, 1942 to September 30, 1949, the computation was 5-percent of base pay for each 3-years of service up to 30-years, maximum of 50-percent.

2. On October 1, 1949, when basic pay became an important factor, longevity pay was not computed separately but was included in the rate of basic pay.

a. A member who transferred to the FR/FMCR on or after October 1, 1949 was required to elect the formula under which [DFAS would compute](#) their pay. 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). The authorization for transfer to the Fleet Reserve [indicates such election](#).

b. Under Public Law 1028, effective August 10, 1956, a member who transfers to the FR/FMCR receives retainer pay computed on the formula included in the codification of the military pay laws under [Title 10 U.S.C.](#) The prior computations were still in effect for the members to whom they applied. A member who enters a Uniformed Service before September 8, 1980 receives retainer pay computed under this formula.

c. A member who enters the Uniformed Service after September 7, 1980 receives retainer pay under the formula codified in 1956, except the retainer pay base is used instead of a monthly basic pay rate.

030208. Service Credit Rounding of Months

For percentage purposes in computing retired or retainer pay:

A. A member who retired before January 1, 1982 receives credit for any fractional part of a year that is 6-months or more as an additional year. Disregard any portion of

a year that is less than 6-months. See Table 3-3. This applies to any member who, before January 1, 1982:

1. Applied for retirement;
2. Applied for transfer to the FR/FMCR;
3. Was being processed for retirement under the provisions of [10 U.S.C. Chapter 61](#); or
4. Was on the TDRL and thereafter retired under the provisions of [10 U.S.C. § 1210\(c\) or \(d\)](#).

B. Unless covered by subparagraph 030201.A, a member who became entitled to retired or retainer pay January 1, 1982 through September 30, 1983, inclusive, received credit on a month-by-month basis for each full month served of 6-months or more. Disregard any fraction of a year less than 6-months. See Table 3-3.

C. A member who became entitled to retired or retainer pay on or after October 1, 1983 receives credit for each full month served. Disregard less than full months. See Table 3-4.

NOTE: If a member retires October 1, 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 January 1, 1982, service credit of 6-months or more was rounded to a full year. However, funding limitations each fiscal year prohibited payment for months in excess of whole months actually served until permanent codification was effective July 1, 1986.

D. In calculating the percentage factor under subparagraphs 030208.B or C, round the percent to the nearest 1/100 of one percentage point. For example, 20-years, 7-months (20.58-years) time's 2.5-percent equals 51.45-percent. See Table 3-4. This rounding method will also be used if the member is entitled to retired pay computed under the saved pay provision in paragraph 030303 or under 10 U.S.C. 1401a(f) in section 0304.

030209. Rounding Retired Pay

Under Public Law 98-94, the 1984 DoD Authorization Act, [round the](#) monthly retired or retainer pay entitlement as initially computed and as subsequently adjusted.

A. Effective October 1, 1983, the initial computation of gross retired pay, if not a multiple of \$1, round down to the next lower multiple of \$1. [Make](#) all further reductions, deductions, withholdings, and allotments from this rounded figure. When retired pay is subsequently increased under 10 U.S.C. 1401a by cost-of-living adjustments, the retired or retainer pay, if not a multiple of \$1, is rounded down to the next lower multiple of \$1.

B. The retired or retainer pay for a member already retired on September 30, 1983 was not rounded until the next cost-of-living adjustment, December 1, 1984. If not a multiple of \$1, [round the retired or retainer pay](#) to the next lower multiple of \$1. The same rounding procedure applies to all subsequent cost-of-living adjustments.

030210. Special Computations for Career Status Bonus with Reduced Retirement (CSB/REDUX)

A. The retired pay or retainer pay multiplier of members who elected the CSB with REDUX retirement will be reduced one percentage point for each full year of creditable service less than 30 and 1/12th of one percent for each full month of creditable service less than a full year.

B. Effective on the first day of the month following the member's 62nd birthday, [DFAS will recompute](#) the retired pay of members who elected the CSB with REDUX to equal the amount of retired pay to which the member would have been entitled on that date if the member had not taken the CSB with REDUX retirement and had no reduction in their multiplier or COLA. Following the restoration discussed in the preceding sentence, [DFAS will continue to apply](#) the annual COLA reduction to the member's retired pay each year throughout the member's retirement.

C. Members who elected the CSB/REDUX retirement and accepted early retirement under the TERA program will have their retired pay recomputed as discussed in subparagraph 030210.A; however, they will be subject to the TERA reduction factor from Table 3-5 for the entirety of their retirement with no restoration of that reduction at age 62 or at any other time.

030211. Temporary Early Retirement Authority (TERA)

[The TERA legislation provided](#) the Secretary of Defense a temporary additional force management tool with which to affect the drawdown of military forces from October 23, 1992 through September 1, 2002. [Congress amended that legislation and reinstated](#) certain TERA provisions for the period beginning December 31, 2011 and ending on December 31, 2018. [DFAS will compute](#) the basic TERA retired pay entitlement for members of the Army, Navy, Marine Corps and Air Force as described in this paragraph.

A. Computation of Retired Pay. [DFAS will multiply the applicable reduction factor from Table 3-5 to compute](#) the amount of retired pay otherwise prescribed for a retiring member using years of creditable service, high-36 monthly average basic pay and a 2½ retired pay percentage factor. The resulting reduced amount of retired pay, if not a multiple of \$1, round to the next lower multiple of \$1. This rounded amount is the initial gross monthly retired pay entitlement.

B. Reduction Factor. To determine the appropriate reduction factor from Table 3-5, take the difference between 240-months (20-year career) and the number of months of

active service as of the date of the member's retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve under TERA.

1. Round up to the next whole month any portion of a month of active service in excess of a whole month. For example, round up the total active service of 15-years, 7-months, and 13-days to 15-years, 8-months. Then compute the reduction factor based on 15-years and 8-months as: $(15 \times 12) + 8 = 188$ -months and the applicable reduction factor corresponds to the Table 3-5 entry for 240 less 188 or 52-months. The applicable reduction factor for 52-months from Table 3-5 is .95667.

NOTE: In computing the retired pay, disregard the 13-days in excess of 187-months of service. Compute retired pay based on 187-months. The rounding up is applied only to determine the TERA reduction factor.

2. As an example, the retired pay for a member retired under TERA as an E-7, with 15-years, 7-months, 13-days of creditable service and a high 36-monthly average basic pay of \$3,783.50 would be computed as follows:

RPB	-	Retired Pay Base (i.e. high 36 monthly average basic pay)
AS	-	Active Service (in months)
MO	-	Months in a year
RPF	-	Retired Pay Percentage Factor
TRF	-	TERA Reduction Factor (Table 3-5)

$$\begin{aligned}
 & \text{RPB} \times ((\text{AS} \div \text{MO}) \times \text{RPF}) \times \text{TRF} = \\
 & \$3,783.50 \times ((187 \div 12) \times .025) \times .95667 = \\
 & \$3,783.50 \times (15.5833 \times .025) \times .95667 = \\
 & \$3,783.50 \times .3896 \times .95667 = \\
 & \underline{\$1,410.18}
 \end{aligned}$$

(Since this is not a multiple of \$1, round down to \$1,410.00.)

C. TERA Computation Modified for Career Status Bonus (CSB)/Reduced Retirement (REDUX). DFAS must modify the basic TERA retired pay entitlement if a member has elected to receive a CSB and is subject to the REDUX retirement plan. In such case, the normal retired pay multiplier shall first be reduced by one twelfth of one percentage point for each month that the member's creditable service is less than 30-years (360-months) under the REDUX computation before the application of the TERA reduction factor from Table 3-5.

Using the example in subparagraph 030211.B.2, compute the TERA retired pay for a member who has elected to receive a CSB as follows:

RPB	-	Retired Pay Base
360	-	30-Years (360-months)
AS	-	Active Service (in months)
MO	-	Months in a year

RPF	-	Retired Pay Percentage Factor
RRF	-	REDUX Reduction Factor (1%)
TRF	-	TERA Reduction Factor (Table 3-5)

$$\begin{aligned}
 &RPF \times ((AS \div MO) \times RPF) - (((360 - AS) \div MO) \times RRF) \times TRF = \\
 &\$3,783.50 \times ((187 \div 12) \times .025) - (((360 - 187) \div 12) \times .01) \times .95667 = \\
 &\$3,783.50 \times ((15.5833 \times .025) - ((173 \div 12) \times .01)) \times .95667 = \\
 &\$3,783.50 \times (.3896 - (14.42 \times .01)) \times .95667 = \\
 &\$3,783.50 \times (.3896 - .1442) \times .95667 = \\
 &\$3,783.50 \times .2454 \times .95667 = \\
 &\underline{\$888.24}
 \end{aligned}$$

(Since this is not a multiple of \$1, round down to \$888.00.)

The amount determined in [subparagraph 030211.C](#) will be increased by the annual Cost of Living [Adjustment](#) (COLA) as determined for other members who have elected the CSB and REDUX retirement. This will result in a COLA that is reduced by one percentage whenever the standard military retirement COLA is greater than one percent and the same COLA whenever the standard is one percent or less.

D. Unlike the prior TERA eligibility period from 1992 through 2002, under the new TERA authority members may not earn additional credit for purposes of re-computing retired pay for any employment by a public service or community service organization.

E. Persons retired under the TERA provisions have all the same entitlement rights, privileges and responsibilities of participation in the Survivor Benefit Plan (SBP), as retired members of their respective branch of service.

1. Full coverage under SBP means coverage on the amount of retired pay computed in [subparagraph 030211.A](#) which is the initial computation of TERA retired pay as reduced by the applicable reduction factor from Table 3-5.

2. For a CSB/REDUX member, the base amount for full SBP coverage is the amount computed using the TERA formula in [subparagraph 030211.A](#) including the reduction from Table 3-5. The SBP full base amount for a CSB recipient does not include the REDUX retirement reduction in [subparagraph 030211.C](#). If the member elects a reduced base amount, with spouse concurrence, at the time of retirement, even if based on the REDUX re-computation in [subparagraph 030210.C](#), no increase will be made in that base amount as a result of the re-computation at age 62 other than an increase to restore the elected base amount to what it would have been in effect had full COLAs been in effect. No increase will be made in that base amount as a result of the re-computation at age 62 for the restoration of the retired pay multiplier.

030212. Exception to High-36 Month Retired Pay Computation for Members Retired Following a Disciplinary Reduction in Grade

Members or former members who entered the Uniformed Services on or after September 8, 1980 will have their retired pay base computed using the high 36-month average, except for the members described as follows, whose retired pay base is based on the final basic pay of the grade prescribed [under](#) 10 U.S.C. § 1406, rather than the highest 36-month average of basic pay.

A. Affected Members. A member or former member subject to the above exception is one who, by reason of conduct occurring after October 30, 2000:

1. In the case of an enlisted member retired or transferred to the FR/FMCR, is reduced in grade as a result of court-martial sentence, nonjudicial punishment, or an administrative action, unless the member was subsequently promoted to a higher enlisted grade or appointed to a commissioned or warrant grade, in which case see subparagraph 030212.B.

2. In the case of an officer, retired in a grade lower than the highest grade in which the officer served by reason of denial of a determination or certification under [10 U.S.C. § 1370](#) that the officer served on active-duty satisfactorily in that grade, [apply](#) this determination only in those circumstances where such determination is the result of conduct occurring after October 30, 2000. Conduct, for the purposes of this [subparagraph will](#) not include failure to complete the time necessary for certification under 10 U.S.C. § 1370, absent any other conduct bearing on such certification.

B. Special Rule for Enlisted Members. In the case of an enlisted member retired within 3 years after having been reduced in grade as prescribed in subparagraph 030212.A.1, and who was not subsequently promoted to a higher enlisted grade (or appointed to a warrant or commissioned grade), the retired pay base will be computed using the final basic pay rather than the high 36-month average. If, however, the member is subsequently promoted to a higher enlisted grade (or appointed to a warrant or commissioned grade), the member's retired pay will be computed using a high 36-month average computation. The computation will use the final 36-months of basic pay, except for the months in which the member served in a grade higher than the grade in which retired. The basic pay for such months [will](#) be the rates that would have applied to the member at that time if serving in the grade in which retired.

Examples:

1. An E-7 is reduced to E-5 and retired as E-5. This member comes under subparagraph 030212A.1., with retired pay base computed under the pre-September 1980 system, which is final pay rules using the pay of an E-5.

2. An E-7 is reduced to E-5 two years before retirement, is promoted 1-year later to E-6 and retired as an E-6. This member uses the "Special Rule" and computes a

high 36 as specified in subparagraph 030211.B rather than using the final pay of an E-6. In computing the high 36-average, it would include 12-months as an E-7, 12-months as an E-5, and 12-months as an E-6. The "Special Rule" requires that the time as an E-7 will be replaced in the high 36 formula with pay rates of an E-6.

0303 APPLICATION OF SAVED PAY

030301. Career Compensation Act, Effective October 1, 1949

A. An officer retired for disability before October 1, 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 October 1, 1949, computed at 75-percent of the basic pay of the grade authorized.

B. A member who, on October 1, 1949, was a hospital patient and who, before January 1, 1951, retired for disability as the result of the disease or injury for which hospitalized could elect to receive retired pay:

1. Computed under laws in effect on September 30, 1949 at 75-percent of the basic pay of the grade authorized; or

2. Computed under section 402(d) of Public Law 81-351.

C. A member who, on October 1, 1949, was receiving or was entitled to receive retired pay under any provision of law was authorized to continue the entitlement to receive the pay to which entitled under the laws in effect on September 30, 1949.

030302. Military Pay Act, Effective June 1, 1958

A. A member who retired or transferred to the FR/FMCR on or after June 1, 1958 and before April 1, 1963, and who was receiving active-duty basic pay under the April 1, 1955, saved pay rates, continued to receive pay computed under the 1955 rates, based upon service credited for basic pay purposes as of June 1, 1958.

B. A member who retired or transferred to the FR/FMCR on June 1, 1958 was entitled to pay computed on the June 1, 1958 active-duty basic pay rates, or on the April 1, 1955 active-duty basic pay rates plus 6-percent, whichever was greater.

C. A member retired or transferred to the FR/FMCR after June 1, 1958, who was receiving active-duty saved pay, was entitled to retired pay computed on the April 1, 1955 active-duty basic pay rates, but was not entitled to the additional 6 percent increase.

030303. Military Pay Act, Effective October 1, 1967

A. With respect to a member entitled to retired pay computed under this paragraph, the retired or retainer pay may not be less than it would have been if the member 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 the 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 this Act, see Chapter 1, paragraph 010402.

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, Fiscal Year 1984. Under the provisions of that repeal, this paragraph now applies only to:

1. A member retired or transferred to the FR/FMCR October 1, 1967, through September 24, 1983, inclusive; and
2. A member eligible for retirement or transfer on or before September 24, 1983, provided the member retires or transfers on or before September 24, 1986. If the member retires or transfers after September 24, 1986, the retired or retainer pay may not be less than it would have had the member actually retired or transferred on September 23, 1986.

0304 TOWER AMENDMENT

030401. Basic Provisions

A. A member, who retires or transfers to the FR/FMCR on or after January 1, 1971, and who fully qualifies for retirement on a date earlier than the actual retirement date, receives the most favorable rate of pay as though the member had actually retired or been transferred on the earlier date:

1. After becoming retirement-eligible on or after January 1, 1971 (see Chapter 1, section 0102),
2. Based upon the grade and the service creditable on the earlier computation date. (For retirements on or after October 5, 1994, the grade used in the computation cannot be higher than the grade in which the member is retired.),
3. Using the rate of basic pay applicable to the member on the earlier computation date in determining the retired pay base, or
4. Subject to the provisions of paragraph 030303.

B. A member, who retired or transferred to the FR/FMCR before October 7, 1975, the effective date of the Tower Amendment, is entitled to pay adjusted from October 7, 1975. No adjustment is authorized under the provisions of the amendment for any period before October 7, 1975.

C. A member who retired between October 1, 1988 and October 4, 1994 and who is reduced in grade under sentence of court-martial after initially becoming eligible for retired pay is not entitled to computation on a grade higher than the grade in which retired.

D. See subparagraph 030503.A for provision concerning an officer who served in a special position as Chairman or Vice Chairman of the Joint Chiefs of Staff or as a Chief of Service.

E. See paragraph 030505 for the provision concerning an enlisted member who served in a special position as a senior enlisted member.

030402. Earlier Computation Dates

A. Predetermined earlier computation dates are established for uniformity in computing the pay of a member who qualifies under 10 U.S.C. § 1401a(f), and the Tower Amendment, as amended. Generally, the day immediately preceding an active-duty basic pay rate change is the earlier date of voluntary retirement eligibility, unless the computation is more favorable based on the first day of the month preceding an active-duty basic pay rate change.

B. A member of the FR/FMCR may transfer on any intermediate day of a month. Therefore, the earlier computation date for this member is the day before new active-duty basic pay rates are effective.

C. A warrant officer retired under provisions of [10 U.S.C. § 1293](#) (see Table 3-1, rule 3), on the effective date of a change in the active-duty pay rates, receives retired pay computed by using the rate of basic pay in effect on the day before the date of retirement. Thus, the earlier retirement eligibility date under 10 U.S.C. § 1401a(f) computation would be one year earlier with retired pay based upon rates in effect on the day before the earlier eligibility date. If the member is entitled to use the saved pay rate under paragraph 030303, the rate in effect immediately prior to the rate in effect on the day before the earlier retirement eligibility date is used.

030403. Computation at the Time of Retirement or Transfer to the FR/FMCR

A. A member receives the most favorable retired pay, as adjusted by applicable cost-of-living adjustments, 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 030203 apply.

3. Any active-duty basic pay rate in effect on or after January 1, 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 subparagraph 030403.A.2 without further loss of grade and service.

B. A member retiring for disability who is eligible for voluntary retirement or transfer to the FR/FMCR on an earlier date may have gross retired pay entitlement computed in accordance with the provisions of 10 U.S.C. § 1401a(f) 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. [DFAS calculates](#) the rate of pay based upon degree of disability only on the basic pay rate applicable under subparagraph 030403.A.1 or A.2 (if applicable).

0305 SPECIAL PROVISIONS

030501. Entitlement Under More Than One Pay Formula

A member who is entitled to pay computed under more than one pay formula or provision of law is entitled to be paid under the formula that is most favorable.

030502. Commissioned Officer With More Than Four Years of Active Enlisted and/or Warrant Officer Service

A member, who at the time of retirement, is in pay grade O1E, O2E, or O3E, having served more than 4-years of active-duty as an enlisted member and/or warrant officer, receives pay computed on the special basic pay rate that is authorized.

030503. Commissioned Officer Serving in a Special Position

A. Joint Chief of Staff and Chief of Service. An officer who serves as Chairman or Vice Chairman of the Joint Chiefs of Staff or as a Chief of the Service may receive retired pay which is computed on the highest rate of basic pay applicable to the member while serving in the special position, if that rate is higher than the rate otherwise authorized as a retired pay base for a member who first became a member before September 8, 1980. Except as provided in paragraph 030509, effective January 1, 2007, the rate of basic pay cannot exceed Level II of the Executive Schedule. The term “Chief of Service” refers to one of the following:

1. Chief of Staff of the Army,
2. Chief of Naval Operations,
3. Chief of Staff of the Air Force,

4. Commandant of the Marine Corps, or
5. Commandant of the Coast Guard.

NOTE: The member may not use the rate of the special position for computation of retired pay if, during or after serving in the special position, and by the member's conduct after October 16, 1998, the officer is not certified as having served satisfactorily in the grade of general or admiral while serving in that position.

B. Special Rule for Computation of Retired Pay Base for Commanders of Combatant Commands. An officer who serves as a Commander of a Unified or Specified Combatant Command may receive retired pay that is computed on the highest rate of basic pay applicable to the member while serving in that position. The member may not use the rate of the special position for computation of retired pay if, during or after serving in the special position and by the member's conduct after October 16, 1998, the officer is not certified as having served satisfactorily in the grade of general or admiral while serving in that position. Effective January 1, 2007, the rate of basic pay cannot exceed Level II of the Executive Schedule. This special rule [will](#) apply with respect to officers who first become entitled to retired pay on or after November 23, 2004.

030504. Officer in Grade O-9 or O-10

A. An officer who served in grade O-9 or O-10 for not less than 3-years is entitled to retired pay based on that grade if the Secretary of Defense certifies in writing to the President and the Congress that the officer served on active-duty satisfactorily. [DFAS may reduce](#) the 3-year requirement to not less than 2-years for retirements effective during a specified period (see Chapter 1, subparagraph 010501.E.5). [DFAS may not reduce or waive](#) the 3-year time-in-grade requirement if the officer is under investigation for alleged misconduct or while an adverse personnel action is pending against the officer for alleged misconduct.

B. An officer who served in grade O-9 or O-10 for a period of less than 3-years before retirement will have retired pay based on the next lower grade, unless a waiver of the time in grade requirement has been granted by the appropriate authority. The granting of the waiver will affect only the pay computation for the date of retirement. Computations for earlier dates on which eligible to retire must be based on the next lower grade.

C. Section 601(e) of [Public Law 106-65](#), October 5, 1999, provides that retired pay be recomputed effective January 1, 2000, for certain members who retired during the period April 30, 1999 through December 31, 1999. As a result, [DFAS will recompute](#) the retired pay of members' grade O-9 with over 26-years of service and O-10s with over 16-years of service. The new rates will be for months beginning on or after January 1, 2000 and will be computed as if the Level II limit had applied at the time of a qualified member's retirement. No increased amount is payable for any period before January 1, 2000, as a result of this [subparagraph](#). [DFAS will recompute](#) retired pay rates for affected members as though the following rates of basic pay had been applicable at the time of retirement:

0-9	Over 26-years of service:	\$9,528.00
0-10	Over 16-years of service:	\$9,528.00
0-10	Over 18-years of service:	\$9,528.00
0-10	Over 20-years of service:	\$10,167.00
0-10	Over 22-years of service:	\$10,167.00
0-10	Over 24-years of service:	\$10,167.00
0-10	Over 26-years of service:	\$10,491.60

030505. Enlisted Member Serving in a Special Position

The senior enlisted member of an Armed Force may receive retired pay, which [DFAS computes](#) on the highest rate of basic pay applicable to the member while serving in that special position, if that rate is higher than the rate otherwise authorized as a retired pay base for a member who first became a member before September 8, 1980. The term “senior enlisted member” refers to one of the following:

- A. Sergeant Major of the Army,
- B. Master Chief Petty Officer of the Navy,
- C. Chief Master Sergeant of the Air Force,
- D. Sergeant Major of the Marine Corps, or
- E. Master Chief Petty Officer of the Coast Guard.

NOTE: The member may not use the rate of the special position for computation of retired pay if, during or after serving in the special position, and by member’s conduct after October 16, 1998, the member is reduced in grade by court-martial, nonjudicial punishment, or other administrative process.

030506. Heroism Pay

An enlisted member retired after 20-years of service, to include an enlisted member retired due to disability, may be entitled to an additional 10-percent retired pay for extraordinary heroism, if authorized. See Chapter 1, Section 0107.

030507. Computation Under the Uniformed Services Pay Act, October 2, 1963

A. Beginning October 1, 1963, a member retired between October 1, 1949 and May 31, 1958, including a member retired before October 1, 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 September 30, 1963; or

2. Pay computed on the basic pay rates established under the June 1, 1958 Act without a 5-percent increase.

B. Beginning October 1, 1963, a member retired for service before October 1, 1949 and being paid under laws in effect on September 30, 1949 receives the greater of:

1. An increase of 5-percent in the retired pay to which entitled on September 30, 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.

030508. Computation Under the Military Pay Act, May 20, 1958

A. [The Military Pay Act, May 20, 1958, authorizes](#) a member who first became entitled to retired pay on June 1, 1958, to receive pay computed on the new June 1, 1958 basic pay rates or on the April 1, 1955 active-duty basic pay rates plus 6-percent, whichever is greater.

B. A member retired after June 1, 1958 who was receiving active-duty saved pay was entitled to retired pay computed on the April 1, 1955 active-duty basic pay rate, but was not entitled to the additional 6-percent increase.

C. The basic pay rate used in the computation of pay was increased by increments of \$200 for generals and admirals and \$100 for lieutenant generals and vice admirals before the 6-percent increase on June 1, 1958 for a retired officer who:

1. Served in that grade for at least 180-days, and
2. Was entitled to retired pay on the day before the effective date of the Military Pay Act of 1958.

*030509. Retired Pay Base for Officers Retired in General or Flag Officer Grades

A. The retired pay base of a general or flag officer who retires [between October 1, 2006 and December 31, 2014](#) will not be restricted by the requirement in [37 U.S.C. § 203 \(a\)\(2\)](#) to reduce basic pay in excess of Level II of the Executive Schedule. [The retired pay base shall be determined using the rate of basic pay for such period provided by law, rather than such rate reduced.](#)

B. [A general or flag officer who retires on or after January 1, 2015 and who served at any point between October 1, 2006 and December 31, 2014 has partial preservation of the computation of the retired pay base using the rate of basic pay for such period provided by law, rather than such rate reduced with the following guidance as stated in \[10 U.S.C. § 1407a\]\(#\):](#)

1. The retired pay base amount for a general or flag officer under the Final Pay retirement system is based upon the higher of the following:

(a) The basic pay rate in effect for the highest grade in which the general or flag officer satisfactorily served and his or her years of service as of the date of retirement, as limited by the Executive Level II ceiling, or

(b) The basic pay rate in effect on December 31, 2014, not limited by the Executive Level II ceiling, for the grade and years of service for which the general or flag officer had satisfactorily served as of December 31, 2014.

2. The retired pay base amount for a general or flag officer under the high-36 retirement system may include the monthly basic pay rate for the general or flag officer's grade and years of service for:

(a) All months served during this period of October 1, 2006 and December 31, 2014, not limited by the Executive Level II ceiling, or

(b) A combination of months served during this period not limited by the Executive Level II ceiling and months served after January 1, 2015, now limited by the Executive Level II ceiling.

C. A general or flag officer who retires on or after January 1, 2015 and did not serve at any point between October 1, 2006 and December 31, 2014 will be restricted by the requirement in 37 U.S.C. § 203 (a)(2) to reduce basic pay in excess of level II of the Executive Schedule. The retired pay base shall be determined using the reduced rate of basic pay provided by law.

Table 3-1. Computation of Retired Pay

COMPUTATION OF RETIRED PAY							
R U L E	A	B	C	D	E	F	G
	A member of the	who is	under provision s of 10 U.S.C.	receives the retired pay base	multiplied by	plus	minus (note 8)
1	Armed Forces	retired for disability	§ 1201 § 1204	computed under 10 U.S.C. § 1406(b) or § 1407 (note 1)	the percentage of disability assigned, not to exceed 75 percent or 2.5 percent times the years of service credited for percentage purposes, except for a member retiring on or before January 7, 2011, the multiplier is limited to 75 percent (note 3)		
2			§ 1202 § 1205			the amount necessary to increase the product of columns D and E to 50 percent of retired pay base	
3		voluntarily retired	§ 1293	computed under 10 U.S.C. § 1406(c) - for Army, § 1406(e) - for Air Force or § 1407 (notes 1 and 10)	the retired pay multiplier from 10 U.S.C. § 1409 for the years of service credited for percentage purposes (note 3)		excess over 75 percent of retired pay base upon which computation is based if member retires before January 1, 2007 (note 6)
4			§ 3914 § 3917 § 8914 § 8917			10 percent of the product of Columns D and E, if applicable (note 2)	
5	§ 3911 § 3918 § 3920 § 3924 § 8911 § 8918 § 920 § 8924						
6	Navy or Marine Corps		§ 6321 § 6323	computed under 10 U.S.C. § 1406(d) or § 1407 (note 1)			

Table 3-1. Computation of Retired Pay (Continued)

COMPUTATION OF RETIRED PAY							
R U L E	A A member of	B who is	C under provision s of 10 U.S.C.	D receives the retired pay base	E multiplied by	F plus	G minus/add (note 8)
7	Navy or Marine Corps	voluntarily retired	§ 6322 § 6326	computed under 10 U.S.C. § 1406(d) or § 1407 (note 1)	retired pay multiplier from 10 U.S.C. § 1409 for years of service credited for percentage purposes (note 3)	10 percent of columns D and E if applicable (note 2)	excess over 75 percent of retired pay base upon which computation is based, if the member retired before January 1, 2007 (note 6)
8			§ 6327		50 percent (note 5)		
9	Armed Forces	Involuntari ly retired	§ 580 § 633 § 634 § 635 § 636 § 1251 § 1263 § 1305 (note 9)	computed under 10 U.S.C. § 1406(b) or § 1407 (note 1)	retired pay multiplier from 10 U.S.C. § 1409 for years of service credited for percentage purposes (note 3)		excess over 75-percent of retired pay base upon which computation is based, if the member retired before January 1, 2007 (note 6)
10	Army		§ 3920 § 3921 (note 6)	computed under 10 U.S.C. § 1406(c) or § 1407 (note 1)			
11	Navy or Marine Corps		§ 6371 § 6383, (note 6)	computed under 10 U.S.C. § 1406(d) or § 1407 (note 1)			
12	Air Force		§ 8920 § 8921 (note 6)	computed under 10 U.S.C. § 1406(e) or § 1407 (note 1)	retired pay multiplier for the years of service credited for percentage purposes (note 3)		

Table 3-1. Computation of Retired Pay (Continued)

COMPUTATION OF RETIRED PAY							
R U L E	A A member of	B who is	C under provisions of 10 U.S.C.	D receives the retired pay base	E multiplied by	F plus	G minus/add (note 8)
13	Armed Forces, Reserve, or National Guard	Reservist (meets age and service requirement)	§ 12731	computed under 10 U.S.C. § 1406(b)(2) or § 1407 (note 1)	2.5 percent times the years of service credited for percentage purposes (notes 3 and 4)	10 percent of the product of columns D and E (note 2)	excess over 75 percent of retired pay base upon which computation is based if member retired before January 1, 2007 (note 6)
14	Navy or Marine Corps	transferred to the FR/FMCR	§ 6330	computed under 10 U.S.C. § 1406(d) or § 1407 (notes 1 and 7)	the retainer pay multiplier for the years of service credited for percentage purposes (note 3)		

NOTES:

- For applicable active-duty basic pay rate, see sections 0304 and 0305 and paragraphs 010502 and 030301. For a person who first became a member of a uniformed service after September 7, 1980, use the high 36 month average. For exception to high 36 months retired pay computation for members retired following a disciplinary reduction in grade, refer to paragraph 030212.
- Enlisted members credited with an act of extraordinary heroism in the line of duty. For Army and Air Force enlisted members, the total retired pay to include the 10 percent increase, may not exceed the maximum pay of 75 percent. For Navy and Marine Corps enlisted members, the total maximum retired pay is 75 percent plus the 10 percent increase. Members with more than 30 years of creditable service should also have retired pay computed without the 10 percent add-on and awarded the higher of the two calculations. All members who retire under the provisions of [10 U.S.C. § 12731](#) with credit for extraordinary heroism are restricted to a maximum pay of 75 percent.
- See Chapter 1 of this volume for service creditable for percentage purposes:

Voluntary retirement:

Paragraph 010302—Enlisted members
 Paragraph 010303—Commissioned Officers
 Paragraph 010304—Warrant Officers

Disability retirement:

Paragraph 010306

Mandatory retirement:

Subparagraph 010305.A—Army and Air Force
 Subparagraph 010305.B—Navy and Marine Corps

Reservist age and service retirement:

Paragraph 010307

- Total number of retirement points divided by 360. Carry the resultant figure to three decimal places, round to two decimal places. EXAMPLE: 4735 retirement points divided by 360 = 13.152 or 13.15-years of service for percentage purposes (for the section 12731 retiree only) to be multiplied by 2-1/2 percent.
- 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 January 1, 1953. The provisions of 10 U.S.C. § 6327 terminated on January 1, 1973. However, termination of the section did not affect any accrued rights to retired pay.
- For members who retired on or after January 1, 2007, the retired pay multiplier is the sum of 75 percent for 30 years of service plus 2-1/2 percent for every year over 30 years.

Table 3-1. Computation of Retired Pay (Continued)

NOTES

7. In lieu of the retainer pay base computed under 10 U.S.C. § 1406(d), a Reserve enlisted member may be entitled to retainer pay computed by using the monthly basic pay for the highest enlisted grade in which the member served satisfactorily, as determined by the Secretary of the Navy. This provision applies to an individual who first became a member of the Uniformed Service before September 8, 1980 and who, at the time of transfer, is serving on active-duty in a grade lower than the highest enlisted grade held by the member while on active-duty not as a result of the member's own misconduct.

8. If a member was initially retired on or after October 1, 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 September 30, 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.

9. Section 564 repealed by Public Law 102-190, December 5, 1991. Section 1255 repealed by Public Law 90-130, November 8, 1967. An officer who was on active-duty on September 15, 1981 and who is retired under Section 1251 is entitled to retired pay of at least 50 percent of the basic pay upon which the retired pay is based.

10. For a Reserve enlisted member retired under 10 U.S.C. § 3914 or § 8914 after September 30, 1996, the retired pay base is the monthly basic pay of the member's retired grade (based on rates applicable on date of member's retirement) in lieu of the retired pay base under 10 U.S.C. § 1406(e).

Table 3-2. Historical Pay Computations – Fleet Reserve and Fleet Marine Corps Reserve

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 at least	D then pay computation formula is	E plus	F and applicable law is
1	F-4c 1-b	pre-1938 to May 31, 1942	16; less than 20	1/3 x base pay rating in which transferred (note 1)	longevity pay (25 percent maximum), extraordinary heroism (10 percent)	52 Stat 1179, section 203, 34 U.S.C. § 854b.
2	F-4d 1-c		20; less than 30	1/2 x base pay rating in which transferred (note 1)	longevity pay (25 percent maximum), extraordinary heroism (10 percent), or good conduct (10 percent)	
3	F-5 H-1					52 Stat 1179, section 204, 34 U.S.C. § 854c.
4	F-4c 1-b	June 1, 1942 to August 9, 1946	16; less than 20	1/3 x base pay rating in which transferred (note 1)	longevity pay (50 percent maximum), extraordinary heroism (10 percent)	56 Stat 359, Public Law 607, June 6, 1942.
5	F-4d 1-c		20; less than 30	1/2 x base pay rating in which transferred (note 1)	longevity pay (50 percent maximum), extraordinary heroism (10 percent), or good conduct (10 percent)	
6	F-5, H-1					
7	F-4c 1-b	August 10, 1946 to September 30, 1949	16; less than 20 (note 2)	1/3 x base pay rating in which transferred (notes 1 or 2)	longevity pay (50 percent maximum), extraordinary heroism (10 percent)	60 Stat 993, Public Law 720, August 10, 1946.
8	F-4d 1-c		20; less than 30	1/2 x base pay rating in which transferred (note 2)	longevity pay (50 percent maximum), extraordinary heroism (10 percent), or good conduct (10 percent)	
9	F-6 (note 3) 1-d		20	1/2 x base pay rating in which transferred (note 1) or		
				2.5 percent x years of active federal service multiplied by base pay of rating in which transferred (note 2)	longevity pay (75 percent maximum), extraordinary heroism (10 percent)	

Table 3-2. Historical Pay Computations – Fleet Reserve and Fleet Marine Corps Reserve
(Continued)

HISTORICAL PAY COMPUTATIONS – FLEET RESERVE AND FLEET MARINE CORPS RESERVE						
R U L E	A	B	C	D	E	F
	If member retires in class	during period	with years of service at least	then pay computation formula is	plus	and applicable law is
10	all classes	transferred before October 1, 1949, effective on October 1, 1949	at least 20	pay received on 9/30/49 (saved pay) or 2.5 percent x years of active service = percent; percent x basic pay of highest federally recognized rating satisfactorily held (note 4)		Public Law 351, 81st Congress, October 1, 1949.
11	F-4c 1-b	on or after October 1, 1949		1/3 x basic pay receiving at transfer (note 5) or 2.5 percent x years of active federal service = percent; percent x basic pay of rating in which transferred (notes 6 and 8)	extraordinary heroism (10 percent)	
12	F-4d 1-c			1/2 x basic pay receiving at transfer (note 5) or 2.5 percent x years of active federal service = percent; percent x basic pay of rating in which transferred (notes 6 and 8)	extraordinary heroism (10 percent), or good conduct (10 percent)	
13	F-6 1-d			1/2 x basic pay receiving at transfer (note 5) or 2.5 percent x years of active federal service = percent;	extraordinary heroism (10 percent)	

Table 3-2. Historical Pay Computations – Fleet Reserve and Fleet Marine Corps Reserve
(Continued)

HISTORICAL PAY COMPUTATIONS – FLEET RESERVE AND FLEET MARINE CORPS RESERVE						
R U L E	A	B	C	D	E	F
	If member retires in class	during period	with years of service at least	then pay computation formula is	plus	and applicable law is
14	F-6 1-d	on or after August 10, 1956	at least 20 years	2.5 percent x years of active service in Armed Forces = percent; percent x basic pay receiving at transfer (notes 7 and 8)	extraordinary heroism (10 percent)	Public Law 1028, August 10, 1956, 10 U.S.C. § 6330.

NOTES:

1. Fractional year of 6 months or more not creditable as 1 year for longevity or transfer.
2. Fractional year of 6 months or more creditable equals' full year for transfer and longevity, effective August 10, 1946.
3. Effective August 10, 1946, class F-5 changed to class F-6.
4. Six months or more equals 1 year for active service; 6 months or more does not equal 1 year for basic pay; nor good conduct or extraordinary heroism.
5. Six months equals 1 year for basic pay and not for computing years of Naval service for transfer.
6. Six months or more equals 1 full year for active service and basic pay.
7. 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).
8. If member entered a Uniformed Service after September 7, 1980, substitute the retainer pay base for the base or basic pay.

Table 3-3. Pre-1982 Retirement Percentage Multiple Conversions

PRE-1982 RETIREMENT PERCENTAGE MULTIPLE CONVERSIONS							
At Least			Not More Than				
Years	Months	Days	Years	Months	Days	Converted Years	Percentage
0	6	0	1	5	29	1	2.5
1	6	0	2	5	29	2	5
2	6	0	3	5	29	3	7.5
3	6	0	4	5	29	4	10
4	6	0	5	5	29	5	12.5
5	6	0	6	5	29	6	15
6	6	0	7	5	29	7	17.5
7	6	0	8	5	29	8	20
8	6	0	9	5	29	9	22.5
9	6	0	10	5	29	10	25
10	6	0	11	5	29	11	27.5
11	6	0	12	5	29	12	30
12	6	0	13	5	29	13	32.5
13	6	0	14	5	29	14	35
14	6	0	15	5	29	15	37.5
15	6	0	16	5	29	16	40
16	6	0	17	5	29	17	42.5
17	6	0	18	5	29	18	45
18	6	0	19	5	29	19	47.5
19	6	0	20	5	29	20	50
20	6	0	21	5	29	21	52.5
21	6	0	22	5	29	22	55
22	6	0	23	5	29	23	57.5
23	6	0	24	5	29	24	60
24	6	0	25	5	29	25	62.5
25	6	0	26	5	29	26	65
26	6	0	27	5	29	27	67.5
27	6	0	28	5	29	28	70
28	6	0	29	5	29	29	72.5
29	6	0				30	75

NOTE: This Table applies to members retired before January 1, 1982, with several exceptions covered in paragraph 030208.

Table 3-4. Post-1981 Retirement Percentage Multiplier Conversions

POST-1981 RETIREMENT PERCENTAGE MULTIPLIER CONVERSIONS											
Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
		00.	3		7.50	6		15.00	9		22.50
	1	00.20	3	1	7.70	6	1	15.20	9	1	22.70
	2	00.43	3	2	7.93	6	2	15.43	9	2	22.93
	3	00.63	3	3	8.13	6	3	15.63	9	3	23.13
	4	00.83	3	4	8.33	6	4	15.83	9	4	23.33
	5	1.05	3	5	8.55	6	5	16.05	9	5	23.55
	6	1.25	3	6	8.75	6	6	16.25	9	6	23.75
	7	1.45	3	7	8.95	6	7	16.45	9	7	23.95
	8	1.68	3	8	9.18	6	8	16.68	9	8	24.18
	9	1.88	3	9	9.38	6	9	16.88	9	9	24.38
	10	2.08	3	10	9.58	6	10	17.08	9	10	24.58
	11	2.30	3	11	9.80	6	11	17.30	9	11	24.80
1		2.50	4		10.00	7		17.50	10		25.00
1	1	2.70	4	1	10.20	7	1	17.70	10	1	25.20
1	2	2.93	4	2	10.43	7	2	17.93	10	2	25.43
1	3	3.13	4	3	10.63	7	3	18.13	10	3	25.63
1	4	3.33	4	4	10.83	7	4	18.33	10	4	25.83
1	5	3.55	4	5	11.05	7	5	18.55	10	5	26.05
1	6	3.75	4	6	11.25	7	6	18.75	10	6	26.25
1	7	3.95	4	7	11.45	7	7	18.95	10	7	26.45
1	8	4.18	4	8	11.68	7	8	19.18	10	8	26.68
1	9	4.38	4	9	11.88	7	9	19.38	10	9	26.88
1	10	4.58	4	10	12.08	7	10	19.58	10	10	27.08
1	11	4.80	4	11	12.30	7	11	19.80	10	11	27.30
2		5.00	5		12.50	8		20.00	11		27.50
2	1	5.20	5	1	12.70	8	1	20.20	11	1	27.70
2	2	5.43	5	2	12.93	8	2	20.43	11	2	27.93
2	3	5.63	5	3	13.13	8	3	20.63	11	3	28.13
2	4	5.83	5	4	13.33	8	4	20.83	11	4	28.33
2	5	6.05	5	5	13.55	8	5	21.05	11	5	28.55
2	6	6.25	5	6	13.75	8	6	21.25	11	6	28.75
2	7	6.45	5	7	13.95	8	7	21.45	11	7	28.95
2	8	6.68	5	8	14.18	8	8	21.68	11	8	29.18
2	9	6.88	5	9	14.38	8	9	21.88	11	9	29.38
2	10	7.08	5	10	14.58	8	10	22.08	11	10	29.58
2	11	7.30	5	11	14.80	8	11	22.30	11	11	29.80

Table 3-4. Post-1981 Retirement Percentage Multiplier Conversions (continued)

POST-1981 RETIREMENT PERCENTAGE MULTIPLIER CONVERSIONS											
Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
12		30.00	15		37.50	18		45.00	21		52.50
12	1	30.20	15	1	37.70	18	1	45.20	21	1	52.70
12	2	30.43	15	2	37.93	18	2	45.43	21	2	52.93
12	3	30.63	15	3	38.13	18	3	45.63	21	3	53.13
12	4	30.83	15	4	38.33	18	4	45.83	21	4	53.33
12	5	31.05	15	5	38.55	18	5	46.05	21	5	53.55
12	6	31.25	15	6	38.75	18	6	46.25	21	6	53.75
12	7	31.45	15	7	38.95	18	7	46.45	21	7	53.95
12	8	31.68	15	8	39.18	18	8	46.68	21	8	54.18
12	9	31.88	15	9	39.38	18	9	46.88	21	9	54.38
12	10	32.08	15	10	39.58	18	10	47.08	21	10	54.58
12	11	32.30	15	11	39.80	18	11	47.30	21	11	54.80
13		32.50	16		40.00	19		47.50	22		55.00
13	1	32.70	16	1	40.20	19	1	47.70	22	1	55.20
13	2	32.93	16	2	40.43	19	2	47.93	22	2	55.43
13	3	33.13	16	3	40.63	19	3	48.13	22	3	55.63
13	4	33.33	16	4	40.83	19	4	48.33	22	4	55.83
13	5	33.55	16	5	41.05	19	5	48.55	22	5	56.05
13	6	33.75	16	6	41.25	19	6	48.75	22	6	56.25
13	7	33.95	16	7	41.45	19	7	48.95	22	7	56.45
13	8	34.18	16	8	41.68	19	8	49.18	22	8	56.68
13	9	34.38	16	9	41.88	19	9	49.38	22	9	56.88
13	10	34.58	16	10	42.08	19	10	49.58	22	10	57.08
13	11	34.80	16	11	42.30	19	11	49.80	22	11	57.30
14		35.00	17		42.50	20		50.00	23		57.50
14	1	35.20	17	1	42.70	20	1	50.20	23	1	57.70
14	2	35.43	17	2	42.93	20	2	50.43	23	2	57.93
14	3	35.63	17	3	43.13	20	3	50.63	23	3	58.13
14	4	35.83	17	4	43.33	20	4	50.83	23	4	58.33
14	5	36.05	17	5	43.55	20	5	51.05	23	5	58.55
14	6	36.25	17	6	43.75	20	6	51.25	23	6	58.75
14	7	36.45	17	7	43.95	20	7	51.45	23	7	58.95
14	8	36.68	17	8	44.18	20	8	51.68	23	8	59.18
14	9	36.88	17	9	44.38	20	9	51.88	23	9	59.38
14	10	37.08	17	10	44.58	20	10	52.08	23	10	59.58
14	11	37.30	17	11	44.80	20	11	52.30	23	11	59.80

Table 3-4. Post-1981 Retirement Percentage Multiplier Conversions (Continued)

POST-1981 RETIREMENT PERCENTAGE MULTIPLIER CONVERSIONS											
Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
24		60.00	27		67.50	30		75.00	33		82.50
24	1	60.20	27	1	67.70	30	1	75.20	33	1	82.70
24	2	60.43	27	2	67.93	30	2	75.43	33	2	82.93
24	3	60.63	27	3	68.13	30	3	75.63	33	3	83.13
24	4	60.83	27	4	68.33	30	4	75.83	33	4	83.33
24	5	61.05	27	5	68.55	30	5	76.05	33	5	83.55
24	6	61.25	27	6	68.75	30	6	76.25	33	6	83.75
24	7	61.45	27	7	68.95	30	7	76.45	33	7	83.95
24	8	61.68	27	8	69.18	30	8	76.68	33	8	84.18
24	9	61.88	27	9	69.38	30	9	76.88	33	9	84.38
24	10	62.08	27	10	69.58	30	10	77.08	33	10	84.58
24	11	62.30	27	11	69.80	30	11	77.30	33	11	84.80
25		62.50	28		70.00	31		77.50	34		85.00
25	1	62.70	28	1	70.20	31	1	77.70	34	1	85.20
25	2	62.93	28	2	70.43	31	2	77.93	34	2	85.43
25	3	63.13	28	3	70.63	31	3	78.13	34	3	85.63
25	4	63.33	28	4	70.83	31	4	78.33	34	4	85.83
25	5	63.55	28	5	71.05	31	5	78.55	34	5	86.05
25	6	63.75	28	6	71.25	31	6	78.75	34	6	86.25
25	7	63.95	28	7	71.45	31	7	78.95	34	7	86.45
25	8	64.18	28	8	71.68	31	8	79.18	34	8	86.68
25	9	64.38	28	9	71.88	31	9	79.38	34	9	86.88
25	10	64.58	28	10	72.08	31	10	79.58	34	10	87.08
25	11	64.80	28	11	72.30	31	11	79.80	34	11	87.30
26		65.00	28		72.50	32		80.00	35		87.50
26	1	65.20	29	1	72.70	32	1	80.20	35	1	87.70
26	2	65.43	29	2	72.93	32	2	80.43	35	2	87.93
26	3	65.63	29	3	73.13	32	3	80.63	35	3	88.13
26	4	65.83	29	4	73.33	32	4	80.83	35	4	88.33
26	5	66.05	29	5	73.55	32	5	81.05	35	5	88.55
26	6	66.25	29	6	73.75	32	6	81.25	35	6	88.75
26	7	66.45	29	7	73.95	32	7	81.45	35	7	88.95
26	8	66.68	29	8	74.18	32	8	81.68	35	8	89.18
26	9	66.88	29	9	74.38	32	9	81.88	35	9	89.38
26	10	67.08	29	10	74.58	32	10	82.08	35	10	89.58
26	11	67.30	29	11	74.80	32	11	82.30	35	11	89.80

Table 3-4. Post-1981 Retirement Percentage Multiplier Conversions (Continued)

POST-1981 RETIREMENT PERCENTAGE MULTIPLIER CONVERSIONS											
Service Multiplier			Service Multiplier			Service Multiplier			Service Multiplier		
Years	Months	(%)	Years	Months	(%)	Years	Months	(%)	Years	Months	(%)
36		90.00	38		95.00	40		100.00	42		105.00
36	1	90.20	38	1	95.20	40	1	100.20	42	1	105.20
36	2	90.43	38	2	95.43	40	2	100.43	42	2	105.43
36	3	90.63	38	3	95.63	40	3	100.63	42	3	105.63
36	4	90.83	38	4	95.83	40	4	100.83	42	4	105.83
36	5	91.05	38	5	96.05	40	5	101.05	42	5	106.05
36	6	91.25	38	6	96.25	40	6	101.25	42	6	106.25
36	7	91.45	38	7	96.45	40	7	101.45	42	7	106.45
36	8	91.68	38	8	96.68	40	8	101.68	42	8	106.68
36	9	91.88	38	9	96.88	40	9	101.88	42	9	106.88
36	10	92.08	38	10	97.08	40	10	102.08	42	10	107.08
36	11	92.30	38	11	97.30	40	11	102.30	42	11	107.30
37		92.50	39		97.50	41		102.50	43		107.50
37	1	92.70	39	1	97.70	41	1	102.70	43	1	107.70
37	2	92.93	39	2	97.93	41	2	102.93	43	2	107.93
37	3	93.13	39	3	98.13	41	3	103.13	43	3	108.13
37	4	93.33	39	4	98.33	41	4	103.33	43	4	108.33
37	5	93.55	39	5	98.55	41	5	103.55	43	5	108.55
37	6	93.75	39	6	98.75	41	6	103.75	43	6	108.75
37	7	93.95	39	7	98.95	41	7	103.95	43	7	108.95
37	8	94.18	39	8	99.18	41	8	104.18	43	8	109.18
37	9	94.38	39	9	99.38	41	9	104.38	43	9	109.38
37	10	94.58	39	10	99.58	41	10	104.58	43	10	109.58
37	11	94.80	39	11	99.80	41	11	104.80	43	11	109.80

NOTE: To derive multipliers for service in excess of 43 years and 11 months, divide the number of whole months by 12, compute the quotient to 3 digits, round to 2 digits, and add this to the number of years. Then, multiply by .025.

Example 1: 20 years, 7 months, 13 days
 $7 \text{ months} \div 12 = .583 \text{ (.58)}$
 $20.58 \times .025 = 51.45\%$

Example 2: 44 years, 8 months, 28 days
 $8 \text{ months} \div 12 = .667 \text{ (.67)}$
 $44.67 \times .025 = 111.68\%$

Exception: Members who retire between January 1, 1982 and September 30, 1983 and meet requirements of paragraph 030207 will round service credit of 6 months or more, as shown on the Table.

Table 3-5. Reduction Factors Applicable to Temporary Early Retirement Authority

REDUCTION FACTORS APPLICABLE TO TEMPORARY EARLY RETIREMENT AUTHORITY					
Months Less than 240	Reduction Factor	Months Less than 240	Reduction Factor	Months Less than 240	Reduction Factor
1	.99917	2	.99833	3	.99750
4	.99667	5	.99583	6	.99500
7	.99417	8	.99333	9	.99250
10	.99167	11	.99083	12	.99000
13	.98917	14	.98833	15	.98750
16	.98667	17	.98583	18	.98500
19	.98417	20	.98333	21	.98250
22	.98167	23	.98083	24	.98000
25	.97917	26	.97833	27	.97750
28	.97667	29	.97583	30	.97500
31	.97417	32	.97333	33	.97250
34	.97167	35	.97083	36	.97000
37	.96917	38	.96833	39	.96750
40	.96667	41	.96583	42	.96500
43	.96417	44	.96333	45	.96250
46	.96167	47	.96083	48	.96000
49	.95917	50	.95833	51	.95750
52	.95667	53	.95583	54	.95500
55	.95417	56	.95333	57	.95250
58	.95167	59	.95083	60	.95000

NOTE: Mathematically, the reduction factor (RF) is one minus one twelve hundredth of the difference between 240 and the number of months or remaining portion of a month of active service of such member. Thus, for 188-months the reduction factor is computed as:

$$\begin{aligned}
 \text{RF} &= 1.0 - [(240-188)/1200] \\
 &= 1.0 - [52/1200] \\
 &= 1.0 - .04333 \\
 &= .95667
 \end{aligned}$$

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VOLUME 7B, CHAPTER 4: “RECOUPMENT OF SEPARATION PAY”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by *bold, italic, blue, and underlined font*.

The previous version dated *September 2014* is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
0402	Relocated definitions from Section 0401 to Section 0402 and renumbered text.	Revision
040703.C.2	Rephrased subparagraph for clarity.	Revision

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CHAPTER 4

RECOUPMENT OF SEPARATION PAYMENTS

0401 GENERAL

040101. Purpose

This chapter provides guidance for the recoupment of payments made to [members whose status transitions from](#) involuntary discharge, release from active duty, disability separation, or voluntary separation, [to retiree](#).

040102. [Authoritative Guidance](#)

[The bibliography at the end of this chapter lists the authoritative references.](#)

[*0402 DEFINITIONS](#)

040201. Readjustment Pay

Readjustment Pay is a lump-sum payment to members of a Reserve Component of any Military Service, members of the Army or Air Force without component, and Regular Army commissioned officers below the grade of O-4 who were on active duty (other than for training) on September 14, 1981, and were involuntarily released after completing at least 5 years of continuous active duty and who did not qualify for retirement. Separation Pay superseded Readjustment Pay.

040202. Nondisability Severance Pay

Nondisability Severance Pay is a lump-sum payment to certain commissioned and warrant officers, who were on active duty (other than for training) on September 14, 1981, and involuntarily discharged from active duty under certain conditions. Separation Pay superseded Nondisability Severance Pay. [Note: This chapter uses the term “Nondisability Severance Pay” when referring to what is commonly known as “Severance Pay”, as a mechanism to distinguish severance pay from disability severance pay.](#)

040203. Separation Pay

Separation Pay is a lump-sum payment to a member of the Uniformed Services who is discharged involuntarily or released from active duty and who does not qualify for retired pay. For more information, see Volume 7A, Chapter 35.

040204. Disability Severance Pay (DSP)

The DSP is a lump-sum payment to a member of the Uniformed Services involuntarily separated from the military service for minor physical disability and who does not qualify for disability retired pay.

040205. Voluntary Separation Incentive (VSI)

The VSI is an annual payment to members who separated voluntarily from service before December 31, 2001, under conditions prescribed by the Secretary of the Military Department concerned (or designee). Voluntary Separation Pay (VSP) superseded VSI.

040206. Special Separation Benefit (SSB)

The SSB is a lump-sum payment to members who separated voluntarily from service before December 31, 2001, under conditions prescribed by the Secretary of the Military Department concerned (or designee). VSP superseded SSB.

040207. Voluntary Separation Pay (VSP)

The VSP is an annual or lump-sum payment to certain members to encourage them to leave active duty voluntarily. The authority to separate a member in conjunction with VSP applies for the period October 17, 2006 through December 31, 2018.

040208. Recoupment

To align entitlement to retirement benefits with applicable active service, this chapter uses the term recoupment in conjunction with the recovery of readjustment pay, nondisability severance pay, separation pay, DSP, VSI, SSB, or VSP previously received.

040209. Reserve Special Separation Pay (RSSP)

The RSSP is payable to Reserve members who had completed more than 20 years of service but who had not reached age 60. Payment of RSSP is not subject to recoupment from retired pay. For more information, see Volume 7A, Chapter 58.

0403 READJUSTMENT PAY**040301. General Provisions**

A. A member who received readjustment pay before September 15, 1981, because of involuntary discharge or release from active duty after June 28, 1962, and who later qualifies for retired pay under Titles 10 or 14 of the United States Code (U.S.C.) upon completion of 20 years of active service, must have the retired pay withheld until a total of 75 percent of the readjustment pay has been recovered. For this purpose, consider a member who transferred to the Fleet Reserve or the Fleet Marine Corps Reserve to have “qualified for

retired pay under a statute authorizing retirement upon completion of 20 years of active service,” even though such transfer may have occurred after completion of less than 20 years of actual service. See Table 4-1.

B. A Regular Army commissioned officer in the grade of O-1, O-2, or O-3 who received readjustment pay from December 30, 1974 through December 30, 1977, and who later qualifies for retired pay upon completion of 20 years of active service, must have the retired pay withheld until a total of 75 percent of the readjustment pay has been recovered. See Table 4-1.

C. A member of the Uniformed Services who served on active duty as a temporary officer and held a Reserve officer status upon release from active duty, and received readjustment pay after June 28, 1962, but before September 15, 1981, and who, later qualifies for retired pay upon completion of 20 years of active service, must have the retired pay withheld until a total of 75 percent of the readjustment pay has been recovered. See Table 4-1.

D. A member who received readjustment pay on September 15, 1981 or later, and who later qualifies for retired pay, must have the retired pay reduced until the [recovery of the](#) full amount of the readjustment pay. See subparagraph 040302.B.

040302. Recoupment of Readjustment Pay

A. Readjustment Pay Received Before September 15, 1981

1. [The Defense Finance and Accounting Service \(DFAS\)](#) will deduct a total of 75 percent of the gross readjustment pay without interest immediately from retired pay.

2. There is no entitlement to retired pay until [the recovery of](#) 75 percent of the lump-sum readjustment pay. During the period that the member is not entitled to retired pay, [the member must pay](#) the cost for coverage under the SBP by direct remittance to:

Defense Finance and Accounting Service, DFAS-CL
SBP and RSFPP Remittance
P.O. Box 979013
St. Louis, MO 63197-9000

B. Readjustment Pay Received September 15, 1981 or Later. A member who received readjustment pay on September 15, 1981 or later, and who subsequently qualifies for retired pay shall have the retired pay reduced in accordance with section 0410 until [the recovery of the](#) full amount of the readjustment pay.

0404 NONDISABILITY SEVERANCE PAY

040401. General Provisions

Before September 15, 1981, certain provisions of law governing separation from the active list required recoupment of nondisability severance pay upon a member's retirement. See Table 4-2 for conditions governing recoupment of nondisability severance pay received before September 15, 1981. Members who receive nondisability severance pay on September 15, 1981 or later, and who subsequently qualify for retirement, are subject to recoupment under paragraph 040402.

040402. Recoupment of Nondisability Severance Pay

The DFAS must recoup lump-sum nondisability severance pay by deducting from retired pay each month an amount as specified in section 0410 until the total deducted equals the amount of the nondisability severance pay received.

0405 SEPARATION PAY

040501. General Provisions

Separation pay has replaced readjustment pay and nondisability severance pay for involuntary separation of all members of the active and reserve forces other than those separated for disability. For information on eligibility requirements for separation pay, see Volume 7A, Chapter 35.

040502. Recoupment of Separation Pay

A. A member who received separation pay and who later qualifies for retired or retainer pay under Titles 10 or 14 of the U.S.C., shall have deducted from payment of such retired or retainer pay a monthly installment as specified in section 0410.

B. A member who receives separation pay, and who also is eligible for disability compensation from Department of Veteran Affairs (VA), will repay an amount equal to the total amount of separation pay received from the disability compensation awarded. The DFAS shall make no deduction for separation pay from disability compensation based on service performed after receiving separation pay.

0406 DISABILITY SEVERANCE PAY (DSP)

040601. General Provisions

Upon determination by the Secretary concerned that a member of the armed forces is unfit to perform the duties of his office, grade, rank or rating because of physical disability rated less than 30 percent, the department may separate the member with disability severance pay. For information on eligibility requirements for disability severance pay, see Volume 7A, Chapter 35.

040602. Recoupment of DSP

When the Secretary concerned approves a recommendation from the Physical Disability Board of Review (PDBR) to award military disability retirement, the DFAS must take action to recoup any disability severance pay previously paid to that member. Recoupment will be consistent with the parameters established in section 0410, except as noted in subparagraphs 040602.A and B.

A. In most cases, members entitled to disability severance pay will also qualify for VA disability compensation. In order to avoid duplicate collection, the DFAS shall reduce the recovery amount of disability severance pay by any amount already separately recovered by VA through reduction of VA disability compensation. In such cases, the amount deducted by the VA from the disability compensation shall reduce the gross amount of disability severance pay to be recouped by the Department of Defense (DoD).

1. To determine the retroactive entitlement of retired pay that is payable to the member, offset the entire VA disability compensation amount that is awarded (prior to any reduction of such VA disability compensation to offset the collection of disability severance pay) from the total retroactive retired pay entitlement. This will result in an amount of VA disability compensation plus military retired pay paid to the member that is equal to that which the member would have been entitled to had he/she originally been retired instead of separated.

2. The DFAS shall first apply the entire amount of any retroactive retired pay and/or Combat-Related Special Compensation (CRSC) entitlement to any required recoupment of disability severance pay without regard to the percentage limitations specified in section 0410. In determining the retroactive entitlement to retired pay, service members must be treated as though they were retired on the original date of separation, without regard to any disability severance payment received or any reduction in VA disability compensation to recoup previously paid disability severance pay. In order to determine the amount subject to recoupment, as well as any amount payable to a member, DFAS shall determine the amount of retired pay that would have been available had the member originally been retired instead of separated. The total amount to recoup will be the full gross amount of disability severance pay originally paid to the member.

3. As stated in subparagraph 040602.A, VA deducts disability severance compensation from any VA compensation for the same disability to which the member or member's dependents become entitled under any law administered by VA. There are two exceptions:

a. VA will make no deduction in the case of disability severance pay received by a member for a disability incurred in the line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Secretary of Defense.

b. VA will make no deduction from any death compensation to which a member's dependents become entitled after the member's death.

B. Members shall be promptly notified that future payments of disability retired pay will be subject to reduction until the gross amount of the disability severance pay has been recovered.

040603. Survivor Benefit Plan (SBP) Participation

A. Members whose record is corrected to a military disability retirement under the PDBR process, and who were married on the retirement effective date, shall receive automatic full spouse coverage under the SBP, unless the member makes an affirmative election on a Department of Defense (DD) [DD Form 2656](#), Data for Payment of Retired Personnel, for less than full spouse coverage within 90 days of being provided a DD 2656. If the member elects less than full spouse coverage, including an election not to participate in SBP program or an election for child-only coverage, the election must include a spousal concurrence signed by the person who was the member's spouse on the effective retirement date, as determined by the PDBR, unless such person is deceased. If the member was married on the effective retirement date, but has since divorced that spouse, the member must still submit a concurrence to elect less than full spouse coverage signed by the person who was the member's spouse on the effective retirement date, unless the whereabouts of the member's now former spouse are unknown and the member submits an affidavit verifying that the former spouse's whereabouts are unknown, along with a copy of the parties' divorce decree. The spouse's concurrence on the DD 2656 must be signed on or after the date of the member's signature and otherwise conform to an election regarding spouse coverage.

B. A spouse who was married to the member on the effective date of retirement, who was subsequently divorced from the member and who has not signed the spousal concurrence on DD 2656, has 1 year from the date of the approved PDBR recommendation authorizing disability retirement to make a deemed former spouse SBP election, provided there is already in effect a court-approved written agreement or court order requiring the member to elect to provide such an annuity to the former spouse.

C. If the member had a former spouse on the effective retirement date, the member may elect former spouse SBP coverage. There is no requirement for spousal concurrence for a former spouse election, although the member's current spouse should be provided written notice of the former spouse election. A member who was not married and had no dependent child on the effective date of retirement, who remarries or acquires a dependent child subsequent to the effective date of retirement, may elect to participate in the SBP. The member has 1 year from either the date of acquiring a spouse or dependent child or the date of the approved PDBR recommendation authorizing disability retirement, whichever is later.

D. If the member had no spouse or dependent child on the effective retirement date and is not otherwise required to provide former spouse coverage, the member may elect to provide an annuity for an insurable interest person if such individual would have been qualified on the effective date of retirement.

E. Monthly SBP premiums for automatic or properly elected coverage must be charged from the effective retirement date, with the exception that no SBP premiums will be due if the member elects not to participate in the SBP program with proper spousal concurrence within 90 days of the PDBR action awarding a disability retirement or 90 days of the date that the member has been provided a DD Form 2656 to elect SBP participation.

F. If a member, who is retired for disability as a result of an approved PDBR action, had previously made a Reserve Component Survivor Benefit Plan (RCSBP) election, that RCSBP election shall be considered of no effect if the PDBR action is approved prior to the date that the member would have become eligible for reserve retired pay under [10 U.S.C., Chapter 1223](#).

0407 VOLUNTARY SEPARATION INCENTIVE (VSI)

040701. General Provisions

Certain members who voluntarily separated before December 31, 2001, received annual payments of VSI based on their grade or rank at separation and number of years of service creditable for retirement purposes. See Volume 7A, Chapter 35 for eligibility requirements.

040702. Beneficiary Payment Procedures

Upon the death of the member, the DFAS-Cleveland Site will pay all remaining VSI installments to the designated beneficiaries. [The DFAS will distribute VSI installment payments according to the legal order of precedence if there is no valid designation on file and maintained at the DFAS-Cleveland Site.](#) See Chapter 23 for more information regarding beneficiary payment procedures.

*040703. Recoupment of VSI

A. A member who has received VSI, who later qualifies for retired or retainer pay under Titles 10 or 14 of the U.S.C., shall have deducted [the amount of VSI received](#) from each payment of such retired or retainer pay by a monthly installment not to exceed 40 percent of the member's gross retired pay as specified in paragraph 041004. The gross retired pay amount paid does not include any amounts offset because of the member's receipt of military compensation between the date of separation which caused the VSI to begin and the date that he or she became eligible for receipt of retired pay.

B. In a case in which a member is receiving simultaneous VSI and retired pay, the member may elect to terminate the receipt of VSI. Such election is permanent and irrevocable. Under these circumstances, effective after such election to terminate VSI, [the DFAS shall reduce](#) the rate of monthly recoupment from retired pay of VSI received in accordance with subparagraph 040703.A. The rate of recoupment shall be reduced in accordance with the following formula: Divide the total number of months that would not be paid as a result of the member's election to terminate the VSI by the number of months that the VSI was scheduled to be paid. [Multiply](#) the resulting fraction, [which](#) is a percentage rate of reduction, by the

percentage in subparagraph 040703.A to compute a percentage that is the proportionate rate of reduction; and, subtract the proportionate rate of reduction from the original rate of reduction in subparagraph 040703.A to determine the reduced rate of recoupment from retired pay.

C. A member who is receiving VSI payments shall not be deprived of this incentive by reason of entitlement to disability compensation under the laws administered by VA, but there shall be deducted from VSI payments an amount equal to the amount of any such disability compensation concurrently received. Notwithstanding the preceding sentence, **the DFAS will make** no deduction from VSI payments for any disability compensation received because of an earlier period of active duty if the **member receives** VSI because of discharge or release from a later period of active duty.

1. Any reduction in VSI as a result of receipt of VA disability compensation shall reduce the gross amount of VSI paid, as described in subparagraph 040703.A, and shall not be recovered through recoupment from retired pay.

* 2. In a case in which a member is receiving simultaneous VSI and retired pay, **the DFAS will reduce the VSI payment by the amount of any VA disability compensation. In addition, the member's election to waive retired pay, as described under Chapter 12, subparagraph 120101.A.1, will also still apply. Furthermore, the DFAS will reduce the member's retired pay as described in subparagraph 040703.A.**

0408 SPECIAL SEPARATION BENEFIT (SSB)

040801. General Provisions

Under conditions prescribed by the Secretary of the Military Department concerned (or designee), a member who separated voluntarily from a Military Service before December 31, 2001, could elect to receive an SSB.

040802. Recoupment of SSB

If a member who has received an SSB payment later qualifies for retired or retainer pay under Titles 10 or 14 of the U.S.C., **the DFAS shall recoup** the gross amount of SSB received at a monthly installment from each payment of such retired or retainer pay as specified in section 0410.

0409 VOLUNTARY SEPARATION PAY (VSP)

040901. General Provisions

Certain members who voluntarily separate between October 17, 2006 and December 31, 2018, may receive a lump-sum VSP in an amount up to four times the full amount of the separation pay a member may receive. See Volume 7A, Chapter 35 for more information on separation pay.

040902. Recoupment of VSP

A. A member who is paid VSP and who later qualifies for retired or retainer pay under Titles 10 or 14 of the U.S.C., shall have deducted from each payment of such retired or retainer pay a monthly installment specified by the Secretary of the Military Department concerned (or designee). The total amount of retired or retainer pay deductions shall equal the total amount paid to the member.

B. The requirement to repay VSP following retirement from the Armed Forces does not apply to an officer who was eligible to retire at the time the officer applied and was accepted for VSP benefits.

C. The Secretary of the Military Department concerned (or designee) may waive the requirement to repay VSP if it is determined that recovery would be against equity and good conscience and would be contrary to the best interests of the United States. Upon approval, the Military Department concerned shall forward a copy of all waivers to the Deputy Under Secretary of Defense, Military Personnel Policy.

D. Waivers by the Secretary of the Military Department concerned (or designee) must be determined on a case-by-case basis, which requires identification of the individual member, the amount of debt, and the circumstances of each case. The Principal Deputy Under Secretary of Defense, Personnel and Readiness, shall review, in coordination with the DoD Office of General Counsel, any waiver by a Secretary of the Military Department (or designee) that applies to more than one individual. This review process shall ensure a consistent consideration of the equities in such cases throughout DoD.

0410 RECOUPMENT OF SEPARATION PAY, NONDISABILITY SEVERANCE PAY, READJUSTMENT PAY, OR DISABILITY SEVERANCE PAY

041001. Members Affected

Service members who received separation pay, nondisability severance pay, or readjustment pay under any provision of law based on service in the Armed Forces, or a member awarded disability retirement from the PDBR, as described in 040602, who subsequently qualify under Titles 10 or 14 of the U.S.C. for retired or retainer pay shall have deducted an amount equal to the total amount of separation pay, nondisability severance pay, readjustment pay and DSP, without regard to any withholding for taxes. The DFAS will make such deductions from each payment of retired or retainer pay until the total amount recouped is equal to the total amount of separation pay, nondisability severance pay, readjustment pay, or DSP. The member may authorize a deduction in an amount greater than that required by law.

041002. Veterans Administration (VA) Disability Compensation

A. In some cases, members entitled to disability retired pay will also qualify for VA disability compensation. In such cases, the amount deducted to recoup the separation

payment by VA shall reduce the gross amount of separation, severance or readjustment pay to be recouped by DoD.

B. The DFAS will subtract the gross monthly amount of VA disability compensation from the gross monthly amount of the retired pay subject to recoupment. The DFAS will then use this adjusted gross retired pay in place of gross retired pay for members with a VA waiver. In cases where the amount of VA disability compensation award is greater than military retired pay, recoupment of disability severance pay will be suspended until, when or if, the amount of gross retired pay exceeds the monthly VA disability compensation except as provided in paragraph 041003.

041003. Concurrent Receipt Programs

Members who meet all the eligibility criteria for the CRSC program or the Concurrent Retired and Disability Pay (CRDP) programs shall have their CRSC or CRDP entitlement computed based on the full amount of retired pay and the full amount of the applicable VA disability compensation (i.e., before any reductions for recoupment of separation, nondisability severance, readjustment pay, or DSP). In other words, the DFAS shall compute the CRSC or CRDP entitlement amount without regard to the recoupment of separation, severance, or readjustment pay. The DFAS shall add the CRSC or CRDP entitlement to the adjusted gross retired pay remaining after VA disability compensation offset in determining the amount of the monthly disability severance pay recoupment and shall be, along with the adjusted gross retired pay, available for reduction.

041004. Recoupment Rates

The maximum rate of recoupment shall be no more than an amount equal to 40 percent of the member's gross retired pay.

A. The DFAS shall re-compute the monthly recoupment rate when there is an increase in gross or adjusted gross retired pay for cost-of-living adjustments, except when the member has authorized withholding at a higher monthly rate.

B. The DFAS will make no income tax withholding from retired pay used for satisfying the recoupment of separation pay, nondisability severance pay, readjustment pay, or DSP. Neither is such pay included on Internal Revenue Service Form 1099-R, Distribution from Pensions, Annuities, Retirement Profit Sharing Plans, IRAs, Insurance Contracts, nor is it reported as taxable income. The gross taxable income is the difference between the amount of the recoupment and gross retired pay.

C. The DFAS shall provide written notification to members subject to recoupment. The DFAS sends this notice 90 days in advance of the initial collection from their retired pay. It shall provide the current outstanding balance and the proposed monthly recoupment amount and explain the options of a more lenient repayment request if the member asserts that the maximum rate of recoupment imposes a financial hardship. See paragraph

041006. The written notification will also explain the requirement for concurrent recoupment of the separation or nondisability severance pay by both the DFAS and the VA.

041005. Exceptions

A. Those members whose recoupment rates were suspended in May 2009, by the direction of the Office of the Under Secretary of Defense (Comptroller) memorandum, dated May 18, 2009, and whose recoupment rates under the previous formula were less than the new maximum percentage shall be reinstated at the previously established lower rate.

B. Members may, at their personal discretion, request to increase their recoupment to a rate greater than the maximum, in order to shorten the term of recoupment.

041006. Financial Hardship

A member whose retired pay is subject to recoupment may, at any time, request a review of the amount recouped based upon materially changed circumstances such as disability, divorce, or illness that results in the imposition of undue financial hardship on the member and the member's dependents. A member requesting such a review shall submit the basis for claiming that the current rate of recoupment results in an undue financial hardship along with supporting documentation. The DFAS shall consider any information submitted and make a determination in accordance with the following procedures and standards.

A. A rate of recoupment results in an undue financial hardship for a member and his dependents if the recoupment amount prevents the member from meeting the costs necessarily incurred for essential subsistence expenses of the member and the member's dependents. These essential subsistence expenses include costs incurred for food, housing, necessary public utilities, clothing, transportation and medical care.

B. In determining whether the recoupment amount prevents the member from meeting the essential subsistence expenses described in subparagraph 041006.A, DFAS will consider the following:

1. The income from all sources of the member, the member's spouse, and dependents;
2. Whether these essential subsistence expenses have been minimized to the greatest extent possible; and
3. The extent to which the member and the member's spouse and dependents have other exceptional expenses that the DFAS should take into account and whether these expenses have been minimized to the greatest extent possible.

C. If there is an undue financial hardship, the DFAS will reduce the recoupment rate based on the member's financial condition. Any reduction of the recoupment rate will be effective for 1 year. Upon the expiration of 1 year, the recoupment rate will revert

back to 40 percent unless the member has reapplied for a reduction in rate and can again demonstrate financial hardship.

D. **The DFAS** shall adjust the rate of recoupment based on the following formula:

1. Subtract the total monthly living expenses from the total monthly income. The result is the net income available for monthly recoupment.

2. The net income available for monthly recoupment shall be divided by the gross monthly retired pay to determine the actual recoupment percentage. If the result is 40 percent or greater, the recoupment is limited to 40 percent. A result of 10 percent or less limits the recoupment to 10 percent. **The DFAS shall apply** any factor within the range of 10 to 39 percent as the actual percentage with any fractional portions of a percentage point rounded down to the lower whole percentage point.

3. Figure 4-1 provides two typical calculation examples.

Figure 4-1. Financial Hardship Calculation Examples

EXAMPLE A:**Gross Monthly Income:**

Retired Pay	\$ 3,000.00
Other income	460.00
Spouse's income	<u>\$ 500.00</u>
Total Income	\$ 3,960.00

Actual Monthly Expenses:

Rent/Mortgage	\$ 1,500.00
Electric	\$ 80.00
Natural Gas	\$ 125.00
Telephone	\$ 35.00
Water	\$ 20.00
Food	\$ 400.00
Car Payment	\$ 280.00
Health Care	<u>\$ 500.00</u>
Total Expenses	\$ 2,940.00

Total Income	\$ 3,960.00	
Total Expenses	<u>\$ 2,940.00</u>	
Net Income	\$ 1,020.00	(Available for recoupment)

Divide the member's Net Income (\$1,020.00) by the gross retired pay (\$3,000.00) which equals .34 or a recoupment rate of 34%.

EXAMPLE B:**Gross Monthly Income:**

Retired Pay	\$ 2,000.00
Spouse's income	<u>\$ 500.00</u>
Total Income	\$ 2,500.00

Actual Monthly Expenses:

Rent/Mortgage	\$ 800.00
Electric	\$ 80.00
Natural Gas	\$ 125.00
Telephone	\$ 35.00
Water	\$ 20.00
Food	\$ 200.00
Car Payment	\$ 280.00
Health Care	<u>\$ 900.00</u>
Total Expenses	\$ 2,440.00

Total Income	\$ 2,500.00	
less: Total Expenses	<u>\$ 2,440.00</u>	
Net Income	\$ 60.00	(Available for recoupment)

Divide the member's Net Income (\$60.00) by the gross retired pay (\$2,000.00) which equals .03. In this case, it defers to the minimum recoupment rate of 10% or \$200.00 as referenced in subparagraph 041006.D.2.

Table 4-1. Recoupment of Readjustment Pay Received Before September 15, 1981 (Note 1)

	A	B	C	D
R U L E	If a member was a	and received before September 15, 1981 (note 1)	and later qualifies for retirement	then readjustment pay is
1	Reserve member (or member of the Army or Air Force without component (temporary))	readjustment payment upon involuntary release after at least 5 years of continuous active service after June 28, 1962	after 20 years of active service (note 2)	recouped immediately upon retirement at the rate of 75 percent of the gross readjustment pay (note 3).
2	regular Army officer below the grade of O-4	readjustment payment upon involuntary release after at least 5 years of continuous active service because of a reduction in force for the period December 30, 1974 through December 30, 1977		
3	temporary officer on active duty and held a Reserve officer status	readjustment payment upon involuntary release after at least 5 years of continuous active service after June 28, 1962	for disability after a period of enlisted service and also qualifies for retirement for 20 years of active service	

NOTES:

1. For recoupment of readjustment pay received September 15, 1981, or later, see subparagraph 040302.B.
2. Includes transfer to Fleet Reserve or Fleet Marine Corps Reserve with less than 20 years of active service if otherwise qualified.
3. Payment of readjustment pay before June 28, 1962 is not recouped from retired pay.

Table 4-2. Recoupment of Nondisability Severance Pay Received Before September 15, 1981 (Note)

	A	B	C	D	E
R U L E	If a member was	and was discharged	and received before September 15, 1981 (note)	and later qualifies for	then
1	a Regular commissioned Air Force or Army officer	because of failure of selection for promotion to grade O-3 or above	nondisability severance pay	retired pay	do not deduct nondisability severance pay.
2		because of moral or professional dereliction, or unsatisfactory performance			
3	a Regular commissioned officer of the Navy, Marine Corps, or Coast Guard	because of unsatisfactory performance with less than 20 years			deduct full amount of nondisability severance pay.
4		because of failure of selection for promotion to grade O-3 or above			
5	a Regular warrant officer of any Military Service	because of unfitness or unsatisfactory performance of duty and did not reenlist			
6		because of failure of selection for promotion and did not reenlist or was not retained on active duty as a regular warrant officer			
7	an officer of the Navy or Marine Corps	because found not qualified from causes arising from own misconduct upon reexamination for promotion			do not deduct nondisability severance pay.

Table 4-2. Recoupment of Nondisability Severance Pay Received Before September 15, 1981
(Note) (Continued)

R U L E	A	B	C	D	E
	If a member was	and was discharged	and received before September 15, 1981 (note)	and later qualifies for	then
8	a female officer of the Regular Navy or Regular Marine Corps in grade O-3	because she is not on a promotion list and has completed 13 years of active service in the Navy or Marine Corps	nondisability severance pay	retired pay	do not deduct nondisability severance pay.
9	a female officer of the Regular Navy or Regular Marine Corps in grade O-2	because she is not on a promotion list and has completed 7 years of active service in the Navy or Marine Corps			
10	an ensign in the Navy or a second lieutenant in the Marine Corps	because found not professionally qualified upon reexamination for promotion			
11	a Reserve member of any Military Service	without the member's consent before active duty agreement under 10 U.S.C. § 12311(a) expired			
12	a Regular commissioned officer of the Coast Guard	because performance is below standard or because of moral or professional dereliction			

NOTE: For recoupment of nondisability severance pay received September 15, 1981 or later, see paragraph 040402.

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040205	10 U.S.C. § 1175
040206	10 U.S.C. § 1174a
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040703.B	10 U.S.C. § 1175(e)(3)(B)
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Rule 10	10 U.S.C. § 5865
Rule 11	10 U.S.C. § 12312
Rule 12	14 U.S.C. § 327

VOLUME 7B, CHAPTER 5: “EMPLOYMENT”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [June 2015](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks, statutes, and formatted to comply with current administrative instructions.	Revision
050203	Deleted information based on Title 18, United States Code, section 281. This section has been repealed and not replaced.	Deletion

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CHAPTER 5**EMPLOYMENT**

0501 GENERAL

050101. Purpose

This chapter addresses employment of personnel who are drawing retired pay. This includes, but is not limited to foreign government employment, service in military forces of newly democratic nations, conflict-of-interest issues, and convictions of crimes affecting retired pay.

050102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

0502 CONFLICT-OF-INTEREST

050201. Statutes

A. Conflict-of-interest statutes are intended to safeguard the integrity of public administration and prevent government officials from using their positions and influence for personal gain.

B. Conflict-of-interest statutes are applicable, in general, to those whose government service has ended, and their purposes are accomplished by:

1. Imposing limitations in some cases upon the employment of former Department of Defense (DoD) procurement personnel by Defense contractors;

2. Requiring the employment of former DoD procurement personnel by Defense contractors in other instances be reported; or

3. Restricting the activities of former DoD officers and employees in representing or assisting their employers in claims-related matters or becoming personally involved in the process of “selling” to the government.

C. A comprehensive digest of laws, including conflict-of-interest laws applicable to retired military personnel, is set forth in the [DoD Regulation 5500.7-R](#), “Joint Ethics,” Chapters 5 and 9, and Appendix A.

050202. Withholding Retired Pay

Retired pay may be withheld or forfeited when the employment falls under certain categories of activities prohibited under conflict-of-interest laws.

0503 CONVICTION FOR CRIMES AFFECTING RETIRED PAY

050301. Entitlement

Entitlement to retired pay is directly affected when a retiree is convicted of violating the law under [Title 5, United States Code \(U.S.C.\), sections 8311 through 8322](#).

050302. Violation of Title 5 U.S.C. § 8312

The receipt of retired pay by the retired member, or receipt of the annuity by the retired member's survivor or beneficiary is prohibited, subject to certain exceptions described in 5 U.S.C. § 8311(2) or (3):

A. If a retired member is convicted of any crime as described in 5 U.S.C. § 8312(b) after September 1, 1954, payment is prohibited.

B. If a retired member is convicted of any crime as described in 5 U.S.C. § 8312(c) after September 26, 1961, payment is prohibited.

C. If an individual, who was convicted of an offense named by 5 U.S.C. § 8312, or an offense constituting a violation of 5 U.S.C. § 8314 or § 8315, is pardoned by the President, in accordance with 5 U.S.C. § 8318, the right of the individual and his survivor or beneficiary to receive annuity or retired pay previously denied under this paragraph is restored as of the date of the pardon or the effective date of restoration prescribed by the President.

D. After January 6, 1996, the spouse of an individual, whose annuity or retired pay is forfeited under 5 U.S.C. § 8312 or § 8313, is eligible for spousal pension benefits, if the U.S. Attorney General determines that the spouse fully cooperated with the Federal authorities in the conduct of a criminal investigation and subsequent prosecution of the individual which resulted in the forfeiture.

050303. Convictions Under Other Statutes

A. An individual, or his or her survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in 5 U.S.C. § 8311 (2) and (3), if the individual before, on, or after September 1, 1954:

1. Refuses, or knowingly and willfully fails to appear, testify, or produce documents relating to his or her service as an employee, before a Federal grand jury, U. S. court, court-martial, or congressional committee, in a proceeding concerning:

a. Past or present relationship with a foreign government; or

b. A matter involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States, according to 5 U.S.C. § 8314; or

2. Knowingly and willfully makes false, fictitious, or fraudulent statements or representations, concealing material facts concerning his or her past or present membership, affiliation, association with, or support of the Communist Party, chapter, branch, or subdivision, in or outside the United States, or other organization, party, or group advocating:

a. The overthrow, by force, violence, or other unconstitutional means, of the Government of the United States; or

b. Establishment, by force, violence, or other unconstitutional means, of a Communist totalitarian dictatorship in the United States; or

c. The right to strike against the United States; as stated in 5 U.S.C. § 8315.

B. The prohibition on payment of annuity or retired pay under subparagraph 050303.A.1, applies to the period after the date of the failure or refusal of the individual, or after September 1, 1954, whichever is later.

C. Fines levied for convictions under other statutes may result in debts to the United States. However, they do not affect a convicted member's entitlement to receive retired pay.

0504 FOREIGN GOVERNMENT EMPLOYMENT

050401. Background

A. Employment of retired members by a foreign government is restricted. The primary restriction is in Article I, section 9, clause 8 of the Constitution of the United States, which reads: "No Title of Nobility shall be granted by the United States: And no person holding any Office of Profit or Trust under them, shall, without the Consent of Congress, accept any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State." The Comptroller General interpreted this to prohibit employment of all retired personnel, including members of the Fleet Reserve or Fleet Marine Corps Reserve, by a foreign government unless congressional consent is granted.

B. The conditions for accepting foreign employment were modified by Public Law (PL) 95-105, section 509(a)(1) and (2). The Congress granted consent for retired members to accept employment or compensation from foreign governments if the members obtain the approval of the Secretary of the Military Department concerned (or designee) and the Secretary of State before accepting employment or compensation.

1. The approval by the Secretary of the Military Department concerned (or designee) and Secretary of State for a member to accept foreign employment is only effective

prospectively from the date the approval is granted and may not be made retroactively to authorize foreign employment and compensation received before approval is granted.

2. The compensation received from the foreign government without approval is considered received by the retired member for the United States. A debt in favor of the government is created which is to be collected by withholding from retired pay. The debt is an amount equal to the compensation received from the foreign government. When the compensation earned during the period of unauthorized employment exceeds the amount of retired pay accrued during the same period, only the retired pay amount may be collected.

050402. Legislative History

A. The history of the constitutional provisions under consideration indicates that the condition intended to be avoided is the exercise of undue influence by a foreign government upon retired members of the United States.

B. In determining the existence of an employer-employee relationship between a retired member and a foreign government, or instrumentality thereof, the common law rules of agency are applied to determine whether such instrumentality has the right to control and direct an employee in performance of his or her work and the manner in which the work is done.

C. There are at least five criteria that may be considered in determining whether the relationship of employer and employee exists. They are:

1. The selection and engagement of the employee;
2. The payments of wages;
3. The power to discharge;
4. The power to control the employee's conduct; or

5. The relationship of the work to the employer's business, whether the work is a part of the regular business of the employer.

D. The decisive test to determine the existence of an employer-employee relationship is whether the employer has the right to control and direct the employee in the performance of his or her work and in the manner in which the work is to be done. Additionally, the Comptroller General has ruled that a corporation incorporated in the United States, which maintains a separate identity and appears to be a separate legal entity from its dominant shareholder, does not necessarily become an instrumentality of a foreign government when its principal shareholder is a foreign corporation substantially owned by a foreign government.

050403. Types of Employment

A. Employment by educational or commercial institutions owned, operated, or controlled by a foreign government is included within the scope of this restriction.

B. Employment with a foreign government which requires acquisition of foreign citizenship results in forfeiture of entitlement to retired pay. See Chapter 6 for additional information.

C. Employment by international agencies, such as the United Nations, is not prohibited.

050404. Adjustment to Retired Pay

A. Retired pay is withheld in an amount equal to the amount of compensation received from the foreign government. Compensation includes salary, free transportation, household goods shipments at employer's expense, housing allowances, and gifts. To determine the amount to be withheld from a member because of the non-military elements of compensation, the value should be set fairly, considering the actual value or estimates of the compensation received. A gift of more than minimal value is deemed to have been accepted on behalf of the United States. It is deposited by the donee for use and disposal as property of the United States.

B. Amounts of retired pay withheld from members of the Uniformed Services who accept foreign employment without congressional consent, as required by the United States Constitution, should be treated as though the member has no entitlement to them and should not be "held in trust" for them pending possible future congressional consent to their receipt.

0505 SERVICE IN MILITARY FORCE OF NEWLY DEMOCRATIC NATIONS

050501. Determination of Newly Democratic Nation

The Secretary of the Military Department concerned (or designee) and the Secretary of State jointly determine whether a nation is a newly democratic nation.

050502. Consent of Congress

A. Consent. The Congress consents to a retired member of the Uniformed Services: (1) accepting employment by, or holding an office or position in, the military forces of a newly democratic nation; and (2) accepting compensation associated with such employment, office, or position.

B. Approval Required. The consent provided for a member of the Uniformed Services to accept employment or hold an office or position applies to a retired member only if the Secretary of the Military Department concerned (or designee) and the Secretary of State jointly approve the employment or the holding of such office or position.

050503. Continued Entitlement to Retired Pay and Benefits

The eligibility of retired members to receive retired or retainer pay and other benefits, arising from the retired member's status as a retired member of the Uniformed Services, may not be terminated by reason of employment or holding of an office or position consented to in paragraph 050502. The eligibility of such retired member's dependents to benefits may not be terminated based on the retired member's status consented to in this section.

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0505 – SERVICE IN MILITARY FORCE OF NEWLY DEMOCRATIC NATIONS

- 10 U.S.C. § 1060

VOLUME 7B, CHAPTER 6: “FOREIGN CITIZENSHIP AFTER RETIREMENT”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Revised formatting to comply with current administrative instructions.	Revision
060102	Added "Purpose" paragraph.	Addition

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CHAPTER 6

FOREIGN CITIZENSHIP AFTER RETIREMENT

0601 GENERAL

060101. Overview

The right to retired pay based on years of active service or disability for Regular or Reserve officers and Regular enlisted personnel, is generally contingent upon the continuation of their military status.

A. Article I, section 9, clause 8 of the Constitution of the United States prohibits any person "holding any Office of Profit or Trust" under the United States from accepting any present, emolument, office or title, "of any kind whatever," from a foreign government without the consent of Congress. This provision prohibits employment by a foreign government of retired personnel with a continuing military status, including Fleet Reserve or Fleet Marine Corps Reserve, unless prior congressional consent is granted. Without prior congressional consent, it also subjects such persons to withholding of their retired pay in an amount equal to the amounts received from the foreign government. This constitutional provision also considers retired regular officer and enlisted members of regular components to hold an office under the U.S. military.

B. While receiving retired pay, a retiree remains subject to rules, regulations, and recall to active duty as required. A retired member of the Armed Forces who becomes a citizen of a foreign country by naturalization and who voluntarily renounces his [or her U.S.](#) citizenship loses the right to retired pay when entitlement to the retired pay depends upon the retiree's continued military status.

C. The effect of a member's loss of [U.S.](#) citizenship upon payment of retired pay must be determined by reviewing each case according to individual circumstances, governing laws and regulations.

[*060102. Purpose](#)

[The purpose of this chapter is to provide guidance to retired members who have lost their citizenship, have dual citizenship, or are retired alien enlisted members living in foreign countries.](#)

[060103. Authoritative Guidance](#)

[The bibliography at the end of this chapter lists the authoritative references.](#)

0602 FOREIGN RESIDENCE

A citizen of the United States may live outside the United States indefinitely without losing U.S. citizenship.

0603 LOSS OF U.S. CITIZENSHIP

060301. Loss of Citizenship

Generally, loss of U.S. citizenship requires a measure of voluntary positive action. A retiree cannot renounce U.S. citizenship on behalf of their minor child(ren) (reference subparagraphs 060301.E and F). After having attained age 18 years or older, a person who is a citizen of the United States loses that citizenship by voluntarily taking one of the following actions with the intention of relinquishing U.S. citizenship:

A. Obtaining citizenship in a foreign state upon the retired member's application or upon an application filed on his or her behalf by a duly authorized agent;

B. Taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof;

C. Entering, or serving in, the Armed Forces of a foreign state if:

1. Such Armed Forces are engaged in hostilities against the United States, or

2. Such persons serve as a commissioned or non-commissioned officer;

D. Accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof if:

1. **The retired member** has or acquires the nationality of such foreign state, or

2. The acceptance of the office, post, or employment requires the retiree to take an oath, affirmation, or declaration of allegiance thereof;

E. Making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State;

F. Making a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States is in a state of war and the Attorney General approves such renunciation as not contrary to the interests of national defense; or

G. Committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of Title 18, United States Code (U.S.C.), [section 2383](#), or willfully performing any act in violation of [18 U.S.C. § 2385](#), or violating [18 U.S.C. § 2384](#), by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when convicted thereof by a court martial or by a court of competent jurisdiction.

060302. Loss of Citizenship at Issue

If the loss of U.S. citizenship is put at issue in any action or proceeding commenced on or after September 26, 1961, the burden of proof is upon the person or party stating the claim. Any person who has renounced his or her citizenship or performs any act of expatriation under the provisions of this section or any other Act, is presumed to have done so voluntarily unless it can be proven otherwise by a preponderance of the evidence.

060303. Comptroller General (Comp Gen) Decisions on Loss of Citizenship

See Table 6-1 for decisions of the Comptroller General pertaining to loss of U.S. citizenship upon acquisition of foreign citizenship.

0604 CONDITIONS NOT SUBJECTED TO LOSS OF U.S. CITIZENSHIP AND/OR LOSS OF ENTITLEMENT TO RETIRED PAY

060401. Retired Pay for Non-regular Service

Retired pay benefits authorized for non-regular members of the uniformed services in [10 U.S.C., Chapter 1223](#) are viewed as a pension and entitlement to retired pay under [10 U.S.C. § 12731](#) is not dependent on the continuation of military status.

A. A member entitled to receive retired pay under 10 U.S.C. § 12731(a)(1), who acquires foreign citizenship and/or status in a foreign military service prior to becoming eligible to receive retired pay does not lose entitlement to retired pay at the age of eligibility. See Chapter 1, for information regarding entitlements to retired pay under 10 U.S.C. § 12731.

B. A member who receives retired pay, pursuant to 10 U.S.C. § 12731, is not required to forfeit such pay upon becoming a citizen of a foreign country. Further, if the retiree enters the Armed Forces of the foreign country, then the retiree's entitlement to retired pay continues if:

1. The foreign country is not one that is engaged in hostile military operations against the United States, or

2. The retiree is not serving as a commissioned or non-commissioned officer of the foreign services.

C. A right to retirement pay for non-regular members retired for disability under the provisions of the Act of August 27, 1940 is not conditioned on their remaining in military service. Therefore, these non-regular members are entitled to retirement pay without regard to whether they remain citizens of the United States, since that retired pay is viewed in the nature of a pension.

060402. Retired Alien Enlisted of the Armed Forces

A retired alien enlisted member of a Regular Component of the Armed Forces who lives in a foreign country does not lose the right to retired pay in the absence of some provision of law or regulation affecting the member's right in such circumstances.

0605 DUAL CITIZENSHIP AND/OR SERVICE IN THE ARMED FORCES OF A FOREIGN COUNTRY

060501. Dual Citizenship

A retired member of a Regular Component, who resides in a foreign country and acquires foreign citizenship by operation of that country's law, and who does not relinquish U.S. citizenship is considered to have dual citizenship. Dual citizenship alone does not require a member to lose entitlement to retired pay.

060502. Service in the Armed Forces of a Foreign Country

A. Service in the military force of a foreign country by a retired member of the Regular Component is inconsistent with the obligations of a regular retired status, as well as being prohibited without congressional consent under article I, section 9, clause 8 of the Constitution. Conditional congressional consent to accept foreign government "civil employment" granted by [37 U.S.C. § 908](#) does not apply to foreign military service.

B. Retired pay must be discontinued when a retired member becomes a member of a foreign military service without legislation indicating congressional intent. The eligibility of a retired member to receive retired or retainer pay and other benefits arising from the retired member's status as a retired member of the uniformed services, and the eligibility of dependents of the retired member to receive benefits based on the retiree's status, may not be terminated by reason of employment or holding of an office or position consented to by Congress. See Chapter 5, for provisions regarding service in military forces of newly democratic nations.

Table 6-1. Comp Gen Decisions-Foreign Citizenship

COMP GEN DECISIONS-FOREIGN CITIZENSHIP	
Decision Number	Synopsis
1. 37 Comp Gen 207	The right of a retired member of Regular Navy to receive retired pay is contingent upon continuation of a status in the Regular Navy and loss of U.S. citizenship by a member is inconsistent with continuation of military status. Therefore, the right to retired pay terminates if a member of the Regular Navy becomes a citizen of a foreign country.
2. 41 Comp Gen 715	<p>a. Retired Reserve officers, receiving retired pay under laws other than 10 U.S.C. § 12731, who lose U.S. citizenship by acquiring foreign citizenship are no longer eligible for involuntary recall to active duty in times of war or national emergency, and the acquisition of foreign nationality would be inconsistent with the oath prescribed for Reserve officers to support and defend the Constitution of the United States. Therefore, in the absence of any law authorizing continuation of an officer's membership in a Reserve organization after the officer becomes a citizen of a foreign country, payment of retired pay may not be approved.</p> <p>b. A Reserve officer may not terminate retired status through resignation or other means, then acquire foreign citizenship and continue to receive retired pay.</p> <p>c. Retired enlisted members of the Regular Components remain a part of the Armed Forces, and their right to retired or retirement pay is dependent on continuation of their military status.</p>
3. 44 Comp Gen 51	<p>a. A retired enlisted member of a Regular Component of the Armed Forces who loses U.S. citizenship when the retired member acquires citizenship in a foreign country has taken a voluntary action so inconsistent with the oath of allegiance to the United States and status as a member of the Armed Forces to warrant termination of retired pay.</p> <p>b. U.S. citizenship is not a prerequisite to receipt of retired pay; however, if a citizen of the United States by birth acquires foreign citizenship, then his or her retired pay may be terminated</p>
4. 44 Comp Gen 227	A retired member who voluntarily loses U.S. citizenship by becoming a citizen of a foreign country is regarded as having taken a voluntary action inconsistent with an oath of allegiance to the United States to warrant termination of retired pay.
5. 48 Comp Gen 699	Retired pay benefits authorized non-Regular service members under 10 U.S.C. § 12731, viewed as a pension, are not dependent on continuation of military status. Member acquiring foreign citizenship and/or status in a foreign military service before age 60 does not lose entitlement to retired pay at age 60. Neither is retired pay forfeited upon becoming a citizen of a foreign country, and/or entry in the armed forces of a foreign country, provided that country is not one engaged in hostile military operations against the United States.
6. 50 Comp Gen 269	Payment of retired pay to an alien who chooses to live outside the United States after retirement would not constitute a bar to the receipt of retired pay in the absence of some provision of law or regulation affecting retiree's right in such circumstances.
7. Manuscript (MS) Comp Gen B-144694, February 14, 1961	An enlisted member of the Regular Air Force: An alien who had met the statutory requirement for enlistment by filing a legal intention to become a citizen of the United States-when retired is entitled to receive retired pay. In the absence of a provision of law barring the payment of retired pay to an alien or indicating the lack of citizenship is consistent with status as a retired member of the Regular Air Force, it would appear that so long as member's allegiance status remains unchanged after retirement, the fact that the retired member chooses to live outside the United States after retirement would not in and of itself constitute a bar to the receipt of retired pay.
8. MS Comp Gen B-157646, October 5, 1965	A naturalized citizen retired for disability under 10 U.S.C. § 1201, who returned to the country of birth and resumes former nationality because of employment, loses retired status. Member receives retired pay, as distinguished from a grant of retirement pay, and upon transfer to the retired Reserve is subject to recall to active duty.

Table 6-1. Comp Gen Decisions-Foreign Citizenship (Continued)

COMP GEN DECISIONS—FOREIGN CITIZENSHIP	
Decision Number	Synopsis
9. 58 Comp Gen 566	<p>a. A retired Regular Army officer residing in Israel acquired Israeli citizenship by operation of Israeli law, but also remains a U.S. citizen. While the loss of U.S. citizenship is inconsistent with status as a retired Regular officer and thus results in loss of status as an officer and loss of entitlement to retired pay, dual Israeli/U.S. citizenship alone does not require loss of entitlement to retired pay.</p> <p>b. A retired Regular Army officer residing in Israel who has dual Israeli/U.S. citizenship is subject to service in the Israel Defense Forces, the Israeli armed force. Such service in a foreign armed force by a retired Regular officer appears inherently inconsistent with the position as a Regular Army officer, as well as being prohibited (without congressional consent) by article I, section 9, clause 8 of the Constitution of the United States. Thus, service in the foreign armed force would make the status as a retired Army officer very doubtful. Retired pay may not be paid without authorizing legislation.</p>
10. MS Comp Gen B-212481, February 2, 1984	A retired member of the Armed Forces who becomes a citizen of a foreign country by naturalization and who voluntarily renounces U.S. citizenship, loses the right to retired pay since entitlement to retired pay depends upon the continuation of the individual's status as a retired member of the military service available for service as required, and that status is incompatible with renunciation of U.S. citizenship. Such a person, however, who elected to participate in the Survivor Benefit Plan and from whose retired pay the required deductions were being made for coverage under the plan when U.S. citizenship is renounced, may continue coverage under the plan by making the required payments into the Treasury.

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0605 – Dual Citizenship and/or Service in the Armed Forces of a Foreign Country

- 060502.B 10 U.S.C. § 1060

VOLUME 7B, CHAPTER 7: “ACTIVE/RESERVE DUTY AFTER RETIREMENT”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and statutes, and formatted to comply with current administrative instructions.	Revision
070101	Added a “Purpose” paragraph.	Addition
070201	Added definition for the term "active duty" for clarification.	Addition
070202	Added information for clarity concerning Reserve (non-regular) members who served in an active status in the Selected Reserve of the Ready Reserve.	Addition
070202.C	Added definition for the term "active status" for clarification.	Addition
070402	Added information for clarity concerning the Tower Amendment.	Addition
0706	Revised wording to reflect information referenced in Chapter 12.	Revision
Bibliography	Updated references.	Revision

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CHAPTER 7

ACTIVE/RESERVE DUTY AFTER RETIREMENT

0701 GENERAL

***070101. Purpose**

The purpose of this chapter is to provide information for retired members who subsequently perform additional active/reserve duty and their entitlement to retired or retainer pay recomputation.

070102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

0702 **ENTITLEMENT AND ELIGIBILITY*****070201. Entitlement to Recomputation of Retired Pay**

A member of the Armed Forces who has become entitled to retired or retainer pay, and later serves on active duty (other than for training) is entitled to have retired or retainer pay recomputed upon his release from active duty to take into account any additional service. A retiree or member eligible for retired pay who serves in an active status in the Selected Reserve may be entitled to recomputation of their Reserve (non-regular) pay, if certain criteria described in paragraph 070202 or 070203 are met. The term "active duty" is defined under Title 10, United States Code (U.S.C.), [section 101\(d\)\(1\)](#) to mean "full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty." As used here, it does not include training.

***070202. Active Reserve (Non-Regular) Service After Regular Retirement or Eligibility for Regular Retirement**

A member who [served in an active status in the Selected Reserve of the Ready Reserve after becoming eligible for regular retired or retainer pay based on years of service](#), without regard to whether the member actually retired or received retired or retainer pay for regular service, may apply for Reserve (non-regular) retired pay if the member:

- A. Has attained the Reserve (non-regular) pay eligibility age of 60 years or such other reduced eligibility age as provided for in 10 U.S.C. [§ 12731\(f\)](#);
- B. Has performed at least 20 years of service for a Reserve (non-regular) retirement; and

* C. After October 28, 2009, has completed two or more years of satisfactory service, as determined by the Secretary concerned, in an active status (excluding any period of active duty service) subsequent to the date upon which he or she previously became eligible for regular retired or retainer pay. The term "active status" means the status of a member of a reserve component who is not in the inactive Army National Guard or inactive Air National Guard, on an inactive status list, or in the Retired Reserve. See 10 U.S.C. § 101(d)(4). A member who was eligible for regular retired or retainer pay on or before October 27, 2009, whose service was determined to be satisfactory by the Secretary concerned, is not subject to the 2-year service requirement. See paragraph 070204 for exceptions to the 2-year requirement subsequent to the date upon which he or she previously became eligible for regular retired or retainer pay.

070203. Active Reserve Service After Reserve (Non-Regular) Retirement

The following subparagraphs address members of the Retired Reserve recalled to an active status in the Selected Reserve:

A. A member of the Retired Reserve serving in an active status in the Selected Reserve on October 28, 2009, or who thereafter serves in an active status in the Selected Reserve is entitled to recomputation of Reserve (non-regular) pay if the member serves in such status for not less than 2 years; or

B. A commissioned officer of the Retired Reserve who is recalled to an active status under the provisions of this paragraph and completes not less than 2 years of service in such active status is entitled to an adjustment in the retired grade, subject to service requirements.

070204. Exception to 2-Year Active Status Service

The Secretary concerned may reduce the minimum 2-year service requirement specified in subparagraph 070202.C and paragraph 070203 in the case of an officer of the National Guard who:

A. Completes at least 1 year of service in a position of adjutant general or assistant adjutant general; and

B. Fails to complete the minimum 2 years of service solely because the appointment of the person to such position was terminated or vacated as provided by:

1. The laws of the State of whose National Guard he or she is a member; or

2. The laws of the Commonwealth of Puerto Rico, or the District of Columbia, Guam, or the Virgin Islands, of whose National Guard he or she is a member.

0703 RECOMPUTATION FOR ACTIVE DUTY SERVICE OR ACTIVE STATUS IN THE SELECTED RESERVE AFTER RETIREMENT

070301. Basic Recomputation Formula

A retired member who subsequently serves on active duty is generally entitled, after completion of that active duty, to retired pay recomputed by multiplying a revised retired or retainer pay base by a revised retired pay multiplier.

070302. Revised Retired or Retainer Pay Base

The retired or retainer pay base for a recomputation of retired pay differs depending on the date the member first became a member of the uniformed services and whether the recomputation is for subsequent service in the Selected Reserve or subsequent active duty in a Regular Component.

A. Service in an Active Status in the Selected Reserve. A member, who after retirement or eligibility for retired or retainer pay serves in an active status in the Selected Reserve, subject to paragraph 070202 or 070203, is entitled to recomputed retired pay using the retired pay base.

1. Before September 8, 1980. If the member first became a member of the uniformed service before September 8, 1980, the retired pay base is the monthly basic pay determined at the rates applicable on the date the member completes the qualifying active Reserve service.

2. After September 7, 1980. If the member first became a member of the uniformed service after September 7, 1980, the retired pay base used is the average of the member's high-36 months (whether or not consecutive) out of all the months before the member became entitled to retired pay by reason of election of retired pay under the provisions of this paragraph.

B. Service on Active Duty. A member entitled to retired or retainer pay, who subsequently serves on active duty, other than for training, is entitled to recomputed retired or retainer pay using the retired pay base.

1. Before September 8, 1980. For a member who first became a member of the uniformed service before September 8, 1980, the revised retired or retainer pay base is the monthly basic pay of the grade determined as follows. If the member served:

a. Less than two continuous years on subsequent active duty, the member's revised retired or retainer pay base is the rate of basic pay under which the member's previous retired or retainer pay was computed upon entrance to subsequent active duty; increased by any applicable cost-of-living adjustment (COLA) issued during that period of active duty; or

b. Two or more continuous years on subsequent active duty, the member's revised retired or retainer pay base is the appropriate rate of basic pay of the grade and

years of service to which eligible if retired (or transferred to the Fleet Reserve (FR) or Fleet Marine Corps Reserve (FMCR)) upon release from this period of active duty. The revised retired or retainer pay base is computed using the pay tables in effect immediately prior to the tables under which the member was paid during the period of that active duty, increased by any applicable COLA issued during this period of active duty. In the rare case when a member serves for two or more continuous years of subsequent active duty under the same pay table and that table is in effect at the time of reversion to retired status, use the appropriate basic pay from that table.

2. After September 7, 1980. For a member who first became a member of the uniformed service after September 7, 1980, the revised retired or retainer pay base is the high-36 month average of all service, including subsequent active duty, as though retiring or transferring to the FR or the FMCR for the first time.

3. Optional Pay Base. A retired member entitled to recomputation of retired pay (for other than disability) after subsequent active duty, may elect to substitute the retired pay base in use upon entry to such active duty which is increased by any applicable COLA issued during the period of the subsequent active duty.

070303. Revised Retired Pay Multiplier

A. The years of service for determining the revised retired or retainer pay multiplier are those already credited in computing the original retired or retainer pay, plus all years of active service after having become entitled to retired or retainer pay.

1. Increase the years of service as follows:

	<u>Year</u>	<u>Month</u>	<u>Day</u>
Date released from active duty	2004	05	28
Date recalled to active duty	<u>2001</u>	<u>09</u>	<u>09</u>
Additional time on active duty	02	08	19 + 1
(1 day added for inclusive dates)			
Service credited upon retirement	22	06	03
Plus additional active duty	<u>02</u>	<u>08</u>	<u>20</u>
Service credited for recomputation	25	02	23

2. After computing, convert to years and fraction of years by crediting each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.

B. A member described in paragraph 070301 will have the years of service computed in accordance with 10 U.S.C., Chapter 1223, pertaining to Reserve (non-regular) retirement.

C. The percentage to apply to the years of service for determining the revised or retainer pay multiplier is generally 2.5 percent for each year of service. However, a member who

accepted the post July 31, 1986, reduced retirement (REDUX) and Career Status Bonus (CSB) remain subject to a 1 percent reduction in the final multiplier for each year less than 30 years of service. This reduction to the final multiplier will be decreased as a result of the additional active service credited.

070304. Special Considerations for Recomputation

The following subparagraphs address special considerations for recomputation of retired pay for members who first became a member of the uniformed services before September 8, 1980 (Final Pay Members).

A. A retiree advanced in grade on the retired list while serving on active duty after retirement may decline advancement to the higher grade upon release from active duty if advancement results in a reduction in retired pay entitlement. The retiree is entitled to recomputation using either:

1. The higher grade based on the basic pay rates applicable at the time of retirement increased by the applicable COLA in that pay (see Chapter 8); or

2. The grade held before advancement based on the basic pay rates replaced by those in effect upon release from active duty if active duty after retirement was for a continuous period of at least 2 years.

B. It is not mandatory that a retiree be advanced on the retired list. Once advanced, the retiree has retired pay rights determined under the section governing such advancement.

C. A retired officer recalled to active duty (other than for training) in the grade held on the retired list, under any law that authorized advancement on the retired list based on a special commendation for the performance of duty in actual combat, may have retired pay recomputed upon release from active duty based on that grade as prescribed in Table 7-1, rule 1 and on the basis of the rate:

1. In effect upon release from active duty if the retiree received these rates for a continuous period of at least 3 years; or

2. Replaced by those in effect upon release from active duty if the retiree did not receive the current rates for a continuous period of at least 3 years.

D. A retiree recalled to active duty after retirement and promoted in grade while on active duty may elect, upon release from that active duty, to have retired pay recomputed based on either:

1. The higher grade to which promoted in which the retiree served satisfactorily, if the member met service time-in grade requirements; or

2. The lower grade held at initial retirement.

E. A retiree recalled to active duty after retirement and demoted in grade while on active duty may elect, upon release from that active duty, to have retired pay recomputed based on either:

1. The grade to which demoted; or
2. The retired pay to which entitled in the grade held at initial retirement; increased by the applicable COLA.

070305. Special Considerations for Disability Retirees

A. A member who reverts to retired pay after active duty with a new or aggravated physical disability rated at 30 percent or more may elect to receive:

1. The retired pay to which they became entitled when previously retired, increased by any applicable subsequent COLA; or

2. Retired pay recomputed using a revised pay base and revised retired pay multiplier. The revised pay base for a member under high-36 rules is described in subparagraph 070302.A. The revised pay base for a member under final pay rules is the highest monthly basic pay received while on active duty after retirement or after the date when placed on the Temporary Disability Retired List (TDRL). The revised retired pay multiplier is as the member elects either 2.5 percent for each year of service creditable for a disability retirement or the highest percentage of disability, not to exceed 75 percent, attained while on active duty after retirement or after the date when placed on the TDRL.

B. A member who was retired for physical disability or whose name is on the TDRL who reverts to the retired list after subsequent active duty, but who did not incur a new or aggravate any existing physical disability while on the subsequent active duty, may elect to receive either:

1. Retired pay to which they became entitled when previously retired, increased by any applicable COLA; or
2. Retired pay as computed for a non-disability reversion under the provisions of paragraphs 070302 and 070303.

C. A member who retired or became eligible to retire due to a physical disability on the Permanent Disability Retired List, or TDRL, on or before January 7, 2011, may not have a retired pay multiplier in excess of 75 percent. A member who first becomes eligible to retire or retires for a physical disability on or after January 8, 2011, will not have their multiplier reduced if it is in excess of 75 percent.

D. A member placed on the TDRL may not have a retired pay multiplier less than 50 percent.

0704 COST-OF-LIVING ADJUSTMENT (COLA)

070401. Application of COLA Increases

Apply the COLA increases to recomputed retired pay in the same manner as for initial retirement. The first COLA after reversion to retired pay following a period of active duty may be a partial COLA depending upon the reversion date. When the recomputed retired pay is based on the original retired pay or the original retired pay base, apply all COLA increases from the date of initial retirement. See Figure 7-1 for application of the COLA increases to recompute retired pay. Chapter 8 contains the annual COLA rates.

*070402. Compare Basic Pay Rates to Tower Amendment Provisions

The Tower Amendment authorizes the use of the 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. See the provisions in Chapter 3, regarding the Tower Amendment to determine if basic pay rates authorized under that provision afford greater retired pay entitlement than those computed under this chapter.

0705 HEROISM PAY

070501. Extraordinary Heroism

An enlisted member who has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active service in the armed forces and who is entitled to recomputation of retired pay based on subsequent active duty **will** have the recomputation of retired pay increased by 10 percent.

070502. Extraordinary Heroism and the Retired Pay Multiplier

The addition of heroism pay may not be allowed to increase the recomputed retired pay multiplier above 75 percent. For details on heroism pay refer to Chapter 1.

*0706 RETIRED PAY AND ACTIVE SERVICE

A retired member **who elects to receive compensation for periods of active duty or inactive duty training must waive 1 day of retired pay for each calendar day** while serving on active duty, inactive duty training, or in an active Reserve status. See Chapter 12.

Figure 7-1. Recomputation After Recall to Active Duty

Examples of Retired Pay Recomputation After Recall to Active Duty

1. Final Basic Pay Method**E-7 retired 8/1/2006 with exactly 27 years of service**

Retired Pay Entitlement \$4,113.60 (E-7 over 26/2006 pay rates)
 X 67.5% (27 years X 2.5%) = \$2,776.00 (initial retired pay)

Recalled to active duty 6/1/2008 and released 5/31/2010

Pay Recomputation:

10 U.S.C. § 1402(a) E-7 with 29 years (Notes 1, 2, and 5)

\$4,521.00 (E-7 over 28/2009 pay rates (Note 2))
 X 72.5% (29 years X 2.5%) = \$3,277.00 (recomputed retired pay)

10 U.S.C. § 1402(e) E-7 with 29 years (Notes 2, 3, and 5)

		\$4,113.60 (E-7 over 28/2006 pay rates)
		X 72.5% (29 years X 2.5%) = \$2,982.00)
12/2006 COLA	2.8%	\$3,065.00 (2.8% X \$2982.00 = \$3,065.50) (partial COLA)
12/2007 COLA	2.3%	\$3,135.00 (2.3% X \$3065.00 = \$3,135.50)
12/2008 COLA	5.8%	\$3,316.00 (5.8% X \$3135.00 = \$3,316.83)
12/2009 COLA	0.0%	\$3,316.00 (No COLA increase. Recomputed retired pay for 2009 remains the same as 2008)

Saved Pay (Notes 2, 4, and 5)

		\$2,776.00 (initial retired pay)
12/2006 COLA	2.8%	\$2,853.00 (2.8% X \$2776.00 = \$2,853.73) (partial COLA)
12/2007 COLA	2.3%	\$2,918.00 (2.3% X \$2853.00 = \$2,918.62)
12/2008 COLA	5.8%	\$3,087.00 (5.8% X \$2918.00 = \$3,087.24)
12/2009 COLA	0.0%	\$3,087.00 (No COLA increase. Recomputed retired pay for 2009 remains the same as 2008)

Notes:

1. The 1402(a) recomputation utilizes a more current active duty pay table and the new total years of service.
2. Use the active duty pay rates in effect on date of release only if the member received pay from that rate table for at least 2 years. If recalled for over 2 years, but did not receive pay from the same table for 2 years, the immediately preceding rates of active duty pay are utilized. If recall is less than 2 years, utilize the pay table in effect upon original retirement.

Figure 7-1. Recomputation After Recall to Active Duty (Continued)

Notes (Continued):

3. The 1402(e) recomputation utilizes the pay table in effect at retirement, but uses the new service totals and updated by applicable COLAs. [See Chapter 8 for the COLA rates.](#)
4. Saved Pay is the member's original retired pay entitlement, as updated by the COLA.
5. The highest option is paid.

Figure 7-1. Recomputation After Recall to Active Duty (Continued)

3. High-36 Average with REDUX/CSB Method**E-7 retired 10/1/2006 with exactly 20 years of service**

Pay Entitlement \$3,351.03 (high average base)
X 40% (20 years X 2.5% less 10% (Note 1)) = \$1,340.00

Recalled to active duty 6/1/2008 and released 5/31/2010

Pay Recomputation:

10 U.S.C. § 1402a(a) E-7 with 22 years (Note 1)
\$3,816.61 (recomputed high-36 average base using the 24
months of subsequent service)
X 47% (22 years X 2.5% less 8% (Note 2)) = \$1,793.00

10 U.S.C. § 1402a(e) E-7 with 22 years (Note 1)
\$3,351.03 (original high-36 pay base)
X 47% (22 years X 2.5% less 8% (Note 2)) = \$1,574.00

12/2006 COLA	0.0%	\$1,574.00 (partial COLA)
12/2007 COLA	1.3%	\$1,594.00 (1.3% X \$1,574.00)
12/2008 COLA	4.8%	\$1,670.00 (4.8% X \$1,594.00)
12/2009 COLA	0.0%	\$1,670.00 (No COLA increase. Recomputed retired pay for 2009 remains the same as 2008)

Notes:

1. The higher option is paid.
2. Reduced by 1% for each year less than 30 years.

Table 7-1. Computation of Retired Pay Following Active/Reserve Duty after Retirement or Eligibility for Retired Pay

COMPUTATION OF RETIRED PAY FOLLOWING ACTIVE/RESERVE DUTY AFTER RETIREMENT OR ELIGIBILITY FOR RETIRED PAY						
R U L E	A	B	C	D	E	F
	If	and	take	multiply by	add	subtract (Notes 4 & 5)
1	a member previously retired for other than disability, reverts to retired status without a disability retirement (Note 1)	the member first became a member before September 8, 1980	monthly basic pay (note 2) of the grade in which member would be eligible: (1) to retire if retiring upon that release from active duty; or (2) to transfer to the FR or FMCR if transferring to either upon that release from active duty	2.5 percent of the sum of: (1) the years of service that may be credited to the retiree in computing retired pay or retainer pay; and (2) years of active service after becoming entitled to retired pay or retainer pay (Note 3)		the excess over 75 percent of pay upon which the computation is based, only if the member originally retired before January 1, 2007, with more than 30 years of service and did not serve at least 2 years on the recall to active duty.
2		the member first became a member after September 7, 1980	retired pay base or retainer pay base to which member would be entitled to use if: (1) retiring upon release from that active duty; or (2) transferring to the FR or FMCR upon that release from active duty	the retired pay multiplier or the retainer pay multiplier for a high-36 retiree (with reduction described under paragraph 070303 for post-August 1, 1986 members who elected the CSB with REDUX retirement) for the sum of: (1) the years of service that may be credited to the retiree in computing retired pay; and (2) years of active service after becoming entitled to retired or retainer pay		excess over 75 percent of retired or retainer pay based upon computation only if the member originally retired before January 1, 2007, with more than 30 years of service and did not serve at least 2 years on the recall to active duty.

Table 7-1. Computation of Retired Pay Following Active/Reserve Duty after Retirement or Eligibility for Retired Pay (Continued)

COMPUTATION OF RETIRED PAY FOLLOWING ACTIVE/RESERVE DUTY AFTER RETIREMENT OR ELIGIBILITY FOR RETIRED PAY.						
R U L E	A	B	C	D	E	F
	If	and	take	multiply by	add	subtract (Notes 4 & 5)
3	a member reverts with a new or aggravated disability rating that qualifies for disability retirement (Note 6)	member first became a member before September 8, 1980	highest monthly basic pay that member received while on active duty after retirement or after date when member's name was placed on TDRL	as a member elects: (1) 2.5 percent of years of service credited under <u>10 U.S.C. § 1208</u> (Note 3); or (2) the highest disability percentage, not to exceed 75 percent, attained while on active duty after retirement or after the date member's name was placed on TDRL	the amount necessary to increase product of columns C and D to 50 percent of pay upon which computation is based, if member is on TDRL.	
4		member first became a member after September 7, 1980	the retired pay base			
5	a member previously retired for disability, reverts to retired status without incurring any additional or aggravating disability that would qualify for disability retirement (Note 6)		either the highest monthly pay they received on active duty or the retired pay base as appropriate under rule 3 or 4	2.5 percent of years of service credited under 10 U.S.C. § 1208 (Note 3).		

Table 7-1. Computation of Retired Pay Following Active/Reserve Duty after Retirement or Eligibility for Retired Pay (Continued)

COMPUTATION OF RETIRED PAY FOLLOWING ACTIVE/RESERVE DUTY AFTER RETIREMENT OR ELIGIBILITY FOR RETIRED PAY						
R U L E	A	B	C	D	E	F
	If	and	take	multiply by	add	subtract (Notes 4 & 5)
6	a member entitled to or receiving regular retired pay based on years of service that has attained Reserve Retired pay eligibility and age and has performed at least 20 years of service qualifying for a Reserve retirement	served in an active status as a member of an RC on or after October 28, 2009, completing 2 or more years of satisfactory service after becoming eligible for regular retired pay based on years of service without regard to whether the member actually retired or received retired or retainer pay for regular service (Notes 7 & 8)	either the basic pay for the highest grade held while serving in the active status or the retired pay base computed through the new retirement date	2.5 percent times the years of service credited for percentage purposes (Note 9).		
7	a member of Retired Reserve serves in active status in Selected Reserve on or after October 28, 2009	serves for not less than 2 years in such active status	either the basic pay for the highest grade held while serving in the active status or the retired pay base computed through the date of release from duty	2.5 percent times the years of service credited for percentage purposes (Note 9).		

Table 7-1. Computation of Retired Pay Following Active/Reserve Duty after Retirement or Eligibility for Retired Pay (Continued)

Notes:

1. Alternatively, members eligible under rules 1 or 2 may elect to substitute the rate of basic or monthly retired pay base (high-36 average) under which the original retired pay was computed at the time of entering on this period of active duty (increased by any applicable adjustments in the COLA) for the amount in column C of the table.
2. For a member who has been entitled, for a continuous period of at least 2 years, to basic pay under the rates of basic pay in effect upon release from active duty, compute under those rates. For a member who has been entitled to basic pay for a continuous period of at least 2 years upon that release from active duty, but who is not covered by the preceding sentence, compute under the rates of basic pay replaced by those in effect upon that release from active duty. For any other member, compute under the rates of basic pay under which the member's retired pay or retainer pay was computed when member entered on that active duty.
3. Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year. Disregard any remaining fractional part of a month.
4. The amount computed, if not a multiple of \$1, is rounded to the next lower multiple of \$1. Any future adjustments to such pay must be made on the rounded figure. The rounded amount becomes the member's entitlement and any future adjustments is based on this rounded entitlement.
5. The reduction only applies to a member who retired before January 1, 2007, with more than 30 years of creditable service who is recalled to active duty and serves on active duty for a continuous period of less than 2 years that ends after January 1, 2007.
6. Alternatively, members eligible under rules 3, 4, or 5 may elect to substitute the retired pay to which entitled when originally retired increased by any applicable adjustments in the COLA.
7. A member who was eligible for regular retired or retainer pay on or before October 27, 2009, whose service was determined to be satisfactory, is not subject to the 2-year requirement.
8. The 2-year service requirement may be reduced by the Secretary concerned if an officer of the National Guard completes at least 1 year of service in a position of adjutant general or assistant adjutant general and fails to complete the minimum years of service solely because the appointment to such position is terminated or vacated under applicable State or territorial law.
9. Total number of retirement points divided by 360. Carry the resultant figure to three decimal places, then round to two decimal places. Example: 4,735 retirement points divided by 360 = 13.152 or 13.15 years of service for percentage purposes (for the section 12731 retiree only) to be multiplied by 2.5 percent.

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070102	10 U.S.C. § 1402
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	10 U.S.C. § 12741

0702 – ENTITLEMENT AND ELIGIBILITY

070201	10 U.S.C. § 101(d)(1)
070202	10 U.S.C. § 12731(a)(B)
	10 U.S.C. § 12741(a)
	10 U.S.C. § 10145(d)
070202.A	10 U.S.C. § 12731(a)(1)
070202.B	10 U.S.C. § 12731(a)(2)
070202.C	10 U.S.C. § 12739
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070203.A	10 U.S.C. § 12741
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070203.B	10 U.S.C. § 12771(b)
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070204.A	32 U.S.C. § 314
070204.B	32 U.S.C. § 324(b)

0703 – RECOMPUTATION FOR ACTIVE DUTY SERVICE OR ACTIVE STATUS IN
THE SELECTED RESERVE AFTER RETIREMENT

070302.A	10 U.S.C. § 12741
	10 U.S.C. § 1406
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070302.B	10 U.S.C. § 1406(b)(2)
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[0704 – COST-OF-LIVING ADJUSTMENT \(COLA\)](#)

070402	10 U.S.C. § 1401a(f)
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[0705 – HEROISM PAY](#)

070501	10 U.S.C. § 3991
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[0706 – RETIRED PAY AND ACTIVE SERVICE](#)

[Comp Gen B-179882](#), December 4, 1974

VOLUME 7B, CHAPTER 8: “BASIC PAY RATES, LEGISLATIVE AND COST-OF-LIVING ADJUSTEMENTS (COLA) TO RETIRED PAY”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [April 2016](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated the hyperlinks and revised the chapter to comply with current administrative instructions.	Revision
080206	Deleted paragraph and renumbered succeeding paragraphs.	Deletion
080208	Deleted paragraph and renumbered succeeding paragraphs.	Deletion
080303	Integrated “One Percent Add-On” information from former paragraph 080206.	Revision
080513.A	Added Cost-of-Living Adjustment (COLA) rates for retired pay, effective December 1, 2016.	Addition
080513.B	Added monthly basic pay increase for members of the Uniformed Services, effective January 1, 2017.	Addition
Table 8-1	Updated Table 8-1, Full COLA Percentage Table.	Revision
Bibliography	Updated Bibliography.	Revision

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CHAPTER 8**BASIC PAY RATES, LEGISLATIVE AND COST-OF-LIVING
ADJUSTMENTS (COLA) TO RETIRED PAY**

0801 GENERAL

080101. Overview

Historical information on legislative actions for the application of special provision in determining the accuracy of retired pay from October 1949 to Fiscal Year (FY) 1993 is located in the archived Chapter 8, dated July 2013, to include Cost-of-Living Adjustment (COLA) rates for the period.

080102. Purpose

A. Accuracy of Retired Pay

Information in this chapter enables the reader 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. Retired pay for members who have entered a Uniformed Service after September 7, 1980 is computed using a retired or retainer pay base. See Chapter 3 for gross pay computation. This chapter explains the effect of legislation and COLA on retired pay that has been computed using a retired or retainer pay base.

B. The Use and Effect of Active Duty Pay Rate Increases on Retired Pay

Before June 1, 1958, all members (except the pre-October 1, 1949 "saved pay" accounts) received a direct percentage of the active-duty basic pay rates in effect October 1, 1949 through May 31, 1958. With the enactment of Public Law 85-422, effective June 1, 1958, 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. Public Law 85-422 prohibited the recomputation of retired pay based on changes in the active-duty basic pay rates after retirement. The date of retirement was a factor in computing retired pay because the retired member's pay was fixed to the basic pay rate in effect on the date of retirement. The exceptions permitting members to use another basic pay rate under certain conditions and circumstances are outlined in later paragraphs. The applicable active-duty pay tables now serve as the basis for determining the rate of retired pay.

C. Service After September 7, 1980

For members who have entered a Uniformed Service after September 7, 1980:

1. The amount of retired pay is individualized. 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.

080103. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

0802. DEFINITIONS

080201. Base Index

The base index is the price index for the base quarter for the most recent adjustment under Title 10, United States Code (U.S.C.), [section 1401a\(b\)](#).

080202. Base Quarter

Base Quarter is the calendar quarter ending on September 30 of each year.

080203. Burchinal Decision

The [Burchinal Decision](#) is a Comptroller General decision ([53 Comp. Gen. 698 \(1974\)](#)) that retired pay is computed only under the current pay rates or the pay rates in effect immediately before the current rate pursuant to 10 U.S.C. § 1401a(e). Public Law 90-207, effective October 1, 1967, added subsection (e) under 10 U.S.C. § 1401a as a method to prevent pay inversion. See also paragraph 080304. On October 7, 1975, [Public Law 94-106](#) added subsection (f) under 10 U.S.C. § 1401a, which superseded 10 U.S.C. § 1401a(e).

080204. COLA

Percentage change increases are applied to retired pay based on laws using the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers–U.S. City Average (CPI-W), as published by the Bureau of Labor Statistics, to determine the amount of the increase. Full COLA percentages appear in Table 8-1.

A. [Full COLA](#). Members on the retired rolls receive the full COLA if their retired pay is computed using the basic pay rates, which were effective before the previous COLA.

B. [Partial COLA](#). Members whose retired pay is computed using the basic pay rates that become effective at the same time, or after the previous COLA, receive a partial COLA. This increase is effective from the later of the date of the full COLA or date of retirement.

080205. Legislative Increase

A legislative increase refers to any adjustment in retired pay authorized by legislation that identifies a percentage increase rather than being based on the CPI.

080206. Otherwise Qualified

This term refers to members, retired under a particular law, who are eligible for retirement under another law that may provide greater benefits. It pertains primarily to disability retirees when members have enough service to be retired for nondisability.

080207. Pay Table Code

[Pay table code](#) refers to the designation by number (or other means) used by the Defense Finance and Accounting Service (DFAS) to identify active-duty pay rates in effect during various time periods.

080208. Price Index

Price index refers to the CPI (all items, United States city average) published by the Bureau of Labor Statistics.

080209. Price Index for a Quarter

For purposes of this chapter, the price index for a calendar quarter is the arithmetical mean (average) of the price index for the three months comprising that quarter.

080210. Recomputation

Recomputation is the provision for recomputing retired pay using a pay table other than that used in the first computation of retired pay.

080211. Retired Pay

The term "retired pay" includes retainer pay.

080212. Retired Pay Base

The retired pay base is an average of the highest monthly basic pay rates applicable to a member, determined by the length of time the member was a member of a Uniformed Service (less than or at least 36 months) and/or the type of retirement (e.g., disability or voluntary). The retired pay base or retainer pay base applies to members who entered a Uniformed Service after September 7, 1980. It replaced the monthly basic pay rate formerly used to compute retired or retainer pay. See Chapter 3 for Pre-September 8, 1980 members.

080213. Uniform Retirement Date Act (URDA)

Pursuant to [5 U.S.C. § 8301](#), the URDA: (1) provides, under certain retirement laws, that members cannot be retired before the first day of the month after the date of first eligibility, and (2) 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. The additional requirement to compute pay on the rates in effect as of the date retirement would have occurred except for this restriction.

080214. 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 Volume 7A, Chapter 1.

080215. Years of Service for Percentage Multiplier

The years of service for percentage multiplier refers to service years creditable in determining the percentage multiplier factor (2.5 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 1223](#), reserve service points are converted to years of service (i.e., total points divided by 360 equal years of service). See Chapter 1.

0803 MAJOR CHANGES IN THE USE OF BASIC PAY RATES AND CONDITIONS APPLICABLE TO COMPUTATION OF RETIRED PAY

080301. Retired Pay Based on the Consumer Price Index (CPI)

Effective October 1, 1963, 10 U.S.C. § 1401a, as added by Public Law 88-132, stipulated that future adjustments to retired pay would be based on the CPI. Each January the Secretary of Defense was to review the CPI from the previous calendar year and, if it had increased 3 percent or more, then would affect a percentage increase in retired pay as of April 1 using the percentages of increase in the CPI.

080302. Effects of Public Law 90-207 on Retired Pay Computation

Public Law 90-207, effective October 1, 1967, added subsections (c) through (e) under 10 U.S.C. § 1401a. Subsections (c) and (d) stipulated that retired pay, when computed from the current basic pay rates, would increase at the later of the next COLA or retirement date by a partial adjustment. The partial adjustment represented the percent by which the new base index exceeded the index in effect on the day before the basic pay increase. Subsection (e), a saved-pay provision, permitted computation of retired pay on the basic pay rates in effect immediately preceding those in effect on retirement date if they were more favorable because of a COLA. Public Law 98-94, section 921, effective September 24, 1983, repealed the 1-year look-back provision that was under 10 U.S.C. § 1401a(e).

Note: For additional information on the repealed section, see paragraph 080213 in archived Chapter 8. Section 8(a) of Public Law 90-207 provided that, effective January 1, 1968, whenever the General Schedule of Compensation for Federal classified employees increased, an adjustment in the monthly basic pay to authorized members of the Uniformed Services immediately would become effective.

*080303. One Percent Increase to COLA

Public Law 91-179, effective October 31, 1969, stipulated that 1 percent would be added to the percentage increase each time there was a general COLA to retired pay. Partial COLA increases did not include the 1 percent. 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, effective October 1, 1976, eliminated the 1 percent increase.

080304. Pay Inversion

Public Law 85-422, effective June 1, 1958, prohibited recomputation of retired pay each time active-duty pay was increased. Therefore, it was assumed that members of the same pay grade and years of service who retired under later active-duty pay increases would receive a greater retired pay. Beginning in 1971, there were instances where the cumulative COLA applied to retired pay was greater than the increases in the active-duty pay rates, which was known as “pay inversion.” Pay inversion created some retention problems because, through early retirement, members could increase their retired pay rather than remaining on active duty. Under 53 Comp. Gen. 698 (1974), known as the “Burchinal Decision,” members were restricted to the greater amount of pay, based on two computations of retired pay, computed on the active-duty pay rates in effect:

A. 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

B. Immediately before the active-duty basic pay rates in effect on the date of retirement, plus the COLA 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 the time of retirement were used even though the computation used the earlier basic pay rates.

080305. Tower Amendment

A. Public Law 94-106, dated October 7, 1975, added subparagraph (f) to 10 U.S.C. § 1401a. The new provision stipulated another method to offset, in part, the effect of “pay inversion.” This method involved computing pay based “on any previous basic pay rates, on and after January 1, 1971, plus COLA, if the member was eligible for retirement at the time those rates were in effect.” The computation was restricted to the pay grade and years of service at that earlier time (for retirements on October 5, 1994 or later, the computation may not be based on a grade higher than that held at the time of retirement). The statute applies to all members retired on or after January 1, 1971. There were no retroactive pay adjustments for the period before October 7, 1975.

B. Pursuant to [Public Law 113-66](#), dated December 26, 2013, for a retired member who first became a member of a uniformed service on or after September 8, 1980, and whose retired pay is computed using the high-three method, the Tower Amendment applies only at the time of retirement and not when the first COLA are announced. A member 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](#) and covered in Chapter 7. The Tower Amendment did not repeal nor modify those provisions.

080306. Basic Pay Average

[Public Law 96-342](#), dated September 8, 1980, as codified at [10 U.S.C. § 1407](#), established a retired pay base for use in computing retired or retainer pay. Title 10, U.S.C., section 1407 applies to members who have entered a Uniformed Service after September 7, 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.

080307. Modification of COLAs Applicable to Military Retired and Retainer Pay

[Public Law 98-270](#), dated April 18, 1984, amended [5 U.S.C. § 8340\(a\) and \(b\)](#) to modify COLAs that also applied to military retired and retainer pay under 10 U.S.C. § 1401a(b). The effective date for COLAs was changed from March 1 to December 1. The COLA equaled the percentage change in the price index for the base quarter of the year over the price index for the base quarter of the preceding year. Price index is defined at 080211. The partial COLA equaled the percentage increase of the average CPI for July, August, and September over the CPI for the preceding December.

080308. The Military Retirement Reform Act of 1986

The Military Retirement Reform Act of 1986, Public Law 99-348:

A. Reduced the retired pay multiplier for any member who first became a member of a Uniformed Service after July 31, 1986, and who retired before age 62 with less than 30 years of creditable service (excluding retirements under [10 U.S.C., Chapter 61](#), and 1223). The multiplier was reduced by:

1. One percentage point for each full year that the member's years of creditable service were less than 30; and
2. One-twelfth of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) was less than a full year.

B. Stipulated cost-of-living increases for any member who first became a member of a Uniformed Service on or after August 1, 1986, when the increase in the CPI exceeded 1 percent. The cost-of-living increase was 1 percentage point less than the increase in CPI.

C. Restored the reduction in retired pay multiplier under subparagraph 080308.A at age 62 and provided a one-time restoral at age 62 for the reduction in cost-of-living increase under subparagraph 080308.B.

0804 PROVISIONS OF PAY CHANGES, EXCEPTIONS, AND SPECIAL COMPUTATIONS BETWEEN DECEMBER 1, 1993 AND DECEMBER 1, 2005

For historical information on legislative actions affecting retired pay from October 1949 to December 1993, see archived Chapter 8, dated July 2013.

080401. COLA and Basic Pay Rates FY 1994

A. A COLA, effective December 1, 1993, provides the following increases (NOTE: [Public Law 103-66](#) prohibits the payment for months before March 1994 of any increase in retired pay associated with the COLA, except for those members retired for disability under 10 U.S.C., Chapter 61).

1. Pre-August 1986 members:

a. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active-duty pay rates in effect before January 1, 1993, received a 2.6 percent adjustment.

b. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1993 active-duty pay rate, received a 1.9 percent adjustment.

2. Post-August 1986 members:

a. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1993, received a 1.6 percent adjustment.

b. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1993, received a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
January 1, 1993 – March 31, 1993	1.2
April 1, 1993 – June 30, 1993	0.7
July 1, 1993 – September 30, 1993	0.2
October 1, 1993 – December 31, 1993	-0-

B. For basic pay rates effective January 1, 1994, [Executive Order 12886](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 1994, and
3. No entitlement to pay computed on the January 1, 1994 basic pay rates for members who retired on January 1, 1994, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1993 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080402. COLA and Basic Pay Rates FY 1995

A. A COLA, effective December 1, 1994, provides the following increases.

1. Pre-August 1986 members:
 - a. Members who first entered service before August 1, 1986, and whose retired pay has been computed on active-duty pay rates in effect before January 1, 1994, received a 2.8 percent adjustment.
 - b. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1994 active-duty basic pay rate, received a 2.2 percent adjustment.
2. Post-August 1986 members:
 - a. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1994, received a 1.8 percent adjustment.
 - b. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1994, received a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
January 1, 1994 – March 31, 1994	1.4
April 1, 1994 – June 30, 1994	1.2
July 1, 1994 – September 30, 1994	0.7
October 1, 1994 – December 31, 1994	-0-

B. For basic pay rates effective January 1, 1995, [Executive Order 12944](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 1995, and
3. No entitlement to pay computed on the January 1, 1995 basic pay rates for members who retired on January 1, 1995, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1994 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080403. COLA and Basic Pay Rates FY 1996

A. In FY 1996, the COLA became effective December 1, 1995. Certain adjustments under 10 U.S.C. § 1401a(b)(2) and [Public Law 104-106](#), dated February 10, 1996, were not payable for periods before March 1996, which included the payment of increased retired or retainer pay for members and former members retired on the basis of longevity, age, or non-regular service (10 U.S.C., Chapter 1223). Adjustments, which became payable beginning December 1, 1995, included the increases in survivor annuities and SBP costs (including SBP base amounts and associated annuities and premiums), retired pay based on disability, and the exclusion amounts for dual compensation.

1. Pre-August 1986 members:
 - a. Members who first entered service before August 1, 1986, and whose retired pay had been computed on active-duty basic pay rates in effect before January 1, 1995, received a 2.6 percent adjustment.
 - b. Members who first entered service before August 1, 1986, and who became entitled to retired pay computed on the January 1, 1995 active-duty pay rate, received a 2.0 percent adjustment.
2. Post-August 1986 members:
 - a. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1995, received a 1.6 percent adjustment.

b. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay on or after January 1, 1995, received a pro-rata initial adjustment as follows:

<u>Retired Between</u>	<u>Percent Increase</u>
January 1, 1995 – March 31, 1995	1.3
April 1, 1995 – June 30, 1995	0.8
July 1, 1995 – September 30, 1995	0.2
October 1, 1995 – December 31, 1995	-0-

B. For basic pay rates effective January 1, 1996, [Executive Order 12990](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 1996, and
3. No entitlement to pay computed on the January 1, 1996 basic pay rates for members who retired on January 1, 1996, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1995 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080404. Initial Computation of Retiree COLAs and Basic Pay Rates FY 1997

The FY 1997 Department of Defense Authorization Act, [Public Law 104-201](#), clarified the method of computing the first COLA of retired pay for members who entered a Uniformed Service after September 7, 1980, but before August 1, 1986, and provided the following.

A. A COLA, effective December 1, 1996, provided for:

1. Pre-August 1986 members:
 - a. Members who first entered service before August 1, 1986, and whose retired pay has been computed under active-duty pay rates in effect before January 1, 1996, received a 2.9 percent adjustment.
 - b. Members who first entered service before September 8, 1980, and who become entitled to an initial amount of retired pay computed on the January 1, 1996 active-duty pay rate, received a 2.5 percent adjustment.
 - c. Members who first entered service after September 7, 1980, but before August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1996, received a pro-rata initial adjustment as follows:

<u>Retired Pay Effective Date</u>	<u>Percent Increase</u>
January 1, 1996 – March 31, 1996	2.5
April 1, 1996 – June 30, 1996	1.5
July 1, 1996 – September 30, 1996	0.5
October 1, 1996 – December 31, 1996	-0-

2. Post-August 1986 members:

a. Members who first entered service on or after August 1, 1986, and who become entitled to retired pay before January 1, 1996, received a 1.9 percent adjustment.

b. Members who first entered service on or after August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1996, received a pro-rata initial adjustment as follows:

<u>Retired Pay Effective Date</u>	<u>Percent Increase</u>
January 1, 1996 – March 31, 1996	1.7
April 1, 1996 – June 30, 1996	1.0
July 1, 1996 – September 30, 1996	0.2
October 1, 1996 – December 31, 1996	-0-

B. For basic pay rates effective January 1, 1997, [Executive Order 13033](#) provided for:

1. Increased basic pay rates,

2. No increase for members retired before January 1, 1997, and

3. No entitlement to pay computed on the January 1, 1997 basic pay rates for members who retired on January 1, 1997, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1996 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080405. COLA and Basic Pay Rates FY 1998

A. A COLA, effective December 1, 1997, provided for:

1. Pre-August 1986 members:

a. Members who first entered service before August 1, 1986, and whose retired pay has been computed under active-duty pay rates in effect before January 1, 1997, received a 2.1 percent adjustment.

b. Members who first entered service before September 8, 1980, and who became entitled to an initial amount of retired pay computed on the January 1, 1997 active-duty basic pay rate, received a 1.3 percent adjustment.

c. Members who first entered service after September 7, 1980, but before August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1997, are entitled to a pro-rata initial adjustment as follows:

<u>Retired Pay Effective Date</u>	<u>Percent Increase</u>
January 1, 1997 – March 31, 1997	1.3
April 1, 1997 – June 30, 1997	0.8
July 1, 1997 – September 30, 1997	0.4
October 1, 1997 – December 31, 1997	-0-

2. Post-Aug 1986 members:

a. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1997, received a 1.1 percent adjustment.

b. Members who first entered service on or after August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1997, received a pro-rata initial adjustment as follows:

<u>Retired Pay Effective Date</u>	<u>Percent Increase</u>
January 1, 1997 – March 31, 1997	0.6
April 1, 1997 – June 30, 1997	0.3
July 1, 1997 – September 30, 1997	0.1
October 1, 1997 – December 31, 1997	-0-

B. For basic pay rates effective January 1, 1998, [Executive Order 13071](#), effective January 1, 1998, provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 1998, and
3. No entitlement to pay computed on January 1, 1998 basic pay rates for members who retired on January 1, 1998, and who were subject to the URDA warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1997 transfers). [For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.](#)

080406. COLA and Basic Pay Rates FY 1999

A. A COLA, effective December 1, 1998, provided for:

1. Pre-August 1986 members:

a. Members who first entered service before August 1, 1986, and whose retired pay has been computed under active-duty pay rates in effect before January 1, 1998, received a 1.3 percent adjustment.

b. Members who first entered service before September 8, 1980, and who became entitled to an initial amount of retired pay computed on the January 1, 1998 active-duty pay rate, received a 1.0 percent adjustment.

c. Members who first entered service after September 7, 1980, but before August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1998, received a pro-rata initial adjustment as follows:

<u>Retired Pay Effective Date</u>	<u>Percent Increase</u>
January 1, 1998 – March 31, 1998	1.0
April 1, 1998 – June 30, 1998	0.9
July 1, 1998 – September 30, 1998	0.4
October 1, 1998 – December 31, 1998	-0-

2. Post-August 1986 members:

a. Members who first entered service on or after August 1, 1986, and who became entitled to retired pay before January 1, 1998, received a 0.3 percent adjustment.

b. Members who first entered service on or after August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1998, are entitled to a pro-rata initial adjustment as follows:

<u>Retired Pay Effective Date</u>	<u>Percent Increase</u>
January 1, 1998 – March 31, 1998	0.3
April 1, 1998 – June 30, 1998	0.4
July 1, 1998 – September 30, 1998	0.1
October 1, 1998 – December 31, 1998	-0-

B. For basic pay rates effective January 1, 1999, [Executive Order 13106](#) provided for:

1. Increased basic pay rates,

2. No increase for members retired before January 1, 1999, and

3. No entitlement to pay computed on the January 1, 1999 basic pay rates for members who retired on January 1, 1999, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1998 transfers). For

additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080407. COLA and Basic Pay Rates FY 2000

A. A COLA, effective December 1, 1999, provided for:

1. Pre-August 1986 members:

a. Members who first entered service before August 1, 1986, and whose retired pay has been computed under active-duty pay rates in effect before January 1, 1999, received a 2.4 percent adjustment.

b. Members who first entered service before September 8, 1980, and who became entitled to an initial amount of retired pay computed on the January 1, 1999 active-duty basic pay rate, received a 2 percent adjustment.

c. Members who first entered service after September 7, 1980, but before August 1, 1986, and who became entitled to an initial amount of retired pay on or after January 1, 1999, are entitled to a pro-rata adjustment as follows:

<u>Retired Pay Effective Date</u>	<u>Percent Increase</u>
January 1, 1999 – March 31, 1999	2.0
April 1, 1999 – June 30, 1999	1.7
July 1, 1999 – September 30, 1999	0.7
October 1, 1999 – December 31, 1999	-0-

2. Officers in grades 0-7 through 0-10:

Recomputation of retired pay for certain members retired during the period April 30 through December 31, 1999:

a. [Section 601\(d\) of Public Law 106-65](#) revised the limits imposed on the rates of basic pay for members of the Uniformed Services. Pay rates for grades 0-7 and above were limited, effective January 1, 2000, to the pay rate for Level III of the Executive Schedule.

b. Section 601(e) of Public Law 106-65 provides that retired pay be recomputed, effective January 1, 2000, for certain members who retired during the period of April 30, 1999 through December 31, 1999. As a result, the retired pay of members in grade 0-9 with over 26 years of service and 0-10 with over 16 years of service will be recomputed. The new rates will be for months beginning on or after January 1, 2000, and will be computed as if the Level III of the Executive Schedule limit had applied at the time of a qualified member's retirement. No increased amount is payable for any period before January 1, 2000 as a result of this provision. Retired pay rates for affected members should be recomputed for their entitlement

for January 2000 as though the following rates of basic pay had been applicable at the time of retirement:

<u>Pay Grade</u>	<u>Years of Service</u>	<u>Basic Pay</u>
O-9	Over 26	\$9,528.90
O-10	Over 16	\$9,528.90
O-10	Over 18	\$9,528.90
O-10	Over 20	\$10,167.00
O-10	Over 22	\$10,167.00
O-10	Over 24	\$10,167.00
O-10	Over 26	\$10,491.60

B. For basic pay rates effective January 1, 2000, [Executive Order 13144](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2000, and
3. No entitlement to pay computed on the January 1, 2000 basic pay rates for members who retired on January 1, 2000, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 1999 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080408. COLA and Basic Pay Rates FY 2001

- A. A COLA, effective December 1, 2000, provided for:
1. Pre-August 1986 members:
 - a. Members who first entered service before August 1, 1986, and whose retired pay has been computed under active-duty pay rates in effect before January 1, 2000, received a 3.5 percent adjustment.
 - b. Members who first entered service before September 8, 1980, and who became entitled to an initial amount of retired pay computed on the January 1, 2000 active duty basic pay rate, received a 2.8 percent adjustment. This adjustment includes any member whose retired pay is computed on a pay cell of the July 1, 2000 pay table that was unchanged from the rate of January 1, 2000.
 - c. Members who first entered service before September 8, 1980, and who became entitled to an initial amount of retired pay computed on the July 1, 2000 active-duty basic pay rate, received a 0.7 percent adjustment. This adjustment includes any member whose retired pay is computed on a pay cell of the July 1, 2000 pay table that was changed from the rate of January 1, 2000.

d. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is set out according to the effective date of their retirement as follows:

<u>Retired Pay Effective Date</u>	<u>Percent Increase</u>
Before January 1, 2000	3.5
January 1, 2000 – March 31, 2000	2.8
April 1, 2000 – June 30, 2000	1.8
July 1, 2000 – September 30, 2000	0.7
October 1, 2000 – December 31, 2000	-0-

B. For basic pay rates effective January 1, 2001, [Executive Order 13182](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2001, and
3. No entitlement to pay computed on the January 1, 2001 basic pay rates for members who retired on January 1, 2001, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2000 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080409. COLA and Basic Pay Rates FY 2002

A. A COLA, effective December 1, 2001, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of the active-duty basic pay rate used to compute their retired pay as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2001	2.6 percent	1401a(b)(2)
January 1, 2001**	2.0 percent	1401a(c)
July 1, 2001***	0.0 percent	1401a(c)

* The effective date in a pay cell (i.e., a pay rate specified for a given grade and years of service) of the July 1, 2001 pay table is considered to be January 1, 2001, if the pay rate for that cell is unchanged from the January rate.

** Includes those whose retired pay is computed based on a pay cell of the July 1, 2001 pay table, if the pay rate is unchanged from the rate for that pay cell in the January 1, 2001 pay table.

*** Includes those whose retired pay is computed based on a pay cell of the July 1, 2001 pay table changed from the rate for that pay cell in the January 1, 2001 pay table.

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2001	2.6 percent	1401a(b)(2)
January 1, 2001 – March 31, 2001	2.0 percent	1401a(d)
April 1, 2001 – June 30, 2001	1.1 percent	1401a(d)
July 1 – September 30, 2001	0.0 percent	1401a(d)
October 1 – December 31, 2001	0.0 percent	1401a(d)

NOTE: Because of an error in the CPI, all accounts were underpaid by .01 percent, effective December 1999. All accounts affected were corrected, recomputed, and paid by December 2001.

B. For basic pay rates effective January 1, 2002, [Executive Order 13249](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2002, and
3. No entitlement to pay computed on the January 1, 2002 basic pay rates for members who retired on January 1, 2002, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2001 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080410. COLA and Basic Pay Rates FY 2003

A. A COLA, effective December 1, 2002, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of the active-duty basic pay rate used to compute their retired pay as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2002	1.4 percent	1401a(b)(2)
January 1, 2002	1.4 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2002	1.4 percent	1401a(b)(2)
January 1 – March 31, 2002	1.4 percent	1401a(d)
April 1, 2002 – June 30, 2002	1.4 percent	1401a(d)
July 1, 2002 – September 30, 2002	1.4 percent	1401a(d)
October 1, 2002 – December 31, 2002	0.0 percent	1401a(d)

B. For basic pay rates effective January 1, 2003, [Public Law 107-314](#) and [Executive Order 13282](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2003, and
3. No entitlement to pay computed on the January 1, 2003 basic pay rates for members who retired on January 1, 2003, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2002 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080411. COLA and Basic Pay Rates FY 2004

A. A COLA, effective December 1, 2003, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of the active-duty basic pay rate used to compute their retired pay as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2003	2.1 percent	1401a(b)(2)
January 1, 2003	1.7 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2003	2.1 percent	1401a(b)(2)
January 1– March 31, 2003	1.7 percent	1401a(d)
April 1– June 30, 2003	0.7 percent	1401a(d)
July 1– September 30, 2003	0.4 percent	1401a(d)
October 1– December 31, 2003	0.0 percent	1401a(d)

B. For basic pay rates effective January 1, 2004, [Public Law 108-136](#) and [Executive Order 13322](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2004,
3. The added provision to [10 U.S.C. § 1406](#) that an individual who served as commander of a uniformed or combatant command [will](#) have retired pay computed using the rates of basic pay authorized for the Chairman/Vice Chairman of the Joint Chiefs of Staff and the Chiefs of Service, [and](#)
4. No entitlement to pay computed on the January 1, 2004 basic pay rates for members who retired on January 1, 2004, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2003 transfers). [For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.](#)

080412. COLA and Basic Pay Rates FY 2005

A. A COLA, effective December 1, 2004, provided:

1. [For](#) those who first became members of a Uniformed Service before September 8, 1980, [the retired pay COLA](#) is specified according to the effective date of the active-duty basic pay rate used to compute their retired pay as follows:

Retirement Effective	Percent Increase	10 U.S.C. Authority
Before January 1, 2004	2.7 percent	1401a(b)(2)
January 1, 2004	2.7 percent	1401a(c)

2. [For](#) those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is [specified](#) according to the effective date of their retirement as follows:

Retirement Effective	Percent Increase	10 U.S.C. Authority
Before January 1, 2004	2.7 percent	1401a(b)(2)
January 1– March 31, 2004	2.7 percent	1401a(d)
April 1– June 30, 2004	1.8 percent	1401a(d)
July 1– September 30, 2003	0.4 percent	1401a(d)
October 1– December 31, 2003	0.0 percent	1401a(d)
July 1– September 30, 2004	0.3 percent	1401a(d)
October 1– December 31, 2004	0.0 percent	1401a(d)

- B. [For](#) basic pay rates effective January 1, 2005, [Public Law 108-375](#) and [Executive Order 13368](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2005, [and](#)

3. No entitlement to pay computed on the January 1, 2005 basic pay rates for members who retired on January 1, 2005, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2004 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

0805 PROVISIONS OF PAY CHANGES, EXCEPTIONS, AND SPECIAL COMPUTATIONS STARTING DECEMBER 2005

080501. COLA and Basic Pay Rates FY 2006

A. A COLA, effective December 1, 2005, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2005	4.1 percent	1401a(b)(2)
January 1, 2005	3.4 percent	1401a(d)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2005	4.1 percent	1401a(b)(2)
January 1 – March 31, 2005	3.4 percent	1401a(d)
April 1, 2005 – June 30, 2005	2.8 percent	1401a(d)
July 1 – September 30, 2005	1.4 percent	1401a(d)
October 1 – December 31, 2005	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and who elected to receive a bonus under the provisions of 37 U.S.C. § 322, renumbered to 37 U.S.C. § 354, the retired pay COLA is specified according to their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2005	3.1 percent	1401a(e)
January 1 – March 31, 2005	2.6 percent	1401a(e)
April – June 30, 2005	2.3 percent	1401a(e)
July 1 – September 30, 2005	1.1 percent	1401a(e)
October 1 – December 31, 2005	0.0 percent	1401a(e)

B. For basic pay rates effective January 1, 2006, Public Law 109-163 and Executive Order 13393, effective January 1, 2006, provided for:

1. Increase basic pay rates,
2. No increase for members retired before January 1, 2006, and
3. No entitlement to pay computed on the January 1, 2006 basic pay rates for members who retired on January 1, 2006, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2005 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080502. COLA and Basic Pay Rates FY 2007

A. A COLA, effective December 1, 2006, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2006	3.3 percent	1401a(b)(2)
January 1, 2006	2.8 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2006	0.3 percent	1401a(b)(2)
January 1, 2006 – March 31, 2006	2.8 percent	1401a(d)
April 1 – June 30, 2006	2.4 percent	1401a(d)
July 1 – September 30, 2006	0.6 percent	1401a(d)
October 1 – December 31, 2006	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and who elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2006	2.3 percent	1401a(e)
January 1 – March 31, 2006	2.0 percent	1401a(e)
April 1 – June 30, 2006	1.9 percent	1401a(e)
July 1 – September 30, 2006	0.3 percent	1401a(e)
October 1 – December 31, 2006	0.0 percent	1401a(e)

- B. For basic pay rates effective January 1, 2007, Public Law 109-364 and Executive Order 13420 provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2007,
3. Increased targeted adjusted basic pay rates within each pay grade effective April 1, 2007,
4. Cumulative years of service pay rates expanded to over 40 years of service, and
5. No entitlement to pay computed on the January 1, 2007 basic pay rates for members who retired on January 1, 2007, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2006 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

C. Public Law 109-364 provides the following changes in retirement computation:

1. The retired pay base for officers in pay grades O-7 through O-10 who retired after September 30, 2006 will have their retired pay computed using the rate of basic pay for such period provided by law rather than the rate capped at Level II of the Executive Schedule;
2. The removal of the 75 percent maximum cap for the retired pay multiplier under 10 U.S.C. § 1409 if the member retires after December 31, 2006 with more than 30 years of creditable service; and
3. The additional longevity pay increases for senior grades above 28 years of service, resulting in increased retired pay for future senior members retiring with over 30 years of creditable service.

080503. COLA and Basic Pay Rates FY 2008

A. A COLA, effective December 1, 2007, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2007	2.3 percent	1401a(b)(2)
January 1 – April 1, 2007	2.3 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2007	2.3 percent	1401a(b)(2)
January 1, 2007 – March 31, 2007	2.3 percent	1401a(d)
April 1, 2007 – June 30, 2007	2.3 percent	1401a(d)
July 1, 2007 – September 30, 2007	0.2 percent	1401a(d)
October 1 – December 31, 2007	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and who elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2007	1.3 percent	1401a(e)
January 1, 2007 – March 31, 2007	1.3 percent	1401a(e)
April 1, 2007 – June 30, 2007	1.3 percent	1401a(e)
July 1, 2007 – September 30, 2007	0.0 percent	1401a(e)
October 1, 2007 – December 31, 2007	0.0 percent	1401a(e)

B. For basic pay rates effective January 1, 2008, Public Law 110-181 and Executive Order 13454 provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2008, and
3. No entitlement to pay computed on the January 1, 2008 basic pay rates for members who retired on January 1, 2008, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2007 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080504. COLA and Basic Pay Rates FY 2009

A. A COLA, effective December 1, 2008, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2008	5.8 percent	1401a(b)(2)
January 1– December 31, 2008	5.0 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2008	5.8 percent	1401a(b)(2)
January 1 – March 31, 2008	5.0 percent	1401a(d)
April 1 – June 30, 2008	3.8 percent	1401a(d)
July 1 – September 30, 2008	1.2 percent	1401a(d)
October 1 – December 31, 2008	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and who elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2008	4.8 percent	1401a(e)
January 1 – March 31, 2008	4.2 percent	1401a(e)
April 1 – June 30, 2008	3.3 percent	1401a(e)
July 1 – September 30, 2008	1.0 percent	1401a(e)
October 1 – December 31, 2008	0.0 percent	1401a(e)

B. For basic pay rates effective January 1, 2009, Public Law 110-417 and Executive Order 13483 provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2009, and
3. No entitlement to pay computed on the January 1, 2009 basic pay rates for members who retired on January 1, 2009, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2008 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080505. COLA and Basic Pay Rates FY 2010

A. A COLA, effective December 1, 2009, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2009	0.0 percent	1401a(b)(2)
January 1 – December, 2009	0.0 percent	1401a(c) & 1401a(f)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2009	0.0 percent	1401a(b)(2)
January 1 – March 31, 2009	0.0 percent	1401a(d) & 1401a(f)
April 1 – June 30, 2009	0.0 percent	1401a(d) & 1401a(f)
July 1 – September 30, 2009	0.0 percent	1401a(d) & 1401a(f)
October 1 – December 31, 2009	0.0 percent	1401a(d) & 1401a(f)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and who elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2009	0.0 percent	1401a(e)
January 1 – March 31, 2009	0.0 percent	1401a(e) & 1401a(f)
April 1 – June 30, 2009	0.0 percent	1401a(e) & 1401a(f)
July 1 – September 30, 2009	0.0 percent	1401a(e) & 1401a(f)
October 1 – December 31, 2009	0.0 percent	1401a(e) & 1401a(f)

B. For basic pay rates effective January 1, 2010, Public Law 111-84 and Executive Order 13525 provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2010, and
3. No entitlement to pay computed on the January 1, 2010 basic pay rates for members who retired on January 1, 2010, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2009 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080506. COLA and Basic Pay Rates FY 2011

A. A COLA, effective December 1, 2010, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2010	0.0 percent	1401a(b)(2)
January 1 – December 31, 2010	0.0 percent	1401a(c) & 1401a(f)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2010	0.0 percent	1401a(b)(2)
January 1 – March 31, 2010	0.0 percent	1401a(d) & 1401a(f)
April 1 – June 30, 2010	0.0 percent	1401a(d) & 1401a(f)
July 1 – September 30, 2010	0.0 percent	1401a(d) & 1401a(f)
October 1 – December 31, 2010	0.0 percent	1401a(d) & 1401a(f)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and also elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to the date of their retirement, as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2010	0.0 percent	1401a(e)
January 1 – March 31, 2010	0.0 percent	1401a(e) & 1401a(f)
April 1 – June 30, 2010	0.0 percent	1401a(e) & 1401a(f)
July 1 – September 30, 2010	0.0 percent	1401a(e) & 1401a(f)
October 1 – December 31, 2010	0.0 percent	1401a(e) & 1401a(f)

B. For basic pay rates effective January 1, 2011, [Executive Order 13561](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2011, and
3. No entitlement to pay computed on the January 1, 2011 basic pay rates for members who retired on January 1, 2011, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2010 transfers). For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080507. Removal of the 75 Percent Cap Subject to Provision

A member who retired, or became entitled to retired pay, due to physical disability on or before January 7, 2011, may not have a retired pay multiplier in excess of 75 percent. Under Public Law 111-383, a member with more than 30 years of creditable service who first becomes entitled to retired pay due to physical disability, on or after January 8, 2011, will not have their multiplier reduced if it is in excess of 75 percent.

080508. COLA and Basic Pay Rates FY 2012

A. A COLA, effective December 1, 2011, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2011	3.6 percent	1401a(b)(2)
January 1 – December 31, 2011	3.6 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2011	3.6 percent	1401a(b)(2)
January 1 – March 31, 2011	3.6 percent	1401a(d)
April 1 – June 30, 2011	2.4 percent	1401a(d)
July 1 – September 30, 2011	0.4 percent	1401a(d)
October 1 – December 31, 2011	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and also elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to the date of their retirement, as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2011	2.6 percent	1401a(e)
January 1 – March 31, 2011	2.6 percent	1401a(e)
April 1 – June 30, 2011	1.9 percent	1401a(e)
July 1 – September 30, 2011	0.1 percent	1401a(e)
October 1 – December 31, 2011	0.0 percent	1401a(e)

B. For basic pay rates effective January 1, 2012, [Executive Order 13594](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2012, and
3. No entitlement to pay computed on the January 1, 2012 basic pay rates for members who retired on January 1, 2012, and who were subject to the URDA, warrant officers, Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2011 transfers). For

additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

NOTE: Members retiring in 2012 may be entitled to more retired pay using the 2011 pay rates increased by a partial COLA, instead of using the increased pay rates with more service credit. Under 10 U.S.C. § 1401a(f)(1), inversions to retired pay entitlements are prevented by allowing computation of retired pay based on retirement at an earlier date. In such computations, the grade and service credit must be those applicable on the earlier date being used. Also, the retiree must meet the retirement eligibility requirements as of the earlier date.

080509. COLA and Basic Pay Rates FY 2013

A. A COLA, effective December 1, 2012, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2012	1.7 percent	1401a(b)(2)
January 1 – December 31, 2012	1.7 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2012	1.7 percent	1401a(b)(2)
January 1 – March 31, 2012	1.7 percent	1401a(d)
April 1 – June 30, 2012	1.0 percent	1401a(d)
July 1 – September 30, 2012	0.2 percent	1401a(d)
October 1 – December 31, 2012	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and also elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to the date of their retirement, as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2012	0.7 percent	1401a(e)
January 1 – March 31, 2012	0.7 percent	1401a(e)
April 1 – June 30, 2012	0.5 percent	1401a(e)
July 1 – September 30, 2012	0.0 percent	1401a(e)
October 1 – December 31, 2012	0.0 percent	1401a(e)

B. For basic pay rates effective January 1, 2013, [*Executive Order 13641*](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2013, and
3. No entitlement to pay computed on the January 1, 2013 basic pay rates for members who retired on January 1, 2013, and who were:
 - a. Warrant officers,
 - b. Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2012 transfers), or
 - c. Subject to the URDA. For additional information about the URDA, see Chapter 1. [Additionally, URDA is defined at paragraph 080213.](#)

080510. COLA and Basic Pay Rates FY 2014

A. A COLA, effective December 1, 2013, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2013	1.5 percent	1401a(b)(2)
January 1 – December 31, 2013	1.5 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2013	1.5 percent	1401a(b)(2)
January 1 – March 31, 2013	1.5 percent	1401a(d)
April 1 – June 30, 2013	0.9 percent	1401a(d)
July 1 – September 30, 2013	0.4 percent	1401a(d)
October 1 – December 31, 2013	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and also elected to receive a career status bonus under the provisions of 37 U.S.C. § 322 (renumbered 37 U.S.C. § 354), the retired pay COLA is specified according to the date of their retirement, as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2013	0.5 percent	1401a(e)
January 1 – March 31, 2013	0.5 percent	1401a(e)
April 1 – June 30, 2013	0.4 percent	1401a(e)
July 1 – September 30, 2013	0.0 percent	1401a(e)
October 1 – December 31, 2013	0.0 percent	1401a(e)

B. For basic pay rates effective January 1, 2014, [Executive Order 13655](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2014, and
3. No entitlement to pay computed on the January 1, 2014 basic pay rates for members who retired on January 1, 2014, and who were:
 - a. Warrant officers,
 - b. Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2013 transfers), or
 - c. Subject to the URDA. For additional information about the URDA, see Chapter 1. [Additionally, URDA is defined at paragraph 080213.](#)

080511. COLA and Basic Pay Rates FY 2015

A. A COLA, effective December 1, 2014, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2014	1.7 percent	1401a(b)(2)
January 1 – December 31, 2014	1.7 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is [specified](#) according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2014	1.7 percent	1401a(b)(2)
January 1 – March 31, 2014	1.7 percent	1401a(d)
April 1 – June 30, 2014	1.3 percent	1401a(d)
July 1 – September 30, 2014	0.1 percent	1401a(d)
October 1 – December 31, 2014	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and also elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to the date of their retirement, as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2014	0.7 percent	1401a(e)
January 1 – March 31, 2014	0.7 percent	1401a(e)
April 1 – June 30, 2014	0.7 percent	1401a(e)
July 1 – September 30, 2014	0.0 percent	1401a(e)
October 1 – December 31, 2014	0.0 percent	1401a(e)

B. For basic pay rates effective January 1, 2015, Executive Order 13686 provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2015, and
3. No entitlement to pay computed on the January 1, 2015 basic pay rates for members who retired on January 1, 2015, and who were:
 - a. Warrant officers,
 - b. Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2014 transfers), or
 - c. Subject to the URDA. For additional information about the URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

080512. COLA and Basic Pay Rates FY 2016

A. A COLA, effective December 1, 2015, provided:

1. Retired pay COLA for those who first became members of a Uniformed Service before September 8, 1980 is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2015	0.0 percent	1401a(b)(2)
January 1 – December 31, 2015	0.0 percent	1401a(c) & 1401a(f)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is set out according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2015	0.0 percent	1401a(b)(2)
January 1 – March 31, 2015	0.0 percent	1401a(d) & 1401a(f)
April 1 – June 30, 2015	0.0 percent	1401a(d) & 1401a(f)
July 1 – September 30, 2015	0.0 percent	1401a(d) & 1401a(f)
October 1 – December 31, 2015	0.0 percent	1401a(d) & 1401a(f)

3. The retired pay COLA for those who first became members of the Uniformed Service on or after August 1, 1986, and also elected to receive a career status bonus under the provisions of 37 U.S.C. § 354 is specified according to the date of their retirement, as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2015	0.0 percent	1401a(e)
January 1 – March 31, 2015	0.0 percent	1401a(e) & 1401a(f)
April 1 – June 30, 2015	0.0 percent	1401a(e) & 1401a(f)
July 1 – September 30, 2015	0.0 percent	1401a(e) & 1401a(f)
October 1 – December 31, 2015	0.0 percent	1401a(e) & 1401a(f)

B. For basic pay rates effective January 1, 2016, [Executive Order 13715](#) provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2016, and
3. No entitlement to pay computed on the January 1, 2016 basic pay rates for members who retired on January 1, 2016, and who were:
 - a. Warrant officers,
 - b. Fleet Reservists, and Fleet Marine Corps Reservists (December 31, 2015 transfers), or
 - c. Subject to the URDA. For additional information about the URDA, see Chapter 1. [Additionally, URDA is defined at paragraph 080213.](#)

*080513. COLA and Basic Pay Rates FY 2017

* A. A COLA, effective December 1, 2016, provided:

1. For those who first became members of a Uniformed Service before September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2016	0.3 percent	1401a(b)(2)
January 1 – December 31, 2016	0.3 percent	1401a(c)

2. For those who first became members of a Uniformed Service on or after September 8, 1980, the retired pay COLA is specified according to the effective date of their retirement as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2016	0.3 percent	1401a(b)(2)
January 1 – March 31, 2016	0.3 percent	1401a(d)
April 1 – June 30, 2016	0.3 percent	1401a(d)
July 1 – September 30, 2016	0.3 percent	1401a(d)
October 1 – December 31, 2016	0.0 percent	1401a(d)

3. For those who first became members of the Uniformed Service on or after August 1, 1986, and also elected to receive a career status bonus under the provisions of 37 U.S.C. § 354, the retired pay COLA is specified according to the date of their retirement, as follows:

<u>Retirement Effective</u>	<u>Percent Increase</u>	<u>10 U.S.C. Authority</u>
Before January 1, 2016	0.3 percent	1401a(e)
January 1 – March 31, 2016	0.3 percent	1401a(e) & 1401a(f)
April 1 – June 30, 2016	0.3 percent	1401a(e) & 1401a(f)
July 1 – September 30, 2016	0.0 percent	1401a(e)
October 1 – December 31, 2016	0.0 percent	1401a(e)

* B. For basic pay rates effective January 1, 2017, Executive Order 13756 provided for:

1. Increased basic pay rates,
2. No increase for members retired before January 1, 2017, and
3. No entitlement to pay computed on the January 1, 2017 basic pay rates for members who retired on January 1, 2017, and who were:

- a. Warrant officers,
- b. Fleet Reservists, and Fleet Marine Corps Reservists
(December 31, 2016 transfers), or
- c. Subject to the URDA. For additional information about the
URDA, see Chapter 1. Additionally, URDA is defined at paragraph 080213.

*Table 8-1. Full COLA Percentage Table

No.	Date of COLA	Percent
1	Sep 1, 1965	4.4
2	Dec 1, 1966	3.7
3	Apr 1, 1968	3.9
4	Feb 1, 1969	4.0
5	Nov 1, 1969	4.3
6	Aug 1, 1970	5.6
7	Jun 1, 1971	4.5
8	Jul 1, 1972	4.8
9	Jul 1, 1973	6.1
10	Jan 1, 1974	5.5
11	Jul 1, 1974	6.3
12	Jan 1, 1975	7.3
13	Aug 1, 1975	5.1
14	Mar 1, 1976	5.4
15	Mar 1, 1977	4.8
16	Sep 1, 1977	4.3
17	Mar 1, 1978	2.4
18	Sep 1, 1978	4.9
19	Mar 1, 1979	3.9
20	Sep 1, 1979	6.9
21	Mar 1, 1980	6.0
22	Sep 1, 1980	7.7
23	Mar 1, 1981	4.4
24	Mar 1, 1982	8.7
25	Apr 1, 1983 (note 1)	3.3
		3.9
26	Dec 1, 1984	3.5
27	Dec 1, 1986	1.3
28	Dec 1, 1987	4.2 Pre-Aug 86 Member 3.2 Post-Aug 86 Member
29	Dec 1, 1988	4.0 Pre-Aug 86 Member 3.0 Post-Aug 86 Member
30	Dec 1, 1989	4.7 Pre-Aug 86 Member 3.7 Post-Aug 86 Member
31	Dec 1, 1990	5.4 Pre-Aug 86 Member 4.4 Post-Aug 86 Member
32	Dec 1, 1991	3.7 Pre-Aug 86 Member 2.7 Post-Aug 86 Member

Table 8-1. Full COLA Percentage Table (Continued)

No.	Date of COLA	Percent
33	Dec 1, 1992	3.0 Pre-Aug 86 Member 2.0 Post-Aug 86 Member
34	Dec 1, 1993 (note 2)	2.6 Pre-Aug 86 Member 1.6 Post-Aug 86 Member
35	Dec 1, 1994 (note 2)	2.8 Pre-Aug 86 Member 1.8 Post-Aug 86 Member
36	Dec 1, 1995 (note 2)	2.6 Pre-Aug 86 Member 1.6 Post-Aug 86 Member
37	Dec 1, 1996	2.9 Pre-Aug 86 Member 1.9 Post-Aug 86 Member
38	Dec 1, 1997	2.1 Pre-Aug 86 Member 1.1 Post-Aug 86 Member
39	Dec 1, 1998	1.3 Pre-Aug 86 Member 0.3 Post-Aug 86 Member
40	Dec 1, 1999 (note 3)	2.4 Pre-Aug 86 Member 2.4 Post-Aug 86 Member w/o Career Status Bonus (CSB) 1.4 Post-Aug 86 Member w/CSB
41	Dec 1, 2000 (note 3)	3.5 Pre-Aug 86 Member 3.5 Post-Aug 86 Member w/o CSB 2.5 Post-Aug 86 Member w/CSB
42	Dec 1, 2001 (note 3)	2.6 Pre-Aug 86 Member 2.6 Post-Aug 86 Member w/o CSB 1.6 Post-Aug 86 Member w/CSB
43	Dec 1, 2002 (note 3)	1.4 Pre-Aug 86 Member 1.4 Post-Aug 86 Member w/o CSB 0.4 Post-Aug 86 Member w/CSB
44	Dec 1, 2003 (note 3)	2.1 Pre-Aug 86 Member 2.1 Post-Aug 86 Member w/o CSB 1.1 Post-Aug 86 Member w/CSB
45	Dec 1, 2004 (note 3)	2.7 Pre-Aug 86 Member 2.7 Post-Aug 86 Member w/o CSB 1.7 Post-Aug 86 Member w/CSB
46	Dec 1, 2005 (note 3)	4.1 Pre-Aug 86 Member 4.1 Post-Aug 86 Member w/o CSB 3.1 Post-Aug 86 Member w/CSB
47	Dec 1, 2006 (note 3)	3.3 Pre-Aug 86 Member 3.3 Post-Aug 86 Member w/o CSB 2.3 Post-Aug 86 Member w/CSB

Table 8-1. Full COLA Percentage Table (Continued)

No.	Date of COLA	Percent
48	Dec 1, 2007 (note 3)	2.3 Pre-Aug 86 Member 2.3 Post-Aug 86 Member w/o CSB 1.3 Post-Aug 86 Member w/CSB
49	Dec 1, 2008 (note 3)	5.8 Pre-Aug 86 Member 5.8 Post-Aug 86 Member w/o CSB 4.8 Post-Aug 86 Member w/CSB
50	Dec 1, 2009 (note 3)	0.0 Pre-Aug 86 Member 0.0 Post-Aug 86 Member w/o CSB 0.0 Post-Aug 86 Member w/CSB
51	Dec 1, 2010 (note 3)	0.0 Pre-Aug 86 Member 0.0 Post-Aug 86 Member w/o CSB 0.0 Post-Aug 86 Member w/CSB
52	Dec. 1, 2011 (note 3)	3.6 Pre-Aug 86 Member 3.6 Post-Aug 86 Member w/o CSB 2.6 Post-Aug 86 Member w/CSB
53	Dec. 1, 2012 (note 3)	1.7 Pre-Aug 86 Member 1.7 Post-Aug 86 Member w/o CSB 0.7 Post-Aug 86 Member w/CSB
54	Dec. 1, 2013 (note 3)	1.5 Pre-Aug 86 Member 1.5 Post-Aug 86 Member w/o CSB 0.5 Post-Aug 86 Member w/CSB
55	Dec. 1, 2014 (note 3)	1.7 Pre-Aug 86 Member 1.7 Post-Aug 86 Member w/o CSB 0.7 Post-Aug 86 Member w/CSB
56	Dec. 1, 2015 (note 3)	0.0 Pre-Aug 86 Member 0.0 Post-Aug 86 Member w/o CSB 0.0 Post-Aug 86 Member w/CSB
*57	Dec. 1, 2016 (note 3)	0.3 Pre-Aug 86 Member 0.3 Post-Aug 86 Member w/o CSB 0.3 Post-Aug 86 Member w/CSB

NOTES:

1. A COLA, effective April 1, 1983, provided for: (a) a 3.3 percent or 3.9 percent adjustment for members whose pay was computed on basic pay rates in effect before October 1, 1982. Members who are age 62 or older on March 1, 1983, or who retired by reason of physical disability under [10 U.S.C., Chapter 61](#), were entitled to a 3.9 percent increase. Members under age 62 on March 1, 1983 were entitled to a 3.3 percent increase. (b) No entitlement to a partial COLA on April 1, 1983 for members whose pay was computed on the basic pay rates effective October 1, 1982 (The CPI declined from 292.8 in September 1982 to 290.0 in December 1982).

2. See the associated COLA paragraph in section 0804 to determine whether member's COLA is delayed.
3. Separate retired pay COLA [is](#) applicable for those who first became members of a Uniformed Service on or after August 1, 1986, who elected to receive a CSB, Volume 7A, Chapter 66.

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080210 10 U.S.C. § 1401a(h)
080213 Public Law 96-342, September 8, 1980
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080503.A	OUSD (P&R) Memo, November 9, 2007
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080503.C.2	10 U.S.C. § 1409
080504.A	OUSD (P&R) Memo, October 29, 2008
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VOLUME 7B, CHAPTER 9: “ADVANCEMENTS ON RETIRED LIST”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an [asterisk \(*\)](#) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version dated [February 2015](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
090101	Added an “Overview” paragraph.	Addition
090103	Added an “Authoritative Guidance” paragraph.	Addition

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CHAPTER 9

ADVANCEMENTS ON RETIRED LIST

0901 GENERAL

*090101. Overview

Enlisted Service members and warrant officers who held a higher grade than their retired grade can be advanced on the retired list. Title 10, United States Code (U.S.C.), section 3964 entitles certain retired members who retired with less than 30 years of active service to be advanced to the highest grade satisfactorily held when their active service plus service on the retired list totals 30 years.

090102. Purpose

This chapter provides an overview of the requirements for advancements on the retired list of:

A. Retired members;

B. Fleet Reservists, and Fleet Marine Corps Reservists, who are retired and whose active service, inactive service (Navy or Marine Corps members only), and service on the retired list or in the Fleet Reserve or Fleet Marine Corps Reserve totals 30 years; and

C. Members who are found not physically qualified for retention in the Fleet Reserve or Fleet Marine Corps Reserve.

*090103. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

0902 RETIREMENT GRADE AND PLACEMENT

090201. Retired from Active Service

Chapter 1 covers members retired from active service in:

A. A higher grade because of serving on active duty in special positions;

B. The highest grade or rating held while serving on active duty; and

C. The grade to which members would have been promoted had it not been for the physical disability for which retired and which was found to exist as a result of physical examination for promotion.

090202. Grade at Placement on the Retired List

Chapter 1 provides guidance for members retired from active service in a higher grade at the time of initial placement on the retired list.

0903 ADVANCEMENTS

090301. Air Force

A member of the Air Force who retires with less than 30 years of active service is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest grade in which the member served satisfactorily (or in the case of the National Guard, in which he served on full-time duty satisfactorily), as determined by the Secretary of the Air Force. This applies to:

- A. Warrant officers of the Air Force;
- B. Enlisted members of the Air Force; and
- C. Reserve enlisted members of the Air Force who, at the time of retirement, are serving on active duty (or, in the case of members of the National Guard, on full-time duty).

090302. Army

A. A member of the Army who retires with less than 30 years of service is entitled, when his active service plus service on the retired list totals 30 years, to be advanced on the retired list to the highest grade served on active duty satisfactorily, as determined by the Secretary of the Army.

B. The Army Grade Determination Review Board (AGDRB) will convene prior to a [current active duty](#) member's retirement and make a determination of the highest grade served on active duty satisfactorily, unless a reduction in grade was the result of misconduct, inefficiency or for cause.

C. Members who retired prior to July 12, 2002, without a grade determination review by the AGDRB, must apply to the AGDRB to initiate the grade determination process. Advancements will not occur until the member reaches [the](#) 30 year mark, in accordance with [Army Regulation 15-80](#). If an application is submitted after the 30 year mark, then the effective date of advancement and pay is retroactive to the date of the application to the [AGDRB](#). This applies to:

- 1. Warrant officers of the Army;
- 2. Enlisted members of the Regular Army; and

3. Reserve enlisted members of the Army, who at the time of retirement, were serving on active duty (or, in the case of members of the National Guard, on full-time duty).

090303. Navy and Marine Corps

A. A member of the naval service who retires with less than 30 years of active service, or who is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, is entitled when:

1. The member's active service plus their service on the retired list; or
2. The member's 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 the member served on active duty satisfactorily, as determined by the Secretary of the Navy.

B. This 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 Fleet Reserve or Fleet Marine Corps Reserve, are serving on active duty.

C. When a member of the Fleet Reserve or Fleet Marine Corps Reserve has completed 30 years of service, or when the member is found not physically qualified for retention in the Fleet Reserve or Fleet Marine Corps Reserve, as a result of the required quadrennial (every 4 years) physical examination, the member is transferred to the retired list.

0904 EFFECTS ON PAY

090401. Reduction in Pay Due to Advancement

There is no absolute requirement that a member of the Armed Forces be advanced on the retired list. If advancement and recomputation results in a reduction of retired pay for the member and is based solely on administrative determination, then, prior to the advancement, the member should be consulted by the military service and advised that the member's retired pay would be reduced if advanced.

A. If an enlisted member is advanced on the retired list, the retired pay must be recomputed even though a reduction of retired pay would result.

B. Warrant officers advanced on the retired list are entitled to use only years of active service in determining the percentage multiplier used in computing retired pay for the advanced grade.

090402. Computation of Retired Pay

Retired pay may be computed at the higher grade in which a member had served satisfactorily without regard to whether the higher grade was temporary or permanent, even though the Military Service in which the member held the higher grade is not the Military Service from which [the member](#) retired. Where required by statute, the Secretary of the Military Department (or designee) in which the member performed service at the higher grade must provide an administrative approval confirming the member's satisfactory performance at the higher grade.

090403. Extraordinary Heroism

An enlisted member, who when retired or transferred, was awarded a 10 percent increase in retired pay because of extraordinary heroism performed in the line of duty, is [no longer](#) eligible to continue receiving the additional 10 percent upon advancement to officer rank.

090404. Recomputation of Retired Pay

A member of the Armed Forces advanced on the retired list is entitled to [a recomputation of](#) retired pay by:

A. Using the rate of monthly basic pay for the grade on the initial date of retirement or transfer or using the high 36 months retired pay base if the member entered a Uniformed Service after September 7, 1980;

B. Multiplying [2.5](#) percent times the total number of years of active service using whole months actually served, in excess of whole years, as 1/12 of a year;

C. Reducing the percentage determined under subparagraph 090404.B, in the case of a member who first entered a uniformed service after July 31, 1986, has elected to receive a bonus under [37 U.S.C. § 354](#), has less than 30 years of creditable service, and is under the age of 62 at the time of retirement by:

1. One percentage point for each full year that the member's years of creditable service are less than 30; [and](#)

2. One-twelfth 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; and

D. Applying all applicable cost-of-living adjustments from the date of initial retirement or transfer.

0905 RESTORATION OF FORMER GRADE

Each retired warrant officer, enlisted member of the Regular Army or Air Force, or enlisted member retired from the Fleet Reserve or Fleet Marine Corps Reserve who has been advanced on the retired list to a higher commissioned grade, within 3 months after advancement, may apply to the Secretary of the Military Department concerned (or designee) for restoration to the former warrant officer or enlisted grade. If the Secretary of the Military Department concerned (or designee) approves the request, then the member may be restored to the former warrant officer or enlisted grade. A member so restored thereafter is considered for all purposes to be a warrant officer or an enlisted member, as applicable.

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10 U.S.C. § 3965 and 6151(d)

VOLUME 7B, CHAPTER 10: “CORRECTION OF RECORDS”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
100101	Paragraph title renamed from “Overview” to “Purpose” to comply with current administrative instructions.	Revision
100102	Revised the “Authoritative Guidance” paragraph with the standard statement used with other chapters for consistency.	Revision
1002	Section title is appropriately renamed from “Corrections” to “Background.”	Revision
100203	Paragraph is rewritten to address the statute of limitation for payment rather than statute of limitation for applying for the Boards for Correction of Military Records.	Revision
1005	Rephrased section to clarify the applicable appropriation that will be charged for the amounts due the claimant for periods before the date of approval by the Secretary of the Military Department concerned.	Revision
Bibliography	Updated Bibliography.	Revision

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CHAPTER 10

CORRECTION OF RECORDS

1001 GENERAL

*100101. Purpose

This chapter provides guidance on the payment of claims resulting from the correction of military records. The Boards for Correction of Military Records are the highest level of administrative review within the Department of Defense (DoD) with the mission to correct errors or remove injustices from military records.

*100102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

*1002 BACKGROUND

The Secretary of a Military Department concerned may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice. The Secretary will establish procedures for the correction of a military record as approved by the Secretary of Defense. The Secretary of a Military Department, acting through a panel comprised of civilians (Board) of the executive part of that Military Department, will make such corrections. The responsibilities for the Correction of Records can be found under the DoD Directive (DoDD) 1332.41, "Boards for Correction of Military Records (BCMRs) and Discharge Review Boards (DRBs)."

100201. Final and Conclusive

Corrections of military records are final and conclusive on all officers of the United States except when such corrections were obtained through fraud.

100202. Reaffirmation of Existing Facts

A reaffirmation of existing facts already in the original record does not constitute a proper correction of that record. A proper correction and a right to the payment of money must be a result of a change of facts from those already in the original record, or an addition or deletion of a fact. A recounting of existing facts does not avoid the application of the statute of limitations.

*100203. Statute of Limitations

If a payment is due as a result of a correction of record, the claim for such payment accrues on the date of the correction. A claimant has 6 years from the date of the correction of record to claim the payment owed as a result of the correction of record.

Example: A member of the Navy is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on May 1, 1999, with 21 years and 3 months of service. On January 2, 2008, his or her record is corrected to show that at the time of transfer the member had 22 years and 3 months of service. Upon correction, the member is entitled to additional retainer pay from the date of transfer in accordance with his or her grade and corrected number of years of creditable service. The claim for the additional payment begins accruing on the date of the Board's decision (January 2, 2008), not on May 1, 1999. The statute of limitation period starts from the date of the record correction rather than from the date of transfer.

1003 PAY COMPUTATION

100301. Amounts

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 the:

- A. Pay entitlement the member had before the correction;
- B. Actual payments made for these entitlements; or
- C. New pay entitlements that accrue as a result of the correction. For specific computation, see [Chapter 3](#) concerning the entitlement to and computation of retired or retainer pay, [Chapter 37](#) for participation in and payment of survivor annuities under the Retired Serviceman's Family Protection Plan (RSFPP), and/or [Chapter 46](#) for the Survivor Benefit Plan (SBP).

100302. Settlement

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:

- A. Any previous settlements of active duty pay and allowances involving the same periods;
- B. Prior payments of readjustment pay or disability severance pay;
- C. Prior payments of disability compensation, pensions, or Dependency and Indemnity Compensation made by the Department of Veterans Affairs;
- D. Federal income tax;
- E. Cost of participation in the RSFPP and/or SBP;
- F. Dual compensation, if a retired Regular officer was employed by the United States Government prior to October 1, 1999; or

G. 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.

100303. Deductions from Pay and Allowance

Earnings received from civilian employment, self employment, or any income protection plan for such employment during any period for which active duty pay and allowances are payable will be deducted from the settlement. To the extent authorized by law and regulation, amounts found due must be reduced by the amount of any existing indebtedness to the government arising from military service.

100304. Demand for Payment

When payment cannot be made to the member because of member's death, payment may be made to member's legal representative. In the absence of a demand for payment by the legal representative, payments are made:

A. To the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment; or

B. In the order of precedence in Chapter 30, subparagraph 300204.A.

100305. Claimants Acceptance

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 October 25, 1951.

1004 TAX ADJUSTMENT

See Chapter 24, section 2410.

*1005 APPROPRIATION CHARGES

Any amounts of retired pay, retainer pay, combat related special compensation, concurrent retirement and disability pay, and SBP annuities that are due in the future as a result of the correction are charged to the DoD Military Retirement Fund. Any other amounts due and payable for past periods as a result of the correction (for a time period before the date of approval by the Secretary of the Military Department) are paid utilizing an applicable appropriation.

1006 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 Veterans Affairs.

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*1005 APPROPRIATION CHARGES 10 U.S.C. § 1552(c)(1)

1006 – RESTRICTIONS

10 U.S.C. § 1552(e)

VOLUME 7B, CHAPTER 11: “REMOVAL FROM THE TEMPORARY DISABILITY RETIRED LIST (TDRL)”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
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110203.B	Added information based on the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017.	Addition
110302.G	Added information based on the NDAA for FY 2017.	Addition
Table 11-1	Updated information based on the NDAA for FY 2017.	Revision
Bibliography	Updated Bibliography.	Revision

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CHAPTER 11

REMOVAL FROM THE TEMPORARY DISABILITY RETIRED LIST (TDRL)

1101 GENERAL

110101. Purpose

The purpose of this chapter is to provide information and guidance for the Secretary concerned and members who are on the TDRL or become eligible for placement on the TDRL because of physical disability in accordance with Title 10, United States Code (U.S.C.), Chapter 61. A Service member may be placed on the TDRL when the member meets the requirements for permanent disability retirement, except that the member's disability is not determined to be stable. A disability must be determined to be stable when the preponderance of medical evidence indicates the severity of the condition will probably not change. [A determination on whether a disability is stable must occur within 5 years of the member being placed on the TDRL prior to January 1, 2017, or within 3 years for members placed on the TDRL on or after January 1, 2017.](#) The TDRL must be managed to meet the requirements under 10 U.S.C., Chapter 61 for periodic physical examination, suspension of retired pay, and prompt removal from the TDRL.

110102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

1102 TEMPORARY DISABILITY RETIRED LIST (TDRL)

110201. Placement on the TDRL

If the Secretary concerned determines that a member is unfit to perform the duties of his or her office, grade, rank, or rating because of physical disability that would qualify for disability retirement, except that the member's disability is not determined to be stable, the member may be placed on the TDRL. [For retired pay computations](#), see Chapter 3.

110202. Members Eligible to be Placed on the TDRL

The following members are eligible upon determination by the Secretary concerned for placement on the TDRL:

- A. A member of a regular component of the Armed Forces entitled to basic pay;
- B. Any other member of the Armed Forces entitled to basic pay who has been called or ordered to active duty (other than for training under [10 U.S.C., section 10148\(a\)](#)) for a period of more than 30 days; or

C. Any other member of the Armed Forces who is on active duty but is not entitled to basic pay by reason of [37 U.S.C. § 502\(b\)](#) due to authorized absence to participate in an educational program, or for an emergency purpose, as determined by the Secretary concerned.

*110203. Requirements While on the TDRL

A member may be placed on the TDRL upon a determination by the Secretary concerned that the member meets the requirements for permanent disability retirement, except that the member's disability is not determined to be stable. The following requirements under [10 U.S.C. § 1210](#) must be met by the member and/or the Secretary of the Military Department concerned (or designee), as applicable, in maintaining the TDRL.

A. A member on the TDRL must be given a physical examination at least once every 18 months to determine whether there has been a change in the disability, for which the member was temporarily retired.

* B. The maximum period a member may be carried on the TDRL is:

1. Five years after the date the member's name was placed on the TDRL, if the member was placed on the TDRL prior to January 1, 2017; or

2. Three years after the date the member was placed on the TDRL, if the member was placed on the TDRL on or after January 1, 2017.

C. The Secretary of the Military Department concerned (or designee) may make a final determination as to the member's disability after a periodic physical examination and will make a final determination no later than the expiration date of the member's [eligibility to be on the TDRL](#). If, at the time of that determination, the physical disability for which the member's name was carried on the TDRL still exists, it is considered to be of a permanent nature and stable.

1103 TERMINATION DATE OF TEMPORARY DISABILITY RETIRED PAY

110301. Final Determination by the Secretary of the Military Department Concerned

The Secretary concerned makes a final determination that a member on the TDRL is either fit for duty or unfit for duty. A qualified member found fit for duty may be returned to active duty, appointed, reappointed, enlisted or reenlisted in a reserve component, transferred to the inactive reserve, or transferred to the Fleet Reserve or the Fleet Marine Corps Reserve. If the member declines these options and is otherwise eligible, he or she may be retired or discharged without disability. A qualified member found unfit for duty will be separated with either a disability severance or transferred to the Permanent Disability Retired List (PDRL).

*110302. Termination of Disability Retired Pay

Unless immediately transferred to the PDRL, the disability retired pay of a member terminates on the earlier of the following:

- A. The date of recall to active duty;
- B. The date of resumption of status in Fleet Reserve or Fleet Marine Corps Reserve;
- C. The date of appointment, reappointment, enlistment, or reenlistment in the reserve forces, including the inactive reserve;
- D. The date of discharge, if a qualified member declines any offer in subparagraphs A through C;
- E. The date a member's disability is determined to be less than 30 percent, if the member will be separated for physical disability;
- F. Any date specified by the Secretary concerned in the event the member fails to report for a periodic physical examination, or

* G. If a member is not otherwise removed from the TDRL for any of the reasons stated in subparagraphs 110302.A. through F, the member's disability retired pay will terminate upon expiration of:

- 1. The 5-year period after the date the member was placed on the TDRL, if the member was placed on the TDRL prior to January 1, 2017, or
- 2. The 3-year period after the date the member was placed on the TDRL, if the member was placed on the TDRL on or after January 1, 2017.

110303. Notification to Department of Veterans Affairs (VA)

If a total or partial VA waiver of retired pay is in effect on the date of the retiree's discharge from the TDRL, the Defense Finance and Accounting Service, Cleveland site (DFAS-CL) must notify the appropriate VA office of the effective date of discharge. The notification, if applicable, should include the amount of disability severance pay entitlement, and whether the disability resulting in that pay incurred in the line of duty in a combat zone or from performance of duty in combat-related operations. When available, DFAS-CL will also provide the VA with the Department of Defense (DoD) assigned disability codes for which the disability severance pay was paid.

1104 FOUND FIT FOR DUTY

110401. Determined to be Physically Fit for Duty

If, as a result of the physical examination or determination by the Secretary of the Military Department concerned (or designee), as referenced in section 1102, it is determined that the member is physically fit to perform the duties of the office, grade, rank, or rating, the member will be removed from the TDRL. See Table 11-1.

110402. Available Options for Member Found Fit for Duty

Any member removed from the TDRL may, with his or her consent, be recalled to active duty, appointed, reappointed, enlisted, [or](#) reenlisted; resume status in the Fleet Reserve or Fleet Marine Corps Reserve; or be placed on the non-disability retired list, if eligible. A member found fit for duty, who does not consent to recall, appointment, reappointment, enlistment, reenlistment, resumption of status, or placement on a retired list, must be discharged without disability as soon as practicable.

1105 FOUND UNFIT FOR DUTY

110501. Determined to be Physically Unfit for Duty

If it is established by the physical examination or determination by the Secretary of the Military Department concerned that the member is physically unfit to perform the duties of the office, grade, rank, or rating, and that the disability is of a permanent nature, the member will be removed from the TDRL (referenced in section 1103). Except for members approved for permanent limited duty, a member who is found to be unfit will be retired, if eligible for retirement, or if not eligible for retirement, separated. Disability severance pay is described in Volume 7A, Chapter 35. See Table 11-1.

110502. Physical Disability of at Least 30 Percent

If the member's physical disability is determined to be at least 30 percent under the standard schedule of rating disabilities in use by the VA at the time of the determination, the member will be retired by reason of permanent physical disability.

110503. Physical Disability Less Than 30 Percent

A. If the member's physical disability is determined to be less than 30 percent under the standard schedule of rating disabilities in use by the VA at the time of the determination, and the member has at least 20 years of service, the member will be retired by reason of permanent physical disability.

B. If the member's physical disability is determined to be less than 30 percent under the standard schedule of rating disabilities in use by the VA at the time of the determination,

and the member has less than 20 years of service, the member may be separated by reason of permanent physical disability with disability severance pay.

1106 DISABILITY SEVERANCE PAY

110601. Disability Severance Pay

A member removed from the TDRL under subparagraph 110503.B may be separated with [disability](#) severance pay as described in Volume 7A, Chapter 35.

110602. Service Requirement for Disability Severance Pay

There is no minimum amount of service time required to be eligible for disability severance pay. The maximum number of years of service for computing the disability severance pay will be 19 years. The minimum number of years for computation purposes will be:

A. Six years in the case of a member separated from the Armed Forces for a disability incurred in the line of duty in a combat zone (as designated by the Secretary of Defense) or incurred during the performance of duty in combat-related operations as designated by the Secretary of Defense; or

B. Three years in the case of any other member.

110603. Tax Requirement

To determine the taxability of the disability severance pay, see Volume 7A, Chapter 35.

110604. Severance Pay and VA Disability Compensation

The amount of disability severance pay received under [10 U.S.C. § 1212](#) may be subject to recoupment by the VA. The member should contact the applicable VA office for more information. Effective January 28, 2008 and later, no deduction is made in the case of disability severance pay received by a member for a disability incurred in the line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Secretary of Defense. No deduction is made from any death compensation to which the former member's dependents become entitled after the member's death.

*Table 11-1. Removal From the TDRL

	A	B	C
R U L E	If the member's disability	the member may be	and is entitled to
1	is less than 30 percent and member has less than 20 years of service as determined by 10 U.S.C. § 1208	discharged under 10 U.S.C § 1203 or 1206	disability severance pay computed under 10 U.S.C. § 1212 and Volume 7A, Chapter 35.
2	is less than 30 percent and member has at least 20 years of service	removed from the TDRL and retired under 10 U.S.C. § 1201 or 1204	retired pay computed under 10 U.S.C. § 1401 and Chapter 3. The TDRL entitlement terminates on date of removal and transfer to PDRL (Notes 1 and 2).
3	is 30 percent or more		
4	no longer exists and member is found fit for duty and is a member of the Army or Air Force (Note 3)	with his or her consent, recalled to active duty, appointed, reappointed, enlisted, or reenlisted	termination of disability retired pay, computed under 10 U.S.C § 1401 and Volume 7A, Chapter 35, on the date of appointment, reappointment, enlistment, reenlistment, or resumption of duties or status (Notes 1 and 2).
5	no longer exists and member is found fit for duty and is a member of the Navy, Marine Corps, or Coast Guard (Note 3)	with his or her consent, recalled to active duty, appointed, reappointed, enlisted, or reenlisted, or resume status in the Fleet Reserve or Fleet Marine Corps Reserve	
6	no longer exists and member is found fit for duty (Note 3)	discharged without disability severance pay if member does not consent to be recalled, appointed, reappointed, enlisted, or reenlisted	no retired pay after effective date of separation under 10 U.S.C. § 1203 or 1206 (Note 3).

Notes:

1. The date the member completes 5 years on the TDRL supersedes this effective date. See subparagraph [110203.B.1](#).
2. Effective January 1, 2017, this is the date the member completes 3 years if placed on the TDRL. See subparagraph [110203.B.2](#).
3. If the member is fit, there is no disability percentage. See 10 U.S.C. § 1210(f).

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110203.A	10 U.S.C. § 1210(a)
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110302.F	10 U.S.C. § 1210(a)
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1104 – FOUND FIT FOR DUTY	
110401	10 U.S.C. § 1210(f)
110402	10 U.S.C. § 1211(c)
1105 – FOUND UNFIT FOR DUTY	
110501	10 U.S.C. § 1210(c), (d) and (e)
110502	10 U.S.C. § 1210(c)
110503.A	10 U.S.C. § 1210(d)
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VOLUME 7B, CHAPTER 12: “WAIVER OF RETIRED PAY”**SUMMARY OF MAJOR CHANGES**

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and reformatted to comply with current administrative instructions.	Revision
120307	Updated correspondence addresses for the Office of Personnel Management and the Foreign Service.	Revision

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CHAPTER 12

WAIVER OF RETIRED PAY

1201 GENERAL

120101. Purpose

This chapter provides guidance for the waiver of retired pay. It includes the member's rights to retired pay, explains the exception provisions as authorized by law to waive retired pay and the impact of Veterans benefits on retired pay.

A. Retired pay is a statutory right and, as such, cannot be waived except as authorized by law. Two statutes authorize a member to waive entitlement to retired pay:

1. Title 38, United States Code (U.S.C.), section 5305 permits a member to waive military retired pay in order to receive compensation or pension from the Department of Veterans Affairs (VA).

2. Title 5, U.S.C., section 8332(c), section 8411, and Title 5, Code of Federal Regulations, section 831.301 permit a member to include creditable military service in computing a civil service retirement annuity.

B. A member may not waive his or her right to retired pay. Even if retired pay is not being sent to a member on a monthly basis (for example, the member's whereabouts are unknown), the retired pay continues to accrue. Since, for income tax purposes, such retired pay is deemed to have been constructively received by the member once it is made available and can be drawn upon, it is subject to the withholding and reporting requirements of ordinary wages.

C. VA benefits are nontaxable income for Federal, state, and local income taxation. See Chapter 24 for computation of taxable pay and Chapter 25 for Federal income tax withholding.

D. VA benefits may exceed the retired pay entitlement.

120102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

1202 DEPARTMENT OF VETERANS AFFAIRS BENEFITS

120201. Dual Benefits

A retiree receiving retired pay who is also eligible to receive disability compensation/pension from the VA is barred from receiving concurrent payments of both retired

pay and the VA benefit, unless the member elects to waive that portion of retired pay that is equal to the amount of the VA benefit awarded. However, the retiree may qualify to receive both retired pay and the VA benefit under the Concurrent Retirement and Disability Pay (CRDP) program. For information regarding the CRDP program, see [10 U.S.C. § 1414](#).

120202. Improved VA Pension

A retiree receiving retired pay who also is eligible to receive an improved VA pension from the VA is not required to waive any retired pay, effective October 1, 1980.

120203. Initial Award of VA Disability Compensation

A. The time frame for processing the initial waiver of military retired pay in favor of an initial award of VA disability compensation is in accordance with agreements set forth in the Memorandum of Understanding (MOU) between the Department of Veterans Affairs (VA) and the Department of Defense (DoD) – Retired Pay and Survivor Annuities, hereinafter referred to as “MOU”.

B. Responsibility between [the Defense Finance and Accounting Service \(DFAS\)](#) and VA for recouping overpayments is in accordance with the MOU.

C. The Dual Compensation Act, [5 U.S.C. § 5532](#), which required a reduction in retired pay for military retirees employed in civil service positions, was repealed effective October 1, 1999. Prior to the repeal, when a regular retired officer employed by the Federal Government or instrumentality thereof waived his or her retired pay in lieu of VA benefits; during the period of a retroactive initial award of VA benefits, all amounts classified as retired pay were subject to reduction under the dual compensation formula. Disability compensation payable by the VA is not retired pay. Payments equal to the VA compensation entitlement, and received after the effective date of the waiver, are classified as disability compensation and have never been subject to reduction under the Dual Compensation Act. If a member executes a retroactive waiver of retired pay for a period prior to October 1, 1999, then the DFAS-Cleveland site must recompute any dual compensation reduction as of the retroactive effective date of the waiver. The member must authorize the VA in writing to pay any additional compensation due after deducting any retired pay overpayment. [The](#) VA will forward new pay data to the DFAS-Cleveland site in accordance with the MOU.

120204. Change in VA Disability Compensation Awards

A. For increased or reduced awards, or a statutory increase, see the MOU.

B. If a retiree is receiving Federal Employee Compensation Act benefits and is receiving VA benefits, the member will continue to receive both benefits unless the benefits are payable for the same injury.

120205. Withdrawal of Waiver

A retiree who has waived retired pay in favor of VA benefits may withdraw the waiver and elect to receive retired pay at any time. The retiree must submit a notification of the withdrawal of the previous waiver of retired pay to the VA on VA Form 21-526, Veteran's Application for Compensation and/or Pension. The retiree will [check the box](#) on VA Form 21-526, [Part V, Item 25](#), under the statement, "[NO, I DO NOT WANT VA COMPENSATION IN LIEU OF MILITARY PAY.](#)" This renouncement of VA benefits does not preclude the retiree from filing a new waiver of retired pay at a later date, enabling the retiree to receive VA benefits again. The effective date or reinstatement of retired pay is determined by the VA procedures outlined in subparagraphs 120205.A and B.

A. When the VA is the initial recipient of the request or withdrawal, the VA will notify the DFAS retired pay activity of the effective date of termination of VA benefits. The effective date is the first of the month after the month of the request for withdrawal or termination of VA benefits, whichever is later. See the MOU.

B. When the DFAS retired pay activity is the first recipient of the request for withdrawal, it will send the request to the appropriate VA office by a cover letter indicating the monthly gross retired pay. Upon receipt, the VA follows the procedure in subparagraph 120205.A.

120206. Withdrawal When the Retiree is Ruled Incompetent

The trustee or guardian may request withdrawal of a previously executed waiver of retired pay of a retired member who has become incompetent. [The](#) VA will terminate VA benefits and [the](#) DFAS will restore retired pay. The effective date for the restoration of retired pay will be the first day of the month following the month of the termination of VA benefits. See the MOU.

120207. Survivor Benefit Plan (SBP)

Any retiree participating in SBP who waives retired pay in favor of VA benefits may:

A. Authorize the VA to withhold the cost of the SBP from the benefits awarded and remit that amount to the cognizant retired pay activity (see Chapter 45 and 54); or

B. Be subject to involuntary collection action by [the](#) DFAS. Such collection action is subject to the provisions of [31 U.S.C. § 3701\(a\)\(1\)](#) and [31 U.S.C. § 3716](#).

1203 CIVIL SERVICE RETIREMENT & FEDERAL EMPLOYMENT RETIREMENT SYSTEM

120301. Credit of Military Service for Computing Civil Service Annuity

A retiree receiving retired pay, pursuant to any provision of law authorizing such payments, who applies for a retirement annuity under the laws administered by the Office of Personnel Management (OPM), or the Foreign Service, may elect to waive the retired pay in order to credit military service for computing civil service annuity. To avoid a delay in adjudicating a civil service retirement claim, the member should execute a waiver and send it to [the](#) DFAS at least 60 days before the anticipated starting date of the annuity.

120302. Creditable Service

If a member waives retired pay, then all periods of military service before the date of separation on which entitlement to military retired pay is based are creditable.

A. A member will receive credit for military service without waiver of retired pay, if the member was awarded retired pay:

1. On account of a service connected disability:

a. Incurred in combat with an enemy of the United States; or

b. Caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by [38 U.S.C. § 1101](#). The term “period of war” includes, in the case of any veteran, any period of continuous service performed after December 31, 1946 and before July 26, 1947, if such period began before January 1, 1947.

2. For non-regular (reserve) service under [10 U.S.C., Chapter 1223](#).

B. A member who was awarded retired pay because of military service other than service described in subparagraph 120302.A will be required to waive retired pay in order to receive credit for military service for Civil Service Retirement.

120303. Initial Waiver

A retiree may request waiver of retired pay so that military service may be used in establishing eligibility for and/or computation of civil service retirement annuity. The retiree must submit the request for waiver of retired pay over the retiree’s signature and should contain the effective date of the waiver of retired pay. Certain civil service annuities, starting on or after October 1, 1982, commence the first day of the month after separation from civil service or pay ceases and the service and age requirements for title to annuity are met. Individuals retiring during the first 3 days of a month are excluded; their annuities begin the following day. Also excluded are survivor annuities, disability annuities, or discontinued service annuities based on involuntary separation, death, or last day of pay. The member should also authorize the OPM to

withhold amounts necessary from the civil service retirement annuity to repay amounts of retired pay paid beyond the effective date of the waiver. The retired pay activity notifies the OPM of the date retired pay is waived. The OPM, in turn, advises the retired pay activity of the actual date a member's retirement annuity started, enabling the retired pay activity to make any final settlement that might be due the retired member.

120304. Dual Waivers

A. Federal law prohibits the credit of military service for civil service retirement annuity purposes if the retiree is receiving retired pay, except retired pay awarded in accordance with subparagraph 120302.A.

B. A retiree who is in receipt of retired pay may elect to waive the retired pay and have the military service added to civilian service for civil service annuity computation purposes subject to deposit requirements established by civil service law.

C. Individuals whose civilian retirement is not based on disability need not renounce VA benefits to receive credit for military service if they waive their military retired pay for civil service annuity computation purposes.

120305. Withdrawal of Waiver

The waiver of military retired pay to receive an increased civil service retirement annuity may be withdrawn and military retired pay reinstated under these conditions:

A. The waiver of military retired pay may be withdrawn when the member becomes a reemployed annuitant and the civil service annuity terminates.

B. Civil service retirement retiree, who becomes eligible for Social Security benefits based on the member's wages and/or self-employment income, must exclude their military service performed after 1956 from the computation of civil service annuity. The waiver may be withdrawn, and retired pay must be reinstated, but only if the military service was not used to establish eligibility for a civil service retirement annuity.

C. A member may revoke a waiver of military retired pay at any time providing this will not produce dual retirement benefits based on the same period of service.

120306. Relationship of Civil Service Survivor Annuity to Military SBP

When a retiree, who is participating in the survivor annuity program, elects to waive retired pay in favor of civil service retirement, the retiree is required to pay the SBP cost during the period the waiver is in effect unless the OPM notifies the DFAS that the member elected to provide spouse coverage under the civil service annuity program.

*120307. Addresses

The correspondence addresses for the Office of Personnel Management and the Foreign Service are:

U.S. Office of Personnel Management
Retirement Operations Center
Post Office Box 45
Boyers, PA 16017

Office of Retirement
Department of State, SA-1, H-620
2401 E. Street NW
Washington, D.C. 20522

1204 WAIVER OF PAY FOR RESERVE DUTY AFTER RETIREMENT

120401. Definitions

A. Retired member, as used in this section refers to a member of the Army, Navy, Air Force, Marine Corps or Coast Guard who because of earlier military service is entitled to pension, retired or retainer pay, or disability compensation.

B. Active duty, as used in this section, does not include extended active duty (more than 30 days) where strength accountability passes from the Reserve Components to the active military establishment.

120402. Reserve Training Category

Each Armed Forces Reserve Component is divided into three categories: Ready (active status), Standby (inactive status), and Retired (retired status).

A. Ready Reserve

1. A member of the Ready Reserve may, without consent, be ordered to active duty by the Secretary of the Military Department concerned (or designee) during a period of war or national emergency, or when otherwise authorized by law.

2. Retired personnel having Ready Reserve status may participate in active duty for training or inactive duty training required by virtue of their assignment in a Reserve Component. Each period of training must be at least 2 hours with a maximum of two training periods in 1 calendar day. Compensation for each regular period of instruction or period of appropriate duty is at the rate of 1/30 of the member's authorized monthly pay and allowance, including that performed on a Sunday or holiday. Where the duty performed is for a continuous period of less than 1 month, compensation for each day of the period is at the rate of 1/30 of the

monthly pay and allowances. The 31st day may not be excluded from the computation. A member may perform inactive duty training without pay.

a. Active Duty for Training. This duty may include full-time training, annual training tours, or attendance at a school designated as a Military Service school by the Secretary of the Military Department concerned.

b. Inactive Duty Training. This training may include assemblies, additional flying training periods, and other additional duties as authorized by the Secretary of the Military Department concerned.

B. Standby Reserve. A member of the Standby Reserve may be called to active duty only in time of war or national emergency declared by the Congress or when otherwise authorized by law. This member does not participate in the duty referred to in subparagraph 120402.A.2.a or b.

C. Retired Reserve. A member of the Retired Reserve who is entitled to retired pay may not be placed in the Ready Reserve unless the Secretary of the Military Department concerned (or designee) makes a special finding that the member's services in the Ready Reserve are indispensable. The Secretary or designee may not delegate authority in this instance.

120403. Entitlement

A reservist entitled to retired pay who performed Reserve training for compensation may elect to receive for that duty:

A. The retired pay to which entitled because of earlier military service; or

B. The pay and allowances authorized for the duty being performed, if the member specifically waives retired pay.

120404. Effect on Pay

A retired member who elects to receive compensation for periods of active duty for training or inactive duty training must waive 1 day of retired pay for each calendar day on which the Reserve training is performed. Performance of more than one drill in one calendar day requires the withholding of only 1 day of retired pay for that calendar day.

A. Waiver of Pay. The member must prepare in advance a waiver of retired pay for the entire or remainder of the fiscal year in which the training is to be performed. The waiver form should show, by month, the number of training periods for inactive duty and the inclusive dates of each anticipated active duty tour. Timely preparation of the waiver will prevent a possible overpayment of pay.

B. Supplemental Certificate of Waiver. The certificate is required when a member performs active or inactive duty not covered by the first declaration. This certificate shows the additional days of duty performed by month and is added to the first declaration.

C. Certificate of Recoupment. The certificate recovers previously waived benefits that exceed active or inactive duty training performed. This request for recoupment must be signed by the unit commander and may not be submitted earlier than the last day of the fiscal year involved. The schedule for both the active and inactive duty for training may be shown on the same waiver form or certificate.

D. Adjustment of Pay. Pay is adjusted on an individual basis. Procedures for liquidating an outstanding debt or for collecting cash for SBP coverage are the same as for all other retired members.

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22 U.S.C., Chapter 14
25 Comp Gen 631
28 Comp Gen 367
43 Comp Gen 551
46 Comp Gen 404
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5 U.S.C. § 8411 (FERS)
10 U.S.C., Chapter 1223
38 U.S.C. § 1101
- 120303 Public Law 97-253, Section 303
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5 U.S.C. § 8334 and note
5 U.S.C. § 8342 and note
5 U.S.C. § 8348
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VOLUME 7B, CHAPTER 13: “SUSPENSION OF PAY”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

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CHAPTER 13

SUSPENSION OF PAY

1301 GENERAL

130101. Purpose

The pay account of a retiree may be placed in a suspended (nonpayment) status for a definite or indefinite period of time. The pay may be suspended to comply with statutory or regulatory requirements or Defense Finance and Accounting Service (DFAS) retired pay procedures. Such suspension may not necessarily affect continued or future entitlement when the requirements or procedures that were the basis for the suspension no longer apply. When a retired member is missing and there is no information concerning his or her whereabouts, the member's retired pay must be suspended from the date that he or she last was known to be alive.

130102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

1302 STATUTORY REQUIREMENTS

130201. Failure to Comply With Statutes

As specified herein, applicable statutes may prohibit the retiree's receipt of concurrent payments, payments after a specific period of time, or payments if a member fails to comply with statutory requirements.

130202. Retired Pay Suspended

A retiree's pay is suspended (see Table 13-1) if he or she:

- A. Is recalled to active duty;
- B. Requests waiver of retired pay because of:
 - 1. An award of Department of Veterans Affairs (VA) disability compensation or pension payments, or
 - 2. Military service being used for purposes of qualifying for a United States civil service retirement annuity;
- C. Completes 5 years on the Temporary Disability Retired List (TDRL), subject to placement on the Permanent Disability Retired List (PDRL);

D. Fails to report for a required physical examination while on the TDRL or while a member of the Fleet Reserve/Fleet Marine Corps Reserve;

E. Is employed by a foreign government (to include local government units within a foreign country, as well as the national government itself) without applicable congressional or secretarial approvals; or

F. Is found to be mentally incapable of managing his or her personal affairs, and no guardian, trustee, or other legal representative has been appointed. See Chapter 16 for further information.

130203. Retired Pay Suspended by Secretary of the Military Department Concerned

A. The Secretary of the Military Department concerned may order a retiree's pay suspended after determining that:

1. A felony warrant has been issued against the absent member by the United States:

a. Under the authority of Title 18, United States Code (U.S.C.), [section 1073](#), "Flight to avoid prosecution or giving testimony," and the Department of Justice has sought extradition; or

b. For violation of the International Parental Kidnapping Act, [18 U.S.C. § 1204](#), or for a crime stated in [5 U.S.C. § 8312](#); and

2. The member is outside the United States and has willfully remained outside the United States to avoid criminal prosecution for 30 or more consecutive days subsequent to the date of issue of the felony warrant.

B. Upon receipt of an order issued by the Secretary of the Military Department concerned (or designee) that a retiree's pay be suspended:

1. The DFAS-Cleveland Site **must** immediately suspend retired pay. Payment of any amounts subject to involuntary withholding or paid as insurance premiums by previously established allotments **must** not be suspended, but **must** continue to be paid from the member's pay unless otherwise directed by the Secretary of the Military Department concerned (or designee).

2. Suspension continues until DFAS-Cleveland Site receives orders from the Secretary of the Military Department concerned (or designee) to resume monthly payments and to pay the balance of suspended payments. No interest may be paid on any suspended amounts.

1303 REGULATORY REQUIREMENTS

Retired pay may be suspended if certain situations exist where regulations prohibit making payments. For example, retired pay is suspended if the retiree requests that their check be mailed to addresses outside the United States listed in 31 Code of Federal Regulations (CFR) [part 211.1](#). Retiree requests for international Electronic Fund Transfer (EFT) receive specialized processing. The DFAS-Cleveland Site will send an inquiry to the Federal Reserve Bank to ascertain if the EFT is permitted to the foreign country. The retiree will be advised if the EFT is not permitted.

1304 ADMINISTRATIVE REQUIREMENTS

130401. Failure to Provide Timely Administrative Actions and Declines Further Payments

In accordance with the requirements of the Department of Defense Financial Management Regulation and DFAS-Cleveland Site, Office of Retired Pay procedures, the head of the retired pay activity may suspend retired pay if the retiree fails to take necessary administrative actions on time, or if the retiree declines further payments.

130402. Failure to Provide Proof of Existence and Address

Retired pay may be suspended if the retiree:

- A. Fails to furnish the required proof of existence. See Chapter 15 for further information;
- B. Fails to notify DFAS-Cleveland Site, Office of Retired Pay, of an address change and the retiree's current address is unknown; or
- C. Refuses to accept further payments.

1305 EFFECT OF SUSPENSION ON TAXABLE INCOME, FEDERAL INCOME TAX WITHHELD, AND OTHER ACTIONS

130501. Taxable Income and Federal Income Tax Withheld

The suspension of a retiree's pay account for any reason cited in sections 1302 through 1304 may result in the suspension of any other reporting of taxable income and income taxes withheld. The reporting of taxable income and taxes withheld, if applicable, resumes upon removal of the suspension of pay. See Chapter 24 regarding taxable income, tax withheld, and issuance of Internal Revenue Service Form 1099R, "Distribution From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc."

130502. Allotment Deductions

Voluntary allotments of retired pay or retainer pay for military retirees are limited to discretionary and nondiscretionary allotments. General provisions governing allotments of retired pay and administrative procedures are located in Chapter 19.

130503. Survivor Annuity Deductions

Generally, the retiree's cost for participation in the Retired Serviceman's Protection Plan (RSFPP) and/or the Survivor Benefit Plan (SBP), while the retired pay is suspended, would be deducted from the accumulated retired pay upon reinstatement of retired pay. For special rules regarding SBP, refer to Chapter 45, Table 45-4.

Table 13-1. Suspension of Pay Statutory Requirements

SUSPENSION OF PAY — STATUTORY REQUIREMENTS			
R U L E	A	B	C
	If a member of the	has pay suspended for	then authority is
1	Army	recall to active duty	<u>10 U.S.C. § 688.</u>
2	Air Force		
3	Navy or Marine Corps		10 U.S.C. § 688 or <u>10 U.S.C. § 6485.</u>
4	Armed Forces	waiver of retired pay in favor of VA compensation or pension	<u>38 U.S.C. § 5305.</u>
5		waiver of retired pay in favor of civil service annuity	<u>5 U.S.C. § 8332.</u>
6		completion of 5 years on TDRL	<u>10 U.S.C. § 1210(h).</u>
7		failure to report for periodic physical for TDRL or while a member of the Fleet Reserve/Fleet Marine Corps Reserve	10 U.S.C. § 1210(a).
8		employment by a foreign government without congressional or secretarial approvals	Article 1, section 9, clause 8, United States Constitution, <u>37 U.S.C. § 908.</u>
9		being mentally incapable of managing own affairs	<u>37 U.S.C., Chapter II.</u>
10		flight to avoid prosecution or giving testimony	18 U.S.C. § 1073.
11		international parental kidnapping	18 U.S.C. § 1204.
12		conviction of certain offenses as stated in 5 U.S.C. § 8312	5 U.S.C. § 8312.
13		being absent from the US to avoid prosecution	<u>Public Law 104-201,</u> section 633, September 23, 1996.

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VOLUME 7B, CHAPTER 14: “PAYMENT RESTRICTIONS”**SUMMARY OF MAJOR CHANGES**

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Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current guidance.	Revision
140101	Added clarifying information to the “Purpose” paragraph.	Addition
140203	Deleted paragraph due to the outdated procedures and the rescission of Treasury Department Circular 1081, December 28, 1976.	Deletion
140401.A	Replaced “five years” with “allowable duration” to establish a more accurate timeframe of either 3 or 5 years pursuant to Title 10, United States Code, section 1210.	Revision
Bibliography	Updated Bibliography.	Revision

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CHAPTER 14

PAYMENT RESTRICTIONS

1401 GENERAL

[*140101.](#) Purpose

[This chapter provides information for certain payment restrictions to military retirement pay.](#) Amounts of retired pay and retainer pay due [to](#) a retired member of the uniformed services [will](#) be paid on the first day of each month beginning after the month in which the right to such pay accrues.

A. Payment Date Falls on Saturday, Sunday, or Legal Holiday

When the payment date falls on a Saturday, Sunday, or legal holiday, the Director of Defense Finance and Accounting Service (DFAS) may authorize the payment of retired pay and retainer pay on the preceding workday but not more than three days before last day of the pay period.

B. Payrolls Paid On October 1

For payrolls otherwise payable on October 1, the Department of Defense (DoD) Comptroller [will](#) determine if the payroll may be dated in September.

140102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

1402 CHECKS

140201. Mailing of Checks to Foreign Countries

The Secretary of the Treasury has determined that the mailing of checks is prohibited to the countries listed in [Title 31, Code of Federal Regulations \(CFR\), section 211.1](#) because postal, transportation, and banking facilities in general, or local conditions, are such that there is not a reasonable assurance that a retiree or annuitant in listed countries will actually receive checks drawn against funds of the United States, or negotiate checks for full value. Powers of attorney for receipt or collection of checks, or for the proceeds of checks included within the determination of the Secretary of the Treasury, are not recognized.

140202. Claims

Claims for the release of checks withheld from delivery, or for proceeds thereof, are filed with the DFAS site that originally authorized issuance.

1403 ELECTRONIC FUNDS TRANSFER (EFT)

The prescribed method of payment within the DoD is EFT. See Volume 7A, Appendix C, for implementing DoD policy on EFT procedures for retirees and annuitants.

1404 LOSS OF ENTITLEMENT TO RETIRED PAY

***140401. Conditions**

Each of the following may result in a loss of entitlement to retired pay. See appropriate corresponding chapter for additional information.

A. Expiration of [Allowable Duration](#) on the Temporary Disability Retired List.
See Chapter 11.

B. Loss of United States Citizenship. See Chapter 6.

C. Employment by Foreign Government. See Chapter 5.

D. Conflict of Interest. See Chapter 5.

E. National Security Violations. See Title 5, United States Code (U.S.C.), [sections 8311-8322](#).

NOTE: The Hiss Act, codified as 5 U.S.C. §§ 8311-8322 as amended, prohibited the payment of retired pay to military personnel who were convicted of any criminal offense enumerated in the statute. The Act did not prohibit the payment of retired pay if both the criminal offense and the award of retired pay occurred before September 1, 1954. Retired pay awarded on or after September 1, 1954, however, could not be paid regardless of the date on which the offense or conviction occurred. If the individual involved received a presidential pardon or later was cleared by decision of a higher court, the right to retired pay was restored. [Public Law 87-299, September 26, 1961](#), amended the Hiss Act and limited provisions to cases involving national security. Members convicted by courts-martial or Federal civil courts of offenses for felonies or equivalent of felonies but not involving national security, were no longer subject to the provisions of the Hiss Act.

F. Denial Upon Certain Punitive Discharges or Dismissals. The non-Regular service retired pay entitlement of a member is denied when his or her court-martial sentence includes death or separation by dishonorable discharge, bad conduct discharge, or dismissal effective with court-martial sentences adjudged after February 10, 1996.

140402. Recall to Active Duty

A retiree who receives orders, issued by proper authority, for recall to active duty for an indefinite or definite period is not entitled to retired pay for the period of active duty. Members on active duty for training are covered in Chapter 12, section 1204.

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31 CFR 211.1 |
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| 1403 – ELECTRONIC FUNDS TRANSFER (EFT) | |
| | 31 U.S.C. § 3332 |
| 1404 –LOSS OF ENTITLEMENT TO RETIRED PAY | |
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VOLUME 7B, CHAPTER 15: “PROOF OF EXISTENCE”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an **asterisk (*)** symbol preceding the section, paragraph, table, or figure that includes the revision.

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
150102	Added “Authoritative Guidance” paragraph.	Addition
150202.C	Moved information from paragraph 150203 to this subparagraph for clarity.	Revision
Bibliography	Updated references.	Revision

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CHAPTER 15

PROOF OF EXISTENCE

1501 GENERAL

150101. Purpose

For the protection of the U.S. Government, certain safeguards are required for retired military paychecks mailed through the international postal system or payable to legal representatives of mentally incompetent members. The proof of existence protects the U.S. Government from continuing to issue payments to deceased retirees. Military retired pay, Combat-Related Special Compensation and/or Concurrent Retired and Disability Pay payments may not be negotiated after the retiree's death.

*150102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

1502 COMPETENT RETIREE

150201. Semiannual Submission of Report of Existence (ROE)

In order to receive a military paycheck in a foreign country, through the international postal system, a retiree must submit semiannual ROEs to the Defense Finance and Accounting Service Cleveland (DFAS-CL). The ROE, formally indexed as "DFAS-CL 1800/100," is available at <http://www.dfas.mil/retiredmilitary/forms.html>. To submit the ROE electronically, the retiree must log in to the myPay system with his or her assigned login ID and password (<https://mypay.dfas.mil/mypay.aspx>). If the retiree does not have a myPay account, he or she may utilize the instructions on the website to create one. If not submitting electronically, fully executed paper ROEs should be mailed to the following address:

Defense Finance and Accounting Service
U. S. Military Annuitant Pay
P. O. Box 7131
London, KY 40742-7131

*150202. ROE Not Required

An ROE is not required when:

A. A competent retiree resides in the United States and his or her retired military paycheck is mailed to an address other than that of a financial institution;

B. The retiree's military paycheck is mailed to an Army/Air Post Office, Fleet Post Office, or a finance or disbursing officer at an overseas address; or

* C. The retiree's military paycheck is mailed to a financial institution in the United States. The financial institution's endorsement constitutes a certificate of existence for the retiree.

150203. Restriction

Retired military paychecks **must** not **be** addressed to a **U.S.** Consulate, Embassy, or Military Attaché unless the retiree is employed by that particular agency.

1503 MENTALLY INCOMPETENT RETIREE

150301. Checks to Mentally Incompetent Retirees

Forwarding checks directly to retirees who are found mentally incompetent to manage their affairs is prohibited. In the case of a mentally incompetent retiree, checks may be **made** payable to a legal guardian, trustee, or other legal representative after receipt of proper documentation verifying the authority of the guardian, trustee, or other legal representative to receive such payments. See Chapter 16 for appointment or designation of legal representatives.

150302. Legal Representative Requirement

The legal representative must sign and return the semiannual report of his or her ward's continued existence to the address listed in paragraph 150201 **in order** to continue receiving the member's retired military paycheck. The retired military paycheck may be mailed to the legal representative or to a financial institution established by the legal representative for the retiree (ward).

150303. **Department of Veterans Affairs (VA)** Hospital Authority

In the absence of the appointment of a guardian, trustee, or other legal representative for an incompetent retiree, payment may be made to the Administrator of the **VA** hospital to provide the retiree with health and comfort items. See Chapter 16.

1504 MAILING OF RETIRED MILITARY PAYCHECKS

Retired military paychecks are mailed at the end of each month, provided a signed ROE, when required, has been received **and** certifies the retiree's continued existence. Failure to return the required ROE will result in suspension of retired pay.

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June 28, 1982
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150201 Comp Gen B-206129, June 28, 1982

1503 – MENTALLY INCOMPETENT RETIREE

150301 31 CFR 240.14
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 44 Comp Gen 208, [October 12, 1964](#)
150302 [Title 37, United States Code \(U.S.C.\)](#), section 602

1504 – MAILING OF RETIRED MILITARY PAYCHECKS

44 Comp Gen 208, [October 12, 1964](#)
Comp Gen B-206129, June 28, 1982
37 U.S.C. § 602
Comp Gen A-3551 [Decisions](#), April 6, 1931;
June 23, 1931; October 24, 1946;
March 9, 1951; and February 3, 1964

VOLUME 7B, CHAPTER 16: “PHYSICAL OR MENTAL INCAPACITATION”**SUMMARY OF MAJOR CHANGES**

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Formatted this chapter to comply with current administrative instructions.	Revision
1602	Relocated “Definitions” from Section 1601 to Section 1602 and renumbered text.	Revision
160203	Added definition for the Competency Board pursuant to Title 37 United States Code Section 602.	Addition

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CHAPTER 16**PHYSICAL OR MENTAL INCAPACITATION****1601 GENERAL****160101. Purpose**

This chapter provides information and guidance on the duties and responsibilities performed on behalf of a retiree determined by a competency board to be mentally and/or physically incapable of managing his or her affairs. This chapter applies to members of a Uniformed Service who are on a retired list of that Service and members of the Fleet Reserve or Fleet Marine Corps Reserve. Federal law provides legal authority for the payment of amounts due incompetent retirees of the Uniformed Services to designated persons for their use and benefit, and for the use and benefit of their dependents where [the state court has not appointed a committee, guardian, or legal representative](#).

160102. Authoritative Guidance

[The bibliography at the end of this chapter lists the authoritative references.](#)

1602 DEFINITIONS*160201. Physically or Mentally Incapacitated Retiree**

A physically or mentally incapacitated retiree is an individual who is impaired by physical disability, mental illness, mental deficiency, advanced age, chronic use of drugs or alcohol, or other causes that prevent sufficient understanding or capacity to manage his or her own affairs competently.

160202. Committee

A committee is a person, assembly, or board of persons to whom (or which) the consideration or management of any matter is committed or referred by some court as a person or persons having guardianship of the person and property of an insane person.

***160203. Competency Board**

[The competency board consists of at least three qualified medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders. The Secretary of the department having jurisdiction of the member appoints the board.](#)

160204. Conservator

A conservator is a guardian, protector, or preserver; a maintainer.

160205. Court of Competent Jurisdiction

A court of competent jurisdiction has the power and authority of law at the time of acting to do the particular act; one that has jurisdiction both of the person and of the subject matter; one provided for in the United States (U.S.) Constitution; or created by the legislature and has jurisdiction of the subject matter and of the person.

160206. Guardian

A guardian is a person who legally has the care of the person or property (or both) of another person who is incompetent to act for himself or herself.

160207. Trustee

A trustee, as used in the legal sense, is:

1. A person who takes and holds the legal title to the trust property for the benefit of another,
2. One to whom another's property is legally committed in trust, or
3. A person holding the legal title to property under an expressed or implied agreement to apply it and the income arising from it, to the use and for the benefit of another person.

Note: As referenced in this chapter, a trustee is a person appointed by the Defense Finance and Accounting Service, Cleveland Site (DFAS-CL) to receive payment of retired or retainer pay on behalf of a retiree determined to be mentally incapable of managing his or her affairs.

1603 MENTAL INCAPACITY**160301. Legally Appointed Representative**

A. Legally Appointed Representative. When a court of competent jurisdiction appoints a legal committee, guardian, or other representative for the retiree, DFAS will normally accept such appointment and will not appoint a trustee. For more information regarding court appointments see Section 1605.

B. No Legally Appointed Representative. Amounts due a retiree for retired or retainer pay who, according to a board of medical officers or physicians, is mentally incapable of managing his or her own affairs, may be paid for that retiree's use or benefit to any person designated by the Director, DFAS-CL under paragraph 160304 without the appointment in judicial proceedings of a committee, guardian, or other legal representative.

160302. Authorized Mental Health Determination

Federal agencies authorized to make determinations of the mental competency of a retired service member hospitalized in a facility under its jurisdiction are the:

- A. Department of the Army,
- B. Department of the Navy,
- C. Department of the Air Force,
- D. Department of Health and Human Services, and
- E. Department of Veterans Affairs (VA).

160303. Competency Board Determination

Upon receipt of information that a retiree may be mentally incapacitated, a board of no fewer than three medical officers or physicians (including one specially trained in the treatment of mental disorders) is convened to determine whether the retiree is competent. The board also [convenes](#) when requested to do so by proper authority.

A. The convening authority ensures that three members of the board certify the board's findings.

B. The convening authority of the appropriate Military Service must send one copy of the board's findings, as applicable, to:

Defense Finance and Accounting Service
Retired Pay Department
P.O. Box 998021, Room 1579,
Cleveland, OH 44199-8021

160304. Appointment of Trustee

A. Appointed Trustee Authority. The authority of the Secretaries of the Military Departments to appoint trustees under Title 37, United States Code, section 602 ([37 U.S.C. § 602](#)) has been delegated to the Director, DFAS-CL.

B. Persons Eligible for Appointment as Designated Trustee

1. If a [competency board finds](#) a retiree mentally incapacitated and [the retiree](#) has no court appointed legal committee, guardian, or other representative, [the Director, DFAS-CL, may appoint](#) a trustee to act on the retiree's behalf. The Director, DFAS-CL, may designate one of the following persons as trustee for all incompetent military retirees if the trustee is 21 years of age or over:

a. Lawful spouse (not subject to the age requirement);

b. Legitimate son or daughter or legally adopted son or daughter;

c. Parents;

d. Head of an institution, if the retiree is a patient; or

e. Any other person or persons if in the best interest of the retiree.

2. While next of kin or other relatives of the retiree ordinarily are preferred for designation as trustee, **DFAS may designate** any other person, willing and suitable to act as such, as a temporary or permanent trustee unless a court of competent jurisdiction **appoints** a committee, guardian, or other legal representative. If more than one qualified person applies to be trustee for a mentally incompetent retiree, then the Director, DFAS-CL, will determine which applicant is the more appropriate trustee.

C. Submitting Application and Documentation for Appointment of Trustee

Submit all applications to appoint a trustee and related documentation to:

Defense Finance and Accounting Service
Retired Pay Department
P.O. Box 998021, Room 1579,
Cleveland, OH 44199-8021

160305. Bond Requirement for Appointed Trustee

The trustee designated to receive monies on behalf of the incompetent retiree must furnish a suitable bond in all cases when the amounts may exceed \$1,000. The bond so required and furnished must have, as the surety a company approved by the U. S. Government and must be in such amount as required by the Retired Pay Department, DFAS-CL. The person **designated** as trustee acts in this capacity without remuneration; however, if a bond is required, **the trustee may pay** the premium fee charged by the bonding company from the funds received on behalf of the mentally incompetent retiree. **The trustee may not pay** any other expenses incurred in securing the bond from the amount payable to the incompetent retiree.

160306. Defense Finance and Accounting Service-Cleveland Appointed Trustee Authority

The trustee appointed by the Retired Pay Department, DFAS-CL, has the authority only to receive, expend, and account for monies received from the military. The appointment does not convey authority to act as a trustee in a civilian capacity without prior authority from a court of competent jurisdiction. The trustee must use the monies received for the benefit of the incompetent retiree. Payment made to a person so designated under 37 U.S.C. 602 discharges

the obligation of the U. S. as to the amount paid. The Government may not appoint a trustee in any case in which a court of competent jurisdiction has appointed a legal committee, guardian, or other representative.

160307. Required Reports and Documents

The designated trustee submits accounting reports annually or at such times as directed by the Retired Pay Department, DFAS-CL. The reports must show all funds received, all expenditures made on behalf of the incompetent retiree, and a statement of the condition of the trustee account. The trustee also may be required to provide all receipts, canceled checks, voucher accounts, savings account passbooks or statements, and/or other records concerning the trustee account. If the trustee fails to report promptly at the end of the accounting period, then the appointing authority may either temporarily suspend or terminate further payments to the trustee and may designate a successor trustee.

1604 PHYSICAL INCAPACITY

160401. Physical Infirmary

A. Physical infirmity alone does not warrant the appointment of a guardian for the estate of a person. In some cases, incompetence to manage an estate or property has been found primarily from evidence of advanced age and physical infirmity, and a guardian or conservator has been appointed. In some jurisdictions, there are statutes, held to be constitutional, which authorize the appointment of guardians of the estates of those who, because of old age or physical incapacity, are incapable of managing their property.

B. In the case of a retiree suffering from a physical condition, that renders him or her mentally incapable of managing his or her affairs, see section 1603 for guidance in preparing and submitting the application for trustee, and the DFAS-CL requirements in establishing and appointing a trustee.

160402. Conservator or Guardian

In several states, statutes authorize persons who, although of sound mind, believe themselves incapable of managing their own estates or of caring for their own property, to apply for, request, or consent to the appointment of a conservator or guardian of the estate or of their persons, or both. The conservator or guardian, when appointed, possesses over the estate substantially the same power and is subject to substantially the same duties as a guardian of an incompetent person. The following are examples for determining whether the appointment of a conservator may be necessary for a physically incapacitated retiree:

A. A person who is bedfast and physically incapacitated as the result of two strokes is not necessarily incompetent so as to require the appointment of a guardian.

B. A 77-year-old woman suffering from complete paralysis of the left side was unable to speak except for an occasional word, could not swallow, and could write only with

difficulty and very briefly, but could hear, read, watch television, walk with assistance, and could be out of bed and sit up for short periods of time. According to medical testimony, she was mentally competent, but the evidence was sufficient to support a finding that she was physically incompetent and unable to manage her property.

C. When an adult person has sufficient mental capacity to understand the nature and consequences of the application for a conservator, that person's wishes, if conducive to welfare and contentment of mind may properly be given great weight in determining whether a conservator (rather than a guardian) should be appointed.

D. The physical condition of the person for whom a conservator is required can be considered only insofar as it may affect the person's mental condition.

160403. Court Orders

Because of the variety of county and state statutes regarding the appointment of legal representatives for physically incapacitated retirees, DFAS-CL accepts and processes court orders appointing such representatives. It is not the responsibility of DFAS-CL to authenticate each order.

1605 COURT APPOINTMENT OF GUARDIAN OR OTHER LEGAL REPRESENTATIVE FOR PHYSICALLY OR MENTALLY INCAPACITATED RETIREE

160501. Request for Incapacity Determination

The incapacitated retiree or any person interested in the welfare of the retiree may petition a court of competent jurisdiction for a finding of incapacity and appointment of a guardian or other legal representative.

160502. Certification of Court Appointment

A copy of the appropriate court order certifying to the appointment of the guardian, committee, or conservator is required before **DFAS may make** payments to the appointee.

160503. No Requirement for Accounting Reports

Accounting reports similar to those identified in paragraph 160307 are not required. Such reports, if required by the court, are matters of concern between the court-appointed guardian or legal representative and the court.

1606 TERMINATION OF PAYMENTS AND DISCHARGE OF TRUSTEE**160601. Conditions for Termination of Payments**

DFAS will terminate payments that are due an incompetent retiree and paid to the trustee upon notification receipt of:

- A. Death of the incompetent retiree;
- B. Death or disability of the trustee;
- C. Appointment of a committee, guardian, or other legal representative for the incompetent retiree by a court of competent jurisdiction;
- D. Failure of a trustee to render required accounting reports;
- E. Probable cause to believe that there is improper use of monies received on behalf of the incompetent retiree; or
- F. Findings from a board of medical officers or other appropriate medical authorities indicating that the retiree be capable of managing his or her own affairs. The appointing authority may accept, at his or her discretion, the findings of a VA or Public Health Service medical facility, or the findings of other public or private medical facilities that a person formerly found incompetent is now competent.

160602. Discharge of Trustee Duties

A. When payments to the trustee terminate as described in paragraph 160601, the trustee files a final accounting report with the Retired Pay Department, DFAS-CL. Upon approval of the final accounting report, the trustee is discharged and the surety is released of its bond.

B. If payment terminates for reasons described under subparagraph 160601.B, D, or E, then the Retired Pay Department, DFAS-CL, may appoint a successor trustee. Upon death or disability of a trustee, the trustee's legal representative makes the final accounting report.

160603. Death of Incompetent Retiree

Upon the death of the incompetent retiree, any funds remaining in the fiduciary account, maintained on behalf of the incompetent retiree by the trustee, must be made payable to the deceased retiree's estate.

1607 COMFORT ITEMS DURING HOSPITAL STAY**160701. Hospital Stay of Mentally or Physically Incompetent Retiree**

The commanding officer of any military hospital or the director of a VA hospital may designate an officer under the command to receive and receipt for a sum of money from the accrued pay of a retiree who, as a patient at the hospital, is found physically or mentally incapacitated in a report of medical officers.

160702. Money Received For Comfort Items

During the retiree's hospital stay, **the designated officer may use** the sum of money received from the accrued pay of a retiree only for the purchase of comfort items for the use and benefit of that retiree when all of the following conditions exist:

A. **DFAS did not designate** a trustee and a court of competent jurisdiction **did not appoint** a guardian or other legal representative.

B. There are no other funds available for use on behalf of the retiree; and

C. Competent medical authority agrees that the **purchase of** items will serve the comfort of the retiree.

1608 GENERAL MAINTENANCE OF ACCOUNTS

Once the appointment of trustee, guardian, committee, or other official party has been made, DFAS-CL must change or update the account per the appropriate provisions of this Regulation.

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160601 – 160602 37 U.S.C. § 602(f)

VOLUME 7B, CHAPTER 17: “BANKRUPTCIES”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

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Hyperlinks are denoted by ***bold, italic, blue, and underlined font***.

The previous version dated *June 2015* is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated chapter and format to comply with administrative instructions.	Revision
170101	Changed title from “Overview” to “Purpose” to comply with current administrative instructions.	Revision
170101.C	Updated “Official Form 10” to “Official Form B 410” and hyperlinked.	Revision
Bibliography	Updated Bibliography.	Revision

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CHAPTER 17

BANKRUPTCIES

1701 GENERAL

*170101. Purpose

This chapter applies to military retirees who have filed a bankruptcy petition under [Title 11, United States Code \(U.S.C.\), Chapter 7](#) or [11 U.S.C., Chapter 13](#) of the Bankruptcy Code. (Note: Scroll down on links to Chapter 7 and Chapter 13.) The law waives the U.S. Government's sovereign immunity for purposes of compliance with payroll deduction orders issued by the bankruptcy courts. Accordingly, the Defense Finance and Accounting Service (DFAS) will honor the bankruptcy withholding orders.

A. Voluntary Bankruptcy. Military retirees may seek protection of voluntary bankruptcy as "debtors."

B. Automatic Stay Provisions. Continued deduction from the retiree's pay of most types of debts, [including debts](#) owed to the United States, after the filing of a petition in a bankruptcy is improper and violates the automatic stay provisions of the bankruptcy statute. Such amounts withheld after the date the bankruptcy petition is filed must be refunded to the retiree's pay account. The automatic stay provisions of the bankruptcy statute do not preclude continued deductions based on court-ordered support obligations or divisions of retired pay. Coordinate with the DFAS Office of General Counsel (OGC) - Garnishment Operations if there are any questions about collecting a debt when a debtor has filed bankruptcy.

* C. Proof of Claim. Upon notice or actual knowledge of the filing of a bankruptcy petition, when the retiree has listed the U.S. Government as a creditor, DFAS-Cleveland, Retired and Annuitant Pay Operations will file [Official Form B 410](#), Proof of Claim, with the bankruptcy court concerned.

D. Post-Petition Debt. A new item of indebtedness incurred after the filing of the bankruptcy petition is known as a post-petition debt. Post-petition debt collection should be coordinated with the DFAS OGC - Garnishment Operations prior to taking any action.

170102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

1702 ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME, BANKRUPTCY, CHAPTER 13 (THE PLAN)

170201. Repayment Plan

A retiree may file a petition with the court to enter into a “Chapter 13 plan” under the Bankruptcy Code (11 U.S.C.). Under 11 U.S.C., Chapter 13, a retiree must submit a proposed repayment plan to the bankruptcy court that provides, among other things, that all or a specified amount of future income, as is necessary to pay priority claims under the plan, are under the control of the bankruptcy trustee. The plan will provide for the submission of such earnings or wages to the supervision and control of the court for the purpose of enforcing the plan.

170202. Provisions

When the plan is confirmed by the court, its provisions are binding upon the debtor and all creditors of the debtor, whether they are affected by the plan, [they](#) have accepted it and have filed their claims, or their claims have been scheduled or allowed, or are allowable.

170203. Authority

The court has authority to issue orders needed to implement the provisions of the plan including orders directed to an employer of the debtor.

170204. Retired Pay

The retired pay of a retiree may be used to pay the Chapter 13 plan and is payable to the trustee appointed by the court. The payment by DFAS of part of the retiree’s pay in response to a court order issued in a Chapter 13 plan does not conflict with [31 U.S.C. § 3713](#) (Priority of Government Claims). Compliance with such a court order gives the government a valid acquittance against the retiree since the court order is binding on the retiree.

170205. Judicial Determination

If the [U.S.](#) Government is a creditor when the retiree files a Chapter 13 plan, the Government’s priority under 31 U.S.C. § 3713 may be asserted in the absence of a judicial determination to the contrary.

170206. Delinquent Taxes

A retiree who is participating in a Chapter 13 plan must pay the delinquent taxes which he or she owes that had not been assessed before the date of confirmation of the plan. The retiree also is responsible for all taxes that may become due. The United States may accept the provisions of any plan that includes the assumption, settlement, or payment of any such delinquent taxes.

A. When DFAS-Cleveland, Retired and Annuitant Pay Operations sends the entire amount of the retiree's pay to the court-appointed trustee, the Internal Revenue Service (IRS) Notice of Levy should be forwarded to the court-appointed trustee for disposition.

B. When DFAS-Cleveland, Retired and Annuitant Pay Operations sends part of the pay due the retiree to the court-appointed trustee, the IRS Notice of Levy should be processed in the normal manner against the amount due the retiree. The court-appointed trustee is provided a copy of the IRS Notice of Levy and notified of the action taken in establishing the liquidation procedures on a continuing Notice of Levy.

1703 PROCEDURES

170301. Bankruptcy Notices and Withholding Orders

A. All bankruptcy notices and withholding orders should be submitted or faxed to:

DFAS Cleveland
Garnishment Operations
P.O. Box 998002
Cleveland, OH 44199-8002

Toll Free Fax: (877) 622-5930
Commercial Fax: (216) 367-3675

B. DFAS-Cleveland, Garnishment Operations is the designated agent for service of process for all military retiree bankruptcy notices and withholding orders.

C. The following information should be included with the withholding order:

1. Full name and
2. Full social security number.

D. The notice is effective when it is received in the office of the designated official.

E. When the notice does not sufficiently identify the retiree, it will be returned directly to the person who submitted the order with an explanation of the deficiency.

170302. Case Review and Execution of Bankruptcy Withholding Order

Upon receipt of notice of a bankruptcy, together with all the required information, the office of the designated official will review the case to determine if there are any garnishments or debt collections that must be terminated as a result of the automatic stay (child support, alimony, child support arrears, alimony arrears, and division of property awards are not terminated unless

the bankruptcy order requires it). If a bankruptcy withholding order is submitted, the office of the designated official will establish the withholding against the retiree's pay to comply with the bankruptcy order within 30 days. Withholdings will continue until the amount specified in the order is collected, or the order is canceled or suspended.

A. Within 30 calendar days after the date of receipt of the order, the designated official will send notice to the retiree.

B. The letter will inform the retiree the date that the bankruptcy withholding is scheduled to begin and the amount or percentage that will be deducted.

C. When the retiree identified in the order is found not to be entitled to money due from or payable by DFAS, the designated official will return the order to the person who submitted it and advise him or her that no money is due from or payable by DFAS to the named individual. When it appears that amounts are exhausted temporarily or otherwise unavailable, the authorized person must be told why and for how long any money is unavailable, if known.

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1701 – GENERAL

170101.A	11 U.S.C. § 109
170101.B	11 U.S.C. § 362
170101.C	11 U.S.C. § 501
170101.D	11 U.S.C. § 1305

1702 – ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME,
BANKRUPTCY, CHAPTER 13 (THE PLAN)

170201	11 U.S.C. §§ 1301-1330
170202	11 U.S.C. § 1327
170203	11 U.S.C. § 105
170204	11 U.S.C. § 1326
170205	31 U.S.C. § 3713
	47 Comptroller General (Comp Gen) 522
	United States vs. Shannon, 342 US 288
	1951
170206	31 U.S.C. § 3713
	47 Comp Gen 522

VOLUME 7B, CHAPTER 18: “RELEASE OF INFORMATION”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

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CHAPTER 18

RELEASE OF INFORMATION

1801 GENERAL

**180101. Purpose*

This chapter provides regulatory policy on the Freedom of Information and Privacy Acts. Guidance references are from United States Code ([U.S.C.](#)), Public Law ([PL](#)), Department of Defense (DoD) and agency regulations.

180102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

1802 FREEDOM OF INFORMATION ACT

PL 89-554, enacted September 6, 1966, commonly known as the Freedom of Information Act (FOIA) and codified in [Title 5, U.S.C., section 552](#), as amended, [provides for](#) openness in government and making information available to the public. [Department of Defense Directive \(DoDD\) 5400.07](#), DoD Freedom of Information Act Program, provides guidance on 5 U.S.C. § 552, as amended, and prescribes uniform policies and procedures for the DoD implementation of the FOIA.

1803 PRIVACY ACT

PL 93-579, enacted December 31, 1974, commonly known as the Privacy Act of 1974 and codified in 5 U.S.C. § 552a, as amended, safeguards individual privacy by governing the collection, safeguarding, maintenance, public notice, use, access, amendment, and dissemination of personal information. [DoDD 5400.11](#), DoD Privacy Program, provides guidance on 5 U.S.C. § 552a, as amended, and prescribes uniform procedures for implementation of the DoD Privacy Program.

**1804 ADMINISTRATION*

Administration of the FOIA and the Privacy Act must be in accordance with the respective Component regulations and instructions.

180401. Army

Army administration of the FOIA and the Privacy Act must be in accordance with [Army Regulations \(AR\) 25-55](#), [AR 25-22](#), and Title 32, Code of Federal Regulations (CFR), [part 518](#).

180402. Air Force

Air Force administration of the FOIA and the Privacy Act must be in accordance with [DoD 5400.7-R Air Force Manual 33-302](#) and [Air Force Instruction 33-332](#).

180403. Navy

Navy administration of the FOIA and the Privacy Act must be in accordance with Secretary of the Navy Instructions (SECNAVINST) 5720.42F and SECNAVINST 5211.5E.

180404. Marine Corps

Marine Corps administration of the FOIA and the Privacy Act must be in accordance with SECNAVINST 5720.42F and SECNAVINST 5211.5E.

*BIBLIOGRAPHY

CHAPTER 18 – RELEASE OF INFORMATION

1802 – FREEDOM OF INFORMATION ACT

PL 89-554, September 6, 1966
PL 90-23, June 5, 1967
PL 93-502, November 21, 1974
PL 94-409, September 13, 1976
PL 95-454, October 13, 1978
PL 98-620, November 8, 1984
5 U.S.C. § 552, as enacted by PL 89-554,
thereafter, amended by PL 90-23, PL 93-502,
PL 94-409, PL 95-454, and PL 98-620
DoDD 5400.07, January 2, 2008
DoD 5400.7-R, July 13, 2016

1803 – PRIVACY ACT

PL 93-579, December 31, 1974
5 U.S.C. § 552a, as amended
DoDD 5400.11, October 29, 2014
DoD 5400.11-R, May 14, 2007

*1804 – ADMINISTRATION

AR 25-55
AR 25-22
32 CFR, part 51
DoD 5400.7-R_Air Force Manual 33-302
Air Force Instruction 33-332
SECNAVINST 5720.42F
SECNAVINST 5211.5E

**VOLUME 7B, CHAPTER 19: “GENERAL PROVISION GOVERNING
ALLOTMENTS OF RETIRED PAY”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

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All	Updated chapter and format to comply with administrative instructions.	Revision
190202.A	Updated subparagraph to comply with Title 10, United States Code, section 1210(b).	Revision
190304.B	Updated the address for Savings Bond Allotment written requests.	Revision
Bibliography	Added reference for subparagraph 190202.A.	Addition

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CHAPTER 19

GENERAL PROVISIONS GOVERNING ALLOTMENTS OF RETIRED PAY

1901 GENERAL

190101. Purpose

A. Allotments are designed for the convenience and privilege of retirees and are not to be exploited or abused. The retired pay activity acts solely as an agent of the retiree in the payment of the allotments and assumes no liability concerning any contract between the retiree and the allottee. Allotments paid erroneously through administrative error must be recovered from the allottee, if possible, or may be collected from the retiree if such payment provided a benefit to that retiree.

B. Voluntary allotments of retired pay or retainer pay for military retirees are limited to discretionary and nondiscretionary allotments. To aid personnel in the transition from active duty to retired status, all existing authorized allotments of members on active military service may be continued as approved allotments. Authorized allotments include a maximum of six discretionary allotments, as outlined in paragraph 190201 and Volume 7A.

190102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

1902 DISCRETIONARY ALLOTMENTS

190201. Discretionary Allotments

Retirees are authorized no more than six discretionary allotments. A retiree may start a new allotment, as long as the total number of discretionary allotments does not exceed six. Discretionary allotments are identified as “class D” allotments. The retiree **must** certify that the allotment is within the limits of the law (e.g., allotments may not be used to repay gambling debts in a state where gambling is not permitted). Discretionary allotments include, but are not restricted to, the allotments described in this section. A retired member may terminate a discretionary allotment upon request using the procedures set out in paragraph 190402.

*190202. Allotments For Insurance Premiums

Allotments are authorized for paying various types of commercial insurance premiums. This includes payment for life, dental, health, and vehicle insurance. Premium payments are combined when a retiree has more than one life insurance allotment within the same company. All payments to an insurer are made via Electronic Funds Transfer (EFT). The insurer is responsible for establishing an account for these payments. The start, change and stop dates for the insurance allotments are set out in Tables 19-1, 19-2, and 19-3.

* A. Cash Deposit for Insurance. If a retiree's retired pay account is in a nonpay status due to full waiver of pay, failure to report for periodic physical examination, or the expiration of 3 years after the date the member's name was placed on the Temporary Disability Retired List, the member may request the Department of Veterans Affairs (VA) pay VA insurance premiums by deduction from disability compensation benefits, or the member may pay premiums by sending remittances directly to:

Department of Veterans Affairs
P.O. Box 7787
Philadelphia, PA 19101

B. Eligible Allottees. Eligible allottees include:

1. U.S. Government Life Insurance/National Service Life Insurance (USGLI/NSLI);
2. Navy Mutual Aid Association;
3. Army Mutual Aid Insurance;
4. Dental and Health Insurers;
5. Vehicle Insurers; and
6. Commercial Insurers.

190203. Allotments to Dependents or Relatives

Voluntary payment may be made by allotment to a spouse, other dependent(s), or to a relative(s) not legally designated as a dependent(s). Allotments must be made payable to the allottee through a financial institution for credit to the account of the allottee. An allottee can be a state agency, court trustee, welfare agency, former spouse, or a child's guardian or custodian. The member or allottee must make satisfactory arrangements with the financial institution to accept EFT payment before starting the allotment.

190204. Allotment Deposits to Financial Organizations

Retirees may authorize allotments of pay to financial organizations for credit to the account of the member. Allotments may be deposited to:

- A. A financial organization for credit to a savings, checking, or trust account of the allotter; or
- B. A mutual fund or other company or investment firm.

190205. Allotments for Payment of Mortgage or Rent

Retirees may authorize allotments for mortgage or rent payment to a financial institution, mortgage company, realtor, or landlord.

190206. Other Allotments

Retirees may authorize an allotment for payment of personal loans; however, the restrictions in paragraph 190408 apply. Personal loans may include, but are not limited to the following:

- A. Payment of a car loan; [and](#)
- B. Payment of a loan to repay consumer credit, such as to a finance company.

190207. Air Force Retired Members Only

Only retired Air Force members may authorize allotment payments to the Air Force Enlisted Members Widow's Home.

1903 NONDISCRETIONARY ALLOTMENTS

190301. Nondiscretionary Allotments

Nondiscretionary allotments of retired and retainer pay are limited to those described in this section.

190302. Voluntary Liquidation of Indebtedness

An allotment for repayment of indebtedness to the United States is registered for a definite period required to liquidate the indebtedness. Retired members may make allotments for payment of:

- A. Indebtedness incurred due to defaulted notes insured by the Federal Housing Administration or guaranteed by the VA;
- B. Any other indebtedness to any department or agency of the U.S. Government (except Department of Defense [\(DoD\)](#) debts), to include those assigned to a collection agency;
- C. Delinquent Federal income taxes. A member may execute an agreement with the Internal Revenue Service (IRS) to pay delinquent taxes by monthly deductions from retired pay. Agreements are made by executing an [IRS Form 2159](#), Payroll Deduction Agreement;
- D. Delinquent state or local income or employment taxes; [and](#)

E. [Loan debt to](#) Navy and Marine Corps Relief Society, Army Emergency Relief, Air Force Aid Society, and American Red Cross.

190303. Charitable Contributions

Retirees are authorized to establish an allotment for making charity contributions to any of the Service Relief Organizations which includes the Army Emergency Relief; Navy and Marine Corps Relief Society; or affiliates of the Air Force Assistance Fund. Payment of pledges for one of these specified charities is authorized. These payments are for a definite period. Individual organizations are responsible for identifying an account for payment issue.

*190304. Savings Bonds Allotments

A. Purchasing Savings Bonds by Allotment. As of October 1, 2010, the U.S. Treasury no longer issues paper savings bonds to federal employees (military, retired, and civilian personnel members) through payroll deduction. Retired members may purchase electronic savings bonds by establishing a personal TreasuryDirect account with the Treasury, and then initiating a nondiscretionary allotment made payable to Treasury at their TreasuryDirect account. Members are authorized one nondiscretionary allotment for the purchase of bonds. For information on TreasuryDirect, go to www.treasurydirect.gov.

* B. Establishment of Savings Bonds Nondiscretionary Allotment. Retired members electing to purchase electronic savings bonds will first create a TreasuryDirect account at www.treasurydirect.gov. This account can be used to purchase multiple bonds. Once created, members must either contact [the](#) Defense Finance and Accounting Service (DFAS) Retired and Annuitant Pay or log into myPay to establish an allotment to the TreasuryDirect account. The following information is required to initiate the allotment:

1. The routing transit number for TreasuryDirect: 051736158;
2. The TreasuryDirect account number provided by Treasury; [and](#)
3. The specific dollar amount to be deducted monthly.

The myPay system also requires that the member designate the account type, either checking or savings, even though that designation is not applicable to an allotment to a TreasuryDirect account. Send written requests to begin Savings Bonds Allotments to:

Defense Finance and Accounting Service
[U.S. Military Retired Pay](#)
[8899 East 56th Street](#)
[Indianapolis, IN 46249-1200](#)

1904 ALLOTMENT ADMINISTRATION

190401. Excluded Amounts in Retired Pay Allotment

The amount of retired pay which may be allotted can be limited administratively to exclude amounts required to be withheld for:

- A. Tax purposes;
- B. Liquidation of an indebtedness determined under applicable provisions of law to be chargeable against the member's retired pay account;
- C. Cost of participation in the Retired Serviceman's Family Protection Plan and/or Survivor Benefit Plan;
- D. Garnishments;
- E. Continuing tax levies;
- F. VA compensation; and
- G. [Payments to a former spouse.](#)

190402. Establishment, Discontinuance, and Changes to Existing Allotments

A properly executed DoD [\(DD\) Form 2558](#), Authorization to Start, Stop or Change an Allotment), a written request, or an automated data exchange (from specific organizations) may be used to establish, discontinue, or change an allotment. Automated computer programs that allow members to establish, discontinue, or change an allotment using a personal identification number are also permitted. In addition, requests may be accepted telephonically from members without written documentation, but only after the member's identity has been validated. Requests for allotment actions should be provided to DFAS, Retired and Annuitant Pay. Normally, allotments are not established retroactively.

190403. Administrative Changes

A. Changes beyond the control of the retiree are considered administrative in nature. These are dictated by events incidental to the purpose of the allotment. Examples include changes to the name, address, account number, and financial institution of the allottee. Other examples include amount changes due to contractual obligations existing at the time the allotment was executed (such as a mortgage payment changed because of variable rate mortgage or change in escrow requirement). [Administrative changes may be made without the allottee's consent.](#)

B. [In addition to the situations described in subparagraph 190403.A, upon notice and request from the insurance allottee, administrative changes may be made without the member's consent under the following circumstances:](#)

1. Death of retired member;
2. Policy terminated;
3. Policy has been surrendered;
4. Policy changed;
5. Policy paid up, no premiums due;
6. Policy not in force; and
7. Lapsed policy.

The allotment will be terminated or reduced at the insurance allottee's request; and refund and notification of the returned premium **must** be forwarded to the retired member.

190404. Duration of Allotments

Allotments are registered for an indefinite period except for the following circumstances:

- A. Repayment of indebtedness to the **United States**, to include payment of delinquent Federal income taxes; and
- B. **Charitable contributions** as specified in paragraph 190303.

190405. Allotment Overpayment Responsibilities

Any check issued and mailed to a recipient **or transmitted via EFT to the recipients' financial institution** for which entitlement does not exist must be recovered immediately by the issuing office. If an allotment payment is made after deductions from retiree's retired pay have stopped, and the **recipient** does not return the amount of that payment, then the office of issuance starts recovery action of an equal amount from the recipient, or the retiree, if that office determines that the retiree benefited from the payment. If the retiree is liable, then overpayment is recovered by deductions from retired pay due the retiree.

190406. Definitions

- A. Allotment. An allotment is a definite portion of the retired pay of a person retired from a Military Service, which the retiree authorizes **to be paid** to a person, institution, or agency. This payment is for the purpose of supporting relatives or for any other purpose that the Secretary of the military department concerned considers proper.
- B. Allottee. An allottee is a person, institution, or agency to whom the allotment is made payable.

C. Allotter. An allotter is the person from whose retired pay the allotment is made.

D. Financial Institution. A financial institution is a bank (to include a military banking facility), credit union, or thrift association.

190407. Method of Payment

EFT is the method of payment required for all individual allotments. For a list of exceptions to this requirement see Title 31, Code of Federal Regulations (CFR), part 208.4 ([31 CFR 208.4](#)) and Volume 8, Chapter 1.

190408. Restrictions

The following restrictions apply to allottees:

A. Minors. Allotments (except to purchase U.S. Savings Bonds) may not be made payable to children under 16 years of age. Allotments may be made payable to the child's guardian or custodian. Spouses of retirees may be named as allottees regardless of age.

B. Mental Incompetents. Allotments are not payable to mentally incompetent persons. Such allotments are payable to a guardian or the institution where confined.

C. Multiple Allotments. See restrictions in paragraphs 190101 and 190201.

D. Special Power of Attorney. A special power of attorney may be used to establish, change, or stop an allotment. This special power of attorney must specifically grant the authority to establish, change or stop allotments. A general power of attorney is not acceptable to establish, change, or stop an allotment.

E. Reduced Retired Pay of Allotter. When a stoppage or reduction of retired pay does not leave enough funds for deduction of allotments in force, then those allotments are stopped administratively by the disbursing officer without the signature of the retiree, as described in section 1904, and Figure 19-1.

F. Administrative Stops. Allotments may be stopped because of the required deductions from retired pay listed in paragraph 190401. When possible, the retiree is allowed to determine the allotments to be stopped. If, however, the retiree involved refuses, or is unable, to identify those that should be stopped, then the allotments of that retiree are involuntarily stopped. See Figure 19-1 for the order of precedence.

1905 RIGHT TO ALLOTMENTS IN CASE OF DEATH

190501. Death of Retiree

Entitlements to allotments end with the death of the member. No further allotment payments may be made after receipt of notice of the allotter's death. Deductions made from the retiree's pay, but not paid to the allottee, become part of the arrears of retired pay. Allotments paid after the retiree's death may not be collected from the allottee, except:

- A. Allotments erroneously established after notice of death of the retiree; and
- B. Unearned insurance premiums (insurance premiums are paid 1 month before the day payment is actually due).

190502. Death of Allottee

An allotment check, even though endorsed, does not become part of an allottee's estate if it is not cashed or negotiated before the allottee's death. It is not subject to any expense incurred by or on behalf of the allottee before or after death. All unnegotiated allotment checks must be returned to the office that issued them. Such checks are credited to the retiree's account.

Figure 19-1. Order of Precedence

ORDER OF PRECEDENCE		
Precedence	Type	Letter Designation
1	Charitable contributions to Army Emergency Relief, Navy and Marine Corps Relief Society, or Air Force Assistance Fund	See Table 19-4
2	Bonds	B
3	Savings	D
4	Loans to service organizations	L
5	Payment of delinquent state or local income or employment taxes	T
6	Dependents	D
7	Home loans	D
8	Commercial life insurance/Army Mutual Aid Insurance	D
9	Navy Mutual Aid Insurance	M
10	Government life insurance	N
11	Veterans Group Life Insurance	See Table 19-1
12	Deductions for court-ordered support	D
13	Repayment of indebtedness to the United States	T
14	Payment of delinquent Federal income taxes	T

Table 19-1. Effective Dates for Starting Insurance Allotments (D, M, V, or N)

EFFECTIVE DATES FOR STARTING INSURANCE ALLOTMENTS (D, M, V, OR N)				
	A	B	C	D
R U L E	If a retired member of	is authorized a class	and the	then start the allotment effective the first day of the month
1	any Military Service	N allotment		before the month in which insurance premium is due (note).
2			insurance policy is dated back to save age	in which application is made. Retiree must pay the Reserve to cover previous months by direct payments to VA.
3	the Army or Air Force	D allotment		specified by retiree, if authorization reaches the servicing finance center before the date specified in Military Service procedural regulations.
4	the Navy or Marine Corps	D or M allotment		
5	any Military Service	D or V allotment		submitted by the Veterans Group Life Insurance through the automated data exchange process.

NOTE: A U.S. Government or NSLI allotment deducted for 1 month pays the premium for the succeeding month. For example, if premium for July is paid by allotment, then allotment must be effective June 1.

Table 19-2. Effective Dates for Changing Insurance Allotments (D, M, V, or N)

EFFECTIVE DATES FOR CHANGING INSURANCE ALLOTMENTS (D, M, V, OR N)					
	A	B	C	D	E
R U L E	If a retired member of	has a class	and	then stop present allotment effective the last day of the month	then start new allotment effective the first day of the month
1	the Army or Air Force	D or N allotment	the retiree or fiduciary or guardian requests a change in allotment	specified in request if allotment change can be processed by the date specified in procedural regulations of the Military Service concerned	after the month old allotment is stopped.
2	the Navy or Marine Corps	D, M, or N allotment			
3	any Military Service	N allotment	allotment was authorized in incorrect amount or effective date	before its effective date	specified in original request or authorization of the date requested by the VA.
4		D or V allotment	the Office of Servicemembers' Group Life Insurance (OSGLI) automated data exchange provides a change in the allotment	as specified by the automated data exchange process	specified by the automated data exchange process.

Table 19-3. Effective Dates for Stopping Insurance Allotments (D, M, V, or N)

EFFECTIVE DATES FOR STOPPING INSURANCE ALLOTMENTS (D, M, V, OR N)				
	A	B	C	D
R U L E	If a retired member of	has a class	and	then stop allotment effective the last day of the
1	the Army or Air Force	D or N allotment	the retiree requests the allotment be stopped	month specified by the retiree, if authorization reaches the servicing DFAS Site before the date specified in procedural regulations of the Military Service concerned.
2	the Navy or Marine Corps	D, M, or N allotment		
3	any Military Service	N allotment	the application for insurance is disapproved by the VA	month before the effective starting date of the allotment.
4	the Army or Air Force	D allotment	has insufficient “net” pay to satisfy IRS Notice of Levy for delinquent income tax determined by IRS to be a “problem case”	month before the month in which IRS levy is received (stop insurance allotments only if discontinuance of other voluntary allotments will not satisfy levy).
5	the Navy or Marine Corps	D or M allotment		
6	the Army or Air Force	D or N allotment	has pay suspended (note 1) or insufficient pay	last month in which enough pay accrues to satisfy deduction. Avoid stopping allotment unnecessarily or earlier than required.
7	the Navy or Marine Corps	D, M, or N allotment		
8	the Army or Air Force	D or N allotment	dies	(note 1.)
9	the Navy or Marine Corps	D, M, or N allotment		
10	any Military Service	D or V allotment	the retiree or OSGLI requests the allotment be stopped	month specified by the retiree, if authorization reaches the servicing DFAS Site before the date specified in Military Service procedural regulations; for OSGLI as specified by the automated data exchange process (note 2).

Table 19-3. Effective Dates for Stopping Insurance Allotments (D, M, V, or N) (Continued)

NOTES:

1. See procedural regulations of Military Service concerned.
2. Advise OSGLI immediately of reason for stoppage of allotment if it was discontinued by the automated data exchange process.

Table 19-4. Allotments of Retired Pay – General

ALLOTMENTS OF RETIRED PAY — GENERAL								
R U L E	A	B			C		D	
	When the purpose of allotment is for	and Service's letter designation is			and member is not on active duty and has allotment (notes 1 and 2)		then the allotment period required is	
		Army	Navy/ USMC	Air Force	authorized for carryover from active duty	authorized for establishment from active duty	Indefinite	Definite
1	purchase of U.S. Savings Bonds	B	B	B	X	X	X	
2	payment to dependents (note 5)	D	D	D	X	X	X	
3	repayment of home loans	D	D	D	X		X	
4	commercial life insurance/Army Mutual Aid Insurance (note 3)	D	D	D	X	X	X	
5	repayment of loans to Navy and Marine Corps Relief Society, Army Emergency Relief, American Red Cross, or Air Force Aid Society	L	L	L	X	X		X
6	Navy Mutual Aid Insurance (note 2)	None	M	None	X	X	X	
7	USGLI and/or NSLI (note 4)	N	N	N	X	X	X	
8	repayment of loans on VA insurance (note 4)	N	N	N			X	
9	payment of financial institution or credit to account of retiree (note 6)	D	D	D	X		X	
10	payment of delinquent Federal income taxes and/or payment of indebtedness to the United States (note 7)	T	T	T		X		X
11	charitable contributions to the Army Emergency Relief, Navy and Marine Corps Relief Society, or affiliates of the Air Force Assistance Fund	L	C	F	X	X		X

Table 19-4. Allotments of Retired Pay - General (Continued)

ALLOTMENTS OF RETIRED PAY — GENERAL								
R U L E	A	B			C		D	
	When the purpose of allotment is for	and Service's letter designation is			and member is not on active duty and has allotment (notes 1 and 2)		then the allotment period required is	
		Army	Navy/ USMC	Air Force	authorized for carryover from active duty	authorized for establishment from active duty	Indefinite	Definite
12	payment of delinquent state or local income or employment taxes (note 8)	T	T	T	X			X
13	Veterans Group Life Insurance	D	D,V	D		X	X	

NOTES:

1. Includes members of the Fleet Reserve or Fleet Marine Corps Reserve when not on active duty.
2. In addition to allotments authorized, member may continue any other allotments in effect (except Combined Federal Campaign and aviation premiums payable to the Navy Mutual Aid Association) at the time of retirement.
3. On the life of the allotter, spouse, and/or children.
4. Payment of allotments for insurance premiums and repayment of insurance loans are made by one NSLI or class N allotment.
5. Authorized to a spouse, former spouse, and/or children of the retired member having a permanent residence other than that of the retired member.
6. Includes credit unions within the [United States](#), its possessions, Puerto Rico, and Panama Canal Zone operating under a Federal or state charter. Also includes credit unions authorized under Volume 5, Chapter 34 to operate an overseas U.S. military installation.
7. Delinquent Federal income taxes are payable to the applicable District Director, IRS.
8. Delinquent state or local and employment taxes are payable to the applicable state or local tax authorities.

[*BIBLIOGRAPHY](#)**CHAPTER 19 – GENERAL PROVISIONS GOVERNING ALLOTMENTS OF RETIRED PAY**

1901 GENERAL

190101

[Title 37, United States Code \(U.S.C.\),
section 701](#)

1902 – DISCRETIONARY ALLOTMENTS

190201

[37 U.S.C. § 701](#)

*

[190202.A](#)[10 U.S.C. § 1210\(b\)](#)

1903 – NONDISCRETIONARY ALLOTMENTS

190304

31 CFR 363

1904 – ALLOTMENT ADMINISTRATION

190406

[37 U.S.C. § 701](#)

190407

[31 U.S.C. § 3332](#)

1905 – RIGHT TO ALLOTMENTS IN CASE OF DEATH

190501

[Comptroller General B-225873.2](#)
[31 U.S.C. § 3727\(e\)\(2\)](#)

VOLUME 7B, CHAPTER 22: “FUNERAL HONORS DETAIL STIPEND FOR RETIREES”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [November 2015](#) is archived

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatted to comply with current administrative instructions.	Revision
220101	Renamed paragraph to “Overview.”	Revision
220102	Revised wording for “Purpose” paragraph.	Revision
220204.B	Updated reference to Standard Form 1164 to reflect Optional Form 1164.	Revision
Bibliography	Added the Fiscal Year 2017 stipend memorandum.	Addition

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CHAPTER 22

FUNERAL HONORS DETAIL STIPEND FOR RETIREES

2201 GENERAL

*220101. Overview

The Secretary of a Military Department is authorized to provide support for persons participating in a funeral honors detail, including retired military members, in the form of either transportation [allowances](#) (or reimbursement for transportation [allowances](#)) and expenses, or a daily stipend as prescribed by the Secretary of Defense. The prescribed daily stipend must be set at a single rate designed to defray the typical costs of transportation and other miscellaneous expenses for persons participating in a funeral honors detail who are members of the Armed Forces in a retired status [and](#) other [persons](#) who are not members of the Armed Forces or employees of the United States. See Volume 9, Chapter 4 for information regarding reimbursement for transportation [allowances](#) and expenses.

*220102. Purpose

[This chapter provides policy for the entitlement, funding, and amount payable for funeral honors detail stipends.](#)

220103. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

2202 ENTITLEMENT TO STIPEND

Secretaries of Military Departments are asked to authorize stipend payments for retirees under [Title 10, United States Code \(U.S.C.\), section 1491\(d\)](#) in lieu of authorizing an allowance under [37 U.S.C. § 495\(a\)](#). [These stipends](#) ensure uniform payments to all volunteers who assist in providing funeral honors. A member of the Armed Forces in a retired status, including a member of the Retired Reserves without pay, may receive a daily stipend payment, in addition to any payment of retired or retainer pay or other compensation to which they are entitled, for performing funeral honors detail. Only one daily stipend may be earned and paid for 1 calendar day.

220201. Amount Payable

The Secretary of Defense is required to prescribe annually a flat rate daily stipend for certain individuals who volunteer to assist the active military in the delivery of funeral honors. The daily stipend payable to a member receiving retired or retainer pay, or [a member of the Retired Reserves without pay](#), is currently \$50.

220202. Taxability

The daily stipend payment under 10 U.S.C. § 1491(d) is not reported as taxable income.

220203. Funding

The approving Military Department must make the payment under this chapter from Operation and Maintenance funds for the fiscal year in which the payment is made.

*220204. Payments

A. Retirees considered for the stipend must be an authorized provider to participate in the specific honor detail and perform the honors as anticipated. The retirees that perform funeral honors should be a provider under the Authorized Provider Partnership Program ([AP3](#)). The Department of Defense (DoD) established the AP3 for the benefit of commanders who have the responsibility to provide funeral honors to active duty Service members, retirees, and veterans.

* B. The Military Department concerned is responsible for processing claims for authorized providers (retirees). The authorized provider (retiree) must complete [Optional Form 1164](#), Claim for Reimbursement for Expenditures on Official Business, and submit to the parent Service of the honored veteran.

*BIBLIOGRAPHY

CHAPTER 22—FUNERAL HONORS DETAIL STIPEND FOR RETIREES

2201 — GENERAL	DoD Instruction (DoDI) 1300.15, October 22, 2007 10 U.S.C. § 1491(d)
2202 — ENTITLEMENT TO STIPEND	10 U.S.C. § 1491(d) Office of the Under Secretary of Defense (OUSD) Personnel and Readiness (P&R) Memorandum (Memo), October 27, 2016
220201	10 U.S.C. § 1491(d)(2) OUSD (P&R) Memo, October 27, 2016
220202	OUSD (P&R) Memo, February 10, 2014
220203	OUSD (P&R) Memo, October 27, 2016
220204	DoDI 1300.15, October 22, 2007

**VOLUME 7B, CHAPTER 23: “SPECIAL AND VOLUNTARY SEPARATION
INCENTIVE (VSI) PAY”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an **asterisk (*)** symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **September 2014** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
230102	Added “Authoritative Guidance” paragraph.	Addition

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CHAPTER 23

SPECIAL AND VOLUNTARY SEPARATION INCENTIVE (VSI) PAY

2301 GENERAL

230101. Purpose

The purpose of this chapter is to provide policy for the authorization, administration, and payment of the Special Separation Benefits (SSB) and VSI programs to mid-career service members of the Military Services in over-strength inventories. See Title 10, United States Code (U.S.C.), sections 1174a and 1175. The applicable period for SSB and VSI was January 1992 through October 1995. Both options required member affiliation with a Reserve Component. See Volume 7A, Chapter 35 for detailed information on SSB/VSI benefits, entitlements, and eligibility requirements.

*230102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

2302 RESPONSIBILITIES

230201. The Defense Finance and Accounting Service (DFAS)-Cleveland Site

The DFAS-Cleveland Site will:

A. Maintain the VSI account until all annual installments are paid, or until the death of the VSI member recipient. A member's entitlement to VSI is not transferable, except that the member may designate beneficiaries to receive the payments in the event of the member's death, in accordance with paragraph 230501; and

B. Make all VSI annual beneficiary payments. Following the death of a VSI recipient, the DFAS-Cleveland Site will provide customer service support for designated beneficiaries and be the primary source for VSI member beneficiary account assistance and maintenance.

230202. Defense Manpower Data Center (DMDC)

The DMDC will maintain a personnel database that identifies and tracks participation in the SSB/VSI programs. Because of the requirement for Reserve affiliation, the DMDC will provide advice of Reserve participation to the DFAS-Cleveland Site.

230203. Secretary of the Treasury

The Secretary of the Treasury administers the VSI Fund (hereafter referred to as the "Fund"). All VSI payments made by the Secretary of Defense after December 31, 1992,

pursuant to 10 U.S.C. § 1175, shall be paid out of the Fund. The Fund is classified as a trust fund and has been designated as account number 97X8335. This fund consists of a receipt and expenditure account.

230204. Department of Defense (DoD) Board of Actuaries

A. Prior to January 1, 1993. The DoD Board of Actuaries (hereafter referred to as the Board”) determines an amount that is the total present value, as of January 1, 1993, of the future benefits payable to persons who separate under VSI prior to January 1, 1993.

B. On or after January 1, 1993 through September 30, 1999. The Board determines an amortization period and schedule for liquidating the original unfunded liability of the Fund. For members separated on or after January 1, 1993, the Secretary of Defense must deposit in the Fund during the period beginning on that date and ending on September 30, 1999:

1. The sums necessary to pay the current liabilities during that period, and

2. The amount equal to present value, as of September 30, 1999, of future benefits payable as determined by the Board.

C. For each fiscal year (FY) after September 30, 1999. The Board:

1. Carries out an actuarial valuation for the Fund and determines any new unfunded liabilities arising from gains and losses to the Fund,

2. Determines an amortization schedule for liquidating these new unfunded liabilities, and

3. Determines for the upcoming FYs the amount of DoD contributions to the Fund necessary to comply with the amortization schedules for the Fund’s original and new unfunded liabilities in sufficient time to be included in the FY budget requests.

2303 PAYMENT PROCESSING

230301. VSI Payments

A. Upon separation, the Service member will complete a DoD (DD) Form 2058, State of Legal Residence Certificate, and Internal Revenue Service (IRS) Form W-4, Employee’s Withholding Allowance Certificate. Members who wish to designate beneficiaries must complete a DD 2864, VSI Beneficiary Designation.

B. The DFAS-Cleveland Site will send annual VSI payments to the VSI recipient’s bank via Electronic Funds Transfer (EFT). The Service member should

complete Standard Form (SF) 1199A, Direct Deposit Sign-Up Form, to establish EFT payments. If an SF 1199A is not available, the VSI recipient must submit the routing transit number of the financial institution, a canceled check or deposit slip that shows his/her account number and bank address, and the member's signature.

C. After the initial payment, the DFAS-Cleveland Site will issue all subsequent annual payments on the anniversary of the member's separation. In the event that the anniversary date falls on a weekend or holiday, the DFAS-Cleveland Site will make the payment according to the same rules followed for regular active duty paydays.

230302. Effect of Disability Compensation

A member receiving VSI must not be deprived of the VSI by reason of entitlement to disability compensation under the laws administered by the Department of Veterans Affairs (VA).

A. Deduction. The amount of any such disability compensation concurrently received must be deducted from VSI payments.

B. No Deduction. No deduction is made from VSI for any disability compensation received because of an earlier period of active duty if the VSI is received because of discharge or release from a later period of active duty.

230303. Withholding Requirements

A. Federal Income Tax Withholding (FITW)

1. Initial SSB and VSI Payments. FITW is withheld at the applicable flat rate percentage of the gross payment from the initial SSB and VSI payment. All SSB and initial VSI payments are included with the member's other taxable pay amounts during that calendar year and reported via the IRS Form W-2, Wage and Tax Statement, in January of the following calendar year.

2. Annual VSI Payments. FITW is withheld from annual VSI payments based upon the annual Percentage Method of Withholding Table. A valid IRS Form W-4 is required to compute the proper withholding amount under this method. If the member does not submit an IRS Form W-4, the tax withholding is computed as if the member is single, with no withholding exemptions. All anniversary payments are produced and reported by the DFAS-Cleveland Site to the member via IRS Form W-2 in January of the calendar year following the payment.

B. State Income Tax Withholding. All SSB and VSI payments are subject to state income tax withholding for residents of states that have entered into an agreement with the Secretary of the Treasury. State withholding and reporting for the SSB and initial VSI payment are based on the member's legal residence at the time of separation from active duty. See Volume 7A, Chapter 44 for those states that have entered into an agreement with the Secretary of

the Treasury. For VSI anniversary payments, State income tax [is withheld](#) based upon the State of legal residence claimed on DD 2058, or if no new DD 2058 is submitted, State income tax [is withheld](#) based upon the State of legal residence claimed on the member's [most recent](#) DD 2058 on file.

C. Withholding of Federal Insurance Contributions Act (FICA). The servicing DFAS-Site will not withhold FICA or any other payroll taxes from SSB and VSI payments.

230304. Recoupment of SSB/VSI

A member who has received SSB/VSI and who later qualifies for retired or retainer pay [will have the amount of SSB/VSI received](#) deducted from each payment of such retired or retainer pay. SSB [will](#) also be deducted from disability compensation under the laws administered by the VA. See Chapter 4 for detailed information on recoupment.

2304 DEBT COLLECTION

230401. General

SSB/VSI payments are subject to offset for debt collection. When a Service member is released from active duty with debts due the United States (U.S.), the amount of the debt is offset from the initial SSB/VSI entitlement. In the case of VSI, if the debt is greater than the initial payment, then the remaining debt may be collected from subsequent installments. Collections are made according to the administrative offset provisions contained in [31 U.S.C. § 3716](#). The collection of debts from SSB/VSI payments must be consistent with standard debt collection procedures and policies in Volume [16](#).

230402. Debt Collection

A. VSI Overpayment

1. Overpayment of Initial VSI Installment. For collecting VSI overpayments, the servicing DFAS-Site will pursue collection action using out-of-service debt collection procedures. If the VSI account has already been transferred to the DFAS-Cleveland Site VSI pay system, the DFAS-Cleveland Site, Department Code [JFBAAE](#), must be notified within [5](#) days with the correct payment information. If debt collection actions prove unsuccessful, the provisions of [subparagraph 230402.C.2](#) must be followed.

2. VSI Anniversary Overpayment. The DFAS-Cleveland Site will pursue a debt incurred as a result of an anniversary overpayment, as an out-of-service debt. If the debt cannot be collected through these procedures, the amount owed is offset from subsequent installment payments. This offset will include any applicable interest, administrative, and/or penalty charges.

B. SSB Overpayment. The Service member's servicing DFAS-Site will treat a debt incurred as a result of overpayment of SSB entitlement as an out-of-service debt. This DFAS-Site must pursue the overpayment according to standard debt collection procedures in Volume 16.

C. Active Duty Debts

1. Amounts due the U.S. should be offset against the initial SSB/VSI payment at the time of the member's separation. The Service member's servicing DFAS-Site will pursue any uncollectible amounts using out-of-service debt collection procedures in Volume 16.

2. The DFAS-Cleveland Site will retain debts for VSI recipients as long as collection efforts are successful. If collection efforts prove unsuccessful, the servicing DFAS-Site will forward the debt to the DFAS-Cleveland Site for administrative offset against the next VSI installment payment at the following address:

Defense Finance and Accounting Service
Attn: VSI (Department Code JFBAAE)
P.O. Box 998011
Cleveland, OH 44199-8011

Such debts should be transferred to the DFAS-Cleveland Site no later than 90 days before the next VSI installment payment using a DD 139, Pay Adjustment Authorization. The DD 139 must state that due process has been afforded the member. Once offset action has been taken, the DFAS-Cleveland Site will credit the proper military personnel appropriation and notify the appropriate DFAS-Site of the amounts collected. If the total debt cannot be liquidated from a single VSI anniversary installment, the respective DFAS-Site should resubmit the remaining debt for offset including any applicable interest, administrative, and/or penalty charges, until the total debt has been satisfied.

D. Debts from Non-Appropriated Fund Instrumentalities (NAFI). A member's annual VSI installments are available for collection of debts owed to NAFI activities.

1. The NAFI is responsible for providing notification of the existence of the debt and due process to the debtor. The initial NAFI notification to the debtor must include a demand for immediate payment in full of the debt.

2. To begin collection, the NAFI must send a DD 139 to the DFAS-Cleveland Site to the address listed in subparagraph 230402.C.2.

3. The entire amount of VSI entitlement is available for offset according to the administrative offset provisions contained in 31 U.S.C. § 3716.

E. Debts from Non-DoD Federal Agencies. DMDC will receive and certify all requests for administrative offset from non-DoD Federal Agencies. Once certified, the

DMDC will send the request, via a DD 139 or letter of transmittal, to the member's servicing DFAS-Site. This DFAS-Site will satisfy the request by administrative offset of the SSB or initial VSI payment. For VSI payments, once the account transfers to the DFAS-Cleveland Site refer any debts to the DFAS-Cleveland Site for offset against future VSI installments.

230403. Garnishments

Garnishment orders remain in effect. Garnishment cases for VSI recipients **must be transferred** to the DFAS-Cleveland Site for administration.

2305 BENEFICIARY PAYMENT

230501. Designation of Beneficiaries

A. Service members may designate beneficiaries to receive VSI installments that remain unpaid after the death of the member.

1. The VSI recipient should make designations using DD 2864. The VSI recipient may designate different percentages **for** multiple recipients **to receive**. In the event percentage elections are not made, payments **are divided** evenly among the designated beneficiaries.

2. After separation, the VSI recipient may change his/her beneficiary information by sending a **signed and dated** DD 2864 to the DFAS-Cleveland Site.

B. The DFAS-Cleveland Site will maintain beneficiary forms for all VSI accounts until the end of the VSI entitlement period, or until the person's death.

230502. Notification of Death and Beneficiary Claim

A. The DFAS-Cleveland Site requires notification of a VSI recipient's death. Proof of death, such as a civil death certificate, is required. Upon receipt of proof of death, the DFAS-Cleveland Site will close out the member account and establish the beneficiary account.

B. No specific form is required for making claim for beneficiary payments. A statement signed by the beneficiary claiming future VSI payments will be sufficient. The statement should include the beneficiary's social security number. Mail beneficiary claims to:

Defense Finance and Accounting Service
Attn: VSI
PO Box 998011
Cleveland, OH 44199-8011

230503. Beneficiary Payment

A. Death of the Member. Upon the death of the member, the DFAS-Cleveland Site will make all remaining annual installments to the member's designated beneficiaries for the remainder of the deceased VSI recipient's entitlement period. If a valid designation was not made or received, payments [will be distributed to the person highest on the following list living on the date of death \(see 10 U.S.C. § 2771\)](#):

1. Beneficiary designated by the member in writing, if the designation is received by the Military Department concerned before the member's death;

2. Surviving spouse;

3. Children and their descendants, by representation:

a. Adopted Child. An adopted child is a legal heir in every state and, therefore, is entitled to payment of unpaid pay and allowances, if otherwise proper. If others adopt the deceased member's child, the child is a beneficiary only in those states where an adopted child inherits from its natural parent.

b. Stepchild. A stepchild is not an eligible beneficiary unless adopted by the deceased retiree.

c. Illegitimate Child. An illegitimate child may not be paid unpaid pay and allowances of a deceased retiree unless that child is recognized for inheritance purposes under the laws of the jurisdiction involved.

4. Father and mother in equal parts or, if either is dead, the survivor;

5. Legal representative; or

6. Person entitled under the law of the domicile of the deceased retiree.

B. Death of the Beneficiary. Payments will be distributed to a beneficiary's estate in the event a beneficiary dies after a VSI recipient's date of death. The DFAS-Cleveland Site will make such payments according to the laws governing the beneficiary's state of legal residence.

C. Withholding Requirements

1. FITW is based upon the [IRS Form W-4P](#), Withholding Certificate for Pension or Annuity Payments, submitted by the recipient. If an IRS Form W-4P is not submitted, the DFAS-Site will calculate withholding as for a married person claiming three withholding allowances.

2. State income taxes or FICA will not be withheld from beneficiary payments.

3. The DFAS-Cleveland Site will issue an IRS Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., to each beneficiary recipient.

D. Garnishment of Beneficiary Payments. The DFAS-Cleveland Site will not honor garnishment orders against beneficiary payments.

E. Offset of Beneficiary Payments. Beneficiary payments generally are not subject to offset. For instance, VSI beneficiary payments are not offset even though the beneficiary is entitled to receive Social Security on behalf of the deceased VSI recipient. However, if a beneficiary is indebted to the government, the debt may be collected from VSI installment payments.

230504. Report of Existence

The DFAS-Cleveland Site will send a Report of Existence letter annually to each beneficiary. For additional information on Report of Existence, see Chapters 15, 37, and 46.

2306 RESERVISTS DEBT COLLECTION

230601. General

Reservists' Special Separation Pay/Reservists' VSI (RSSP/RISP) payments are subject to offset for debt collection. Any debts remaining at time of separation/retirement **are** offset from the amount of the RSSP/RISP payment. In the case of RSSP, if the debt is greater than the initial payment, the remaining debt may be collected from any subsequent installment payments. Collections are made according to the administrative offset provisions contained in 31 U.S.C. § 3716.

A. RSSP. RSSP may be paid to Reservists who have performed more than 20 years of service and are under 60 years of age, provided the members receive the approval of the Secretary concerned and meets the eligibility requirements in Volume 7A, Chapter 58.

B. RISP. Subject to the approval of the Secretary concerned and restrictions contained in Volume 7A, Chapter 58, a member of the Selected Reserve may be paid RISP. RISP may be paid to a member who is separated from service on or after March 11, 1993, and has performed 6 years or more, but less than 15 years of service prior to date of discharge from a Reserve Component or involuntary transfer from the Selected Reserve.

230602. Debt Collection

A. RSSP Overpayment

1. Overpayment of the Initial RSSP Payment. The DFAS-Cleveland Site pursues collection action against the RSSP recipient. If the RSSP account has been transferred to the DFAS-Cleveland Site RSSP pay system, that Site, Department Code JFBAAE, will be notified of the correct payment information within 5 days. If debt collection actions prove unsuccessful, follow the provisions of subparagraph 230602.C.1. If the debt cannot be satisfied through RSSP offset, the DFAS-Cleveland Site forwards the uncollectible amount to the DFAS-Indianapolis Site for collection action. The offset from retired pay includes all appropriate interest, administrative, and/or penalty charges.

2. RSSP Anniversary Overpayments. The DFAS-Cleveland Site collects RSSP anniversary overpayments as an out-of-service debt. In the event the debt cannot be collected through these procedures, the DFAS-Cleveland Site offsets it from any subsequent installment payments. This offset will include all applicable interest, administrative, and/or penalty charges.

B. RISP Overpayments. The Reserve member's servicing DFAS-Site pursues all RISP overpayments according to out-of-service debt procedures.

C. Other DoD Debts

1. RSSP Payments. The Reserve member's servicing DFAS-Site offsets debts against the initial RSSP payment.

a. If debts are established after the initial payment, the RSSP recipient's servicing DFAS-Site pursues collection using out-of-service debt collection procedures. The RSSP recipient's servicing DFAS-Site retains the debt as long as collection actions are successful.

b. If collection actions prove unsuccessful, notice of the debt is forwarded to the DFAS-Cleveland Site, Department Code JFBAAE, for administrative offset against any remaining RSSP installment payments. The DFAS Site transfers the debt to the DFAS-Cleveland Site no later than 90 days from the next RSSP installment payment using a DD 139. Once offset action has been taken, the DFAS-Cleveland Site credits the proper Military Personnel Appropriation and notifies the appropriate DFAS-Site of the amount collected.

c. If the total debt cannot be liquidated from a single RSSP anniversary installment, the appropriate DFAS-Site resubmits the remaining debt for offset until the total debt has been satisfied.

d. If the debt is not satisfied by offset from the last RSSP payment, the RSSP recipient's servicing DFAS-Site collects against the Reserve member's retired pay.

2. RISP Payments. The DFAS-Site offsets amounts due the U.S. against the RISP payment at the time of the Reserve member's separation. If debts are established after an RISP payment, the DFAS-Site pursues the debt using out-of-service debt collection procedures.

D. Debts from non-DoD Federal Agencies. The DFAS-Cleveland Site/Department Code ABA receives and certifies all requests for administrative offset from non-DoD Federal Agencies. Once certified, the DFAS-Cleveland Site/Department Code ABA sends the requests to the DMDC site for locator service. Once the debtor's DFAS-Site has been identified, the requests for offset are sent via a letter of transmittal or cartridge to the Reserve member's servicing DFAS-Site. This DFAS-Site provides the member with a courtesy notice of salary offset beginning and satisfies the request by administrative offset of the RISP or initial RSSP payment. For RSSP payments, once the account is transferred to the DFAS-Cleveland Site, advice of any debts owed to non-DoD Federal Agencies are transmitted to the DFAS-Cleveland Site, Department Code JFBAAE, for offset against any future RSSP installment payments.

E. Other RISP Offsets

1. Individuals who subsequently receive basic pay, compensation for inactive duty training, or retired or retainer pay under a purely military retirement program will have such pay or compensation reduced by 75 percent until the total amount withheld equals the RISP entitlement.

2. Service members who subsequently receive disability compensation from the VA will have such compensation deducted from the total amount of RISP. However, there is no reduction if the disability compensation is for a disability incurred or aggravated after the period for which the RISP was paid.

230603. Garnishments

Garnishment orders remain in effect. Garnishment cases for RSSP recipients will be transferred to the DFAS-Cleveland Site for administration.

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230202.A	10 U.S.C. § 1175(f)
230202.C and D	10 U.S.C. § 1175(h)

2303 – PAYMENT PROCESSING

230302.	10 U.S.C. § 1175(e)(4)
230304.	10 U.S.C. § 1175(e)(3)(A)
	10 U.S.C. §§ 1174a(g) and 1174(h)(1)
	10 U.S.C. § 1175(e)(3)
	10 U.S.C. §§ 1174(g) and 1174(h)

2305 – BENEFICIARY PAYMENT

230503.A	10 U.S.C. § 2771
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2306 – RESERVIST DEBT COLLECTION

230601.	Public Law 102-484, section 4416, October 23, 1992 Volume 7A, Chapter 58
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**VOLUME 7B, CHAPTER 24: “COMPUTATION OF WAGES SUBJECT TO
FEDERAL INCOME TAX WITHHOLDING (FITW)”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font***.

The previous version dated *August 2015* is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated chapter and format to comply with administrative instructions.	Revision
240101	Changed title from “Overview” to “Purpose” to comply with current administrative instructions.	Revision
240902	Deleted paragraph due to information not relevant to this chapter.	Deletion

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CHAPTER 24

**COMPUTATION OF WAGES SUBJECT TO FEDERAL INCOME TAX
WITHHOLDING (FITW)**

2401 GENERAL

**240101. Purpose*

The purpose of this chapter is to provide information on retired pay subject to FITW. FITW is based on payments actually or constructively paid, regardless of the date on which they are earned. Retired pay is paid constructively when it is credited to the account or set apart for a retiree so that he or she may draw on it at any time, although it is not actually reduced to possession. It must have been credited to or set apart for the retiree without any substantial limitation or restriction as to the time or manner of payment or condition under which it is to be made and brought within the retiree's control and disposition.

240102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

2402 RETIRED PAY SUBJECT TO FITW AND NOT SUBJECT TO FITW

240201. Gross Retired Pay Subject to FITW

Retired pay is income and constitutes wages subject to FITW, except as otherwise indicated in this chapter.

240202. Gross Retired Pay Not Subject to FITW

The gross retired pay of a member is not subject to FITW if the member's retired pay is computed only on the basis of percentage of disability, and the member is on the temporary or permanent disability retired lists, if:

A. On or before September 24, 1975, the member was entitled to receive retired pay computed on the basis of percentage of disability Title 26, United States Code (U.S.C.), *sections 104(a)(4) and 104(b)(2)(A)*;

B. On September 24, 1975, he or she was a member of the Armed Forces (or Reserve Component thereof) or under a binding written commitment to become such a member (26 U.S.C. § 104(a)(4) and § 104(b)(2)(B)); or

C. The member receives disability retired pay because of a combat-related injury. The term "combat-related injury" means personal injury or sickness incurred as a direct result of armed conflict, or while engaged in extra hazardous service, or under conditions simulating war,

or caused by an instrument of war. This determination is made by the applicable Service at the time of discharge. See [Department of Defense Instruction \(DoDI\) 1332.18](#).

2403 EFFECT OF DISABILITY COMPENSATION AWARD ON FITW

A member is entitled to exclude the disability compensation, additional amount, and retroactive disability compensation from the taxable portion of retired pay.

240301. Disability Compensation

Disability compensation is the maximum amount that a member would be entitled to receive upon application to the Department of Veterans Affairs (VA).

240302. Additional Amount

An additional amount is the difference between a prospective VA disability compensation award and the amount excluded under section 2402.

240303. Retroactive Disability Compensation

The retroactive disability compensation is the amount of a VA disability compensation award not previously excluded from retired pay.

2404 GROSS PAY PARTIALLY TAXABLE

For members who are entitled to have their retired pay computed based on both percentage of disability and years of service, a portion of their retired pay may be subject to FITW. Any reduction of wages subject to FITW for disability retired pay must meet one of the conditions set forth in paragraph 240202.

240401. Post September 30, 1949

Compute the wages subject to FITW for members retired for disability on or after October 1, 1949, as follows:

A. If the member is placed on the Permanent Disability Retired List, subtract retired pay based on the percentage of disability from retired pay based on the years of service. The result of such subtraction is the amount of wages subject to FITW.

B. If the member is placed on the Temporary Disability Retired List, use one of these methods:

1. If the member's disability rating is 50 percent or more, compute as in subparagraph 240401.A.

2. If the member's disability rating is less than 50 percent and retired pay is computed based on years of service, subtract the amount of retired pay the member would have received if such pay were computed solely on the actual percentage of disability from the pay based on years of service, the result of the subtraction is the amount of wages subject to FITW.

3. If the member's disability rating is less than 50 percent and the member elects to receive disability retired pay based on the percentage of disability, the retired pay received is not subject to FITW.

240402. Before October 1, 1949

The wages subject to FITW for members who retired before October 1, 1949, fell into two categories. Such retired pay was either based on years of service and was fully taxable or it was based on disability and was nontaxable. Members retired for physical disability before October 1, 1949, were assigned a disability rating for purposes of computing retired pay entitlement under the provisions of the Career Compensation Act. These members could either continue to receive the nontaxable retired pay they were receiving on September 30, 1949, or elect to receive retired pay computed under the provisions of the Career Compensation Act based on the percentage of disability assigned or years of active service. If members chose to have their pay computed based on the Career Compensation Act, their wages subject to FITW were computed as described in paragraph 240202 or subparagraph 240401.A.

2405 FITW WAGE REDUCTIONS FROM DEDUCTIONS AND COLLECTIONS

Deductions and collections that reduce the amount of wages subject to FITW include participation in Retired Serviceman's Family Protection Plan (RSFPP), participation in Survivor Benefit Plan (SBP), and VA Disability Compensation.

240501. Participation in Retired Serviceman's Family Protection Plan (RSFPP)

The amount of the member's retired pay subject to FITW is reduced by the full amount of the RSFPP costs deducted from the member's retired pay in order to participate in the RSFPP. This deduction did not reduce taxable income until the tax laws were changed to permit a dollar-for-dollar reduction effective January 1, 1966. The tax implication for a member who pays for this protection by direct remittance is discussed in section 2409.

240502. Participation in Survivor Benefit Plan (SBP)

The amount of the member's retired pay subject to FITW is reduced by the full amount of the SBP costs deducted from the member's retired pay in order to participate in the SBP. The tax implication for a member who pays for this protection by direct remittance is discussed in section 2409.

240503. Veterans Affairs (VA) Disability Compensation

There is a waiver of military retired pay when a member receives disability compensation

or a pension from the VA.

Note: If a member is entitled to concurrent retirement and disability pay on or after January 1, 2014, the waiver provision does not apply.

A. If the member's gross retired pay is fully subject to FITW, subtract the amount of the VA waiver applied to wages. The VA waiver reduces the member's retired pay entitlement.

B. In the case of a member retired because of physical disability, reduce wages subject to FITW, if any, by the amount of the VA waiver applied or the portion of the member's retired pay based on the actual percentage of disability, whichever is greater.

2406 U.S. CITIZENS ABROAD

The retired pay of members who temporarily or permanently reside in a foreign country is subject to FITW as if they resided in the United States or its possessions. Thus, apply the withholding rules in section 2402.

2407 ARREARS OF PAY

See Chapter 30 for taxation policies that apply to deceased members and their beneficiaries.

2408 COLLECTION OF DELINQUENT TAXES

240801. Voluntary Withholding

A retiree may, with the consent of the Internal Revenue Service (IRS), have deductions made from his or her retired pay to satisfy a debt due to tax delinquency. The class T allotment has been designated to allow a member to make payments to [the](#) IRS in this manner.

240802. Involuntary Withholding

If a retiree neglects or refuses to pay his or her Federal income tax liability within 10 days after receiving notice of liability, the cognizant IRS District Director can collect the amount by placing a levy on the member's retired pay. The IRS is required to give the member 10 days' notice that a levy will be executed. This notice normally is included with the notification of liability. See Chapter 28.

2409 TAXABILITY OF SBP/RSFPP PREMIUMS

Premiums deducted from retired pay for SBP/RSFPP will reduce taxable retired pay.

2410 PROCESSING CORRECTION OF RECORDS CASES

If payment is made as the result of a correction of military records, that payment is processed as follows:

241001. Amounts Previously Paid and Reported

When amounts previously paid and reported as FITW wages are not subject to FITW as a result of the correction, the member is provided either a corrected IRS Form 1099-R, Distributions From Pension, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., for the 3 calendar years before the year that the correction action is made or a letter citing the “before” and “after” amounts for each calendar year involved. The member may obtain a tax refund, if any is due, from the IRS based on his or her total tax liability for 3 years. In accordance with 52 Comp. Gen. 420 (1973), a claim for the refund of income taxes paid in years prior to the 3-year period may be treated as a claim for pecuniary benefits under [10 U.S.C. § 1552](#) and paid pursuant to the record correction.

241002. Retired Pay Subject to FITW

When the member’s retired pay is subject to FITW, the payment is reported as FITW wages from applicable current year appropriations reserved for such payment.

2411 TAXABILITY AND WITHHOLDING OF DISABILITY SEVERANCE PAY

See Volume 7A, Chapter 35.

2412 TAXABILITY OF RETIRED PAY FOR FLEET RESERVIST/FLEET MARINE CORPS RESERVIST NOT PHYSICALLY QUALIFIED FOR RETENTION IN THE FLEET RESERVE/FLEET MARINE CORPS RESERVE (FR/FMCR)

The retired pay of a member of the FR/FMCR who is transferred to the retired list, when found not physically qualified for retention in the FR/FMCR (as stated in Chapter 2, [subparagraph 020101.B](#)), is subject to FITW.

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**CHAPTER 24 - COMPUTATION OF WAGES SUBJECT TO FEDERAL INCOME TAX
WITHHOLDING (FITW)**

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VOLUME 7B, CHAPTER 25: “COMPUTATION OF FEDERAL INCOME TAX WITHHOLDING (FITW)”

SUMMARY OF MAJOR CHANGES

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated chapter and format to comply with administrative instructions.	Revision
250101	Deleted the “Overview” paragraph; however, moved text to paragraphs 250201 and 250203.	Deletion
250101	Added a “Purpose” paragraph to comply with current administrative instructions.	Addition
250201	Modified with text from former subparagraph 250101.A.	Revision
250203	Modified with text from former subparagraph 250101.B.	Revision
250204.C.3	Changed address from “P.O. Box 7130, London, KY 40742-7130” to “8899 E. 56 th Street, Indianapolis, IN 46249-1200.”	Revision
Bibliography	Bibliography updated.	Revision

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CHAPTER 25

COMPUTATION OF FEDERAL INCOME TAX WITHHOLDING (FITW)

2501 GENERAL

[*250101. Purpose](#)

[This chapter provides information pertaining to pay that is subject to FITW and how to compute the amount of FITW to withhold.](#)

250102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

2502 RATES FOR REGULAR AND ADDITIONAL WITHHOLDING OF FEDERAL INCOME TAX

[*250201. FITW](#)

Federal income tax will be withheld in accordance with the Department of the Treasury, Internal Revenue Service, [Publication 15 \(Circular E\) Employer's Tax Guide](#). Taxable pay, as computed under provisions of Chapter 24, is subject to FITW.

250202. Request Additional FITW

Consistent with the member's tax liability and tax planning, a member may authorize an additional monthly amount of Federal income tax to be withheld.

[*250203. FITW for an Annuitant](#)

[The gross monthly amount of the annuity, or the monthly amount of the Survivor Benefit Plan annuity remaining after it has been reduced by a Dependency and Indemnity Compensation award and/or Social Security offset, is taxable income and is subject to FITW unless the annuitant elects no withholding. See Chapter 37 and Chapter 46.](#)

[*250204. Nonresident Alien](#)

A. Service Outside the United States. Members who are nonresident aliens are not liable for U.S. income tax on income received for service outside the United States, and such income is not subject to FITW. Service by a nonresident alien member assigned to a base outside the United States, or to a U.S. vessel (other than vessels normally used in coastal waters only) on which the enlisted members are entitled to sea duty pay, is considered service outside the United States.

B. Service Within the United States. For purposes of this paragraph, the [United States](#) includes the 50 states and the District of Columbia. Service onboard a coast-wide vessel is regarded as service within the [United States](#). Duty on the Great Lakes, the Mississippi River, and other inland waters of the [United States](#), or while serving on a vessel normally operating within the territorial limit of the [United States](#), is considered service within the United States. Gross pay for this service is subject to FITW.

C. FITW Computation.

1. Step 1. Compute the member's FITW wages from gross retired pay as if he or she is a U.S. citizen.

2. Step 2. Determine the ratio of the number of days of active duty inside the United States to the total number of days of active duty.

* 3. Step 3. Multiply FITW wages determined under Step 1 by the ratio determined under Step 2. The resulting amount is subject to FITW at the rate of 30 percent, without being reduced by withholding allowances of personal exemptions, unless the member is a citizen of a country that has a tax treaty with the [United States](#). Use the withholding rate specified in the treaty if the member files [Form W-8BEN](#), "Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)," with the Defense Finance and Accounting Service, U.S. Military Retirement Pay, 8899 E. 56th Street, Indianapolis, IN 46249-1200 and the Director of International Operations, Internal Revenue Service, Washington, DC 20225. Note that when the member files an income tax return, the Internal Revenue Service will refund any excess tax withheld. A member in this status is responsible for reporting the income to the country of the member's citizenship and paying any tax owed on this income.

2503 RATES OF FITW FOR ONE-TIME PAYMENTS

Special computation rules have been developed by the Internal Revenue Service for the computation of FITW for one-time payments. These rules differentiate whether the taxable portion of a one-time payment must be lumped together with normal taxable pay or treated separately. The rules are differentiated by whether the taxable portion of the one-time payment is made concurrently with a regular payment, or made separately from the regular monthly payment.

250301. One-Time Payments Made Concurrently With a Regular Monthly Payment

When a one-time payment is combined with the regular monthly payment, FITW may be computed at 25 percent on the one-time payment portion if it is separately identified and if tax is withheld on the monthly payment of retired pay at the appropriate rate. See Revenue Ruling 82-200 and Department of the Treasury, Internal Revenue Service, Publication 15 (Circular E) Employer's Tax Guide.

250302. One-Time Payment Made Separately From a Regular Monthly Payment

There are two computation rules available. The difference between the rules is not the type of payment, but whether Federal income tax previously was withheld from the member's regular monthly payment of retired pay.

A. When Federal income tax was not withheld because the member's exemptions exceeded the taxable portion of retired or retainer pay, the one-time payment must be combined with the wages paid for the last pay period (in the same calendar year) or with the wages paid for the current pay period. The amount of withholding is then computed as if this was a single payment.

B. When Federal income tax has been withheld, there are two alternatives:

1. Combine the taxable portion of the payments, as in subparagraph 250302.A, and compute the aggregate withholding amount. Then subtract the amount of Federal income tax previously withheld or the amount scheduled to be withheld for the current period. The excess amount then would be deducted from the one-time payment; or

2. Withhold a flat 25 percent of the taxable portion of the one-time payment without regard to the withholding exemptions claimed. This option cannot be used when the regular monthly payment does not have a FITW. (See Revenue Ruling 66-190, 1966-2 CB 457.)

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**CHAPTER 25 – COMPUTATION OF FEDERAL INCOME TAX WITHHOLDING
(FITW)**

2502 – RATES FOR REGULAR AND ADDITIONAL WITHHOLDING OF FEDERAL
INCOME TAX

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	250204.A	Revenue Ruling 70-227, 1970-1 CB 155
*	250204.B	Title 26, United States Code, section 7701(a)(9) Title 26, Code of Federal Regulations (CFR), section 1.861-4 Revenue Ruling 70-227, 1970-1 CB 155
	250204.C.3	26 CFR 1.861-4

2503 – RATES OF FITW FOR ONE-TIME PAYMENTS

	250301	Department of the Treasury, Internal Revenue Service Publication 15 (Circular E) Employer's Tax Guide
*		26 CFR 31.3402(g)- 1 Revenue Ruling 82-200
*	250302	26 CFR 31.3402(g)- 1 Revenue Ruling 66-190, 1966-2 CB 457

VOLUME 7B, CHAPTER 26: “STATE TAXES”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and reformatting to comply with current administrative instructions.	Revision

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CHAPTER 26**STATE TAXES****2601 GENERAL****260101. Purpose**

The state taxing authority of a member's residence(s) may tax the member's retired or retainer pay. The designated state must have a signed standard written agreement with the Department of Defense for the voluntary withholding of state income tax. This agreement will provide the Secretary concerned the authority to withhold state income tax from the member's monthly retired or retainer pay.

260102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

2602 WITHHOLDING**260201. State Income Tax Withholding (SITW)**

A retiree may request voluntary SITW to be withheld from their retired or retainer pay. The request must include the member's full name, signature, Social Security number, the fixed amount withheld monthly from retired pay, the state designated to receive the withholding, and the member's current residence address. The retiree may submit the request via letter, email, or fax to the address in section 2604 or submit the request through the member's myPay account. If using myPay, the member's signature is not required. In the case of incompetence, the member's guardian or trustee must sign the request.

260202. Amount

The withholding amount requested must be in a whole dollar amount and at least \$10, or the state's minimum, if that amount is higher.

2603 PAYMENTS AND REPORTS**260301. Amounts Withheld**

Defense Finance and Accounting Service (DFAS) will disburse amounts withheld to the states in the month following the month of collection. Payment procedures and state income tax withholdings will follow the usual fiscal practices of the Uniformed Services.

260302. Internal Revenue Service (IRS) Form 1099-R

DFAS will provide each retiree an IRS Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., that indicates the total tax withheld for each state, following each calendar year end.

2604 UNIFORMED SERVICES' RETIRED PAY OFFICE ADDRESSES

260401. U.S. Military

The address and web sites for the U.S. Military Retired Pay office follows:

Army, Navy, Air Force, and Marine Corps
Defense Finance and Accounting Service
U.S. Military Retired Pay
P.O. Box 7130
London, Kentucky 40742-7130

Phone: (800) 321-1080

Fax: (800) 469-6559

Web site for general tax information:

<http://www.dfas.mil/retiredmilitary/manage/taxes.html>

Web site for state withholding tax:

<http://www.dfas.mil/retiredmilitary/manage/taxes/sitw.html>

260402. United States Coast Guard (USCG), National Oceanic Atmospheric Administration (NOAA), and Public Health Service (PHS)

Submit change requests (mail, email, telephone, or fax) for retired members of the USCG, NOAA, and PHS to:

Commanding Officer (RAS)
U.S. Coast Guard Pay & Personnel Center
444 S.E. Quincy Street
Topeka, Kansas 66683-3591

Email: PPC-DG-RAS@uscg.mil
Phone: (800) PPC-USCG or (800) 772-8724
Commercial: (785) 339-3415
Fax: (785) 339-3770

USCG web site: <http://www.uscg.mil/hq/cg1/psc/ras>

PHS web site: <http://dcp.psc.gov/ccmis>

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CHAPTER 26 - STATE TAXES

2601 - GENERAL

Title 10, United States Code (U.S.C.), section 1045

2602 - WITHHOLDING

10 U.S.C. § 1045

2603 - PAYMENTS AND REPORTS

260301 Public Law 109-163, section 661, January 6, 2006
10 U.S.C. § 1045(a)

VOLUME 7B, CHAPTER 27: “GARNISHMENTS”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue, and underlined font***.

The previous version dated *February 2015* is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
270102	Added “Authoritative Guidance” paragraph and revised chapter content to comply with current administrative instructions.	Addition
2703	Updated fax number to the Defense Finance and Accounting Service, Director of Garnishment Operations.	Revision
Bibliography	Updated paragraph 270404 of the Bibliography with current statutes and references.	Revision

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Chapter 27

GARNISHMENTS

2701 GENERAL

270101. Purpose

The purpose of this chapter is to provide information unique to the collection of child support and/or alimony from military retired pay. The provisions of Title 42, United States Code, section 659 ([42 U.S.C. § 659](#)) and Title 5, Code of Federal Regulations, part 581 ([5 CFR 581](#)) take precedence when in conflict with this chapter.

A. Pursuant to 42 U.S.C. § 659(h)(1)(A) and 5 CFR 581.103, remuneration for employment includes retired and retainer pay, including disability retired pay. These entitlements are hereafter referred to as “retired pay.”

B. The processing of garnishment orders for child support and/or alimony from the pay of individuals receiving remuneration for employment from the United States is governed by 42 U.S.C. § 659 and 5 CFR 581.

*270102. [Authoritative Guidance](#)

[The bibliography at the end of this chapter lists the authoritative references.](#)

2702 DEFINITIONS

270201. Alimony

Alimony is defined as periodic payments of funds for the support and maintenance of a spouse or former spouse. Subject to and in accordance with state law, alimony includes separate maintenance, alimony pending legal process, maintenance, and spousal support. It also includes attorney fees, interest, and court costs when, and to the extent that they are, expressly made recoverable as such by a decree, order, or judgment issued in accordance with applicable state law by a court of competent jurisdiction. Alimony, as used in Chapters 27 and 29, excludes payments or transfers of property made in compliance with any community property settlement, equitable distribution of property, or other division of property between the spouse(s) or former spouse(s).

270202. Child Support

Child support is defined as periodic payments of funds for the support and maintenance of a child or children. Subject to and in accordance with state law, child support includes (but is not limited to) payments to provide for health care, education, recreation, clothing, or other specific needs. It also includes related attorney fees, interest, court costs, and other relief.

270203. Disposable Earnings

Disposable earnings is defined as an individual's gross retired pay less deductions for the following items:

A. Amounts withheld in payment of debts owed to the United States, except that an indebtedness based on a levy for income tax under 26 U.S.C. § 6331 will not be excluded in complying with legal process for the support of minor children if the legal process was entered prior to the date of the levy;

B. Deductions required by law (e.g., Survivor Benefit Plan and Retired Serviceman's Family Protection Plan cost deductions and deductions for Department of Veterans Affairs waivers); and

C. Regular Federal income tax withholding (FITW) and state income tax withholding, if required or authorized by law and amounts withheld are not greater than would be the case if the individual claimed all dependents to which he/she were entitled. A deduction for additional FITW is authorized when the individual presents evidence of a tax obligation, which supports the additional withholding.

270204. Legal Process

Legal process is defined as any writ, order, summons, or other similar process in the nature of garnishment. Legal process may be issued by:

A. A court of competent jurisdiction within any state, territory, or possession of the United States;

B. A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that obligates the United States to honor such process; or

C. An authorized official according to an order of such a court of competent jurisdiction or pursuant to state or local law.

*2703 DESIGNATED AGENT

The Defense Finance and Accounting Service (DFAS), Director of Garnishment Operations, or his or her representative, is responsible for receiving and implementing all legal process concerning retired members. Legal process may be served by regular mail or by fax to:

Director, Garnishment Operations
DFAS Cleveland
P.O. Box 998002
Cleveland, OH 44199-8002
Fax: 216-367-3675; Toll-Free Fax: 877-622-5930

Any legal process served on Department of Defense (DoD) entities other than the designated agent, for the purpose of enforcing payment of child support and/or alimony, **will** be forwarded to the designated agent for processing. For additional information or assistance call:

Garnishment Operations Customer Service
Toll-Free: 888-DFAS411 (888-332-7411)

2704 IMPLEMENTING LEGAL PROCESS

270401. Legal Review

Once legal process has been served on the designated agent, the designated agent **will** review the legal process to determine that it is regular on its face, appears to conform to the laws of the jurisdiction from which it was issued, was issued to enforce a member's legal obligation to provide child support and/or alimony, and contains sufficient information to accurately identify the member.

270402. Written Notification

The designated agent **will** notify the member within 15 days after valid service of legal process. The written notification **will** explain the potential effect of the legal process on the member's pay, including allotments, and advise the member that the member has the burden of raising any available defenses, such as violation of the member's rights under the Servicemembers Civil Relief Act or lack of personal jurisdiction over the member, in the appropriate court. A copy of the legal process **will** be included with the written notice. The notice **will** be sent to the member's address of record in the retired pay system. Where the designated agent has the capability to make notification through electronic means such as email, the notice will be made using those electronic means.

270403. Response

Within 30 days of effective service, or such longer period as may be allowed by applicable state law, the designated agent **will**:

A. Determine the amount of the member's disposable earnings, as defined in paragraph 270203;

B. Where required, file an answer to the legal process with the court in which the proceeding was brought and answer any interrogatories regarding the disposable earnings due the member (the designated agent may use its standard answer form for this purpose); **and**

C. Establish deductions from the member's disposable earnings in an amount sufficient to satisfy legal process. In accordance with 5 CFR 581.305(f), governmental agencies, including DoD agencies, are not required to vary their pay or disbursing cycles to comply with **the** legal process.

270404. Maximum Amount of Pay Subject to Garnishment

A. Unless a lower maximum garnishment limitation is provided by applicable state or local law, the maximum part of disposable earnings for any pay period which is subject to legal process **will** not exceed:

1. Fifty percent of disposable earnings if the member concerned asserts by affidavit or other acceptable evidence that he or she is providing over half of the support for a spouse or dependent child (other than a spouse or dependent child with respect to whose support the legal process is issued);

2. Sixty percent if the member concerned is not supporting a spouse or dependent child as stated in subparagraph 270404.A.1; or

B. If it appears from the face of the legal process that the member is in arrears for a period **that** is 12 weeks prior to the beginning of that pay period, the maximum percentage under subparagraph 270404.A.1 is 55 percent and under subparagraph 270404.A.2 is 65 percent.

270405. Allotments to be Discontinued

If the member does not have enough net pay available to comply with **the** legal process, then one or more of the member's allotments **will** be stopped in accordance with the order of precedence for items 1 through 14 in Figure 19-1 of Chapter 19.

270406. Priority of Legal Obligation

If the designated official is served with legal process concerning more than one legal obligation owed by the same member, then the legal obligations **will** be satisfied from the available funds in the following order of priority:

A. Legal process to enforce current support **will** have priority over legal process to enforce support arrearages;

B. Legal process to enforce current child support **will** have priority over legal process to enforce current alimony; **and**

C. If the legal process is to enforce more than one child support obligation, and there are not enough funds available to fully satisfy all legal process served, then the available funds **will** be allocated among the obligations in proportion to the amounts of current child support due. Alimony obligations **will** be satisfied on a first-come, first-served basis.

2705 APPEALS

Where notice is received that the member has appealed either the legal process or the underlying alimony and/or child support order, payment of money subject to the legal process

will be suspended, i.e., money **will** continue to be withheld, but these amounts **will** be retained until the Government is ordered by the court, or other authority, to resume payments or otherwise disburse the suspended amounts. However, no suspension action will be taken where the applicable law of the jurisdiction wherein the appeal is filed requires compliance with the legal process while an appeal is pending.

2706 GARNISHMENT OF RENOUNCED RETIRED PAY

270601. Retired Pay Subject to Garnishment

Legal process, as defined in paragraph 270204, must be honored even though the member has renounced receipt of retired pay. The member's refusal to receive retired pay does not permit the Government to deny satisfying a writ, order, summons, or other similar process in the nature of a garnishment. The entitlement to retired pay, even if renounced, continues to be treated as an amount "due from or payable by" the United States, which accrues to a member's retired pay account and is subject to garnishment.

270602. Waiver of Retired Pay

The right to accrue retired pay may not be waived, except as authorized by law. See Chapter 12 concerning the waiver of retired pay.

2707 INDEMNIFICATION

270701. Liability for Payment

Neither the DoD, nor any disbursing officer or employee, **will** be liable for any payment made from money due from, or payable by, the DoD to any individual pursuant to **the** legal process, if such payment is made in compliance with 42 U.S.C. § 659, 5 CFR 581, and this chapter.

270702. Disciplinary Action, Civil or Criminal Liability, or Penalty for Disclosure of Information

DoD employees, whose duties include responding to relevant interrogatories, **will** not be subject to any disciplinary action, civil or criminal liability, or penalty for any disclosure of information made in connection with answering such interrogatories.

270703. Liability for Failure to Comply with Legal Process

Neither the DoD, nor any disbursing officer or employee, **will** be liable to pay **monetary** damages for failure to comply with legal process.

*BIBLIOGRAPHY

CHAPTER 27 – GARNISHMENTS

2701 GENERAL

5 CFR 581
42 U.S.C. § 659

2702 DEFINITIONS

270203 26 U.S.C. § 6331

2704 IMPLEMENTING LEGAL PROCESS

270403.C 5 CFR 581.305(f)
270404 15 U.S.C. § 1673(b)
42 U.S.C. § 659(h)
42 U.S.C. § 666(b)

2706 GARNISHMENT OF RENOUNCED RETIRED PAY

Manuscripts Comptroller General B-196839,
April 24, 1980

2707 INDEMNIFICATION

270701 5 CFR 581
42 U.S.C. § 659

**VOLUME 7B, CHAPTER 28: “COLLECTION OF DELINQUENT FEDERAL TAXES
BY LEVY”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an * symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **February 2013** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Chapter is formatted to comply with current administrative instructions.	Revision
All	Information in Chapter 28 titled “Collection of Debts” is moved to Volume 16, with the exception of the collection of delinquent federal taxes.	Revision
Title	Chapter 28 is re-titled to “Collection of Delinquent Federal Taxes”.	Revision
280201.A	Rephrased subparagraph to state, “As soon as you receive the levy... instead of “Within 3 working days from the date of receipt of the levy...” to conform with instructions on Form 668-W(c).	Revision

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CHAPTER 28

COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY

2801 GENERAL

When a member does not pay any Federal income taxes due within 30 days after the Internal Revenue Service (IRS) has issued a notice and demand for payment to the member, the IRS may collect the tax by levy on the member's salary or other income, including retired or retainer pay. IRS tax levies are requests on IRS Form 668-W, Notice of Levy on Wages, Salary, and Other Income, for a continuous levy from a member's retired pay to collect taxes owed. The effect of a levy on wages, salary, or other income payable to or received by the member shall be continuous from the date such levy is first made until such levy is released by the IRS on Form 668-D, Release of Levy. Medal of Honor recipients are exempt from tax levy.

2802 COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY

*280201. Procedures

The IRS will transmit IRS Form 668-W or 668-W(c), in five parts (the letter "c" designates a computer-generated form which is the same as the version of the form without the "c"). The IRS Form 668-W will identify the member, specify the amount of the tax liability, give instructions for providing due process, show how to compute the levy based on input from the taxpayer, and give the payment address. The General Processing Department (hereinafter, "Department") within the Defense Finance and Accounting Service (DFAS) Retired and Annuitant Pay Directorate must follow the instructions on the IRS Form 668-W. In general, the Department must notify the taxpayer, compute the amounts available for payment to the IRS, and make the payment. Currently, the IRS Form 668-W requires the employer to send to the IRS all of the taxpayer's net pay less what is exempt from levy. Net pay is gross retired pay less all deductions and allotments in effect as of the date of receipt of IRS Form 668-W. The Department must follow the instructions on that form when computing exemptions. Pursuant to the instructions, the Department must take the following actions:

* A. As soon as the Department receives the levy, it must notify the taxpayer by using a formal letter and enclosing the member's copies of the IRS Form 668-W. See Figure 28-1 for an example of the formal letter.

B. If the date of receipt of the levy is between the 1st and the 15th day of the month, the Department must advise the member that the deduction from retired pay will be on the first business day of the second month after the current month. If the date of receipt of the levy is between the 16th and the last day of the month, then the Department must advise the member that the deduction will be on the first business day of the third month after current month. Thus, for example, if DFAS receives the levy on November 11, 2014, the deduction will be made from the retired pay check issued January 1, 2015. If the receipt of the levy is November 28, 2014, then the deduction will be on February 1, 2015.

C. The Department must notify affected former spouses with divorce dates prior to February 3, 1991 (division of property settlement cases only) that future payments will be reduced to reflect an adjustment to the member's disposable retired pay. The Department may not disclose the reason for the adjustment.

D. Even if the member's declaration of exemption is not timely, it should be honored if received prior to the last date for making changes to the member's retired pay account.

280202. Problem Cases

When the IRS has determined the taxpayer's case is a "problem case," the taxpayer will be furnished with the IRS Form 668-W, a statement of the amount of delinquent taxes and a statement that "net pay" is not enough to pay the levy and that all available accrued pay should be sent to the IRS. Available accrued pay is gross retired pay less:

- A. Withholding for current Federal taxes (statutory amounts only);
- B. Amounts required to satisfy prior overpayments of pay;
- C. Amounts waived in favor of compensation from the VA;
- D. United States Government Life Insurance/National Service Life Insurance premiums;
- E. Deductions for Retired Serviceman's Family Protection Plan and/or Survivor Benefit Plan costs;
- G. Voluntary child-support allotments to satisfy court orders, provided the court order is dated prior to the date of the levy from the IRS;
- H. Pay attached or garnished for child support or alimony; and
- I. The levy exemptions calculated under normal levy procedures.

NOTE: The main difference between a regular levy and a problem case levy is that, under the latter, the Department must stop the member's voluntary allotments of retired pay to satisfy the levy. If it is not necessary to stop all allotments, the Department should request the member elect which allotments to stop. If the member does not respond to the request, the Department must stop such allotments as are necessary, stopping any commercial insurance allotments last.

Figure 28-1. Example of Notification Letter for IRS Notice of Levy

<p style="text-align: center;">Defense Finance and Accounting Service Retired and Annuitant Pay</p> <p style="text-align: right;">December 1, 20XX</p> <p>CMSGT John Doe, U.S. Air Force (Retired) 1240 East 97th Street Cleveland, OH 44199-2055</p> <p>Dear Chief Doe,</p> <p>The IRS has sent us the attached IRS Form 668-W, (Notice of Levy on Wages, Salary, and Other Income). Please read the IRS Form 668-W carefully, as it may be advisable to discuss it with your attorney or other tax adviser.</p> <p>Complete the attached form and return it to us within 3 working days to claim your partial exemption. If we do not receive the completed form, we will compute your exemption for you, using the exemption for a married person filing separately with one personal exemption. Please note that the exemptions you claimed for tax withholding purposes are NOT the same and we will not use them to compute your exemption from levy.</p> <p>This is a continuous levy against your retired pay to collect delinquent federal taxes. We will deduct the levy from your (month/year) retired pay. We will make a specified collection from your retired pay and continue the collection until the levy has been satisfied. This levy remains in force and effect until the IRS serves our office with IRS Form 668-D, (Release of Levy).</p> <p>If you have been awarded the Medal of Honor, you are exempt from levy. Send us a copy of the citation awarding you the Medal of Honor to prevent the levy of your retired pay.</p> <p>Please contact the IRS office that issued the levy for questions that you may have concerning the levy.</p> <p style="text-align: right;">Sincerely,</p> <p style="text-align: right;">Military Pay Technician Retired and Annuitant Pay</p> <p>Attachment: As stated</p>

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CHAPTER 28 – COLLECTION OF DEBTS

2802 – COLLECTION OF DELINQUENT FEDERAL TAXES BY LEVY

26 U.S.C. 6321(a)

26 U.S.C. 6331, 6334

280201

[Internal Revenue Manual – 5.11.2.1, April 15, 2014](#)

VOLUME 7B, CHAPTER 29: “FORMER SPOUSE PAYMENTS FROM RETIRED PAY”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks, renumbered, and formatted chapter to comply with current administrative instructions.	Revision
All	Updated to comply with the National Defense Authorization Act (NDAA) Fiscal Year (FY) 2017 change to Title 10, United States Code, section 1408.	Revision
290204	Added to the definition of court order to incorporate NDAA FY 2017 changes.	Addition
290405.B.	Added an example.	Addition
290607.A.	Clarified information on formula awards.	Addition
2908	Revised section and paragraph titles and content to cover Disposable Retired Pay under NDAA FY 2017. Renumbered subsequent sections.	Revision
Figure 29-2	Added Figure 29-2 with sample court order language to meet NDAA FY 2017 changes.	Addition
Bibliography	Added reference to NDAA FY 2017.	Addition

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CHAPTER 29

FORMER SPOUSE PAYMENTS FROM RETIRED PAY

2901 GENERAL

290101. Purpose

This chapter explains how a former spouse can apply for payments from a military member's military retired pay and how the former spouse's payments will be administered.

290102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

2902 DEFINITIONS

290201. Alimony

Alimony is a legal obligation where a member is ordered to pay an amount for the support and maintenance of a spouse or former spouse. This definition includes attorney's fees, interest, and court costs. Alimony does not include child support, property settlement, equitable distribution of property, or any other division of property.

290202. Child Support

Child support is a legal obligation where a member is ordered to pay an amount for the support and maintenance of a child. This definition includes costs for health care, arrearages, attorney's fees, interest, penalties, and other related relief.

290203. Court

Court means any court of competent jurisdiction of any state (in the United States), the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and any court of the United States, as defined in [Title 28, United States Code \(U.S.C.\), section 451](#). Court also includes a court of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

*290204. Court Order

Court order means a final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a property settlement incorporated into such an order. Court order also includes orders issued incident to a divorce, such as an order dividing military retired pay or a qualified domestic relations order (QDRO) that divides military retired pay. NOTE: A QDRO is not required but will be accepted. A court order also includes a support order as defined in section

453 of the Social Security Act and [42 U.S.C. § 653\(p\)](#). A court order issued after the passage of the National Defense Authorization Act (NDAA), Fiscal Year (FY) 2017, dated December 23, 2016, for purposes of determining the member's disposal income, means the decree of divorce, dissolution, annulment, or legal separation.

290205. Creditable Service

Creditable service means years and full months of military service creditable for the purpose of computing a member's retired pay entitlement [if the member is on active duty or the Reserve retirement points creditable if the member is a Reserve component member](#). See 10 U.S.C. § [1405](#) and [12733](#), Chapter 1, and Chapter 3.

290206. Designated Agent

Designated agent is the agent authorized to review applications for direct payments made. See paragraph 290403 for specific designations.

290207. Disposable Retired Pay

Disposable retired pay is defined in paragraphs 290701 [and 290802](#).

290208. Entitlement

Entitlement is the legal right of a military member to receive military retired pay. The term refers to members who actually receive retired pay rather than those who qualify by completing the required years of service.

290209. Final Decree

A final decree is an order from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

290210. Former Spouse

Former spouse is the former husband or wife, or if the parties are legally separated, the current husband or wife, of a military member.

290211. Formula Award

A formula award computes a former spouse's property interest in a military member's retired pay based on the relationship of the length of the parties' marriage during the member's creditable service (numerator) to the member's total service that is creditable toward retirement (denominator). A formula award is stated as a marital fraction in which the numerator and denominator are multiplied by a given percentage.

A. For members qualifying for an active duty (i.e., regular service) retirement, the numerator is typically the number of months the parties were married while the member was performing creditable military service and the denominator is the number of months of the member's total creditable military service. The former spouse's award is usually calculated by multiplying the marital fraction by one half or 50 percent, or any other given percentage amount.

B. For members qualifying for a Reserve (i.e., non-regular service) retirement, the numerator is typically the number of Reserve retirement points earned during the parties' marriage, and the denominator is the member's total number of Reserve retirement points. The former spouse's award is usually then calculated by multiplying the marital fraction by one half or 50 percent, or any other given percentage amount.

290212. Garnishment Order

A garnishment order is an order directing an employer to issue payments from a member's pay to satisfy a legal obligation for child support, alimony, or division of property other than a division of military retired pay.

290213. Hypothetical Retired Pay Award

Hypothetical retired pay award is an award based on a percentage of retired pay that is calculated using variables provided in a court order that are different from the member's actual retirement variables. The retired pay calculated using the court ordered variables is called the member's hypothetical retired pay. A hypothetical award typically attempts to define the property interest in the retired pay as if the member had retired at the time the court divided the member's military retired pay based upon the member's rank, or high-3 amount, and years of service accrued to that point in time. Thus, the former spouse does not benefit from the member's pay increases due to promotions or increased service time after the divorce.

290214. Member

A member is an individual who is on active duty, one who is a reservist, or one who is retired from military service.

290215. Renounced Pay

Renounced pay is military retired pay to which a member is entitled, but which the member has waived receipt.

290216. Retired Pay

Retired pay is the statutory entitlement due a member based on conditions of the retirement law, pay grade or high-3 pay amount, years of service, and the date of retirement. Retired pay includes "retainer pay."

290217. Retired Pay Award

Retired pay award is a portion of disposable military retired pay awarded to a former spouse or current spouse by a court of competent jurisdiction as a property division.

290218. Standard Retired Pay Multiplier

The standard retired pay multiplier used to compute retired pay is the product of two and one-half percent and the member's years of creditable service. See Chapter 3.

290219. Uniformed Services Former Spouses' Protection Act (USFSPA)

Public Law 97-252, enacted on September 8, 1982, states that the section of Title 10 addressing former spouse protection may be cited as the "USFSPA." Therefore, USFSPA is used throughout and refers to the provisions of [10 U.S.C. § 1408](#).

2903 AWARDS THAT CAN BE COLLECTED UNDER THE USFSPA

290301. Child Support

A former spouse can collect child support if there is a court order that awards child support, and the former spouse and military member have ever been married to each other.

290302. Child Support Arrearages

To collect child support arrearages, a former spouse must submit a recent court order that lists the total arrearages. The order cannot be older than two years from the date the Defense Finance and Accounting Service (DFAS) receives it.

290303. Alimony

A former spouse can collect current alimony under the USFSPA, but not alimony arrearages.

290304. Retired Pay Award

A former spouse can collect current retired pay award payments, but not retired pay award arrearages.

290305. Property Other Than a Division of Retired Pay

A former spouse can collect a property division, other than a retired pay award, by garnishment if the order awards it to the former spouse and if the former spouse was also awarded alimony, child support, or a division of retired pay. See subparagraph 290401.B for more information.

2904 APPLICATION BY FORMER SPOUSE

290401. Application Process

A. The former spouse must submit a completed Department of Defense, (DD) [Form 2293, Application](#) for Former Spouse Payments From Retired Pay, and a certified copy of the court order awarding alimony, child support, or military retired pay. A court order for child support arrearages cannot be older than 2 years from the date the designated agent receives it. The court order must be certified by the clerk of the court that issued the order.

B. If the former spouse is applying for a property division other than a retired pay award, the former spouse must submit a garnishment order in addition to the DD 2293 and the court order.

C. The former spouse may mail the application to the appropriate designated agent given in paragraph 290403, or may fax it to the number provided in paragraph 290403. Please read the instructions and certification on the DD 2293 carefully.

290402. Additional Documentation

A former spouse may need to provide additional documentation if the designated agent cannot determine whether the former spouse is eligible for USFSPA payments based solely on the DD 2293 and the court order.

290403. Where to Send an Application for USFSPA Payments

The former spouse should send all application documents to the following designated agent for the appropriate Uniformed Service:

- A. Army, Navy, Air Force, Marine Corps.
DFAS-Cleveland (CL) Site
DFAS-HGA/CL
P.O. Box 998002
Cleveland, OH 44199-8002
Fax: 877-622-5930
- B. U.S. Coast Guard
Commanding Officer (LGL)
Pay and Personnel Center
444 S.E. Quincy Street
Topeka, KS 66683-3591
Fax: 785-339-3788

- C. Public Health Services
Submit to Coast Guard address
- D. National Oceanic and Atmospheric Administration
Submit to Coast Guard address

290404. When to Apply for USFSPA Payments

A former spouse may apply for payments any time after the court has issued a court order enforceable under the USFSPA. Although payments will not start under the USFSPA until after the member [starts](#) to receive retired pay, the designated agent can [conditionally](#) approve a former spouse's application prior to that, and retain the application pending the member's retirement.

*290405. Conditional Preapproval

A. If the former spouse applies prior to the member receiving retired pay, the designated agent will perform a legal review of the application, and may conditionally approve it based on information available at the time of the review concerning the member's duty status (active or Reserve).

* B. At the time the member begins to receive retired pay, the designated agent will perform a second review prior to establishing the former spouse's direct payments. If the former spouse's award was based on a formula or hypothetical retired pay amount, and the member's status has changed since the initial legal review, it may be necessary to reject the application, and require the former spouse to submit a clarifying order providing the necessary information. [For example, if the formula or hypothetical award lists the Reserve retirement points, but the member retires from active duty, DFAS would need a new court order that lists the active duty formula.](#) (Note: See paragraph 290607 concerning formula awards, and paragraph 290608 concerning hypothetical retired pay awards.)

2905 NOTIFICATION

290501. Notification to Former Spouse of Approval or Disapproval

Within 30 days of the date of receipt of a former spouse's application, the designated agent will notify the former spouse if his or her application has been approved or disapproved. If approved, the designated agent will state the month the former spouse's payments will tentatively begin. If the designated agent cannot approve the application, the notice will include an explanation regarding the reason(s) why.

290502. Notification to the Member of Approval of an Application

If a former spouse's application is approved, the designated agent will notify the member affected within 30 days of the date of receipt of the application. The member will not be notified if the application is not approved.

290503. Second Notice

If the designated agent notified the member as part of a conditional preapproval more than 90 days prior to the member's becoming entitled to receive retired pay, the designated agent will provide a second notice to the member when the designated agent establishes the former spouse's payments at the time the member begins to receive retired pay.

290504. Contents of Notice to Member

A. The notice will explain that payments issued under the USFSPA cannot exceed 50 percent of the member's disposable retired pay (or 65 percent of the member's disposable pay when also withholding for an income withholding order issued pursuant to [42 U.S.C. § 659](#)), and will contain the month that the payments will tentatively begin.

B. The notice will inform the member that he or she must notify the designated agent if the court order has been amended, superseded, or set aside.

C. The notice will inform the member that if he or she submits information in response to this notice, he or she consents to the disclosure of that information.

D. The notice will include a copy of the court order.

E. The notice will advise that the member's failure to respond within 30 days of the date that the notification is mailed may result in the payment of retired pay as set out in the notice to the member.

290505. How to Prevent USFSPA Payments from Starting

The member must provide documentary evidence that a former spouse's court order is legally defective or has been appealed, amended, or set aside. If the designated agent determines that the documentary evidence is sufficient to bar payments to a former spouse, the designated agent will not start the payments. The designated agent will then inform the former spouse that payments will not start, and provide copies of the documentary evidence to the former spouse.

2906 COURT ORDERS

290601. Contents of Court Order

A. The court order must be regular on its face. This means that a court of competent jurisdiction issued the order and nothing on its face provides reasonable notice that it was issued without authority of law.

B. The court order must award former spouse alimony, child support, or a retired pay award. There is **no** requirement in Federal law that specifies how military retired pay is to be divided.

C. If the order contains a retired pay award, that award must be expressed as a fixed dollar amount or as a percentage of disposable retired pay. A retired pay award expressed as a percentage will automatically receive a proportionate share of the member's cost-of-living adjustment (COLA), while one expressed as a fixed amount will not. There is no authority for a retired pay award to state a fixed dollar amount and also order COLAs. Retired pay awards phased in that manner will be construed as a fixed dollar amount.

D. The designated agent will construe all percentage awards (such as a percentage of gross retired pay) as a percentage of disposable retired pay, regardless of the language in the order.

E. If the former spouse and the member were divorced before the member became entitled to receive military retired pay, the retired pay award may be expressed as a formula or hypothetical retired pay award in accordance with paragraphs 290607 and 290608. Since the computation of formula and hypothetical retired pay awards result in a percentage, they are considered a type of percentage award, and would automatically receive a proportionate share of the member's retired pay COLA.

290602. Divorces Finalized While the Member is Still on Active Duty

A. For court orders issued prior to December 19, 2003, the court order must show that the member's rights under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. Appendix 501 et. seq.) were complied with.

B. For court orders issued on or after December 19, 2003, the court order must show that the member's rights under the Service Members Civil Relief Act (50 U.S.C. Appendix 501 et. seq.) were complied with.

290603. Qualified Domestic Relations Order (QDRO)

There is no requirement in USFSPA that a former spouse submits a QDRO, but the designated agent will accept one if it is submitted and if it meets the requirements of the USFSPA.

290604. Requirements Specific to a Retired Pay Award

A. In the case of a retired pay award, the designated agent must be able to determine from the application that the court dividing military retired pay had jurisdiction over the member by reason of one of the following:

1. The member resided in the territorial jurisdiction of the court at the time of the legal proceeding due to other than military assignment;

2. The court finds that member's domicile was in the territorial jurisdiction of the court at the time of the legal proceeding; or

3. The member consented to the jurisdiction of the court. If the court order does not “explicitly” state that the member consented to the court’s jurisdiction, DFAS Garnishment Operations will regard the member’s participation in the legal proceeding, other than to contest the court’s jurisdiction, as evidence of the member’s consent to the court’s jurisdiction in the proceeding dividing the member’s military retired pay and making a retired pay award.

B. Also, in the case of a retired pay award, the designated agent must be able to determine from the application that the former spouse and the member were married for at least 10 years during which the member performed 10 years or more of service creditable toward retirement eligibility (the “10/10” requirement). There is no “10/10” requirement for payment of alimony or child support awards under USFSPA.

290605. State Law Jurisdiction

The satisfaction of state law jurisdictional requirements is not sufficient alone to satisfy the additional jurisdictional requirement stated in paragraph 290604. If the court states that it has USFSPA jurisdiction, it must state the basis for the finding, i.e., member’s residence, member’s domicile or member’s consent.

290606. Member’s Consent to a Separation Agreement

If the member signed a separation agreement, the designated agent will presume that the member consented to the jurisdiction of any court that at any time incorporates the agreement into a court order.

*290607. Acceptable Formula Awards

* A. If the former spouse’s award is expressed in terms of a formula, all the variables needed to calculate the formula must be included in the court order, with the exception of a member’s total number of months of creditable service or total number of Reserve retirement points, which DFAS Garnishment Operations will provide in accordance with 290607.B and C. If the order provides all the variables needed to do the calculation, including total months of military service or total Reserve retirement points, DFAS Garnishment Operations will calculate the formula using the variables provided, even if the figure is different from the member’s actual total. [If the member disagrees with the number listed in the court order \(i.e., the denominator\), the member will have to petition the court to get the order corrected to show the member’s actual total months or points of military service.](#) If any needed variable besides the total number of months of creditable service or total number of Reserve retirement points is not provided in the order, the court will have to clarify the award. All percentages derived from formulas will be carried out to four decimal places.

B. If the court order requires DFAS Garnishment Operations to supply the denominator of a marital or coverture fraction, and the member qualifies for an active duty (i.e., regular service) retirement, the formula award must be expressed in terms of whole months. Typically, the numerator of the formula fraction is the number of months of marriage during military service. This number must specifically be provided in the court order. The denominator

of the formula is typically the member's total number of months of creditable military service. DFAS Garnishment Operations will provide the denominator if needed to compute the formula. Any days or partial months of service will be dropped. If the award is expressed in terms of years instead of months, DFAS Garnishment Operations will convert years into whole months by rounding down to the nearest month.

C. If the court order requires DFAS Garnishment Operations to supply the denominator of a marital or coverture fraction, and the member qualifies for a Reserve (i.e., non-regular service) retirement, the formula award must be expressed in terms of Reserve retirement points. In the case of a Reserve retirement, the numerator of the formula typically is the number of Reserve retirement points earned during the marriage. This number must be provided in the court order. The denominator of the formula is typically the member's total number of Reserve retirement points. The [DFAS Garnishment Operations](#) will provide the denominator if needed.

D. The sample Military Retired Pay Division Order (Figure 29-1) provides examples of acceptable formula award language. All the blanks in the sample awards represent variables that must be provided in the court order. The sample language is not required, but any award expressed using the applicable sample language will be acceptable. The following is an example of an active duty formula:

The court order awarded the former spouse a percentage of the member's disposable retired pay calculated by multiplying .5 times a fraction, where the numerator is 144 months of marriage during military service, and the denominator is the member's total months of active duty service. The member later retired after 20 years (or 240 months) of creditable service. The former spouse's award is 30 percent of the member's disposable retired pay (.5 x 144 months/240 months).

290608. Acceptable Hypothetical Retired Pay Awards

A. A hypothetical retired pay award is a percentage of a retired pay amount calculated using the standard method to compute retired pay, but using variables different from those used to calculate the member's actual retired pay. It is usually calculated as if the member had become entitled to receive retired pay at the time the court divided the member's retired pay.

B. To calculate a hypothetical retired pay award, the designated agent must first calculate the hypothetical retired pay amount. The hypothetical retired pay amount is calculated by multiplying the hypothetical retired pay multiplier times the hypothetical retired pay base. If the initial retired pay computation is not a multiple of \$1, it is rounded down to the next lower multiple of \$1. See Chapter 3 for retired pay calculations.

C. [Retired Pay Multiplier](#)

1. The standard retired pay multiplier is 2.5 percent times the member's years of creditable service. For example, the retired pay multiplier for an active duty member who serves 20 years will be 50 percent ($.025 \times 20 \text{ years} = .5$). In the case of a hypothetical retired pay award, the hypothetical retired pay multiplier is determined by multiplying 2.5 percent

times the hypothetical years of creditable service provided in the court order. The resulting percentage is rounded to two decimal places. See Chapter 3 for retired pay calculations.

2. A hypothetical retired pay award for a reservist must be expressed in terms of Reserve retirement points rather than years of creditable service. The Reserve retirement points are converted into years of creditable service by dividing the Reserve retirement points on which the award is based by 360. The resultant figure is carried to three decimal places; then rounded to two. See Chapter 3. This resultant figure is used to compute the hypothetical retired pay multiplier. For example: 5,258 Reserve retirement points would convert to 14.61 years of service for multiplier purposes ($5,258 \text{ points} / 360 = 14.61 \text{ years}$).

D. Retired Pay Base

1. For members entering military service before September 8, 1980, the retired pay base is the member's basic pay at retirement. See Chapter 3. For these members, their hypothetical retired pay base would usually be their basic pay as of the hypothetical retirement date.

2. For members entering military service on or after September 8, 1980, the retired pay base is the average of the member's highest 36 months of basic pay at retirement (high-3 amount). See Chapter 3. For these members, their hypothetical retired pay base would usually be their average basic pay for the most recent 36 months prior to the hypothetical retirement date.

E. In order to enable the designated agent to calculate the hypothetical retired pay amount, the court order must provide:

1. The percentage the former spouse was awarded;
2. The hypothetical years of creditable service, or, in the case of a reservist, the Reserve retirement points on which the hypothetical retired pay is to be based;
3. The hypothetical retired pay base. In the case of members entering military service before September 8, 1980, the court order may provide either the member's hypothetical retired pay base or the member's hypothetical rank and years of service for basic pay purposes; and
4. The hypothetical retirement date.

F. If the court intends that the hypothetical retired pay be calculated based on the pay tables in effect at the time the member becomes entitled to receive military retired pay, the designated agent will use as the retired pay base either the basic pay for the hypothetical rank and years of service as of the date the member becomes eligible to receive retired pay, or the member's actual retired pay base, whichever is lower. The court order must provide:

1. The percentage the former spouse is awarded;

2. The hypothetical years of creditable service, or, in the case of a reservist, the Reserve retirement points on which the hypothetical retired pay is to be based and the member's years of service for basic pay purposes;

3. The member's hypothetical rank; and

4. An unequivocal statement that the calculation is to be made as of the member's actual retirement date.

G. If the award language is missing any necessary variables, the court will have to clarify the award. See the sample Military Retired Pay Division Order (Figures 29-1 and 29-2) for examples of acceptable hypothetical retired pay award language.

H. All percentage hypothetical retired pay awards will be converted into a percentage of a member's actual disposable retired pay according to the following example:

The court order awarded the former spouse 50 percent of the disposable retired pay the member would have received had the member retired with 17 years of creditable service, a retired pay base of \$2,200.00 per month, and a hypothetical retirement date of June 1, 1999. The member actually retired on June 1, 2002, with 20 years of creditable service, a retired pay base of \$2,400.00 per month, and an initial gross retired pay of \$1,200.00 per month ($.025 \times 20 \text{ years} = .5$; $.5 \times \$2,400.00 = \$1,200.00$).

First, the designated agent will calculate the member's hypothetical retired pay multiplier, which in this example is .425 ($.025 \times 17 \text{ years}$).

Next, the designated agent will calculate the hypothetical retired pay amount, which in this example is \$935.00 per month ($.425 \times \$2,200.00$).

Then, the designated agent will apply retired pay COLAs to the hypothetical retired pay amount from the hypothetical retirement date to the date the member became eligible to receive retired pay, unless the court order directs otherwise.

This calculation will determine the present value of the hypothetical retired pay as of the member's actual retirement date. In this case, if the member had become eligible to receive retired pay on June 1, 1999, the hypothetical retirement date, the hypothetical retired pay would have been \$1,008 per month on June 1, 2002, the actual retirement date.

In these examples, the partial annual COLAs would be as follows:

12/1/1999	1.7 %	$\$935.00 \times 1.017 = \950.00 (rounded down)
12/1/2000	3.5 %	$\$950.00 \times 1.035 = \983.00
12/1/2001	2.6%	$\$983.00 \times 1.026 = \$1,008.00$

Finally, the designated agent will convert the former spouse's percentage of hypothetical retired pay, which is established by the designated agent in the retired pay system, to a percentage of the member's actual disposable retired pay as follows: $.5 \times \$1,008.00 / \$1,200.00 = 42\%$.

I. The actual military retired pay of a post-July 1986 member who has accepted a Career Status Bonus (CSB) is calculated using a reduced multiplier. See Chapter 3. However, the CSB member's hypothetical retired pay will be calculated using the standard multiplier. The CSB member's retired pay will be recomputed using a standard multiplier effective the first day of the month after the member attains age 62. The former spouse's percentage will also be adjusted at the same time in accordance with subparagraph 290608.H, using the member's recomputed retired pay in the denominator of the conversion fraction. This adjustment will result in a lower percentage being applied to a higher disposable pay figure, and will ensure that the former spouse continues to receive the amount intended in the court order.

290609. Orders Issued Before June 26, 1981 that Did Not Divide Retired Pay

Any court order that contains a retired pay award, which was issued before June 26, 1981 will be honored if it otherwise satisfies the requirements and conditions shown in this chapter. If the pre-June 26, 1981, decree or property settlement incident to the decree did not divide the member's military retired pay, and did not reserve jurisdiction to divide it, DFAS Garnishment Operations cannot honor an application for payment based on an order issued on or after June 26, 1981, dividing retired pay as property.

290610. Survivor Benefit Plan (SBP) Premium

Pursuant to [10 U.S.C. § 1452](#), the SBP premium must be deducted from the member's retired pay. The SBP premium cannot be deducted from the former spouse's portion of the member's retired pay. Any provision in a court order stating that the premium should be deducted from the former spouse's portion is unenforceable by DFAS, Garnishment Operations. The former spouse and the member may make alternate payment arrangements outside of the stated procedures.

290611. Conflicting Retired Pay Awards

A. If the designated agent is served with court orders issued by different jurisdictions which contain conflicting awards enforceable under the USFSPA, the designated agent will deduct an amount equal to the largest amount required to be paid to the former spouse by either order, but will pay to the former spouse the least amount required to be paid. The

designated agent will retain the difference until served with an order certified by the member and former spouse to be valid, and then pay the retained funds in accordance with the order.

B. If the designated agent is served with a court order containing conflicting retired pay award language within the same court order, the designated agent will pay the former spouse the lower award amount. If one of the parties disagrees with the amount being paid, that party must provide the designated agent with a new court order stating the correct amount.

290612. Court Orders Modifying Retired Pay Awards

A. If the designated agent is served with a court order modifying or clarifying a retired pay award, the designated agent will implement the order issued most recently. The order issued most recently supersedes all prior orders.

B. If the designated agent is served with a court order modifying or clarifying a retired pay award that was issued by a court of a state other than the state that issued the prior court order, the designated agent may implement the new order only if the court issuing this order had jurisdiction over both the member and former spouse in the manner specified in subparagraph 290604.A.

290613. Conditional Awards

The designated agent cannot honor a court order that makes the former spouse's payments conditional on the occurrence of some other event. There is no authority for the designated agent to ascertain whether a condition in a court order has been satisfied. The former spouse will need to obtain a modified court order without the condition.

290614. Awards Based on Retired Pay Accrued During Marriage

The designated agent cannot honor awards based on the value of what has accrued because military retired pay does not accrue over time. Military retired pay is not a pension. Rather, it is a statutory entitlement computed at the time the member retires and it is based on the member's rank and total years of service at the time of retirement, or member's high-3 and total years of service.

290615. Awards of a Percentage of the Marital Portion

The designated agent cannot honor an award of a percentage of the marital portion of a member's retired pay unless the court order also provides all variables necessary for the calculation. [See paragraphs 290607 and 290608 for examples.](#)

290616. Factual Errors in Court Orders

If a party submits documentary evidence that shows a factual error in a court order, this will not be sufficient to modify or stop payments being made pursuant to the court order. The

party asserting the error must [petition](#) the court to correct the order. The designated agent does not have the authority to correct errors in court orders.

2907 DISPOSABLE RETIRED PAY

290701. Disposable Retired Pay

Disposable retired pay is defined by the USFSPA as a member's total monthly retired pay ([gross pay](#)) entitlement minus authorized deductions. [See 10 U.S.C. § 1408\(a\)\(4\)](#).

A. If the former spouse and member were divorced on or before February 2, 1991, then USFSPA authorizes the following deductions:

1. Amounts owed to the United States;
2. Amounts withheld as Federal and state income tax withholding, consistent with the member's current actual tax liability;
3. Fines and forfeitures ordered by a court-martial;
4. Amounts waived in order to receive compensation under Titles 5 or 38 of the U.S.C.;
5. SBP premiums paid, but only if the former spouse applying for a retired pay award payment under USFSPA is the beneficiary of the SBP; and
6. The amount of retired pay for a member retired under Title 10, Chapter 61 computed based on percentage of disability.

B. If the former spouse and member were divorced on or after February 3, 1991, then the USFSPA authorizes the following deductions:

1. Amounts owed to the United States due to the overpayment of retired pay, or amounts required to be recouped due to the member's entitlement to retired pay;
2. Fines and forfeitures ordered by a court-martial;
3. Amounts waived in order to receive compensation under Titles 5 or 38 of the U.S.C.;
4. SBP premiums paid but only if the former spouse applying for a retired pay award payment under USFSPA is the beneficiary of the SBP; and
5. The amount of retired pay for a member retired under Title 10, Chapter 61 computed based on percentage of disability.

290702. Other Deductions Included in Court Order

If a court order directs the use of deductions other than those authorized in paragraph 290701 to compute the former spouse's award, that provision of the court order is unenforceable. The designated agent will use only the deductions authorized in paragraph 290701 for the computation of disposable retired pay.

*2908 DISPOSABLE RETIRED PAY UNDER NDAA FY 2017, SECTION 641

290801. Application of NDAA FY 2017, Section 641

The NDAA FY 2017, section 641 applies to cases where the former spouse and member were divorced after December 23, 2016, when the court awards the former spouse a division of property and the member has not yet retired.

290802. NDAA FY 2017 Disposable Pay Limits

In addition to the definition of Disposable Retired Pay in paragraph 290701, and the authorized deductions in subparagraph 290701.B, the NDAA also includes limitations to disposable retired pay. In cases where the former spouse and member were divorced after December 23, 2016, the court awards the former spouse a division of property, and the member has not yet retired, the NDAA limits the member's disposable retired pay as follows:

A. The amount of retired pay is limited to that which the member would have been entitled using the member's retired pay base and years of service on the date of the final decree of divorce, dissolution, annulment, or legal separation; and

B. COLA would be added from the date of divorce, dissolution, annulment, or legal separation to the member's date of retirement.

290803. Variables Required to Calculate the NDAA FY 2017 Disposable Retired Pay

In order to enable the designated agent to calculate the NDAA FY 2017 disposable retired pay amount, the court order must provide the three variables listed in subparagraphs 290803.A or 290803.B:

A. If the member entered the service before September 8, 1980:

1. The fixed amount, the percentage, the formula, or the hypothetical award that the former spouse is granted;

2. The member's pay grade at the time of divorce; and

3. The member's years of creditable service, on the date of divorce, dissolution, annulment, or legal separation. In the case of a reservist, the Reserve retirement points, on the date of divorce, dissolution, annulment, or legal separation.

B. If the member entered the service on or after September 8, 1980:

1. The fixed amount, the percentage, the formula, or the hypothetical award that the former spouse is granted;

2. The member's retired pay base (high-3) amount at the time of divorce (the actual dollar figure); and

3. The member's years of creditable service, on the date of divorce, dissolution, annulment, or legal separation. In the case of a reservist, the Reserve retirement points, on the date of divorce, dissolution, annulment, or legal separation.

290804. Clarification

If the award language in the court order is missing any of the listed necessary variables in paragraph 280803, then the court will have to clarify the award.

2909 STARTING PAYMENTS

290901. Starting Payments

If the former spouse's application is approved, payments will start no later than 90 days after the date the designated agent received the former spouse's complete application, or no later than 90 days after the date the member becomes entitled to receive military retired pay, whichever is later.

290902. Timing of Payments

Payments will be issued in conformity with normal pay and disbursement cycles, which mean that payments will be issued monthly. Payments will be deducted from the month's pay and paid on the first business day of the following month. For example, a payment issued for the month of March would be sent at the beginning of April.

2910 PAYMENT AMOUNT

291001. Limitations

A. If the former spouse applies for payments under the USFSPA only, the maximum amount a former spouse can receive is 50 percent of the member's disposable retired pay.

B. If the former spouse applies for payments under the USFSPA and there is also a garnishment order for support, the maximum amount that can be paid toward both obligations is 65 percent of the member's disposable earnings calculated in accordance with 42 U.S.C. § 659 (child and spousal support statute) and its implementing regulation.

C. For garnishments for property other than a retired pay award, the maximum amount payable is 25 percent of disposable earnings in accordance with [15 U.S.C. § 1673](#).

291002. Cost-of-Living Adjustment (COLA)

If a retired pay award is expressed as a percentage of disposable retired pay, the former spouse will automatically receive a proportionate share of the member's COLAs unless the court order states otherwise. Formula and hypothetical retired pay awards are considered a type of percentage award, and thus will automatically include a proportionate share of the member's COLAs. If the retired pay award is a fixed amount, COLAs cannot be added, even if awarded in the court order, and the former spouse's payments will remain fixed.

291003. Offset of Former Spouse's Payment for Garnishment or Other Obligation

A former spouse's payment cannot be offset or garnished by DFAS for any legal obligation, including child support owed to the member.

2911 PRIORITY OF PAYMENTS

291101. Multiple Awards

If a court order includes multiple types of awards to a former spouse, the former spouse may designate the priority of payments on the DD 2293. If the former spouse does not specify otherwise, the designated agent will pay the retired pay award first, child support second and spousal support third.

291102. Multiple Former Spouses

If the designated agent is served with applications from more than one former spouse, the designated agent will honor the applications on a first-come, first-served basis. Subsequently served USFSPA applications shall be satisfied out of the disposable retired pay that remains after the satisfaction of all court orders which have been previously served, subject to the limitations of paragraphs [290802](#) and [291001](#).

291103. Garnishment Orders for Support and Applications under USFSPA

If the designated agent is served with both a garnishment for support and an application under USFSPA, the designated agent will pay whichever is served first. If the garnishment is served first and is payable directly to the former spouse, the former spouse may reverse the priority of payments by instructing the designated agent to terminate deductions pursuant to the garnishment, and then later requesting that garnishment deductions be reestablished.

2912 STOPPING PAYMENTS

291201. Erroneous Payment Information from Former Spouse

The former spouse has a continuing duty to provide the designated agent with correct payment instructions. If a former spouse's payments are returned due to erroneous payment instructions (i.e., invalid address or incorrect account number for direct deposit payments), the designated agent will send notice to the last known correspondence address that, unless new payment instructions are received within 30 days of the date of the notice, payments will stop. If the former spouse submits new payment instructions after the payments have terminated, the designated agent will restart the payments on a current basis, and will not make up any missed payments.

291202. Termination and Suspension of Retired Pay Award Payments

A. Unless the court order specifies otherwise, payments will stop upon the designated agent's receipt of notice of the death of either party. Payments will be prorated for the month of the death of either party.

B. Unless the court order specifies otherwise, retired pay award payments will not stop upon the designated agent's receipt of notice of the former spouse's remarriage.

C. If the designated agent is served with an order staying payments, the designated agent will stop the payments until served with an order indicating that the former spouse's payments are to resume.

D. If the designated agent has already started payments and is served with documentation showing that an appeal of the order has been filed within the forum state's appeal timeframe, payments will stop. The designated agent will not recoup any payments already issued.

E. A former spouse may stop payments under USFSPA by sending the designated agent a letter with his or her signature notarized withdrawing their application for payments under USFSPA. (A former spouse can later reapply for payments by submitting a new DD 2293 and certified copy of the court order that awards him/her the division of military retired pay.)

291203. Termination of Child Support Payments under USFSPA

Child support payments will stop in accordance with the provisions of the court order. If the court order is silent as to when the payments should stop, payments will stop in accordance with the law of the state that issued the court order. The member has the burden of providing sufficient documentation to justify stopping payments on or before a child's age of majority. The former spouse has the burden of providing sufficient documentation to justify continuing payments after a child's age of majority.

291204. Termination of Alimony Payments under USFSPA

Alimony payments will stop in accordance with the provisions of the court order. If the court order is silent as to when the payments should stop, payments will stop in accordance with the law of the state that issued the court order, or upon receiving a court order terminating the alimony payments. (NOTE: The law of some states does not provide that an alimony obligation automatically terminates upon a former spouse's remarriage. For such states, a court order terminating the alimony will need to be provided.) If the designated agent does not already have sufficient documentation to stop payments, additional evidence such as a marriage certificate will be required.

291205. Payments and Bankruptcy

Absent a court order, there is no authority to stop a former spouse's retired pay award, current and arrearage child support payments, and current spousal support payments, if a member files bankruptcy.

291206. Certification of Eligibility

The designated agent may request that a former spouse submit a signed certification of continued eligibility to receive payments under USFSPA. The certificate of eligibility should include notice of a change in status or circumstance that affects eligibility, if any such change exists. If the former spouse fails or refuses to comply with the certification requirement, the designated agent may stop the payments after notice to the former spouse.

2913 RETIRED PAY ARREARS OWED A DECEASED FORMER SPOUSE

291301. Applicability

This section applies to the settlement of arrears of a property division of retired pay that may be due a deceased former spouse pursuant to a previous application for direct payment completed under section 2904. Arrears of a retired pay property division may result from prorating a member's disposable retired pay for the month of the former spouse's death, from checks not negotiated before the former spouse's death, or the designated agent's failure to establish and/or make payments to the former spouse in the correct amount prior to the former spouse's death for a period that the former spouse was entitled to a property division.

291302. Documentation

To settle the arrears of retired pay owed a deceased former spouse, the following documentation must be on file:

A. Copy of Death Certificate. A notification of death from any source (next of kin, post office, or neighbor) is sufficient to suspend future payment of the retired pay property division. However, an official copy of a certificate of death for the former spouse is required before the arrears of a property division of retired pay are paid under this section.

B. Written Claim. A written claim **must contain** the claimant's signature and address, or that of the claimant's authorized agent or attorney. **A *Standard Form (SF) 1174*** is not required, but may be used for this purpose, as long as the claim specifies the claimant's relationship to the deceased former spouse and documents other living relatives of the deceased former spouse.

C. Additional Documentation as Required. A claimant may be required to submit any additional documentation DFAS deems necessary to establish the claimant's status and entitlement to the property division arrears including, but not limited to, marriage certificates, birth certificates, divorce decrees, or other documentation that validates the living beneficiaries of a former spouse in any class of persons entitled to the arrears pursuant to paragraph 291304.

291303. Recoupment of Outstanding Payments

All outstanding checks or direct deposits (not negotiated before the former spouse's death or made after the former spouse's death) or the proceeds thereof must be returned to DFAS-CL before a settlement of arrears may be made.

291304. Payment of the Arrears

Former spouse payments from retired pay are prorated in the month of the former spouse's death. When all documentation has been received and all outstanding payments have been recouped, payment of the arrears is made to the person living on the date of the former spouse's death who is highest on the order of precedence set forth in Chapter 30. For the purpose of payment of arrears under this paragraph, the provisions of subparagraphs 300204.C, D, and E apply, and all references to a "retiree" in subparagraphs 300204.A.2 through A.6, C, D, and E should be considered as referring to a deceased former spouse rather than a retiree.

291305. Indebtedness Resulting From Overpayment to a Former Spouse

Any indebtedness resulting from overpayment to a deceased former spouse must be liquidated before former spouse payment arrears can be settled.

291306. Claim for Arrears

A claim for arrears must be filed within the 6-year statute-of-limitation restriction. Any claim received 6 years after the date of the former spouse's death is barred.

291307. Taxability

In the case of deceased former spouses, one or more Treasury Department (TD) Forms [1099-R](#), Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., may be used. If no former spouse arrears are paid, one TD 1099-R will be issued in the former spouse's name to cover any entitlement through date of death. If arrears are paid, an additional TD 1099-R is issued to each claimant to whom the arrears were paid.

2914 ADMINISTRATIVE APPEAL PROCESS**291401. Either Party Disagrees**

If either party disagrees with the designated agent's determination concerning a former spouse's entitlement to payments under the USFSPA, that party may request reconsideration by writing to the designated agent. If the party requesting reconsideration asserts that the designated agent has erroneously overpaid the other party, the request for reconsideration will be considered a claim against the designated agent. An attorney will review the request and issue a decision in writing.

291402. Party Requesting Reconsideration Disagrees

If the party requesting reconsideration disagrees with the attorney's determination, that party may submit an appeal to the designated agent, which must be received within 30 days of the date of the initial determination. The designated agent will forward the appeal to the Defense Office of Hearings and Appeals for their decision.

291403. Additional Information

Parties are referred to Department of Defense Instruction [1340.21](#) for additional information concerning the submission of claims and appeals.

2915 LIABILITY**291501. Payments Made In Accordance With the USFSPA**

Neither the United States nor any employee of the United States shall be liable regarding any payment made from retired pay to a retiree or former spouse pursuant to a court order that is regular on its face, if such payment is made in accordance with the USFSPA.

291502. Designated Agent Liability

If the designated agent processes a former spouse's USFSPA application and administers the former spouse's payments in accordance with the USFSPA and in accordance with all documentation in its files, the designated agent is not liable for any former spouse payments issued after a former spouse's eligibility to receive payments has ended. Nor is the designated agent

liable for any payments that the former spouse may have been entitled to prior to the designated agent's beginning direct payments pursuant to the former spouse's USFSPA application.

291503. Court Order

If the court order awarding child support or alimony appears on its face to conform to the laws of the jurisdiction from which it was issued, the designated agent will not be required to ascertain whether the court had obtained personal jurisdiction over the member.

Figure 29-1. Military Retired Pay Division Order (on or before December 23, 2016)

STATE OF _____	COURT OF _____
COUNTY OF _____	Case No. _____
_____ Petitioner	
_____ Respondent	

MILITARY RETIRED PAY DIVISION ORDER

(For Decree of Divorce, Dissolution, Annulment, or Legal Separation that occurs on or before December 23, 2016)

This cause came before the undersigned judge upon the petitioner/respondent's claim for a distribution of the respondent/petitioner's military retired pay benefits. The court makes the following:

FINDINGS OF FACT:

The Petitioner's Social Security Number is _____ and current address is _____.

The Respondent's Social Security Number is _____ and current address is _____.

The Parties were married on _____. Their marital status was terminated on _____ pursuant to a(n) _____ entered in _____ County, State of _____. This current order is entered incident to the aforementioned order.

The parties were married for a period of ten or more years during which time the Petitioner/Respondent performed at least ten years of service creditable for retirement eligibility purposes.

If the military member was on active duty at the time of this order, Respondent/Petitioner's rights under the Service Members' Civil Relief Act, 50 U.S.C. App. 501-548 and 560-591, have been observed and honored.

This court has jurisdiction over the Respondent/Petitioner by reason of [choose those that apply] (A) his or her residence, other than because of military assignment, in the territorial jurisdiction of the court, during the [divorce, dissolution, annulment, or legal separation] proceeding, (B) his or her domicile in the territorial jurisdiction of the court during the [divorce, dissolution, annulment, or legal separation] proceeding, or (C) his or her consent to the jurisdiction of the court.

CONCLUSIONS OF LAW:

1. This court has jurisdiction over the subject matter of this action and the parties hereto.
2. Petitioner/Respondent is entitled to a portion of Respondent/Petitioner's U.S. military retired pay as set forth herein.

IT IS THEREFORE ORDERED THAT:

[Choose and complete one of the following. Please note that all awards expressed as a percentage of disposable retired pay, including hypothetical awards, will automatically include a proportionate share of the member's COLA unless this order states otherwise. Also, hypothetical retired pay amounts will be adjusted for all retired pay COLA from the hypothetical retirement date to the member's actual retirement date, unless this order states otherwise.]

Figure 29-1. Military Retired Pay Division Order (on or before December 23, 2016) (Continued)

Retired member: "The former spouse is awarded ____ percent (or dollar amount) of the member's disposable military retired pay."

Active duty formula: "The former spouse is awarded a percentage of the member's disposable military retired pay, to be computed by multiplying ____ percent times a fraction, the numerator of which is ____ months of marriage during the member's creditable military service, divided by the member's total number of months of creditable military service."

Reservist formula: "The former spouse is awarded a percentage of the member's disposable military retired pay, to be computed by multiplying ____ percent times a fraction, the numerator of which is ____ Reserve retirement points earned during the period of the marriage, divided by the member's total number of Reserve retirement points earned."

Active duty hypothetical calculated as of time of division, for all members regardless of service entry date: "The former spouse is awarded ____ percent of the disposable military retired pay the member would have received had the member retired with a retired pay base of ____ and with ____ years of creditable service on ____."

Active duty hypothetical calculated as of time of division; may only be used for members entering service before September 8, 1980: "The former spouse is awarded ____ percent of the disposable military retired pay the member would have received had the member retired with the rank of ____ and with ____ years of creditable service on ____."

Active duty hypothetical calculated as of member's actual retirement date: "The former spouse is awarded ____ percent of the disposable military retired pay the member would have received had the member retired on his actual retirement date with the rank of ____ and with ____ years of creditable service."

Reservist hypothetical calculated as of time of division, for all members regardless of service entry date: "The former spouse is awarded ____ percent of the disposable military retired pay the member would have received had the member become eligible to receive military retired pay with a retired pay base of ____ and with ____ Reserve retirement points on ____."

Reservist hypothetical calculated as of time of division; may be used for members entering service before September 8, 1980: "The former spouse is awarded ____ percent of the disposable military retired pay the member would have received had the member become eligible to receive retired pay on ____, with the rank of ____, with ____ Reserve retirement points, and with ____ years of service for basic pay purposes."

Reservist hypothetical calculated as of the date the member becomes eligible to receive retired pay: "The former spouse is awarded ____ percent of the disposable military retired pay the member would have received had the member become eligible to receive retired pay on the date he or she attained age 60, with the rank of ____, with ____ Reserve retirement points, and with ____ years of service for basic pay purposes."

This ____ day of ____, 20__.

JUDGE

*Figure 29-2. Military Retired Pay Division Order (after December 23, 2016)

STATE OF _____	COURT OF _____
COUNTY OF _____	Case No. _____

Petitioner

Respondent

MILITARY RETIRED PAY DIVISION ORDER

(For Decree of Divorce, Dissolution, Annulment, or Legal Separation that occurs after December 23, 2016)

This cause came before the undersigned judge upon the petitioner/respondent's claim for a distribution of the respondent/petitioner's military retired pay benefits. The court makes the following:

FINDINGS OF FACT:

The Petitioner's Social Security Number is _____ and current address is _____.

The Respondent's Social Security Number is _____ and current address is _____.

The Parties were married on _____. Their marital status was terminated on _____ pursuant to a(n) _____ entered in _____ County, State of _____. This current order is entered incident to the aforementioned order.

The Parties were married for a period of ten or more years during which time the Petitioner/Respondent performed at least ten years of service creditable for retirement eligibility purposes.

If the military member was on active duty at the time of this order, Respondent/Petitioner's rights under the Service Members' Civil Relief Act, 50 U.S.C. App. 501-548 and 560-591, have been observed and honored.

This court has jurisdiction over the Respondent/Petitioner by reason of [choose those that apply] (A) his or her residence, other than because of military assignment, in the territorial jurisdiction of the court, during the [divorce, dissolution, annulment, or legal separation] proceeding, (B) his or her domicile in the territorial jurisdiction of the court during the [divorce, dissolution, annulment, or legal separation] proceeding, or (C) his or her consent to the jurisdiction of the court.

CONCLUSIONS OF LAW:

This court has jurisdiction over the subject matter of this action and the parties hereto.

Petitioner/Respondent is entitled to a portion of Respondent/Petitioner's U.S. military retired pay as set forth herein.

IT IS THEREFORE ORDERED THAT:

Choose and complete one of the following. (Please note that all awards expressed as a percentage of disposable retired pay, will automatically include a proportionate share of the member's COLA after the date the member retires, unless the court order states otherwise.)

*Figure 29-2. Military Retired Pay Division Order (after December 23, 2016) (Continued)

Award When the Member Has Already Retired From Active or Reserve Duty

“The former spouse is awarded _____ percent (or) \$ _____ (dollar amount) of the member’s disposable military retired pay.”

Active Duty Awards

Complete only one of the following:

1. Fixed Award: “The former spouse is awarded \$ _____ (dollar amount) of the member’s disposable military retirement pay.”

2. Percentage Award: “The former spouse is awarded _____ percentage of the member’s disposable military retirement pay.”

3. Formula Award: “The former spouse is awarded a percentage of the member’s disposable military retired pay, to be computed by multiplying _____ percent times a fraction, the numerator of which is _____ months of marriage during the member’s creditable military service, divided by the member’s total number of months of creditable military service.”

4. Hypothetical Retired Pay Award for members entering military service:

A. BEFORE September 8, 1980: “The former spouse is awarded _____ percent of the disposable military retired pay the member would have received had the member retired with the rank of _____ and with _____ years of creditable service on _____.”

B. ON OR AFTER September 8, 1980: “The former spouse is awarded _____ percent of the disposable military retired pay the member would have received had the member retired with a retired base (high-3) of _____ and with _____ years of creditable service on _____.”

AND (ONE OF THE BELOW SECTIONS MUST ALSO BE COMPLETED)

1. If the member entered the service BEFORE September 8, 1980

On the date of the decree, dissolution, annulment, or legal separation _____ (list the date), the member’s military pay grade (rank) was _____, and the member had _____ years of creditable service (list amount of years and months).

2. If the member entered the service ON OR AFTER September 8, 1980:

On the date of the decree of divorce, dissolution, annulment, or legal separation _____ (list the date), the member’s military retired pay base (high-3) was \$ _____ (must provide a dollar amount) and the member had _____ years of creditable service (list amount of years and months).

Reserve Awards When the Member is Still Drilling

1. Fixed award: “The former spouse is awarded \$ _____ (dollar amount) of the member’s disposable military retirement pay.”

2. Percentage award: “The former spouse is awarded _____ percentage of the member’s disposable military retirement pay.”

3. Formula award: “The former spouse is awarded a percentage of the member’s disposable military retired pay, to be computed by multiplying _____ percent times a fraction, the numerator of which is _____ Reserve retirement points earned during the period of the marriage, divided by the member’s total number of Reserve retirement points earned.”

*Figure 29-2. Military Retired Pay Division Order (after December 23, 2016) (Continued)

4. Reservist hypothetical retired pay award as of time of division;

A. May be used for members entering service BEFORE September 8, 1980: “The former spouse is awarded ____ percent of the disposable military retired pay the member would have received had the member become eligible to receive retired pay on ____, with the rank of ____, with ____ Reserve retirement points, and with ____ years of service for basic pay purposes.”

B. May be used for members entering service ON OR AFTER September 8, 1980: “The former spouse is awarded ____ percent of the disposable military retired pay the member would have received had the member become eligible to receive military retired pay with a retired pay base (high-3) of ____ and with ____ Reserve retirement points on ____.”

AND (ONE OF THE BELOW SECTIONS MUST ALSO BE COMPLETED)

1. If the member entered the service BEFORE September 8, 1980:

On the date of decree of divorce, dissolution, annulment, or legal separation ____ (list the date), the member's pay grade (rank) was ____ and the member had Reserve retirement points (enter amounts), and the member had ____ years of service for basic pay purposes (list amount of years and months).

2. If the member entered the service ON OR AFTER September 8, 1980:

On the date of the decree of divorce, dissolution, annulment, or legal separation ____ (list the date), the member's military retired pay base (high-3) was \$ ____, (must provide a dollar amount) and the member had ____ Reserve retirement points (enter amount).

This ____ day of ____, 20__.

JUDGE

*BIBLIOGRAPHY

CHAPTER 29 – FORMER SPOUSE PAYMENTS FROM RETIRED PAY

All

[USFSPA](#)

10 U.S.C. § 1408

*

[NDAA FY 2017, section 641](#)

VOLUME 7B, CHAPTER 30: “DEATH OF RETIREE”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue and underlined font***](#).

The previous version dated [June 2015](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks, statutes, and formatting in compliance with current administrative instructions.	Revision
300301.A	Deleted reference to January 1, 1957 based on change in statute.	Deletion

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CHAPTER 30

DEATH OF RETIREE

3001 GENERAL

300101. Purpose

This chapter provides policy on the death of a retiree. This includes but is not limited to: required documentation, arrears of pay (AOP), death gratuity, and taxable income.

300102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

3002 ARREARS OF PAY

300201. Basic Information

Entitlement to retired pay terminates on the date of the retiree's death. An AOP is the retiree's final prorated retired pay check to include all unencumbered amounts due to the deceased member. An AOP is not due if the retiree waived retired pay in favor of a civil-service annuity. Department of Veterans Affairs (VA) benefits terminate on the last day of the month before death. For members who waive retired pay for VA benefits, only retired pay is due on behalf of the member for the month of death. A retiree's account is placed in a suspended status upon receipt of a notification of death from any source until the date of death can be verified. The Defense Finance and Accounting Service (DFAS) must attempt to obtain proof of death before closing an account. Acceptable forms of proof of death documentation include:

- A. Death certificate,
- B. [Department of Defense \(DD\) Form 1300](#), Report of Casualty,
- C. Funeral Director's Report,
- D. VA Cemetery Files,
- E. The Defense Enrollment Eligibility Reporting System,
- F. Social Security Reports, or
- G. Other forms of official notification of death.

300202. Related Inquiries

The Military Department concerned advises the surviving spouse to contact the VA or the Social Security Administration on matters relating to entitlement benefits payable by those agencies.

300203. Responsibilities

When the Military Department concerned receives notification of the death of a retiree, they will notify DFAS-Cleveland. The DFAS-Cleveland site:

- A. Terminates payment of retired pay,
- B. Recoups outstanding retired pay checks or direct deposit payments,
- C. Discontinues and collects overpayments of allotments,
- D. Pays death gratuity if applicable,
- E. Collects debts,
- F. Provides claim forms to prospective beneficiaries, and
- G. Prepares vouchers and tax statements for final account settlement.

300204. Eligible Beneficiaries

Each Military Service periodically advises retirees of their right to designate a beneficiary or beneficiaries to receive an AOP amount due, and disposition to be made of unpaid amounts where no beneficiary or beneficiaries have been designated. Any person or persons, or legal entity, including the estate or trust of the member, may be designated. In order for the member's estate to be an eligible beneficiary, the estate must be established, pursuant to the laws of the member's domicile after the member's death. If the estate is not established, the designation to the estate will fail.

A. Pursuant to [Title 10, United States Code \(U.S.C.\), section 2771](#), pay arrears of retired pay to the person living on the date of the retiree's death in the following order of precedence:

- 1. Beneficiary designated by the member in writing, if received by the Military Department concerned before the member's death;
- 2. Surviving spouse;

3. Children and their descendants, by representation:

a. Legitimate Child:

b. Adopted Child. An adopted child is a legal heir in every state and, therefore, is entitled to payment of unpaid pay and allowances, if otherwise proper. If others adopt the deceased retiree's child, the child is a beneficiary only in those states where an adopted child inherits from its natural parent;

c. Illegitimate Child. An illegitimate child may not be paid unpaid pay and allowances of a deceased retiree unless that child is recognized for inheritance purposes under the laws of the jurisdiction involved; or

d. Stepchild. A stepchild is not an eligible beneficiary unless adopted by the deceased retiree;

4. Father and mother in equal parts or, if either is dead, the survivor;

5. Legal representative; or

6. Person entitled under the law of the domicile of the deceased retiree.

B. The retiree may change a beneficiary previously designated if the change is made in writing or electronically via myPay and received by the Military Department concerned before the retiree's death.

C. Where payment is to be made to the person entitled under the law of the domicile of the deceased individual in subparagraph 300204.A.6, DFAS may require the claimant(s) to submit evidence of entitlement under state law. This includes, but is not limited to funeral expense receipts, small estate affidavit, trust documents, court orders granting summary administration and where necessary, the deceased person's will.

D. If the beneficiary killed the retiree, the arrears are not paid to that person unless evidence is received which clearly absolves the beneficiary of any felonious intent. This does not preclude the person from receiving the arrears in the capacity of custodian or guardian of minor children.

E. If the beneficiary dies after the retiree but before receiving final settlement, an AOP goes to the beneficiary's estate. If the beneficiary does not have an estate established and an AOP is \$3,000 or less, an AOP is payable to the deceased beneficiary's survivors in the order of precedence set out in subparagraph 300204.A.2 through 5. If an AOP is greater than \$3,000, DFAS pays an AOP in accordance with laws of the domicile of the deceased beneficiary. If doubt exists as to entitlement, the Department of Defense (DoD) will settle the claim.

300205. Substantiating Documents and Collection of Overpayments

A. [Substantiating Documents](#). To effect settlement, the following documents must be a matter of record:

1. Completed [Standard Form 1174](#), Claim for Unpaid Compensation of Deceased Member of the Uniformed Services, from the beneficiary;
2. [DD 1300](#) or a copy of the death certificate;
3. Retirement orders; and
4. Adoption papers, court orders of appointment, custodianship papers, or foreign status documentation (Internal Revenue Service Form [W-8BEN](#), Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)) if required.

B. [Collection of Overpayments](#). Every attempt should be made to recover all outstanding checks or direct deposits (not negotiated before the retiree's death or outstanding checks forwarded past the date of entitlement) or the proceeds thereof. Unrecovered funds are treated as erroneous payments to the member or the withdrawer of funds with the indebtedness subject to the debt collection authority.

1. If the funds are not recovered, there is no AOP due until the arrears due to the retiree exceed the erroneous payment. In situations where the recipient of the member's erroneous payment is also the beneficiary for an AOP, the amount of arrears due the individual is offset administratively by the erroneous payments received by the individual. The remaining erroneous payment, if any, is still subject to the debt collection authority.

2. If there has been an erroneous payment of an AOP made to an individual not entitled to the retiree's AOP, and another individual is entitled to the retiree's AOP, the payment of the amount due as arrears must be made to the appropriate payee, regardless of whether collection has been made from the recipient of the erroneous pay.

300206. Questionable Date of Death

A. When the date of death is shown as a "found date," the Military Department concerned verifies whether an autopsy was performed. If an autopsy was performed, the date of death determined by the coroner is used. If the results of the autopsy are reported on the death certificate, a copy of the autopsy report is not required. If an autopsy was not performed, but the state has certified the date of death on the death certificate, that date is used. If two dates are shown, such as member died between 11:00 p.m. June 10, 2008, and 4:00 a.m. June 11, 2008, use the earlier date since that was the last date member was known to be alive. If neither is available, obtain a statement from one or more disinterested persons attesting to the last known date that the member was alive. When this statement is received, [an AOP is settled](#) based on that date.

B. In claims involving missing persons, provided there is no evidence to the contrary, assume the date of death to be the presumed date established by state court decree.

C. If evidence exists that a retiree died on a particular date several years before the date of presumptive death declared by a state court, an AOP is payable only through the earlier date of suspected death.

D. A judicial decree is not necessary to establish Retired Serviceman's Family Protection Plan or Survivor Benefit Plan annuity payments if a person has been missing for more than 30 days under circumstances from which a reasonably prudent person would conclude that such person is dead, and a determination by the Secretary of the Military Department concerned (or designee) is made that presumes the member to be deceased. See Chapters 37 and 42.

300207. Doubtful Claims

In accordance with [Title 32, Code of Federal Regulations \(CFR\), part 282.5](#), cases involving questions of fact or law are submitted to the Defense Office of Hearings and Appeals (DOHA) for resolution. These include cases when:

A. Doubt exists as to the amount or validity of the claim, or

B. Doubt exists as to the person or persons properly entitled to the payment. Upon receipt of a doubtful claim, notify the claimant that the claim has been forwarded to DOHA for approval of settlement.

300208. Six Year Statute of Limitations

A. Title [31 U.S.C. § 3702](#) provides general authority for settling claims against the United States. Section 3702 provides that any claim against the U.S. Government is barred forever unless such claim, bearing the signature and address of the claimant or authorized agent or attorney is received by the responsible agency within 6 years after the date such claim first accrued. Under authority delegated from the Secretary of Defense, the Director, DOHA, may waive the time limitation for late claims involving the pay, retired pay, and survivor benefits of military personnel. [Any claim that became payable as a result of waiver of time limitation is limited to \\$25,000.](#)

B. In any case where two or more beneficiaries are entitled to share an AOP equally, each claimant/beneficiary will become entitled to their own proportional share upon presentation of a timely claim. In the event that one (or more) of the claimant/beneficiaries fails to make a timely claim within 6 years, such claimant/beneficiary's claim will be barred under 31 U.S.C. § 3702 as untimely, however the time limitation may be waived by DOHA if appropriate. In no event will the share of the untimely claimant/beneficiary be paid to the claimant/beneficiary who submitted a timely claim.

300209. Death of Mentally Incompetent Retiree

If retired pay was waived in favor of VA compensation, but compensation was withheld because the retiree's estate exceeded \$1,500, contact the VA to ascertain periods and reasons for nonpayment of VA compensation and verify whether withdrawal of the waiver was made by guardian or trustee before the retiree's death. See Chapter 12 regarding withdrawal of waiver.

NOTE: Nonpayment of compensation could occur at any time from the effective date of VA waiver through the month of death and is not limited to the month of death.

3003 DEATH GRATUITY

300301. Basic Information

A. Death gratuity is payable when the retiree's death occurs within the 120-day period which begins on the day after release from active duty or active duty for training. The VA must certify entitlement to death gratuity. The Secretary of the VA must determine that the decedent was discharged or released under conditions other than dishonorable from the last period of the duty of training that he or she performed; and that death resulted from an injury or disease that was incurred or aggravated during the period of service of active duty, inactive-duty training or travel directly to or from such duty. See [10 U.S.C. § 1476](#).

B. Death gratuity is not payable for a member who retires for non-Regular service (age and service) unless the member was on active duty the day before retirement.

C. Submit the application for Death Gratuity on a [DD 397](#), Claim Certification and Voucher for Death Gratuity Payment.

NOTE: For detailed information on Death Gratuity, see Volume 7A, Chapter 36.

300302. Eligible Beneficiaries

A. Eligible Beneficiaries Prior to July 1, 2008. Before May 25, 2007, payment of a death gratuity was made to or on behalf of the deceased retiree's living survivors as prescribed by the statute in effect at the time. Beginning on May 25, 2007, and ending on June 30, 2008, a qualified member was able to designate another person to receive not more than 50 percent of the death gratuity payable upon the death of the member with any remaining amount not designated paid in the order prescribed by statute. The designated amount of the death gratuity had to be specified in increments of 10 percent. Death gratuity payments were made to the deceased retiree's living survivors as prescribed by the statute at the time. (For order of precedence prior to July 1, 2008, please see the Archived Version of Chapter 30, paragraph 300204).

B. Eligible Beneficiaries On and After July 1, 2008. Effective July 1, 2008, a qualified member may designate up to 100 percent of their death gratuity entitlements, in 10 percent increments, to any person(s) of their choosing. If the qualified member has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable, the

Secretary concerned **must** provide notice of the designation to the spouse. If a qualified person does not make a designation or designates only a portion of the amount payable, then pay the amount of the death gratuity not covered by a designation as follows:

1. To the surviving spouse of the person, if any;
2. If there is no surviving spouse, any surviving children of the person and the descendants of any deceased children by representation. Surviving children without regard to age or marital status include:
 - a. Legitimate children,
 - b. Adopted children,
 - c. Stepchildren who were a part of the decedent's household at the time of his death, or
 - d. Illegitimate children of the decedent (see subparagraph 300303.A.4);
3. If there is no surviving spouse or children, the decedent's surviving parents in equal shares or the survivor of them. Surviving parents as prescribed by the following:
 - a. Parents include fathers and mothers through adoption,
 - b. Only one father and one mother may be recognized in any case,
 - c. Those who exercised a parental relationship on the date, or most nearly before the date of the retiree's death **are given preference**;
4. If there is no surviving spouse, child, or parent of the decedent, the duly appointed executor or administrator of the estate of the decedent; or
5. If there are no survivors as prescribed in subparagraphs 300302.B.1 through 300302.B.4, other next of kin of the person entitled under the laws of domicile of the person at the time of the person's death.

300303. Documentary Evidence

- A. In some cases, the beneficiary must furnish proof of relationship:
 1. Lawful Spouse. Documentation may be required to substantiate the marriage or proof of termination of prior marriages entered into by the beneficiary or deceased retiree;
 2. Legally Adopted Child. A copy of adoption papers;

3. Stepchild. Information to prove that the child was a member of the deceased member's household;

4. Illegitimate Child. Documentation is required as proof that the retiree was the parent of the child and must include one of the following:

- a. An acknowledgement in writing signed by the decedent;
- b. A judicial determination made before the decedent's death [that](#) the claimant is a child of the decedent;
- c. Evidence that the Secretary of VA has determined the claimant to be the child of the decedent; or
- d. A copy of the court order that ordered the parent to contribute to the child's support; or

5. Designated Relative

a. [Designated relative must provide documentary](#) evidence that any marriage entered into by the deceased retiree has been terminated and a notarized statement that there are no living children.

b. Persons in loco parentis must furnish satisfactory evidence of the relationship as deemed necessary by the Military Department concerned.

B. Custodianship documents or court orders of guardianship appointments must support all payments made for minor children.

300304. Death of Eligible Survivor before Receipt of Death Gratuity

If a person entitled to all or a portion of a death gratuity under subparagraph 300302.B dies before the person receives the death gratuity, it [will](#) be paid to the living survivor next in the order prescribed in subparagraph 300302.B.

300305. Determinations Affecting Entitlement

A. Death as Lawful Punishment. No death gratuity is payable in the case of a retiree whose death is the result of a lawful punishment for a crime or military offense, except when such death was inflicted by any hostile force with which the Armed Forces of the United States was engaged in armed conflict.

B. Member Killed by Beneficiary. No death gratuity is payable to a beneficiary or survivor who kills a retiree, unless there is evidence that clearly absolves the beneficiary or survivor of any felonious intent.

300306. Amount Payable

A. Deaths On or After October 7, 2001. For deaths on or after October 7, 2001, the amount of death gratuity is \$100,000.

B. Debt Collection. Do not collect debts from death gratuity payments.

300307. Erroneous Payment

An erroneous payment of death gratuity is one made because of administrative error to a person clearly not entitled to that payment, rather than a payment made reliant on statements of record made by the retiree about matters such as marital status and dependency status. Make a second payment to the rightful beneficiary when the error resulted from improper maintenance of records or administrative negligence. This payment **should not be delayed** pending recovery of the erroneous payment from the ineligible recipient. The respective DFAS site will follow the prescribed collection procedures in an attempt to recover an erroneous payment.

3004 TAXABLE INCOME

300401. Taxability of AOP

A. An AOP due the deceased retiree at time of death is taxable to the beneficiary who receives payment if **the AOP was** taxable to the retiree. The tax liability is in accordance with the Internal Revenue Code of 1986, as amended.

B. If an AOP is paid, a Treasury Department (TD) Form 1099-R is issued to each beneficiary using the tax identification number of the beneficiary. If no AOP is paid, the retired pay activity issues one TD Form 1099-R in the decedent's name.

300402. Taxability of Death Gratuity

A. Death Occurred Between August 20, 1990 and September 10, 2001. The amount of death gratuity payments made to survivors of military members who died after August 20, 1996 that is excludable from income may not exceed \$3,000, regardless of the number of beneficiaries. If there are multiple beneficiaries, apply proportionately the \$3,000 exclusion. All death gratuity payments are reported separately, using TD Form 1099-R. The total amount of the gross distribution is entered in Box 1. The appropriate taxable amount is entered in Box 2a. For members who died on or before August 20, 1996, the maximum exclusion amount is \$5,000.

B. Death Occurred On or After September 11, 2001. The total amount of death gratuity is excludable from gross income for tax purposes.

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VOLUME 7B, CHAPTER 31: “DEATH OF SURVIVOR ANNUITANT”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an [asterisk \(*\)](#) symbol preceding the section, paragraph, table, or figure that includes the revision.

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Revised to comply with current administrative instruction.	Revision

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CHAPTER 31

DEATH OF SURVIVOR ANNUITANT

3101 GENERAL

310101. Purpose

This chapter addresses the settlement of the arrears of an annuity where the annuitant is a spouse with no eligible child annuitant, the last remaining child annuitant, or a natural person with an insurable interest. In accordance with the procedures in section 3102, the Defense Finance and Accounting Service (DFAS) pays the arrears of the annuity under Retired Serviceman's Family Protection Plan (RSFPP), Survivor Benefit Plan (SBP), and minimum income widow provisions of the SBP law.

310102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

3102 SETTLEMENT OF THE ARREARS

310201. Documentation

A notification of death from any source (next of kin, post office, or neighbor) is sufficient to suspend future payment of the annuity. To settle (pay) the arrears of an annuity, the following documentation must be on file:

- A. A copy of the death certificate;
- B. A written claim over the signature and address of the claimant or of the claimant's authorized agent or attorney; and
- C. Proof of recoupment of outstanding payments. All outstanding checks or direct deposits (not negotiated before the annuitant's death or forwarded past the date of entitlement) or the proceeds thereof must be returned to the DFAS-Cleveland Site before a settlement of arrears of annuity may be made.

310202. Payment of the Arrears

The annuity is not prorated for the month of the annuitant's death. Entitlement stops as of the last day of the month before the date of the annuitant's death. When all documentation is received, payment of the arrears is made to the person living on the date of the annuitant's death who is highest on the order of precedence set forth in Chapter 30. For the purpose of payment of the arrears of an annuity under this section, the provisions of subparagraph 300204.C, D and E apply, and all references to a "retiree" in subparagraphs 300204.A.2 through A.6, D, and E should be considered as referring to the deceased annuitant rather than a retiree.

310203. Claim for Arrears

A claim for arrears of an annuity must be filed within the 6-year statute-of-limitation restriction. Any claim received 6 years after the date of the annuitant's death is barred.

3103 TAXABILITY

In the case of deceased annuitants, one or more [Department of the Treasury - Internal Revenue Service \(IRS\)](#) Form(s) [1099-R](#), Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, may be used. If no arrears of an annuity are paid, then one Form 1099-R will be issued in the annuitant's name to cover any payments received by the annuitant before death. If arrears of an annuity are paid, then an additional Form 1099-R is issued to each claimant to whom the arrears were paid.

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CHAPTER 31 – DEATH OF SURVIVOR ANNUITANT

3102 – SETTLEMENT OF THE ARREARS

310203

31 United States Code, section 3702(b)

**VOLUME 7B, CHAPTER 32: “RECOVERY OF PAYMENTS MADE TO A
FINANCIAL ORGANIZATION”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

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All	Updated hyperlinks and formatting to comply with current guidance.	Revision
320101	Updated the “Purpose” paragraph to provide clarity.	Revision

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CHAPTER 32

RECOVERY OF PAYMENTS MADE TO A FINANCIAL ORGANIZATION

3201 GENERAL

*320101. Purpose

This chapter provides information regarding the accountability of a financial organization for direct deposit payments returned to the Defense Finance and Accounting Service (DFAS) because of the death of a retiree or annuitant. By accepting a recurring benefit payment from the government, a receiving financial institution agrees to the provisions of Title 31, Code of Federal Regulations (CFR), Part 210, including the reclamation actions and debiting of the financial institution's Federal Reserve Bank account for any reclamation for which it is liable. The government's right to reclaim funds is established in 31 CFR 210, section 210.10(a).

320102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

3202 LIABILITY OF FINANCIAL INSTITUTIONS FOR DIRECT DEPOSIT PAYMENTS

320201. Liability of Financial Institution

A financial institution is liable for all benefit payments received after the death or legal incapacity of a recipient, or death of a beneficiary, unless the financial institution meets the qualifications for limiting its liability under paragraph 320203.

320202. Reclamation

Upon the notification of the death of a military retiree or annuitant, the DFAS Cleveland Disbursing Officer (DO) will contact the decedent's financial institution to request the return of all payments made since the retiree's or annuitant's death.

A. The DO must initiate reclamation within 120 days after constructive receipt of notification of the death of a retiree or annuitant. The financial institution is not liable for payments made more than 6 years prior to date of reclamation.

B. Effective January 2, 2008, the Department of the Treasury, Financial Management Service (FMS) established a policy for the reclamation of federal payments disbursed electronically through the Automated Clearing House. On October 7, 2012, the FMS and the Bureau of the Public Debt were consolidated into the Bureau of the Fiscal Service. See the Department of the Treasury's Green Book for detailed instructions on the reclamation procedures.

320203. Limiting Liability

A financial institution may qualify to limit its liability by full compliance with the regulations if it:

A. Had no actual or constructive knowledge of the death at the time of the deposit of any post-death benefit payments;

B. Returns all post-death benefit payments it receives after it learns of the death of a retiree or annuitant; and

C. Responds to the reclamation to ensure that *the appropriate amount* is received by the DO within 60 days of the date on the reclamation.

320204. Calculating Limited Liability Amount

If a financial institution qualifies for limited liability, the amount which can be debited from the financial institution is the amount of the account balance at the time it first receives notice of death plus the lesser of the outstanding balance due (after any collection from the withdrawers) or the 45-day amount. The 45-day amount is the dollar amount of the post-death benefit payments received within 45 calendar days following the death. See the Department of the Treasury's Green Book for examples of calculating the limited liability amount.

3203 LIABILITY OF DISBURSING OFFICER

The accountability of the financial institution does not affect the liability of the *DO* for any amounts not recovered. The *DO* may be relieved of liability for amounts not recovered when the officer has shown that he or she did not know and could not have known of a retiree's or annuitant's death prior to making payments after the date of death.

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VOLUME 7B, CHAPTER 37: “RETIRED SERVICEMAN’S FAMILY PROTECTION PLAN (RSFPP) - ANNUITIES”**SUMMARY OF MAJOR CHANGES**

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PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
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3703	Moved information from paragraphs 370103, 370104, and 370105 to section 3703.	Revision
370405	Added statement for waiving a claim for consistency with Chapter 30.	Addition
371502.D	Added information on the annual submission of the certificate of eligibility.	Addition
Table 37-1	Revised the wording in item 7 to reflect information referenced.	Revision

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CHAPTER 37

**RETIRED SERVICEMAN'S FAMILY PROTECTION
PLAN (RSFPP) – ANNUITIES**

3701 GENERAL

370101. Purpose

An annuity payable under the RSFPP is not assignable or subject to execution, levy, attachment, or garnishment, except for child support or alimony, or to collect a debt caused by an overpayment described in section 3709. A debt to the United States or its instrumentalities incurred by the annuitant may be offset from the annuity. The annuity may be paid to a trustee through bankruptcy court proceedings.

370102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

3702 EFFECTIVE DATE OF ANNUITY

370201. Annuity Accrual

Each annuity payable normally accrues as of the first day of the month in which the member dies. If the Secretary concerned makes a determination that a participating member is presumed dead, the annuity accrues from the first day of the month in which retired or retainer pay was suspended on the basis of the member's missing status. When a member elects coverage for spouse and children (Option 3), an annuity is payable to the eligible children on the first day of the month in which the widow or widower becomes an ineligible annuitant. For the child who is at least age 18 and attending a recognized educational institution (see section 3715 for more information), the annuity accrues:

A. As of the first day of the month in which the retired member dies, if the eligible child's 18th birthday occurs in the same or a preceding month; or

B. As of the first day of the month in which the child's 18th birthday occurs, if the retired member died in the preceding month; or

C. As of the first day of the month in which the child becomes or again becomes eligible, if that child's 18th birthday and the retired member's death occurred in a preceding month or months.

370202. Application

The first payment of the annuity cannot be made until a completed application is received. If a properly completed application is received, the first payment must be made not later than the

15th of the month after the month in which the retired member dies, nor later than the 15th of the month after the month in which the Secretary of the Military Department concerned (or designee) has made a determination that the member is presumed dead. Payments are made in equal monthly installments thereafter as long as entitlement exists.

370203. Annuitant Eligibility

No annuity accrues or is paid for the month in which all annuitants lose eligibility.

370204. Special Circumstance

If a member retires and dies during the same month, the annuity is payable for the full month.

*3703 ANNUITY PAYMENTS

370301. Upon Death or Presumption of Death

Upon official notification of death or Secretarial determination that a participating member is presumed dead, annuity accounts are established in accordance with the provisions of the election made by or on behalf of the member. A Department of Defense [\(DD\) Form 2656-7](#), Verification for Survivor Annuity, validates the annuity account. Payment of annuity is barred when the member is retired for disability before completing 19 years of service (18 years of service before October 1968) if beneficiaries are eligible for Veterans Affairs (VA) Dependency and Indemnity Compensation (DIC). Payments for a representative payee of an RSFPP annuitant follow the same requirements as payment under the Survivor Benefit Plan. See Chapter 46 for more information.

370302. Additional Annuity Information

Annuities payable are in addition to any pension or other payment to which the beneficiaries may now or later be entitled by law, and may not be considered as income under any law administered by the VA, except when the annuitant is entitled to DIC as a parent of a veteran. For additional information affecting annuity payments, see Table 37-1.

370303. Settlement of Arrears

For information concerning the settlement of arrears of annuities, see Chapter 31.

3704 CLAIMS FOR ANNUITY

The claim for annuity payments must be properly completed and signed by the person or persons authorized to receive [the](#) annuity.

370401. Power of Attorney

An individual holding a valid power of attorney may complete (including the signature element) and file the annuity application form on behalf of an annuitant provided payments are to be made directly to the annuitant and, further, that the annuitant has not been determined to be incompetent of managing his or her own affairs by a state court, physician, or psychologist. For additional information on annuity payments, see Chapter 46. An annuitant whose application is signed with an “X” must be witnessed (by two disinterested persons) or notarized or countersigned by the person holding the power of attorney. A copy of the power of attorney and explanation why the annuitant required assistance must be submitted with the annuity application.

370402. Court Order

A claim signed by a legal representative must be accompanied by a copy of the court order of appointment.

370403. Custodianship

A claim signed by the custodian of a minor child or children must be accompanied by a document evidencing custodianship.

370404. Doubtful Claim

A doubtful claim must be submitted to the Defense Office of Hearings and Appeals (DOHA) for certification before payment.

[*370405.](#) Limitation

The Barring Act, found at [Title 31, United States Code \(U.S.C.\), section 3702](#), bars payment of any claim not received within 6 years from the date it accrues. A claim not received within 6 years of the member’s death must be denied as untimely. When denying a claim based on untimely receipt, the denial letter must cite the applicable statute (31 U.S.C. § 3702), explain the reasons for the finding of untimely receipt, provide the claimant with notice that states [their](#) claim was not received within the statutory time limit and therefore, may not be considered, unless that finding is reversed on appeal, explain how the claimant may appeal the finding and explain how the claimant may apply for a waiver. [Under authority delegated from the Secretary of Defense, the Director, DOHA, may waive the time limitation for late claims involving the pay, retired pay, and survivor benefits of military personnel. Any claim that became payable as a result of a waiver of the time limitation is limited to \\$25,000.](#)

3705 ANNUITY AMOUNTS

370501. Single Option

A. Retirements Before November 1, 1968. The monthly annuity payable, as elected by the retiree, is one-eighth, one-quarter, or one-half of the retiree's reduced retired pay as computed on the date of retirement or effective date of election, whichever is later.

B. Retirements From November 1, 1968 Through September 20, 1972. The monthly annuity payable as elected by the retiree is:

1. One-eighth, one-quarter, or one-half of the retiree's gross retired pay on date of retirement; or

2. A specific dollar amount of not more than 50 percent, nor less than 12.5 percent of the retiree's gross retired pay on date of retirement, but in no case less than \$25.

370502. Multiple Options

A. Retirements Before November 1, 1968. The monthly annuity payable for each option, as elected by the retiree, is one-eighth or one-quarter of the retiree's total reduced retired pay as computed on the date of retirement or effective date of election, whichever is later. The combined amount of annuities cannot exceed 50 percent of the retiree's total reduced retired pay.

B. Retirements From November 1, 1968 Through September 20, 1972. The monthly annuity payable for each option, as elected by the retiree, is:

1. One-eighth or one-quarter of the retiree's gross retired pay on date of retirement; or

2. A specific dollar amount of not more than 25 percent, nor less than 12.5 percent of the retiree's gross retired pay on date of retirement, but in no case less than \$25.

370503. Rounding

All monthly annuities to which a survivor becomes entitled on or after October 1, 1983, if not a multiple of \$1, is rounded to the next lower multiple of \$1. Annuities to which survivors were entitled on September 30, 1983 were not rounded until there was an adjustment made in accordance with 10 U.S.C. § 1401a; then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, is rounded to the next lower multiple of \$1. All subsequent adjustments are based on the rounded amount.

3706 PAYMENTS TO WIDOW OR WIDOWER

For unique conditions affecting entitlement of annuity payments to widow or widower, see Table 37-2 for decisions of the Comptroller General.

3707 PAYMENT TO CHILDREN

370701. Whom Payable

Annuities for a minor child or children are paid to the legal guardian or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child or children as the custodian, or to a representative payee of the child or children.

370702. Majority Age

Annuities may be paid directly to the child when the law governing the state of residence stipulates the child to be majority age. The child is considered an adult for annuity payment purposes, and a custodian or legal fiduciary is not required. See Appendix H for majority age.

370703. Equal Shares

The annuity is payable in equal shares to or on behalf of all eligible children. If there are no other eligible children, the annuity entitlement terminates when the youngest child becomes an ineligible annuitant.

370704. Unique Conditions

For unique conditions affecting entitlement and payment of annuities for a child or children, see Table 37-3 for decisions of the Comptroller General.

3708 COST-OF-LIVING ADJUSTMENT (COLA)

370801. Annuities Payable On or After September 30, 1978

Annuities payable on September 30, 1978 to a spouse or child of a member who died on or before March 20, 1974 were increased by 66.1 percent, effective October 1, 1978. The 66.1 percent increase was the percentage change in retired and retainer pay authorized by 10 U.S.C. § 1401a from September 21, 1972 to September 30, 1978.

370802. Rounding

Whenever retired pay is increased through a COLA, each annuity payable on the day before the effective date of that increase to a spouse or child, or to a member who dies on or before March 20, 1974, is increased at the same time by the same percentage. Beginning October 1, 1983, after each COLA, the annuity as adjusted, if not a multiple of \$1, is rounded to the next lower multiple of \$1. All subsequent adjustments are based on the rounded amount.

3709 CAUSES OF OVERPAYMENTS

Overpayments in annuity payments may be caused by one or more of the following situations:

370901. Notification

Failure of the annuitant, custodian, or guardian to notify the Secretary of the Military Department concerned (or designee) of:

- A. Remarriage of the annuitant, before age 60 or death;
- B. Youngest child reaching age 18;
- C. Marriage or death of a child annuitant;
- D. Recovery of an incapacitated child;
- E. Termination of student status;
- F. Erroneous computation; or
- G. Correction of member's military records.

370902. Concurrent Payment

Concurrent payment of RSFPP annuity and DIC if the RSFPP was payable based on the service of a member who retired for disability before completing 18 years of service after October 5, 1961, or before completing 19 years of service after November 1, 1968.

370903. Presumption of Death

A Secretarial determination that a member is alive after the Secretary of the Military Department concerned (or designee) previously determined that the member was presumed dead. The member is liable for any indebtedness created where the annuity payments were made based on the presumption of such member's death. The member's indebtedness cannot be considered for waiver under [10 U.S.C. § 2774](#) or [10 U.S.C. § 1442](#). If the member dies before those payments are fully recovered, the annuitant may be liable for the indebtedness if the annuitant was the recipient of the annuity payments made under the presumption of death. (See Volume 16, Chapter 3 and Table 3-7, for collection of indebtedness from retired or retainer pay.)

3710 RECOVERY OF OVERPAYMENTS

Upon discovery of an overpayment, start recovery action immediately. Advise the annuitant of the debt and the method in which the overpayment is being, or may be, recovered.

3711 METHOD OF RECOVERY

The debt resulting from an annuity overpayment **will** be liquidated by one of the following methods:

371101. Direct Remittance

Send a direct remittance to the Defense Finance and Accounting Service, Cleveland (DFAS-CL) Center.

371102. Future Payment Amounts

The DFAS-CL Center reduces the later RSFPP annuity payments, or withholding of future annuity payments until debt has been liquidated.

3712 WAIVER OF INDEBTEDNESS

When applicable, the DFAS-CL Center advises the annuitant of the right to request a waiver of indebtedness.

371201. Overpayment Recovery

Recovery of an overpayment of the RSFPP annuity is not required if, in the judgment of the DFAS Director or the Director's designee, there was no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purpose of the plan or against equity and good conscience. Proof of hardship is not required if the waiver otherwise is in order. Suspension of collection action may be authorized on receipt of a waiver request. Refund of an amount withheld before receipt of a request for waiver is not authorized. When a waiver is granted, refund amounts collected after receipt of the waiver request.

371202. Failure to Withhold

Failure to withhold the cost of coverage from retired pay of a member cannot be considered an overpayment of annuity to a designated beneficiary to authorize waiver of recovery of the overpayment.

371203. Correction of Records

RSFPP annuitants who obtain a correction of records for entitlement to additional survivorship annuity under a second election may not retain the benefits of the original election. A correction made under [10 U.S.C. § 1552](#), except when procured by fraud is final and conclusive on all officers of the United States. Recovery of overpayments that occur in these instances may not be waived under 10 U.S.C. § 1442. Repayment may be made over a reasonable period of time as determined by the retired pay activity.

3713 TERMINATIONS

371301. Time of Termination

Entitlement to the RSFPP annuity terminates as of the end of the month that precedes the month in which eligibility ceases.

371302. Reasons for Termination

The RSFPP annuity is terminated upon:

A. Death of Widow or Widower. Payments are terminated the last day of the month that precedes the month in which widow or widower dies. If children are involved, see paragraph 371402 for further information.

B. Remarriage of Widow or Widower Before Age 60. Payments are terminated the last day of the month that precedes the month in which widow or widower, younger than age 60, remarries. If children are involved, see paragraph 371402 for further information.

C. Loss of Eligibility by Child Annuitant. Reasons for loss are:

1. The youngest child reaching age 18 and not incapable of self-support (applicable to children of members who retired before November 1, 1968);

2. The youngest child reaching age 18 and not pursuing a full-time course of study nor incapable of self-support (applicable to children of members retiring on or after November 1, 1968);

3. The youngest child who is pursuing full-time course of study, reaching age 23 and not incapable of self-support (applicable to children of members who retired on or after November 1, 1968);

4. The marriage or death of child annuitant;

5. The recovery of an incapacitated child over age 18. Annuity may be suspended if the annuitant becomes independently capable of earning amounts sufficient for his or her own particular personal needs through substantial and sustainable gainful employment. The annuitant will receive advance written notice from DFAS prior to suspension. The annuitant will be given an opportunity to submit rebutting evidence. The annuity may be reinstated (see subparagraph 371402.B);

6. The termination of student status of a child over age 18 and under age 23 (applicable only to retirees who retired on or after November 1, 1968); or

7. The reinstatement to widow or widower of annuity previously terminated.

D. Secretarial Determination. Payments are terminated the last day of the month preceding the month in which the Secretary of the Military Department concerned (or designee) determines that a participating member previously presumed to be dead is now alive.

371303. Due and Unpaid Annuity

If, upon death of the annuitant, an amount remains payable to the annuitant but is unpaid because the annuity checks were not negotiated or because payments had not been established, the account is settled in accordance with Chapter 31. There is no designated beneficiary for settlement of arrears of an annuity.

3714 REINSTATEMENTS

371401. Remarriage Before Age 60

The RSFPP annuity is not reinstated.

371402. Reinstatement on Behalf of Children

A. If an annuity was terminated because of the death or remarriage of the widow or widower before age 60, and the member's election also included coverage for children, then the full annuity is reestablished in equal shares in favor of the eligible children (see section 3707). The effective date is the first day of the month in which the death or remarriage of the widow or widower occurred.

B. An annuity to an incapacitated child over 18 years of age may be reinstated upon either a recurrence of the original disability that rendered the annuitant incapable of self-support or upon receipt of evidence from the annuitant that, although engaged in substantial and sustainable gainful employment, wages are not sufficient to cover his or her particular needs.

371403. Annulment

A. Annulment of a Void Marriage

1. The annuity may not be reinstated for any period earlier than the date of separation after the discovery that the marriage was void. [A void marriage is invalid and never existed therefore, it requires no formal termination.](#)

2. The annuity may not be reinstated for any period in which annuity payments were made on behalf of children under paragraph 371402. When notice is received that the widow or widower's remarriage was void, payment to these children is suspended pending resolution of the issues involved.

3. In the absence of a judicial decree terminating the marriage as void, the case must be sent to the DOHA for a decision.

B. Annulment of a Voidable Marriage. The annuity may not be reinstated when a voidable marriage is annulled.

371404. Reinstatement After Age 60 Remarriage

If the annuity was terminated because of remarriage, and the widow or widower was 60 years of age or older, the annuity may be reinstated not earlier than October 1, 1978. The annuity will be increased by the COLA, if appropriate, in accordance with paragraph 370802.

3715 ANNUAL CERTIFICATE OF ELIGIBILITY (COE)

371501. Purpose

The certificate validates the continued eligibility of annuitants, whether widow or widower, or eligible child. Only the following persons are eligible to be made the beneficiaries of, or to receive payments under, an annuity elected by a member of the Armed Forces:

A. The spouse of the member on the date when the member is retired or becomes entitled to retired or retainer pay, or if the member was already retired or entitled to retired or retainer pay on November 1, 1953, the spouse on that date;

B. The children, living on November 1, 1953, of the member already retired or entitled to retired or retainer pay on that date, or the children who are living on the date the member retires with pay, and who:

1. Are unmarried;

2. Fall in one of the following age categories:

a. Under the age of 18;

b. At least 18, but under 23, years of age and pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child is considered to be pursuing a full-time course of study or training during an interval between school years that does not exceed 150 days if he has demonstrated to the satisfaction of the Secretary concerned that he has a bonafide intention of commencing, resuming, or continuing to pursue a full-time course of study or training in a recognized educational institution immediately after that interval. (This applies only to children of members who retired on or after November 1, 1968); or

c. More than 18 years of age and incapable of self-support because of being mentally defective or physically incapacitated, if that condition existed before they reached age 18;

3. Are legitimate or adopted children of the member, or step-children dependent upon the member for their support; or

4. Have **not** been adopted by a third person before the parent-member's death (36 Comp Gen 325).

NOTE: A child's eligibility for an annuity under the plan is not affected if a third person adopts the child **after** the parent-member's death.

***371502. Certification Frequency**

A. **Annually.** A COE must be sent to the DFAS-CL Center each year by either of the following:

1. **Widow or Widower of Any Age.** The form must be signed by the widow or widower. An electronic signature may be used provided access to the Defense Retiree and Annuitant Pay System was gained using both the Social Security number and a personal identification number via myPay. The legal fiduciary must sign the form or use the electronic signature if the annuitant is mentally incompetent. If the electronic signature is used, it must include the annuitant's name.

2. **Custodian or legal fiduciary for minor children.** The COE form signed by the custodian or legal fiduciary must be accompanied by a document evidencing custodianship.

B. **Biennially.** A medical certification must be submitted every 2 years for any incapacitated child over 18 years of age, unless a medical prognosis indicates that the disability is permanent.

C. **Other.** A student between ages of 18 and 23 must provide evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided.

1. Payments to students continue during any interval between school years that does not exceed 150 days if the students have demonstrated to the satisfaction of the DFAS-CL Center that they have a bona fide intention of starting, resuming, or continuing a full-time course of study or training in a recognized educational institution immediately after that interval.

2. An eligible student annuitant under the RSFPP who is properly enrolled in a recognized educational institution employing the usual quarter or semester system and who becomes ill or requires non-elective surgery during the school term retains the student status for the rest of that term.

*** D. COE Not Required**

1. **Effective August 1, 2013.** As of August 1, 2013, all annuitants over age 55, not mentally incompetent, living in the United States, or living outside the United States and receiving their pay by direct deposit will not be required to submit an annual COE.

2. Effective November 23, 2016. As of November 23, 2016, child annuitants under the age of 14 will not be required to submit an annual COE.

371503. Failure to Return COE

The annuity payment is suspended if the annuitant, custodian, or legal fiduciary fails to furnish the certificate as required. Payments will be restarted only after receiving satisfactory proof of eligibility.

3716 REPORT OF EXISTENCE (ROE)

371601. Purpose of ROE

The ROE fulfills the requirement for proof of existence for the following:

A. Annuitants Who Receive Payments Through Foreign Postal Channels. Annuity checks mailed to an Army Post Office, Fleet Post Office, finance officer, or disbursing officer at an overseas address does not require submission of an ROE. See Title 31, Code of Federal Regulations (CFR), section 211.1 for specific conditions for withholding the delivery of checks to addresses outside the United States;

B. Mentally Incompetent Annuitants. Mentally incompetent annuitants who receive payments through a legal fiduciary; or

C. Third Party Annuitants. Annuitants whose payments are sent to a third party, other than a financial institution for negotiation under a power of attorney.

NOTE: Do not mail checks to an annuitant living in currency-blocked countries.

371602. ROE Requirement

An ROE is required on a semi-annual basis for those annuitants that meet the criteria of paragraph 371601. Receipt of the certificate within the prescribed timeframe verifies the annuitant's existence. Under no circumstances may the ROE be signed by other than the annuitant, custodian, or legal fiduciary; however, electronic signature as referenced in paragraph 371502 is authorized.

371603. Failure to Return ROE

The annuity payment is suspended if the annuitant, custodian, or legal fiduciary fails to return the ROE as required. Payments will be restarted only after receiving satisfactory proof of existence.

3717 FEDERAL INCOME TAX

Annuities paid under the RSFPP are taxable for Federal income tax purposes. Refunds for coverage premiums are taxable income to the annuitant. The refund of premiums may result from administrative error, corrections of record, late receipt of withdrawal request, or youngest child attaining age 18.

3718 FEDERAL INCOME TAX WITHHOLDING (FITW)

371801. General Provisions

RSFPP annuity payments are subject to FITW. An annuitant has the right to elect no withholding. In the absence of such an election, or if the annuitant does not otherwise submit a withholding certificate, the DFAS-CL Center will withhold on a “married-three exemptions” basis.

371802. Notice Requirements

The DFAS-CL Center must advise the annuitant of the withholding requirement and the right to elect “no withholding” when making the first payment to the annuitant. Thereafter, the DFAS-CL Center must send an annual notice to the annuitant of the right to elect no withholding, to revoke an election, or to submit a new withholding certificate. An annuitant also may submit a withholding certificate at any time to elect no withholding, revoke such election, or request any rate of withholding.

371803. One Time Payments

RSFPP annuity payments, other than the regular monthly entitlement, are subject to FITW at the rate of 20 percent unless the annuitant has elected no withholding.

3719 INCOME EXCLUSION

371901. Gross Income Exclusion

The annuitant may exclude from gross income:

A. Premiums for coverage deducted from retired pay before January 1, 1966 not previously excluded from the member’s retired pay; and

B. The amount of direct remittance for any RSFPP premiums not previously excluded from the member’s retired pay.

371902. Special Exclusion

In addition, the annuitant may exclude from the RSFPP annuity gross income an amount not to exceed \$5,000 if the member retired on disability and dies prior to attaining retirement age

(Public Law (PL) 89-365). As of August 20, 1996, PL 104-188, section 1402(a) repealed the \$5,000 exclusion.

3720 FEDERAL ESTATE TAX

The value of the annuity at the time of the member's death may be subject to Federal estate tax if any portion of the cost was paid by direct remittance, or if the value of the annuity exceeds the amount that may be excluded from the gross estate. The DFAS-CL Center may furnish the annuitant the current annuity amount and/or a summary of annual payments, and total cost paid (separate totals for deductions and direct remittances). For more information on the computation of the amount of an annuity that will be subject to the tax, if any, the executor of the member's estate [may go to the Internal Revenue Service \(IRS\) website](#).

3721 STATE TAXATION

Whether RSFPP annuities are subject to state inheritance or income tax and the method of calculating such tax depends upon the laws of the state concerned; however, the IRS Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., information is furnished to the appropriate state tax authority.

3722 FURTHER TAX INFORMATION

Survivors should be advised that further information concerning taxation of RSFPP annuities may be obtained from the District Director of Internal Revenue or the state tax authority (see Appendix J, for state tax reporting addresses).

*Table 37-1. Comptroller General (Comp Gen) Decisions – Annuity Payments, General

COMP GEN DECISIONS - ANNUITY PAYMENTS, GENERAL		
Decision Number		Synopsis
1	35 Comp Gen 12 B-123191, July, 13, 1995 41 Comp Gen 500 B-147403, February 1, 1962	<u>Unpaid Cost for Coverage.</u> Any unpaid RSFPP cost at time of a retiree's death, including nonpayment of direct remittance or erroneous computation of cost, must be collected before payment of any annuities.
2	34 Comp Gen 664 B-123189, June 8, 1995	<u>Retired Pay Status Relinquished.</u> Personnel who relinquish retired status (either voluntarily or involuntarily) are not permitted to pay RSFPP costs to entitle beneficiaries to annuities.
3	43 Comp Gen 125 B-151843, August 5, 1963	<u>Effective Date of Payment.</u> Annuity payments are paid under provisions of the RSFPP law as amended effective Oct 4, 1961, even though the election was made on Oct 4, 1961, before the hour in which the President signed the bill which amended the law.
4	34 Comp Gen 151 B-121144, October 4, 1954 38 Comp Gen 146 B-113387, August 25, 1958	<u>Annuity Payment Adjustments.</u> Annuity payments must be adjusted on the basis of proper retired pay at the time the election became effective as though the member had actually been receiving such pay at that time. This applies to elections by members who elected while in a "saved pay" status, who later elected and received pay under the Career Compensation Act retroactive to Oct 1, 1949.
5	Comp Gen B- 156862, June 30, 1965	<u>Failure to Submit Valid Election Form.</u> After a member's death a copy of the RSFPP election is found in his personal effects. If it is not attested or notarized, and neither the original nor duplicate is located, it cannot be established that the member made an election. On the basis of information available, no annuity is payable.
6	43 Comp Gen 418 B-152520, October 25, 1963	<u>Allocations of Annuity.</u> The allocation of annuity payable under option 3 between the present spouse and the children of a former marriage applies to elections made before and after the October 4, 1961 RSFPP amendment. PL 90-485, August 13, 1968.
*7	Comp Gen B-139217, June 29, 1959 and August 12, 1960	<u>Withholding Annuity to Satisfy Members Indebtedness.</u> Annuity payments may not be withheld to satisfy the member's indebtedness for overpayment of retired pay since the annuitant is under no obligation to the United States. However, the annuitant may voluntarily agree to repay the indebtedness by withholding from the annuity.

Table 37-1. Comp Gen Decisions – Annuity Payments, General (Continued)

COMP GEN DECISIONS - ANNUITY PAYMENTS, GENERAL		
Decision Number		Synopsis
8	39 Comp Gen 481 B-141131, December 30, 1959	<u>Valid Intent of Member to Elect Spouse and Child Coverage.</u> Both the spouse and children are covered when it can be established that the member intended to cover the children listed on the election certificate even though the election was checked to show spouse only.
9	65 Comp Gen 621 B-221545, June 3, 1986	<u>Annuity Payments.</u> Should not be made payable to an agent acting under power of attorney when the annuitant is mentally incompetent even if a state statute had preserved the validity of a power of attorney executed before the annuitant was declared to be incompetent.
10	66 Comp Gen 340 B-226018, March 18, 1987	<u>In the Absence of a Determination of Incompetence.</u> Made by a state court, physician, or psychologist that an annuitant is incapable of managing his or her own affairs, payments may be made directly to the annuitant. An individual, in accordance with a valid power of attorney, may assist the annuitant in completing and filing the annuity application form. (65 Comp Gen 621, clarified).

Table 37-2. Comp Gen Decisions – Annuity Payments, Widow or Widower

COMP GEN DECISIONS - ANNUITY PAYMENTS, WIDOW OR WIDOWER		
Decision Number		Synopsis
1	Comp Gen B-158906, June 7, 1966	<u>Validity of Annuitant's Marriage to the Member.</u> Evidence must be of record to establish that a former marriage was legally ended. No annuity payments are authorized to be paid until legal proceedings are instituted to determine the validity of the marriage.
2	44 Comp Gen 480 B-155792, February 16, 1965	<u>Foreign Divorce.</u> The State of New York does not recognize a foreign divorce unless both parties appear personally or through authorized counsel in the country where the foreign divorce is obtained.
3	43 Comp Gen 567 B-153183, February 14, 1964	<u>Foreign Divorce.</u> A member's marriage to a woman who had previously obtained an illegal foreign divorce is not valid for annuity payment purposes.
4	Comp Gen B-154387, July 16, 1964	<u>Interlocutory Decree of Divorce.</u> An interlocutory decree does not end a marriage. A foreign divorce in the interim period is not valid. The final divorce decree terminates the marriage.
5	42 Comp Gen 112 B-149378, August 10, 1962	<u>Divorce and Later Remarriage to Same Spouse.</u> A spouse who divorces the member after retirement terminates eligibility for annuity. A later remarriage of the same people to each other does not reinstate eligibility to the annuity, even though deductions from pay are continued under terms of the member's election.
6	38 Comp Gen 208 B-136499, September 16, 1958	<u>Annuity Elections at Time of Correction of Records.</u> A member is regarded as having been in a retired status on November 1, 1953, effective date of the RSFPP law, if after that date a Correction of Records retired the member retroactive to a date before November 1, 1953. A spouse whom the member married after November 1, 1953 is not entitled to annuity since he or she was not the spouse on November 1, 1953.

Table 37-3. Comp Gen Decisions – Annuity Payments, Child or Children

COMP GEN DECISIONS - ANNUITY PAYMENTS, CHILD OR CHILDREN		
Decision Number		Synopsis
1	47 Comp Gen 270 B-160939, November 14, 1967	<u>Custodianship of Minor Child.</u> Payment of RSFPP Annuity. May be made to a natural parent having care and custody of minor child or children, without the appointment of a legal guardian, even though such payments might eventually exceed the sum of \$1,000.
2	35 Comp Gen 521 B-126138, March 21, 1956	<u>Custodianship of Minor Children.</u> Payment. Can also be made to an adopting parent, as custodian of minor child since all rights and duties were acquired with the adoption.
3	47 Comp Gen 371 B-163102, January 18, 1968	<u>Child Physically Incapacitated.</u> A chiropractor's statement attesting to a child's physical incapacity is sufficient to substantiate eligibility as a beneficiary under RSFPP.
4	48 Comp Gen 167 B-165095, October 1, 1968	<u>Ineligible Child.</u> Child born May 1, 1950, became eligible for annuity benefits on May 1, 1968. Payment for month of April 1968 is proper.
5	Comp Gen, B-160876, April 18, 1967	<u>Incapacitated Child.</u> An incapacitated child does not have to meet that condition as of member's retirement date of Nov 1, 1953, if later (as required by Department of Defense Directive (DoDD) 1332.17, section 102c) to qualify as an eligible RSFPP beneficiary. Also, proof of continued incapacitation of a child annuitant is required at least every 2 years after age 18.
6	Comp Gen B-158411, March 10, 1966	<u>Mentally Incapacitated Child.</u> Mentally incapacitated child who married and whose marriage was annulled is considered unmarried and an eligible contingent beneficiary.
7	44 Comp Gen 280 B-154831, November 10, 1964	<u>Unmarried Child.</u> The term "unmarried child" is defined as not having a husband or wife at time of member's retirement, and without regard to the fact that the child may have been previously married.
8	Comp Gen B-131677, June 3, 1957	<u>Legitimate Child.</u> Children born from illegal marriage (one spouse not legally divorced from prior marriage) may be considered legitimate children for RSFPP annuity payments.
9	Comp Gen B-132012, June 17, 1957	<u>Clarification of Election Fraction.</u> A member who elected option 2 with both 1/2 and 1/8 factors checked, who failed to clarify the fraction desired, and who later stated a wish not to participate in the plan, must be assumed to have elected the minimum of 1/8 rate.
10	36 Comp Gen 325 B-129194, October 18, 1956	<u>Adoption of Child.</u> Child of deceased retired member receiving annuity under option 2 who is adopted after death of a retired member, is entitled to continue receiving the annuity. An adoption before death of retired member, or divorce from wife in which member elected option covering stepchild constitutes basis for terminating reduction of retired pay if option 4 included, and likewise voids entitlement to annuity upon later death of retiree.

Table 37-3. Comp Gen Decisions – Annuity Payments, Child or Children (Continued)

COMP GEN DECISIONS - ANNUITY PAYMENTS, CHILD OR CHILDREN		
Decision Number		Synopsis
11	35 Comp Gen 521 B-126138, March 21, 1956	<u>Amendatory Birth Certificate.</u> Amendatory birth certificate along with statement on election form is normally sufficient to substantiate date of birth and claimed relationship of adopted child.
12	62 Comp Gen 193 B-207764, February 8, 1983	<u>Incapacitated Annuitant.</u> Annuity payable to an incapacitated annuitant may not be suspended unless annuitant is capable of earning amounts sufficient for own particular personal needs through substantial and sustainable gainful employment. Advance written notice will be made prior to suspension and annuitant is given the opportunity to submit rebutting evidence.
13	62 Comp Gen 302 B-207626, April 13, 1983	<u>Incapacitated Annuitant - Reinstatement of Annuity - Payment to Third Parties.</u> An annuity may be reinstated upon the recurrence of original disabling condition. Annuity payments to incapacitated adult can be made to third parties only if appointed as guardian by court or under valid power of attorney. Power of attorney executed by mentally incapacitated annuitant may be invalid, even in absence of formal adjudication of incompetence. If annuitant suffering from mental illness has not been adjudged incompetent, and is considered by psychiatrist to be competent to manage annuity properly for personal maintenance, annuity may be paid directly to annuitant. If annuity cannot be paid directly to annuitant or properly paid to third party, annuity should accrue to annuitant's account until annuitant recovers or until guardian is appointed by court.

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	PL 98-525, October 19, 1984
	11 U.S.C., Chapter 13
370101	66 Comp Gen 260
	42 U.S.C. § 659
	26 U.S.C. § 105
	PL 83-239, section 9, August 8, 1953

3702 – EFFECTIVE DATE OF ANNUITY

	PL 98-525, October 19, 1984
370201.C	10 U.S.C. § 1437
370202	PL 83-239, section 10, August 8, 1953
	10 U.S.C. § 1437
370204	Comp Gen B-134298, November 27, 1957

3703 – ANNUITY PAYMENTS

PL 90-485, August 13, 1968
PL 98-525, October 19, 1984
PL 102-190, December 5, 1991
10 U.S.C. § 1444a

3704 – CLAIMS FOR ANNUITY

370401	66 Comp Gen 340 B-226018, March 18, 1987
370403	4 CFR 338

3705 – ANNUITY AMOUNTS

370501.A	PL 83-239, August 8, 1953
370501.B.2	PL 90-485, August 13, 1968
370502.A	PL 83-239, August 8, 1953
	PL 87-381, October 4, 1961
370502.B.2	PL 90-485, August 13, 1968
370503	PL 98-94, September 24, 1983

3707 – PAYMENT TO CHILDREN

370702	PL 90-485, August 13, 1968
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3708 – COST-OF-LIVING ADJUSTMENT (COLA)

370801 and 370802 PL 95-397, September 30, 1978

3709 – ANNUITY OVERPAYMENTS

370901 PL 98-525, October 19, 1984
370904 PL 95-397, September 30, 1978
10 U.S.C. § 1446

3712 – WAIVER OF INDEBTEDNESS

371201 Comp Gen B-184532, September 16, 1975
Comp Gen B-185545, March 18, 1976
55 Comp Gen 1238 B-182704, July 2, 1976
10 U.S.C. § 1442
371202 41 Comp Gen 28 B-145943, July 13, 1961
371203 42 Comp Gen 98 B-149364, August 9, 1962

3713 – TERMINATIONS

371302 PL 98-525, October 19, 1984
371302.A PL 83-239, August 8, 1953
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371302.B PL 83-239, August 8, 1953
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371302.C.5 62 Comp Gen 193 B-207764, February 8, 1983

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62 Comp Gen 302 B-207626, April 13, 1983
371403.A.3 44 Comp Gen 269 B-152506, November 6, 1964
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26 CFR 20.2039-2(c)(1)
26 U.S.C. § 2039(c)

VOLUME 7B, CHAPTER 42: “SURVIVOR BENEFIT PLAN (SBP) – APPLICATION OF THE PLAN”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **May 2015** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
420101	Added a “Purpose” paragraph.	Addition
4203	Added new section to comply with current administrative instructions. Information previously in 4202.	Addition
4204	Added new section to comply with current administrative instructions. Information previously in 420105.	Addition
420423	Updated the threshold amount for 2017.	Revision
Bibliography	Updated Bibliography accordingly.	Revision

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CHAPTER 42

SURVIVOR BENEFIT PLAN (SBP) - APPLICATION OF THE PLAN

4201 GENERAL

*420101. Purpose

This chapter provides an overview of the establishment of the SBP (referred to as the Plan), eligibility and benefits, and specialized terminology and definitions used when referring to the Plan.

420102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

4202 SBP OVERVIEW

420201. Establishment of SBP

On September 21, 1972, Public Law 92-425 established the SBP to provide a survivor benefit program for military personnel in retirement to complement the survivor benefits under Social Security laws. The Plan gives all retiring Uniformed Services retirees an opportunity to elect to have their retired pay reduced by a designated amount in order to provide their survivors an annuity payable after the retiree's death.

A. Under the Plan, a member who retired before September 21, 1972, and who had previously elected to participate in the Retired Serviceman's Family Protection Plan (RSFPP) had the option to retain or cancel the RSFPP coverage when electing to participate in the SBP.

B. The Plan provides, without cost, a minimum guarantee to a widow or widower of a member who died before March 21, 1974. For additional information, see Chapter 46. A surviving spouse of a member who died before November 1, 1953, is entitled to an annuity, which may be in addition to the annuity payable under the minimum income annuity provisions.

420202. Additional Coverage

The Plan also includes:

A. Survivor benefits for the surviving spouse, dependent child, or former spouse of a member who dies on active duty;

B. A Reserve Component (RC) annuity on behalf of a member who is eligible to provide an RC annuity and dies:

1. Before notification of retirement eligibility;

2. During the 90-day period following notification of retirement eligibility if the member had not made an election; and

C. An RC annuity on behalf of a member who, under certain circumstances, dies in the line of duty during inactive duty training (IDT). See Chapter 54.

420203. Death Presumption Authority

A. The Plan provides for annuity payments under a determination by the Secretary of the Military Department concerned (or designee) that a participating member is presumed dead. Upon application of the beneficiary of a participant in the Plan who is missing, the Secretary of the Military Department concerned may determine that the participant is presumed dead.

B. A determination of presumed death is a determination by the Secretary of the Military Department concerned (or designee) that a participating member is presumed dead if:

1. The member's retired or retainer pay has been suspended or would have been suspended had the member been in receipt of pay; and

2. The member has been missing at least 30 days under circumstances that lead to a reasonable conclusion that the member is dead.

*4203 ELIGIBLE MEMBERS

420301. Members Eligible to Participate in the Plan

The following members are eligible to participate in the Plan:

A. Members entitled to retired pay; and

B. Members who would be eligible for RC retired pay, but have not yet become entitled to receive retired pay because of age. See Chapter 54.

420302. Participants in the Plan

A. Standard Annuity Participants. The Plan applies to a person who is eligible to participate in the Plan under subparagraph 420301.A and who is married or has a dependent child when the member becomes entitled to retired pay, unless the member elects (with the spouse's concurrence, if required) not to participate in the Plan.

B. RC Annuity Participants. The Plan applies to a person who is eligible to participate in the Plan under subparagraph 420301.B and is married or has a dependent child when the member is notified that he or she has completed the years of service required for eligibility for RC retired pay, unless the member elects (with spousal concurrence, if required) not to participate in the Plan. Note: If such member elects not to participate in the Plan (chooses option "A") upon

becoming entitled to retired pay, the member may elect to participate in the Plan as a Standard annuity participant under subparagraph 420302A.

420303. Exceptions

A member otherwise eligible according to subparagraph 420302.A or B, except that:

A. The member does not have a spouse or dependent child and did not elect coverage for a former spouse (if applicable) at the time of eligibility for the program, may elect coverage for a person who has an insurable interest in the member; or

B. The member does not have a spouse or dependent child at the time of eligibility for the program, may elect SBP or Reserve Component Survivor Benefit Plan (RCSBP) coverage upon notification to the Secretary concerned within the 1-year period after acquiring a spouse or dependent child. Such an election must be written, signed by the person making the election, and received by the Secretary concerned. An election is effective as of the first day of the first month following the month in which the Secretary concerned receives the election.

420304. Member on the Temporary Disability Retired List (TDRL)

A member's eligibility ends when the member is removed from TDRL without further entitlement to retired pay. The coverage continues when the member is transferred from TDRL to Permanent Disability Retired List (PDRL). If the member's retired pay is reduced to an amount less than the base amount originally elected, the full retired pay to which the member is entitled thereafter is considered the base amount.

420305. Mentally Incompetent Member

If a person to whom the Plan applies is determined to be mentally incompetent, the Secretary of the Military Department concerned, upon request, may act on behalf of the member and elect other than the maximum automatic coverage. In the absence of an eligible spouse or children, the Secretary of the Military Department concerned, upon request, may elect coverage for a natural person with an insurable interest. The person applying to have an election made is not given preference in designation as the beneficiary.

420306. Qualifying Member During an Open Enrollment Period

The Plan applies to any member who qualifies during an open enrollment period according to the provisions established by law. Open enrollment periods typically occur when there are major changes to the SBP program and must be specifically prescribed by law.

420307. Retired Member After a Record Correction

A. A member whose military record is corrected on or after September 20, 1972, to show retirement before September 21, 1972, is not automatically covered under the Plan. Coverage may be established upon request of the member if the election is received within 18 months from the date of notification of the correction action.

B. A member who retroactively becomes entitled to retired pay on a date on or after September 20, 1972, generally will be given automatic full coverage, unless the member elects reduced coverage or declines participation, with proper concurrence of the eligible spouse, if applicable.

4204 DEFINITIONS*420401. Base Amount**

A. The base amount is the money amount selected by the member, with the concurrence of the member's spouse if required, or the amount selected on behalf of a member by the Secretary of the Military Department concerned (or designee), on which the annuity is based.

B. The base amount may range from a \$300 minimum up to full gross retired pay entitlement. Note: For a member who selected the Career Status Bonus (CSB), the amount is based on unreduced retired pay, not considering any reduction under 10 U.S.C. [§ 1409\(b\)\(2\)](#). Once selected, the base amount is adjusted consistent with cost-of-living increases in retired pay. If advancement or change from the TDRL to PDRL occurs, the member's new base amount is the new full gross retired pay entitlement. A member may not designate different base amounts between the spouse and the children.

420402. Change in Coverage

A change in coverage is an action taken because of a change in the member's family status that requires a change in beneficiaries.

420403. Change in Election

A change in election is an authorized change in the type of beneficiary eligible for survivor coverage because of a change in the retiree's family status.

420404. Consideration for Contract

The total amount of premiums paid by the participant member for the type of SBP selected is known as consideration for contract.

420405. Cost of Coverage

The cost of coverage is the cost for coverage under the Plan paid by deductions from retired pay or by direct remittance when member is not receiving retired pay.

420406. Cost Refund

A cost refund is the difference between cost paid by the member and the recalculated cost of the annuity after Dependency and Indemnity Compensation (DIC) reduction.

420407. Date of Receipt

The date of receipt is the day of receipt of an election or election change by the office administering payment of retired pay. The postmarked date of an election may be considered as date of receipt when the validity of such election might be prejudiced because of a limited time factor.

420408. DIC Offset

DIC offset is the reduction of the SBP annuity due to compensation entitlement from the Department of Veterans Affairs to the widow or widower of a member who dies from a service-connected or comparable disability.

420409. Former Spouse

A former spouse is the surviving former husband or wife of a person who is eligible to participate in the Plan.

420410. Maximum Level

The maximum level is the the full, gross retired pay used as a base amount for coverage. A member who elected to receive a CSB [will](#), at the time of program election, have the maximum base amount computed as if that member had not been subject to the Military Retirement Reform Act of 1986 (referred to as REDUX) under 10 U.S.C. § 1409(b)(2).

420411. Minimum Income Widow

A minimum income widow is a person who on September 21, 1972 was, or during the period beginning on September 22, 1972 and ending on March 20, 1974 became, the widow of a person who was entitled to retired or retainer pay when they died. This individual must have income below the threshold and meet the eligibility criteria in Chapter 46.

420412. Natural Person With an Insurable Interest

A natural person with an insurable interest is a person who has a reasonable and lawful expectation of pecuniary benefits from the continued life of the participating member. For further information, see Chapter 44.

420413. Pre- and Post-September 21, 1972 Retiree

A pre-September 21, 1972 retiree is a member who retired before September 21, 1972; a post-September 21, 1972 retiree is a member who retired on or after September 21, 1972.

420414. Reduced Base Amount

The reduced base amount is an amount less than the member's full gross retired pay but not less than \$300.

420415. Reduction Factor

The reduction factor is a four-digit actuarially determined decimal used to compute the monthly cost for reservists who become entitled to receive retired pay before age 60.

420416. RC Annuity

The RC annuity is the annuity provided to the survivor(s) of a reservist, who completed the years of service required for eligibility for RC retired pay or was a member of an RC and died in the line of duty during IDT. For additional information about the RCSBP, see Chapter 54.

420417. Recognized Educational Institute

A recognized educational institute means the high school, trade school, state law compliant home school (effective May 8, 2013), technical or vocational institute, junior college, college, university, or comparable educational institution. The term also includes home schools that operate in compliance with the compulsory attendance laws of the states in which they are located, whether treated as private schools or home schools under state law. The term "home school" is limited to courses of instruction for grades kindergarten through 12 only.

420418. Retired Pay

Retired pay includes retainer pay.

420419. Social Security Offset

Social Security offset means a reduction from the SBP annuity due to the widow's or widower's Social Security entitlements. Social Security offset was eliminated effective April 1, 2008.

420420. Standard Annuity

The **standard** annuity **is the annuity** provided to a survivor(s) by virtue of eligibility of persons entitled to retired pay.

420421. Supplemental Survivor Benefit Plan (SSBP)

A supplemental annuity **is the annuity** provided to a spouse or former spouse. SSBP was repealed effective April 1, 2008.

420422. Surviving Spouse

A surviving spouse applies to:

A. The surviving husband or wife of a retired member:

1. Married to the member at the time the member became eligible for retired pay. Members of the **RC** become eligible for retired pay upon completion of the requisite years of service necessary to become entitled to retired pay at a later age; or

2. If not married to the member at the time the member became eligible for retired pay:

a. Was married to the member for at least one year before **the member's** death, or

b. Is the parent of issue by that marriage;

B. The surviving **spouse** of a member who dies while on active duty:

1. While in the line of duty,

2. After becoming eligible to receive retired pay,

3. After qualifying for retired pay except that the member has not applied for or been granted that pay, or

4. After completing 20 years of active service but before the member is eligible to retire as a commissioned officer, because the member has not completed the **required years** of active commissioned service (**usually 10 years**);

C. The surviving **spouse** of a member who is eligible to provide an **RC** annuity and dies:

1. Before being notified under U.S.C. § 12731(d) that **the member** has completed the years of service required for eligibility for **RC** retired pay, or

2. During the 90-day period beginning on the date [the member](#) receives notification under 10 U.S.C. § 12731(d) that they have completed the years of service required for eligibility for [RC](#) retired pay if an election to participate in the Plan was not made, provided:

a. That the parties were married at the time the member became eligible for retired pay; or

b. If not married at the time the member became eligible for retired pay, was married to the member for at least one-year before [the member's](#) death, or is the parent of issue by that marriage; or

D. The surviving [spouse](#) of a member of an [RC](#) not described in [sub](#)paragraphs 420401.E.1, 2, or 3 who dies before being eligible to elect to participate in the Plan from an injury or illness incurred or aggravated in the line of duty during [IDT](#).

* [420423](#). Threshold

A [threshold](#) applies to one of the alternative cost formulas. In the cost formula of 2.5 percent of the first \$XXX.XX, plus 10 percent of the remainder of the base amount, the portion of the base amount upon which the member is charged 2.5 percent cost is the threshold. The threshold is indexed. [See Chapter 45](#). In 2017, the threshold is \$799.

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VOLUME 7B, CHAPTER 43: “SURVIVOR BENEFIT PLAN (SBP) - ELECTIONS AND ELECTION CHANGES”

SUMMARY OF MAJOR CHANGES

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **April 2015** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
430101	Added "Purpose" paragraph.	Addition
430203	Added information concerning a deferred annuity for clarification.	Addition
430204.C	Added information for reduction of insurable interest coverage for clarification.	Addition
430504.D	Added information to comply with the National Defense Authorization Act (NDAA) Fiscal Year (FY) 2016.	Addition
430802	Added information for former spouse open enrollment based on the NDAA FY 2016.	Addition
Bibliography	Added Public Law 114-92 dated November 25, 2015.	Addition

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CHAPTER 43

SURVIVOR BENEFIT PLAN (SBP) - ELECTIONS AND ELECTION CHANGES

4301 GENERAL

*430101. Purpose

The purpose of this chapter is to provide information for SBP election options, changes to elections, coverage, and termination of coverage.

430102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

4302 ELECTION OPTIONS

430201. Base Amount

A member who participates in SBP must elect a base amount of maximum coverage or reduced coverage. The base amount at any level is adjusted with each cost-of-living increase after retirement. See Chapter 49. The annuity amount is 55 percent of the base amount elected.

430202. SBP Elections

In the case of a member electing a standard SBP annuity, the member must make such election before retired pay becomes payable, or if there is no eligible beneficiary at that time, within 1 year of acquiring an eligible beneficiary.

*430203. Reserve Component SBP (RCSBP) Elections

In the case of a member electing a Reserve Component annuity, the member must designate either an immediate or deferred annuity. The beneficiary of a Reserve Component member who elects an immediate annuity or who dies while eligible to make such an election will have that annuity commence the day following the death of the member. In the case of a member electing a deferred annuity, the annuity commences the later of the day following the member's death, or the date the member would have been age 60.

*430204. Special Rules Concerning Elections

A. In the case of a member electing SBP or RCSBP coverage for a spouse who was not married to the member at the time the member became eligible for retired pay, the surviving spouse must have been married to the member for at least 1 year immediately prior to the member's death or be the parent of issue by that marriage to be an eligible beneficiary.

B. A member who did not elect child coverage for a dependent child, either at the time of becoming eligible for retired pay (if applicable) or within 1 year of acquiring the first dependent child, may not elect child coverage for subsequently acquired child or children unless otherwise provided by law.

* C. A member who elected insurable interest coverage under Chapter 42 [may](#) upon death of such beneficiary, elect to cover a new beneficiary who is a natural person with an insurable interest in the member. Such an election must be made prior to the end of the 180-day period beginning on the date of the death of the previous beneficiary. The member is required to pay, if applicable, an additional amount [and interest](#). [The additional amount is](#) equal to the difference in the amount of the reduction in the member's retired pay for the previous beneficiary and the reduction in retired pay that would have been made had the previous beneficiary not died and been a covered beneficiary through the date of the new election. [The](#) interest on [the additional](#) amount is computed from the date on which the retired pay would have been reduced [and charged](#) at such rate or rates as determined by the Secretary of Defense.

D. In the case of a member who is already participating in the SBP and elects to change spouse coverage or spouse and child coverage to former spouse coverage or former spouse and child coverage, any such election terminates any previous coverage under the [SBP](#).

430205. Beneficiaries

Coverage may be provided for:

- A. Spouse and/or child;
- B. Former spouse or former spouse and child; or
- C. Natural person with an insurable interest (at maximum level of coverage only).

4303 ELECTION DATA

430301. Elections by the Member

Department of Defense (DD) Form [DD 2656](#), Data for Payment of Retired Personnel, [DD 2656-1](#), Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage, [DD 2656-2](#), Survivor Benefit Plan (SBP) Termination Request, [DD 2656-6](#), Survivor Benefit Plan Election Change Certificate, when available, are recommended for use by the member. Elections in writing signed by the member, other than a request for termination, which contain all information necessary for establishing or declining coverage, are acceptable. Spousal concurrence of certain elections has been required since March 1, 1986.

A. Former Spouse Elections (Retiring Members). A member who is retiring and is electing former spouse coverage should complete the former spouse election on a

DD 2656. In addition to the former spouse election, the member must also provide a separate written statement on a DD 2656-1 (when applicable), that is signed by the member and the former spouse certifying whether the former spouse election is pursuant to court order or a voluntary written agreement. Information concerning content of the separate written statement and the proper court order appears in paragraph 430504.

B. Change in Election Coverage Spouse to Former Spouse (Retired Members). Members who are already retired should complete changes from spouse coverage to former spouse coverage on a DD 2656-1.

430302. Deemed Elections Requested By the Former Spouse

A former spouse or former spouse's legal representative requesting the Secretary concerned to deem on his/her behalf must request the deemed election by completing the [DD 2656-10, Survivor Benefit Plan \(SBP\)/Reserve Component \(RC\) SBP Request for Deemed Election](#), and must be accompanied by a court order or a statement from the clerk of the court. [Both the DD 2656-10 and court order must be provided](#). Information concerning content of the request by the former spouse or the former spouse's legal representative and the statement from the clerk of the court, where necessary, appears in subparagraph 430504.C.

430303. Election Data Requirements

The election data requirements are:

A. Identification. Enter the member's name, social security number, birth date, and date of retirement.

B. Base Amount. The election form must specify full coverage, in lieu of a dollar amount, when maximum coverage is selected. When a reduced base amount is chosen, the dollar amount must be specified on the election form. The reduced base amount must not be less than \$300. When retired pay is less than \$300, the election form must indicate full coverage.

C. Beneficiary. Provide the name, birth date, and social security number for each beneficiary named.

1. If coverage includes spouse, or former spouse, the member must provide the date of marriage and divorce, as applicable.

2. When the beneficiary is a natural person with an insurable interest, the address and relationship must be shown. For the natural person with an insurable interest, the member must provide a signed statement to show proof of financial benefit if the person designated is a cousin or anyone more distantly related than cousin if such statement is requested.

3. If the beneficiary designation is for a former spouse, then, in addition to the former spouse election, the member [must](#) set forth in writing whether the election is being made pursuant to a written agreement previously entered into voluntarily by the member

as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so), whether that voluntary written agreement has been incorporated in, ratified or approved by, a court order. This information should be provided on a DD 2556-1.

D. Signature. The member must sign and date the election. If the document is signed with an “X”, two impartial persons must witness the signature. NOTE: An election made on behalf of the member through a power of attorney is not valid. Such an election is not binding and is without force or effect of law.

E. Spousal Concurrence. Written spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, to include electing child-only coverage, and when a member eligible for RCSBP declines coverage or elects coverage that provides less than a maximum immediate spouse annuity. The signature of the spouse must be notarized. The requirement to have the spouse’s signature notarized is not to suggest that the spouse has received additional counseling regarding the option being selected. It simply provides certification that the spouse signed the form [and acknowledges the election made on the form](#).

1. If all requirements for an election needing the spouse’s concurrence have not been satisfied prior to retirement, for whatever reason, full spouse costs and coverage will be implemented, regardless of any request by the member to do otherwise. In such cases, when the member has requested any form of child coverage, full spouse and child coverage will be implemented. A spouse’s concurrence with, or request for, an election other than that requested by the member, will be disregarded. Any change in SBP election subsequent to retirement will be done through an administrative correction of records as permitted by law. The requirements for spousal concurrence do not affect any obligation or right of the member to provide coverage for a former spouse. If former spouse coverage is elected or deemed, the spouse’s concurrence is not required; however, the spouse will be notified of that election.

2. The Secretary concerned may waive the requirement for spousal consent when the spouse’s whereabouts cannot be determined or, when due to exceptional circumstances, requiring the member to seek the spouse’s consent would otherwise be inappropriate. Exceptional circumstances, such as mental or physical incapacitation of the spouse, require appropriate documentation such as a physician’s statement attesting to the spouse’s incapacity. Exceptional circumstances will be evaluated on a case-by-case basis.

3. The Secretary concerned notifies the member’s current spouse when a member who is eligible to provide an annuity to that spouse elects former spouse or former spouse and dependent child coverage.

4. The Secretary concerned notifies the affected beneficiary when a member elects to discontinue coverage for a former spouse or insurable interest beneficiary.

4304 IRREVOCABLE ELECTIONS, CORRECTIONS AND DISCONTINUED PARTICIPATION

430401. Election Exceptions

An election is irrevocable, except under the following circumstances:

A. A member retired March 1, 1986, or later, who elected and received less than maximum SBP coverage without the spouse's concurrence, will have such coverage changed to full coverage if the Secretary concerned later determines that the spouse's concurrence in such election was appropriate, but not obtained;

B. A member may voluntarily discontinue SBP participation during the 1-year period beginning on the second anniversary of the date of commencement of retired pay under paragraph 430701;

C. The Secretary concerned may revoke an election when necessary to correct an administrative error. Revocation or correction based on administrative error is a Secretarial prerogative and, except when procured by fraud, is final and conclusive on all officers of the United States;

D. A member may voluntarily discontinue participation as a totally disabled member, [as rated by the Department of Veteran Affairs \(VA\)](#), under paragraph 430704;

E. A member may voluntarily terminate SBP coverage for a natural person with an insurable interest (not a former spouse) under paragraph 430702; or

F. A mentally incapacitated member who is later determined to be mentally competent may revoke or change the SBP election within 180 days after such determination of judgment.

430402. Election Changes

The SBP election may be changed as explained in sections 4306 and 4307.

4305 ELECTION COVERAGE

430501. Spouse and/or Child

A. A member may elect coverage at the maximum level or at a reduced amount with spouse's concurrence, if required, for:

1. An eligible spouse only;
2. An eligible spouse and dependent child; or
3. Dependent child only.

B. Every retiring member who is married at retirement is automatically enrolled in SBP for full coverage unless the spouse consents in writing to reduced coverage or no coverage before the first day of eligibility to retired pay. See subparagraph 430501.D.

C. A member with an eligible spouse and dependent child on the date of retirement who:

1. Declines coverage is prohibited from electing into the SBP, except under section 4308;

2. Refuses coverage for an eligible spouse, and chooses to elect coverage for child only, is prohibited from electing spouse coverage at a later date, except under section 4308; or

3. Refuses coverage for the member's dependent child, and elects coverage for spouse only, is barred from electing child coverage at a later date.

D. A married member who is eligible to provide SBP may not, without the concurrence of their spouse, decline participation in SBP, elect a reduced annuity for the spouse, or elect an annuity for a dependent child, but not for a spouse, unless the member establishes to the satisfaction of the Secretary concerned that:

1. The spouse's whereabouts cannot be determined; or

2. Due to exceptional circumstances, a requirement that the member seek the spouse's consent would otherwise be inappropriate.

E. A member with a dependent child, who was unmarried on the date of retirement, may elect spouse coverage upon subsequent marriage regardless of whether coverage was elected for their dependent child. The election must be received by the Secretary concerned within 1 year of the marriage date.

F. A member with an eligible spouse who did not have a dependent child on date of retirement later may elect coverage for a dependent child. The election must be received by the Secretary concerned within 1 year of the date of acquiring a dependent child or children.

G. If a member elects to provide an SBP annuity for a former spouse or a former spouse and child and the member has remarried, the member's spouse must be notified of that election. The member may make this election without spousal concurrence.

430502. Same-Sex Spouses

A. Any claims to SBP spouse coverage for same-sex spouses of eligible SBP participants for periods before June 26, 2013, are not valid as the Defense of Marriage Act was still the law and in effect prior to June 26, 2013. As a result, no SBP premiums for such coverage will be charged prior to June 26, 2013. Further, no SBP annuity payments for such coverage will be paid for deaths occurring before June 26, 2013.

B. Effective on June 26, 2013, a person who becomes eligible to participate under [Title 10, United States Code \(U.S.C.\), section 1448\(a\)\(1\)](#) and is married to a same-sex partner has the SBP program applied as for any other married couple under 10 U.S.C. § 1448, including the requirements for spousal consent for less than full annuity coverage of the spouse.

C. A person who was married to a same-sex partner upon becoming eligible to participate in the plan prior to June 26, 2013, and who had married that same-sex partner before June 26, 2013, had 1 year from June 26, 2013, to make a spouse election under 10 U.S.C. § 1448(a)(3). Such person may not participate at less than maximum coverage described in 10 U.S.C. § 1448(a)(3) without the concurrence of the person's spouse unless they already had provided an annuity for a dependent child. If an election was not received on or before June 25, 2014, full spousal coverage was entered and the member was responsible for payment of premiums effective from June 26, 2013.

D. A person who was not married upon becoming eligible to participate in the plan, but who married a same-sex partner before June 26, 2013, had 1 year from June 26, 2013, to make a spouse election under 10 U.S.C. § 1448(a)(5). The election must have been received on or before June 25, 2014, or the person was prohibited by law from making such election.

E. Generally, a person who is a participant in the plan and is providing coverage under SBP for a spouse, who later does not have an eligible spouse beneficiary may, under 10 U.S.C. § 1448(a)(6), elect not to provide coverage for a new spouse in the event of a remarriage.

1. For a person who enters into a same-sex marriage after June 26, 2013, the election to discontinue participation under 10 U.S.C. § 1448(a)(6) must be made within 1 year of the remarriage. If a member does not discontinue participation, pursuant to 10 U.S.C. § 1448(a)(6), spouse coverage will resume effective on the first anniversary of the marriage.

2. If the remarriage took place prior to June 26, 2013, the participant has 1 year from June 26, 2013 to elect out of SBP. If a member does not make such an election within 1 year of June 26, 2013, pursuant to 10 U.S.C. § 1448(a)(6), spouse coverage will resume effective no earlier than June 25, 2014.

3. Any such person falling within the parameters of 10 U.S.C. § 1448(g), had 1 year from June 26, 2013, or the date of any marriage subsequent to June 26, 2013, to elect to increase the level of coverage under 10 U.S.C. § 1448(g).

F. A person who is married to a same-sex partner on June 26, 2013, and has insurable interest coverage under 10 U.S.C. § 1448(b) may terminate the insurable interest coverage as provided for in that section and, if eligible, elect spouse coverage under 10 U.S.C. § 1448(a)(5) as described in paragraph 430504.C.

430503. Natural Person with Insurable Interest

An election for a natural person with an insurable interest may be made only when the member is not married and does not have any dependent children upon becoming eligible to participate. The Secretary concerned must receive the election before the first day of eligibility for retired pay. A member must elect full coverage when electing for a natural person with an insurable interest. If the member is retired for reasons of disability under [10 U.S.C. Chapter 61](#), refer to paragraph 430703.

*430504. Former Spouse or Former Spouse and Child

When a member elects former spouse coverage, the member and the former spouse must complete an election statement indicating whether the election is being made pursuant to the requirements of a court order or by a voluntary written agreement. If the member entered into a voluntary written agreement as a part of, or incident to, a proceeding of divorce, dissolution or annulment, the member must indicate on the written statement whether the agreement has been incorporated in, ratified or approved by, a court order. If the member has a spouse or child, a former spouse election prevents an annuity to that spouse or child (other than the child beneficiary under an election for a former spouse and child). If there is more than one former spouse, the member must designate which former spouse is to receive the annuity:

A. Upon Retirement (Retiring Members)

1. If a member becomes eligible to participate and has a former spouse and dependent child, who resulted from that marriage, they may elect former spouse or former spouse and child coverage.

2. If the former spouse is the member's former spouse at the time the member becomes eligible to participate in SBP, an election for former spouse must take place at or before the member's retirement.

3. If the former spouse is the member's former spouse at the time the member becomes eligible to participate in RCSBP (date of Notice of Eligibility (NOE)), an election for former spouse must take place at or before the end of the 90-day period following receipt of the NOE.

4. If a member has a former spouse upon becoming eligible to participate, but is not required by a court order or court-approved agreement to provide former spouse coverage, any subsequent court order that requires former spouse coverage will not be honored.

B. Following Retirement (Retired Members)

1. A member with spouse or spouse and child coverage may, within 1 year of date of the decree of divorce, dissolution, or annulment, whichever is later, change that election to provide an annuity to a former spouse or to a former spouse and child.

2. A member may elect coverage for a former spouse who the member acquired after becoming eligible for retired pay. The member and former spouse must have been married at least 1 year or the former spouse must be the parent of a child or children born of that marriage in order for the former spouse to be an eligible beneficiary. For provisions regarding the effective date of former spouse coverage, see subparagraph 430504.D.

C. Deemed Elections. Deemed elections are applicable in cases where a member enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide an SBP annuity to a former spouse, and such agreement has been incorporated in, or ratified or approved by a court order, or has been filed with the court of appropriate jurisdiction in accordance with applicable State law, or in cases where the member is required by a court order to make a former spouse election. If such member fails or refuses to make such election, the member is deemed to have made such election if the Secretary concerned receives a completed DD 2656-10 from a former spouse or the former spouse's attorney on behalf of the former spouse. A copy of the pertinent court order or agreement referring to the SBP coverage must accompany the DD 2656-10. See subparagraph 430504.C.1. Effective September 27, 2008, use of the DD 2656-10 to make a deemed election is mandatory.

1. The former spouse will provide a copy of the court order, regular on its face, which requires such election, or incorporates, ratifies, or approves the written agreement of the member; a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law; or for a deemed SBP election only, a copy of the court order which requires the SBP election. A court order which requires the member to elect SBP for a former spouse or former spouse and child or an agreement to provide former spouse or former spouse child coverage must be issued on or after November 14, 1986. If the member was ordered by a court to elect former spouse coverage before November 14, 1986, a second court order, issued on or after November 14, 1986, enforcing the original order which requires a former spouse election, constitutes a modification of the previous order and establishes a new 1-year period during which a request for a deemed election may be filed.

2. The Secretary concerned must receive the request from the former spouse within 1 year of the date of the court order or filing involved. If an election of former spouse coverage was agreed to or ordered by an earlier court order, a subsequent order or modification that merely restates the previous provision and imposes no new obligation on the member does not begin a new 1-year period. A subsequent court order holding a member in contempt of court for failing to fulfill the prior agreement is not the type of court order that can be used to begin a new 1-year period to deem an election.

3. No election may be deemed to have been made which could never have been made by the member concerned.

4. If a member dies before making an election, a former spouse's request, which is otherwise qualified, must be honored even if the date of the request is after the date of the member's death. However, if the request for a court order was initiated with the court after the member's death, the order will not be honored.

5. If a member has more than one former spouse, the first request for a deemed election received with complete documentation must be the one honored.

* D. Death of Former Spouse. The National Defense Authorization Act (NDAA) Fiscal Year (FY) 2016, Public Law (PL) 114-92, section 641, effective November 25, 2015, amended SBP to allow for members to elect spouse coverage after the death of a former spouse.

1. Married on the Date of Death of Former Spouse. The following applies when a person who is married at the time of the death of the former spouse beneficiary and elects to provide coverage to their spouse:

a. The election must be received by the Secretary concerned within one year after the date of the death of the former spouse beneficiary;

b. The effective date of election will be the first day of the first calendar month following the death of the former spouse beneficiary

c. The level of coverage on the annuity base amount cannot be changed; and

d. The election under this paragraph is irrevocable.

2. Marriage after Death of Former Spouse Beneficiary. The following applies when a person who married after the death of the former spouse beneficiary and elects to provide coverage to their spouse:

a. The election must be received by the Secretary concerned within 1 year after the date on which that person marries;

b. The effective date of the election will be the first day of the first calendar month following the month in which the election is received by the Secretary concerned;

c. The level of coverage on the annuity base amount cannot be changed; and

d. The election under this paragraph is irrevocable.

430505. Federal Civil Service Retiree

A. A member with SBP coverage who: (1) retires under the civil service retirement program; (2) waives military retired pay to combine civilian and military service credits; and (3) elects survivor coverage, at any level, under the civil service retirement, has SBP coverage suspended while the waiver is in effect. If the waiver is terminated for any reason, SBP coverage resumes concurrent with the resumption of retired pay. The type of coverage and level of participation, as adjusted by any changes in retired pay during the period of waiver, is as first elected. If the retired service member dies while the waiver of military retired pay is in effect, no SBP annuity becomes due and payable to either the surviving spouse and/or child.

B. An election in SBP with concurrent cancellation of previous Retired Servicemen Family Protection Plan (RSFPP) coverage is without force or effect if retired pay previously was waived for civilian retirement and survivor coverage from the civilian annuity was elected.

C. A member who elects SBP coverage, and who does not waive military retired pay for civil service retirement, may have survivor coverage under both retirement plans.

D. Provisions in subparagraph 430505.A do not apply to a member who retired under [10 U.S.C. § 12731](#) or who retired due to a combat-incurred disability as determined by the service.

E. The survivor of a federal civil service employee who was awarded military retired pay based on any period of military service and whose death occurs before separation from civil service, will receive a survivor annuity computed using military service. The survivor annuity from civil service will be reduced by any military survivor benefits payable. The survivor may elect not to be covered by this provision, which automatically uses military service credit in computing the federal survivor annuity.

F. Except for participation in federal service survivor annuity programs, SBP coverage does not terminate when a member participates in other survivor benefit plans administered by the United States Government such as under the Foreign Service or Federal Judges Retirement systems.

4306 CHANGES IN ELECTION AND COVERAGE

430601. Later-Acquired Spouse and/or Child

A member who acquires a new spouse and/or child after retirement must make an election within 1 year of the event with the exception that there is no time restriction on the election period for a change under subparagraph 430601.B.5.

A. A member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may, upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not to have spouse coverage resumed. Unless a member elects not to cover the new spouse within 1 year after the marriage, spouse coverage automatically resumes at the first anniversary of the marriage.

1. The member may not add child coverage by virtue of this remarriage alone if child coverage was previously bypassed; and

2. The level of SBP coverage may not be reduced nor may child coverage be eliminated.

3. SBP elections become effective when the new spouse becomes an eligible beneficiary, and any increase in premium, plus interest, has been paid. When the level of SBP coverage is increased, the member must pay the difference between the present premium and the premium that would have been incurred had the higher level of coverage been elected originally, plus interest. Interest is compounded monthly using a factor equal to the 12th root of one plus the current annual interest rate used by the Department of Defense (DoD) Board of Actuaries to calculate the retirement accrual costs. Interest is to be compounded monthly on the accumulated difference existing prior to any computation month. If payment of cost plus interest is not completed before the spouse becomes an eligible beneficiary, the election becomes null and void and a refund of cost and interest and reinstatement of original election coverage occurs. Cost plus interest will be paid to member's estate should the member die before refund is completed.

4. If a member has spouse or spouse and child coverage and elects not to resume SBP participation for the spouse, the spouse must be notified. An election to terminate spouse coverage is irrevocable. If the member elects to increase the level of spouse coverage to an amount less than full retired pay, the spouse must be notified.

B. If, on date of retirement the member:

1. Has no eligible beneficiaries and **does not elect** to participate; the **member may, within 1 year of the acquisition of a spouse or child, elect for that** spouse and/or child;

2. Has no eligible spouse and elected for child only; **the member** may, within 1 year after marriage or remarriage, include the spouse with coverage previously elected for the child;

3. Has no eligible child and elected for spouse only; **the member** may, within 1 year of acquisition of a child, include the child with coverage previously elected for the spouse;

4. Has no eligible spouse and declines coverage for an eligible child; **the member** may, within 1 year of the acquisition of a spouse, elect for that spouse; or

5. Has elected coverage for a former spouse or former spouse and child, or has elected coverage for a natural person with an insurable interest; the member may later change the election to spouse and/or child, if not otherwise prohibited. See paragraph 430602. The member is not required to change the election to spouse and/or child; however, if such a change is made, it permanently terminates the eligibility of the former spouse or the natural person

with insurable interest. It is not necessary that maximum level coverage be elected for the spouse and/or child. See subparagraph 430602.B and paragraph 430603, for additional information concerning changes in former spouse coverage.

430602. Change from Spouse or Spouse and Child

A member who elected spouse or spouse and child coverage may terminate that election for that spouse or spouse and child and provide an SBP annuity for a former spouse or former spouse and child, provided the child resulted from the member's marriage to that former spouse. If the member is married when the former spouse election is made, that spouse must be notified. See subparagraph 430501.G. A former spouse may request that an election be deemed by the Secretary concerned (or designee).

A. Notification

The Secretary concerned must notify the former spouse of any changes in the former spouse election.

B. Changes to a Former Spouse Election

1. If a member was required to elect former spouse coverage by a court order, incident to a proceeding of divorce, dissolution, or annulment, the member may change to spouse or child coverage if the member furnishes, to the Secretary concerned (or designee) a certified copy of a court order that permits such a change. The court order, regular on its face, must modify the provisions of all previous court orders relating to the former spouse election so that the member is permitted to change the election. The member must certify to the Secretary concerned that the court order is valid and in effect. These same restrictions apply to the member who elected former spouse coverage pursuant to a written agreement that was incorporated in, or ratified or approved by, a court order.

2. In the case of a written agreement that has not been incorporated or ratified or approved by a court order, the member must furnish, a statement signed by the member and the former spouse that evidences the former spouse's agreement to an election change to the Secretary concerned in a format prescribed by that Secretary. The member must certify that the statement is current and in effect.

430603. Change to Former Spouse Coverage under Insurable Interest

A member was allowed to change an election for former spouse coverage under the insurable interest category to former spouse coverage under the spouse category during the period November 8, 1985, through November 7, 1986. A member also could add child coverage to former spouse coverage provided the child was the result of the member's marriage to that former spouse and if the member is providing coverage for the former spouse under the spouse category. These election changes apply to elections effective before March 1, 1986.

430604. Changed Retirement Eligibility

If a member elects the RCSBP coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility under 10 U.S.C. § 12731, the RCSBP election remains effective until the member actually retires. A member may make a new election as any other retiring member.

430605. Mental Incompetency

The Secretary of the Military Department concerned may make an SBP or RCSBP election on behalf of a member who is declared incompetent by medical officers of the Armed Force concerned, or of the VA, or by a court of competent jurisdiction. In the event the member is later declared competent by one of these authorities, the member may elect to revoke that election within the 180-day period following a determination of competency. There are no refunds of premiums paid for coverage during a period of declared incompetence.

430606. Correction of Administrative Error

The Secretary of the Military Department concerned (or designee) may correct any election or any change or revocation of an election when the Secretary considers it necessary to correct an administrative error. See Chapter 42.

4307 DISCONTINUANCE OF PARTICIPATION

430701. Discontinuance of SBP Participation on Second Anniversary

A. An SBP participant may choose to voluntarily discontinue SBP participation during a 1-year period which begins on the second anniversary of the date of commencement of retired pay. The date of commencement of retired pay is defined as the date that the retiree becomes entitled to retired pay. A recall to active duty following retirement will not alter this date.

B. An SBP participant who is eligible to discontinue participation must send a written request to the Defense Finance and Accounting Services (DFAS) on a DD 2656-2. A request for information or a request for termination that is not on a DD 2656-2 is not considered a valid request to discontinue.

1. A married participant may not discontinue spouse coverage without the spouse's written concurrence, unless it is established that the spouse's whereabouts cannot be determined, or that, due to exceptional circumstances, obtaining the spouse's consent would be inappropriate. In exceptional circumstances, such as mental or physical incapacitation of the spouse, DFAS requires the appropriate documentation such as a physician's statement, which attests to the spouse's mental or physical incapacitation. Additionally, the incapacity must exist continuously since the date of the member's request.

2. If the SBP participant is providing former spouse coverage based on a court order, an amended court order should accompany the request, even if the former spouse concurs with the request.

C. If termination is not otherwise prohibited by [10 U.S.C. § 1448](#), a spouse or former spouse who concurs in the request for termination is considered notified in accordance with the law. A spouse or former spouse who changes his/her mind after concurrence has 30 days from the date of the first request to submit a letter withdrawing their concurrence. If concurrence is withdrawn within 30 days, the request to withdraw from SBP participation is void. The concurrence of the former spouse is applicable even though the coverage may be currently in a suspended status due to the former spouse's remarriage. Child concurrence is not required when a member elects to discontinue SBP participation for child coverage.

D. DFAS must ensure that a natural person or former spouse who is not required to concur in the request for termination is notified of the termination of SBP coverage by sending a letter to such beneficiary at the address in the retired member's file.

E. A member's participation terminates on the first day of the month following the month in which DFAS receives a request for discontinuance. Any premiums deducted for periods on or after the effective date must be refunded and the member notified of the final action concerning termination of coverage.

F. A member may withdraw the request to discontinue participation within 30 days of having submitted such request to DFAS. The 30-day period begins on the date that DFAS considers the withdrawal request received. Generally, this is the received date stamped on the DD 2656-2 by DFAS.

1. To withdraw the request to discontinue SBP participation, the member must notify DFAS by a legible, signed, written notice. The request must identify the member by name and social security number and state that the member no longer wants to discontinue SBP participation. When available, the request should include a photocopy of the original DD 2656-2.

2. If the member withdraws a request to discontinue participation within the prescribed 30-day period, the member's participation will not be discontinued. If the withdrawal notice is received after the prescribed date, it will have no effect and the member must be so notified within 30 days. If the member provides proof of the date of mailing and such date is favorable to honoring the member's withdrawal request, the date of mailing serves as the date submitted.

3. If the member effectively withdraws a request to discontinue participation, that member must be so notified within 30 days. If participation had already been discontinued, it must be reinstated as though no break in coverage existed. Premiums not collected or paid, or that were refunded will be collected from the member's retired pay and the member notified of the final action concerning participation.

G. Once participation is discontinued under this provision, no benefits may be paid in conjunction with the member's previous participation. No refund of any premiums properly collected will be made. The member may not resume participation in SBP for any category of beneficiary.

H. A member who discontinues SBP participation may not later elect SBP coverage upon acquisition of another class of beneficiary.

430702. Voluntary Termination of Coverage

A. A member who is participating in SBP with coverage for a natural person with an insurable interest (not a former spouse) may voluntarily terminate [their](#) participation in SBP.

B. A member considering termination of insurable interest coverage under RCSBP should contact the responsible agent [at](#) DFAS, or the Military Service Reserve Component Personnel Center (or an appropriately determined office for non-DoD Uniformed Services).

C. A member who is eligible and wants to terminate coverage may send a written request to the responsible agent identified in subparagraph 430702.B. The request, signed by the member, must identify the member and state that the member wants to terminate SBP participation. A request for information is not a request to terminate SBP participation.

D. When the responsible agent receives a request from an SBP participant eligible to terminate coverage, the agent will determine whether the request is for information or actually is a request to terminate participation. In either case, the member will be mailed two fact sheets that explain the procedures for terminating participation and the advantages and disadvantages of participation; and, the disadvantages of terminating participation. If the request is determined to be a request for termination, the member will be advised in the cover letter that a request for termination can be withdrawn within 30 days of the date of that letter.

E. No premiums are refunded as a result of terminating coverage. No premiums will be charged after the effective date of termination unless the member had RCSBP coverage. See Chapter 54, for recomputation of the original "add-on" portion of the RCSBP premium when member terminates coverage before age 60.

F. A member who wishes to withdraw the request to terminate participation must notify the Secretary concerned (or designee) using a legible, signed written notice to the member's responsible agent in subparagraph 430702.B. The notice must identify the member's name and social security number and state that the member no longer wants to discontinue SBP participation. Such requests are handled in accordance with the provisions of subparagraphs 430701.F.2 and 3.

G. The member may only resume SBP participation by electing coverage for a spouse or dependent child within 1 year of acquiring the family member.

430703. Invalidation of Certain SBP Elections Made by Disability

A. The SBP elections for a natural person with an insurable interest, other than for a person who is a qualified dependent, is void for members who retired for reasons of disability under 10 U.S.C., Chapter 61, if they die within 1 year after the disability retirement date, with the cause of death being related to the disability for which the member retired.

B. For voided election, SBP deducted from the member's retired pay **is refunded** to the person to whom the SBP annuity would have been paid pursuant to such election.

430704. Withdrawal by a Totally Disabled Member

A. Any person who elects to participate in SBP with a service-connected disability rated by the VA as totally disabling and is so rated for 10 or more continuous years (or, if so rated for a lesser period, at least 5 years from the date of last discharge or release from active duty) may request to discontinue participation in the Plan by submitting a request to the Secretary concerned (or designee). The initial date for determining the 5- or 10-year period is the effective date of the VA rating of total disability. Validation must be obtained from the VA if not available from the individual.

1. The request for discontinuance must be with the written consent of the beneficiary or beneficiaries under the Plan. Should that beneficiary be a dependent child, written consent may be accepted from a parent, stepparent, foster parent, guardian, or an individual appointed by a court of competent jurisdiction.

2. The Secretary concerned must furnish to each person requesting discontinuance, a written statement of the advantages of participating and the possible disadvantages of discontinuing participation in the plan. Such statement should include the criteria for the Special Survivor Indemnity Allowance, the ability to receive both SBP and Dependency and Indemnity **Compensation** (DIC) without offset for remarriage of an annuitant over age 57, and the possibility that legislative action could either partially or fully remove the SBP-DIC offset.

3. A person may withdraw the discontinuance request within 30 days of submission to the Secretary concerned.

4. Participation in the Plan and cost of SBP coverage is discontinued on the first day of the month after receipt of the request by the Secretary concerned.

5. If a member dies after the date that the request for withdrawal has been received by the Secretary concerned, but before the effective date of that request, the beneficiary is entitled to the annuity.

B. Upon the death of a person who has discontinued participation in the Plan, who is a totally disabled member, a refund of SBP amounts deducted from retired or retainer pay without interest will be made to the widow or widower.

C. Any person who has discontinued participation in the Plan may again elect to participate if the VA reduces the disability rating to less than total and the person applies within 1 year to participate in the Plan and includes the required information determined by the Secretary concerned.

1. Participation in the Plan and reduction in pay is effective the first day of the month after receipt of the application to the Secretary concerned on [the DD 2656](#). Documentation attesting to the less than total disability rating must accompany the application.

2. If the member applies for resumption of participation, but dies before the effective date, the beneficiary is entitled to an annuity on the date the election would have been effective.

3. Resumption of participation is limited to the type and level of coverage initially elected allowing for beneficiary changes as otherwise provided for in Chapters 42 through 54.

4308 OPEN ENROLLMENT PERIODS

430801. Regular Recurring Open Enrollment

There are no regular recurring open enrollment periods. Open enrollment periods occur only when there are major changes to the SBP program and must be specifically prescribed by law. The last SBP open enrollment, which was authorized by [PL 108-1375](#), began October 1, 2005 and ended September 30, 2006 under 10 U.S.C 1448. In the absence of such a legislatively prescribed period, members may only enroll or disenroll as specified in this chapter.

[*430802. Former Spouse SBP Coverage Open Enrollment](#)

[The NDAA FY 2016 amended the SBP statute to give a member, who had made an election to provide SBP or RCSBP coverage for a former spouse, the ability to cover a subsequent spouse if the former spouse dies. The enactment of this legislation included provisions for an open enrollment period \(November 25, 2015 through November 24, 2016\) to accommodate members whose covered former spouse beneficiaries were already deceased when the legislation was enacted. This former spouse SBP coverage open enrollment did not apply if the member was not currently married or if the former spouse SBP coverage was discontinued for any reason other than the death as of November 25, 2015. See subparagraphs 430504.D and E.](#)

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4303 - ELECTION DATA

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430501.C
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VOLUME 7B, CHAPTER 44: “SURVIVOR BENEFIT PLAN (SBP) - BENEFICIARIES”

SUMMARY OF MAJOR CHANGES

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **January 2016** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
440201.F	Revised information based on the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017.	Revision
440202.F	Revised information based on the NDAA for FY 2017.	Revision
440203.B	Revised information based on the NDAA for FY 2017.	Revision
440206.C	Revised information based on the NDAA for FY 2017.	Revision
440207	Added a new “Special Needs Trust (SNT)” paragraph based on the NDAA for FY 2015.	Addition
440208	Added a new “Exception” paragraph.	Addition
Bibliography	Updated Bibliography.	Revision

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CHAPTER 44

SURVIVOR BENEFIT PLAN (SBP) – BENEFICIARIES

4401 GENERAL

440101. Purpose

The eligible beneficiaries under the SBP (also referred to as the Plan) are the spouse and/or dependent children, a former spouse and/or dependent children, or a natural person with an insurable interest, providing they meet certain eligibility requirements. The election, if required, must be received within the time period allowed. An individual may not receive more than one annuity as the surviving spouse or former spouse of different members (see Chapter 46); however, an individual may be the recipient of two or more annuities concurrently, as long as only one is a spouse or former spouse annuity. For example, the child of two members could receive an annuity from each parent, or an individual who was a spouse beneficiary of one member could also be a beneficiary of another member under the insurable interest category.

440102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

4402 ELIGIBLE BENEFICIARIES

*440201. Spouse (Including the Spouse of a Common-Law Marriage)

A. If the spouse is married to a retiree on date of retirement, the spouse is an eligible beneficiary. The spouse is automatically designated as the beneficiary even if the beneficiary data is not received before date of retirement. However, the spouse is not automatically the beneficiary if prior to retirement the member elects, with spouse's concurrence, to not provide coverage for the spouse and/or children.

B. If the member elected spouse coverage at retirement and the member's previous spouse has become ineligible for SBP due to death or divorce, the spouse who marries the member after the date of retirement is the eligible beneficiary. Spouse coverage is resumed upon the first anniversary of remarriage or birth of a child of that remarriage, whichever is earlier, unless the member elects not to resume spouse coverage within 1 year of the remarriage.

C. If the spouse is married to the member after the date of retirement, and the member did not have a spouse at retirement and did not elect insurable interest coverage, the spouse is an eligible beneficiary only if the member elects to provide spouse SBP coverage within 1 year of the marriage. The spouse coverage is effective on the first anniversary of the marriage or birth of a child of that marriage, whichever is earlier.

D. If the spouse is married to a retiree at the time of retirement and the member elected spouse coverage, then divorced, and later remarried the same spouse, the spouse becomes

eligible immediately upon remarriage provided spouse coverage was resumed. However, the member has up to 1 year after remarriage to decide whether to resume spouse coverage.

E. If the spouse is married to a retiree after date of retirement, then divorces, and later remarries the member, the spouse becomes eligible upon the first anniversary of remarriage or date of the birth of a child of that remarriage. The election must be received within 1 year of the remarriage.

* F. A spouse who is married to a member who dies in the line of duty while on active or inactive duty, or to a retirement eligible member regardless of the line of duty determination, is an eligible SBP beneficiary. See Chapters 46 and 54.

G. A member may change election coverage from a natural person with insurable interest to coverage for a spouse within 1 year of marriage. The spouse becomes an eligible beneficiary upon the first anniversary of the marriage or the date of birth of a child of that marriage, whichever is earlier, provided the member changes to spouse coverage. Until the spouse and/or child are eligible, the previously elected class of beneficiary remains eligible.

H. A member may change election coverage from former spouse to coverage for a spouse in accordance with Chapter 43, paragraph 430602 at any time following remarriage, provided the former spouse is still living at the time the Secretary concerned receives the member's election. If the election change is requested more than 1 year from the date of the member's marriage, then the spouse becomes an eligible beneficiary on the date of the election receipt and the associated premium is effective on the first day of the month following receipt of election.

*440202. Children (Including Children of a Common-Law Marriage)

A. Child Is An Eligible Beneficiary. The child is an eligible beneficiary only if the child is:

1. Unmarried and:
 - a. Under age 18 (including a child serving on active duty in the Uniformed Services);
 - b. At least 18 but under 22 and pursuing a full-time course of study in a recognized educational institution; or
 - c. Incapable of self-support because of physical or mental incapacity, which existed before the 18th birthday or was incurred before age 22 while pursuing a full-time course of study; and

2. A child of the member, which includes:

a. A child determined by paternity test or a court of competent jurisdiction to be a child of the member (documentation will be required to substantiate a claim);

b. An adopted child; or

c. A stepchild, foster child, or recognized natural child, if that stepchild, foster child, or recognized natural child lived with the retiree in a regular parent-child relationship.

B. Special Eligibility Rules for Child Seeking Full-Time Course of Study. A child whose 22nd birthday occurs before July 1st or after August 31st of a calendar year, and while regularly pursuing such a course of study or training, is considered to have become 22 years of age on the first day of July after that birthday. Child eligibility terminates for school nonattendance. If the child resumes school attendance, then eligibility is reinstated. See Chapter 46.

C. Special Eligibility Rules for Foster Child. A foster child must have resided with the retiree at time of death, received over one-half of his or her support from the retiree, and not be cared for under a social agency contract.

D. Relatives or Grandchildren. A relative of the member (such as a grandchild) may qualify as an eligible child beneficiary if a foster parent/foster child relationship exists. Adoption of a grandchild is not required for the member to designate that child as an eligible child beneficiary.

E. Child of Former Spouse. A child of the member and the former spouse is an eligible child beneficiary, if the member elects former spouse and child coverage. If a member who elected spouse and child coverage later divorces, the child coverage continues after the divorce. However, if the coverage is changed to provide coverage for the former spouse, the child coverage will not continue unless the new coverage elected is former spouse and child coverage.

* F. Active or Inactive Duty. A child of a member who died on active or inactive duty is an eligible beneficiary provided:

1. There is no eligible former spouse established by a court order;

2. There is no eligible surviving spouse; or

3. The Service Secretary has determined the annuity is payable to the child(ren) in lieu of the surviving spouse. See Chapters 46 and 54.

G. Termination by Marriage. Child eligibility terminates by marriage of the child, regardless of whether the child is an incapacitated child entering into a valid marriage with another incapacitated individual. The termination of a child's marriage by death or divorce does not serve as a basis for reinstating child coverage, regardless of age or school attendance. An

annulment of the child's marriage which renders the marriage void or invalid, or a judicial decree by a court of competent jurisdiction declaring the marriage void, may serve as a basis for reinstating child coverage.

*440203. Spouse and Children

Eligibility requirements are as shown in paragraphs 440201 and 440202.

A. General. The spouse is the primary beneficiary with coverage passing to the children if the spouse remarries before age 55, dies, or otherwise becomes ineligible. If the spouse again becomes eligible due to a remarriage ending in death or divorce, the annuity to the spouse resumes.

* B. Death on Active or Inactive Duty. If the annuity is payable because the member dies on active or inactive duty, and there is no eligible spouse, the annuity will be paid to any dependent children. In the case of a surviving spouse and children, the Service Secretary may pay the annuity to the member's dependent children in lieu of an annuity to the spouse.

440204. Former Spouse

A former spouse is an eligible beneficiary if:

A. The former spouse was the member's former spouse when the member became eligible to participate in the Plan and the member elected the former spouse as beneficiary or the former spouse submits a valid deemed election (see Chapter 43); or

B. The former spouse was not the member's former spouse at the time the member became eligible to participate in the Plan, and the prior spouse election is changed to provide coverage for the former spouse or the former spouse submits a valid deemed election pursuant to Chapter 43, paragraph 430504. A former spouse acquired after the member became eligible to participate in the Plan may only be an eligible beneficiary if married to the member for at least 1 year or the parent of issue of the marriage.

440205. Former Spouse and Child

If coverage includes child, then the former spouse is the primary beneficiary with coverage passing to the children if the former spouse remarries before age 55, dies, or otherwise becomes ineligible. The child is an eligible beneficiary provided the conditions in subparagraph 440202.A are met and the child resulted from the member-former spouse's marriage.

*440206. Natural Person with Insurable Interest

An eligible natural person with insurable interest is:

A. A person who has a reasonable and lawful expectation of pecuniary benefit from the continued life of the member. This category may include parents, stepparents,

grandparents, grandchildren, aunts, uncles, sisters, brothers, half-sisters, half-brothers, dependent or non-dependent child or stepchild, or any other person more closely related than cousin;

B. Any individual having a reasonable and lawful basis, founded upon the relationship of parties to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the retiree. Proof of financial benefit from the continuance of the life of the member is required for persons other than those listed in subparagraph 440205.A; or

* C. In the case of a member who dies on active [or inactive](#) duty and no other beneficiary is eligible to receive an annuity, a person who is, as determined by the Secretary concerned, a dependent of that member as defined in [Title 10, United States Code \(U.S.C.\), section 1072\(2\)](#).

*440207. Special Needs Trust (SNT)

Service members and retirees who elect child coverage may direct payment of an SBP annuity for a dependent child to an SNT. If an SNT was not designated as a beneficiary prior to the death of the Service member or retiree who had previously elected child coverage, the disabled dependent child's surviving parent, grandparent, or court-appointed legal guardian or fiduciary may irrevocably elect to designate an SNT as beneficiary. An SNT is also known as a supplemental needs trust. An SNT is a legal instrument that can be established by certain individuals in order to ensure that assets are retained that can be used for the supplemental needs of a certain disabled individual, without disqualifying that individual from other Federal or State benefits which that person may be entitled to receive. To be an eligible beneficiary, the SNT must be for the benefit of a person considered disabled under [42 U.S.C. § 1382c\(a\)\(3\)](#) and in accordance with the SBP statute. The SNT must also comply with [42 U.S.C. § 1396p\(d\)\(4\)](#). See Chapter 46 for further information regarding qualifying an SNT as a beneficiary.

*440208. Exception

If the beneficiary is responsible for the death of the retiree, the annuity may not be paid to that person unless evidence is received which clearly absolves the beneficiary of any felonious intent. This does not preclude the person from receiving the annuity in the capacity of custodian or guardian of minor children.

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VOLUME 7B, CHAPTER 45: “SURVIVOR BENEFIT PLAN (SBP) PREMIUMS”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an **asterisk (*)** symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated **November 2014** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision
450101	Added “Purpose” paragraph.	Addition
450102	Added “Authoritative Guidance” paragraph.	Addition
4504	Revised examples in “Computation of Premiums” section to reflect latest rates in the 2015 factor table.	Revision
450403	Added information for a natural person with an insurable interest for clarification.	Addition
450603.B	Added information to clarify the “Premium Changes” when spouse is no longer eligible.	Addition
450603.F	Added information for coverage by reason of a court order.	Addition
450603.G	Added information for coverage for spouse after the death of the former spouse.	Addition
450606	Moved section 450606 to 450905.	Revision
450904	Added dates for an additional open enrollment period in the “Buy-In Premium” paragraph which was not included in previous version.	Addition
450905	Moved section 450606 to 450905.	Revision
450905.B	Added information for paid-up period for a member who became an SBP participant or increased the base amount coverage during April 1, 1992 through March 31, 1993.	Addition
4511	Added information for clarification concerning exclusion from taxable income.	Addition
4512	Added information in “Veterans Affairs (VA) Total Disability Ratings” for clarification.	Addition
Bibliography	Updated “Bibliography” to reflect new references and formatting.	Revision

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CHAPTER 45

SURVIVOR BENEFIT PLAN (SBP) PREMIUMS

4501 GENERAL

*450101. Purpose

The purpose of this chapter is to provide information on premiums for SBP coverage based on the type of coverage as well as the computation and payment of these premiums.

*450102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

4502 PREMIUM

450201. Premium Coverage

The premium for SBP coverage is based on the type of coverage (spouse and/or children, former spouse or former spouse and children, or natural person with an insurable interest (NIP)) and the base amount, maximum or reduced, as elected by or on behalf of the member. The SBP premium increases at the same time and by the same percentage as do increases for retired or retainer pay.

450202. Premium Collection

Members electing SBP coverage **must** pay a premium for such coverage. Premiums are collected either through reduction of retired pay or direct remittance.

450203. Premiums Not Specified

All premiums not specified in this chapter are calculated by the Department of Defense (DoD) using assumptions (as to mortality and economic conditions) approved by the DoD Board of Actuaries and the Director of Military Compensation. See [Office of the Actuary](#).

4503 BASIC SPOUSE/FORMER SPOUSE PREMIUM CALCULATION

450301. Initial Premium Calculation

There are two methods for calculating the initial premium for the standard SBP annuity coverage for a spouse or former spouse. These methods are:

- A. An amount equal to 6.5 percent of the base amount; and

B. An amount equal to 2.5 percent of a “threshold amount” plus 10 percent of the difference between the base amount and the threshold amount. The threshold amount is adjusted at the same time and by the same percentage as the average increase in basic pay. See paragraph 450302. The original threshold amount of \$300 has been increased by the same percentage increase as basic pay since October 1, 1985.

C. A person who became a member before March 1, 1990 or who is entitled to disability or non-regular (i.e., reserve) retirement, is entitled to whichever method is more favorable as described in 450301 A and B.

D. Effective March 1, 1990, the initial SBP premium formula for spouse or former spouse coverage for a member who did not have a disability or non-regular (i.e., reserve) retirement became 6.5 percent of the base amount as described in 450302.

E. Premium Calculation Members Before March 1, 1990

1. For a person who became a member of the Uniformed Services before March 1, 1990, the initial premium for spouse or former spouse coverage was computed on a standard cost formula of 2.5 percent of the threshold amount, plus 10 percent of the base amount in excess of the threshold amount. The threshold amount is increased as set out in paragraph 450302.

2. If the individual first became a member of a Uniformed Service before March 1, 1990, is providing spouse coverage, and the SBP premium exceeds 6.5 percent of the base amount, the SBP premium was recomputed effective March 1, 1990, on the flat-rate reduction formula of 6.5 percent.

450302. Threshold Amount Increase

The threshold amount is increased by:

A. The same percentage as the average increase in basic pay effective on or after October 1, 1985. The increase occurs at the same time. This applies to a member whose retired pay is computed on the basic pay rate in effect or after the effective date of such increase in basic pay; or

B. The same percentage as a cost-of-living adjustment (COLA) applied to the member’s retired pay on or after October 1, 1985, if the member first participates in the SBP after the effective date of the COLA increase and after the effective date of the basic pay rates on which the member’s retired pay is computed. This is in addition to the increase in subparagraph 450302.A and the increase occurs at the same time as the COLA increase.

450303. Children Coverage Charge

If the SBP coverage is for spouse and child, former spouse and child, or child only, a formula must be applied against the base amount (or base amount times 55 percent before

April 1983) to determine the charge for coverage of the children. The age of the youngest child is used to determine the premium. If there is an incapacitated child over 18 years of age and there also is a competent child over age 18 but younger than the incapacitated child, then use age 17 to determine the premium. The premium can be determined from the SBP Factor Tables by contacting the Defense Finance and Accounting Service-Cleveland (DFAS-CL) Site, Directorate Retired and Annuitant Pay. A cost computation can be obtained by contacting a SBP counselor at the nearest military installation.

*4504 COMPUTATION OF PREMIUMS

450401. Spouse Only or Former Spouse Only

See Table 45-1, Rule 1.

450402. Spouse and Child, Former Spouse and Child, or Children Only

See Table 45-1, Rules 2 and 3.

A. The following steps are used to compute the premium:

1. Determine the age of the:
 - a. Member, spouse, and child for spouse and child coverage;
 - b. Member, former spouse, and child for former spouse and child coverage; or
 - c. Member and child for child coverage.
2. Determine the cost factor from the appropriate SBP Factor Tables;
3. Multiply the base amount by the factor to determine the child premium; then
4. Add the child premium to the spouse (or former spouse) premium.

B. The following are examples of computing premiums:

Example 1: A member retires on July 1, 2010, with 20 years of active service. The gross retired pay is \$1,000.00. The member elects maximum coverage for spouse and children. Birth dates are: member-February 2, 1971; spouse-September 2, 1975; child-May 1, 2001.

Step 1. Compute ages. Six months or more is considered a full year.
 Note: Months are computed in 30 day increments for pay purposes only.

Member	100701	Spouse	100701	Child	100701
	<u>710202</u>		<u>750902</u>		<u>010501</u>
	390429		340929		90200
	(39)		(35)		(9)

Step 2. Using the SBP Factor Table to locate the combination of a member age 39, spouse age 35, and child age 9. A cost computation can be obtained by contacting the [DFAS-CL](#) Site, Directorate Retired and Annuitant Pay or by contacting a SBP counselor at the nearest military installation.

Steps 3 and 4. Determine total premium:

Spouse premium:		
(Flat-rate formula)	\$1,000.00	
	<u>x .065</u>	
	\$ 65.00	\$65.00
Child premium:	\$1,000.00	
	<u>x .00001</u>	
	\$.01	+\$.01
Total Premium:		\$65.01

Example 2: The spouse in Example 1 becomes an ineligible beneficiary on March 3, 2011. Coverage changes to child only.

Step 1. Recompute the ages for member and child.

Member	110303	Child	110303
	<u>710202</u>		<u>010501</u>
	400102		91003
	(40)		(10)

Step 2. The SBP Factor Table is used to locate the combination of a member age 40 and child age 10. The resulting factor is .0016.

Step 3. Determine total premium: \$1,000.00 x .0016 = \$1.60

Example 3a: The member elects spouse and child coverage (Example 1) at retirement on July 1, 2010. The spouse becomes an ineligible beneficiary (dies or divorces) and coverage changes to child only (Example 2) on March 3, 2011. The member marries a different spouse on May 14, 2011. The birth date for the new spouse is October 12, 1975. Spouse and child coverage resumes on May 14, 2012 unless the member elects not to resume spouse coverage. The new premium

for spouse and child is effective on May 14, 2012. See Table 45-3, Rule 9 and note 8.

Step 1. Recompute ages for member, spouse, and child.

Member	120514	Spouse	120514	Child	120514
	<u>710202</u>		<u>751012</u>		<u>010501</u>
	410312		360702		110013
	(41)		(37)		(11)

Step 2. The SBP Factor Table is used to locate the combination of a member age 41 spouse age 37, and child age 11.

Steps 3 and 4. Determine the total premium:

Spouse premium:

(Flat-rate formula)	\$1,000.00	
	<u>x .065</u>	
	\$ 65.00	\$ 65.00

Child premium:

\$1,000.00	
<u>x .00001</u>	
\$.01	+ \$.01

Total Premium		\$ 65.01
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Example 3b: The member elects spouse and child coverage at retirement on July 1, 2010 (Example 1). The spouse becomes an ineligible beneficiary and coverage changes to child only (Example 2) effective March 3, 2011. The member remarries on May 14, 2011. The birth date for the new spouse is October 12, 1975. Coverage would have resumed for the spouse and child on May 14, 2012, the first anniversary of the marriage; however, the spouse becomes the parent of issue by that marriage before the first anniversary. Coverage changes to spouse and child on the date the child is born of that marriage. The new premium is effective the first day of the month following the birth. See Table 45-3, Rule 9 and note 8. Assume that the child is born March 27, 2012.

Step 1. Recompute ages for member, spouse, and child.

Member	120327	Spouse	120327	Child	120327
	<u>710202</u>		<u>751012</u>		<u>120327</u>
	410125		360515		000000
	(41)		(36)		(00)

Step 2. The SBP Factor Table is used to locate the combination of a member age 41, spouse age 36, and child age 0.

Steps 3 and 4. Determine total premium:

Spouse premium:			
(Flat-rate formula)	\$1,000.00		
	<u>x .065</u>		
	\$ 65.00	\$ 65.00	
Child premium:	\$1,000.00		
	<u>x .00001</u>		
	\$.01		
			+ \$.01
Total Premium			\$ 65.01

Example 4: The member elects spouse and child coverage at retirement on July 1, 2010 (Example 1). The member divorces on April 15, 2011, and coverage changes to child only. See Example 2 for recomputation. The member elects coverage for former spouse and child based on a court order dated June 2, 2011. The premium for the former spouse and the child is effective July 1, 2011. Recompute ages on the date the election is received.

Step 1. Recompute ages.

Member	110602	Former	110602	Child	110602
	<u>710202</u>	Spouse	<u>750902</u>		<u>000501</u>
	400400		350900		100101
	(40)		(36)		(10)

Step 2. The SBP Factor Table is used to locate the combination of a member age 40, spouse age 36, and child age 10.

Step 3. Determine the premium as in Example 1.

*450403. Natural Person with an Insurable Interest (NIP)

In some cases, the Insurable Interest category may include former spouse. The premium formula for the Insurable Interest category is 10 percent of retired pay plus 5 percent for each full five years the individual designated is younger than the member. However, the total Insurable Interest premium cannot exceed 40 percent and must be based on full retired pay. Refer to Table 45-1, Rule 4.

4505 EFFECTIVE DATE OF PREMIUM

See Table 45-2 or 45-3 as applicable.

4506 SUSPENSION, CHANGE, AND TERMINATION OF PREMIUM

450601. No Eligible Beneficiary

Premiums are suspended for spouse or former spouse coverage when there is no longer an eligible beneficiary. Premiums are also suspended for child coverage when there is no eligible child beneficiary, but see Chapter 54 for RC-SBP child coverage.

450602. School Nonattendance

If the SBP premium was adjusted or discontinued based on school nonattendance of the child beneficiary, the premium is adjusted retroactively to the first day of the month after the child resumed school attendance.

*450603. Premium Changes

The premium changes when:

A. Coverage is for spouse and children (or former spouse and children) and the last dependent child is no longer an eligible beneficiary. The premium for coverage is changed to spouse (or former spouse) only. See Table 45-3, Rule 8; or

* B. Coverage is for spouse only and the spouse is no longer eligible and the member remarries. Within 1 year after member's remarriage, the member may:

1. Resume coverage;
2. Elect not to resume spouse coverage;

3. Increase the base amount up to and including full retired pay for spouse or spouse and child coverage. The member may increase the base amount at any increment up to full coverage. An increase in level of coverage will result in an increased premium. When level of coverage is increased upon remarriage, a member must pay for premiums as if that level of spouse coverage had always been in effect. The member must pay for premiums which would have been charged had this level of coverage always been in effect less the amount of premiums already paid by the member. In addition, this amount owed will be charged with interest. Full coverage is based on full retired pay which means the spouse will receive 55 percent of the retirement pay. If lesser coverage is selected then the spouse will receive 55 percent of the elected base amount. See Table 45-3, Rule 6; or

C. Coverage is for spouse and children and the spouse is no longer eligible or the coverage is for former spouse and children and the former spouse is no longer eligible. See Table 45-3, Rule 7, for computation for the child premium. Within 1 year of a remarriage, the member with suspended spouse coverage has the same options as in subparagraph 450603.B, while the former spouse is still living; there is no time limitation for an election change to spouse coverage by a member with suspended former spouse coverage. Note: A member may not

increase spouse coverage on a spouse election that is made after the death of a former spouse. See Table 45-3, Rule 9;

D. Coverage is for spouse at the time of the member's retirement (or before March 21, 1974 for a pre-September 21, 1972 retiree), and the member subsequently divorces and then remarries that former spouse. The premium is effective the first day of the month following the remarriage, unless the remarriage is the first day of the month, then the premium is effective on the date of marriage; or

E. Coverage is for spouse after date of retirement and the member subsequently divorces and then remarries that former spouse. The premium of coverage is resumed the first day of the month following the first anniversary unless the remarriage is the first day of the month, then the premium resumes on the first day of the first anniversary; or

* F. Coverage is for spouse or spouse and child and is changed to former spouse under Chapter 43, paragraph 430603. In the case of a person required to make the election by reason of a court order or the filing of which is after October 16, 1998, then the premium is effective the first day of the month after the date of that court order or filing. See Table 45-3, Rule 10.

* G. Coverage for spouse after the death of the former spouse. Upon electing coverage for a spouse after the death of a former spouse, the member may not increase or decrease the amount of coverage.

1. Married for at least one year on the date of former spouse's death. If the member had been married for at least one year on the former spouse's date of death, and the member makes a spouse election within one year of the former spouse's death, premiums will resume on the first day of the first calendar month following the death of the former spouse.

2. Married within the one year period preceding the date of death of the former spouse. If the member married within the one year period preceding the date of death of the former spouse and the member makes a spouse election within one year of the former spouse's death, premiums will resume on the first day of the calendar month following the first anniversary of the marriage.

3. Married after the death of the Former Spouse. If the member marries after the former spouse's date of death, and the member makes a spouse election within one year of the marriage, premiums will resume on the first day of the month following the first anniversary of the marriage.

450604. Premium Termination

The SBP premium terminates for a NIP under the following circumstances:

A. When the beneficiary dies;

B. When the member terminates coverage for the NIP; or

C. On the date a spouse or child acquired after retirement becomes the eligible beneficiary if the member elected coverage for such spouse or child. The SBP premium is terminated as of the date shown in Table 45-4, Suspension and Termination of Premium. See Chapter 43, section 4307 for more information on termination procedures.

450605. Voluntary Termination

If a member voluntarily discontinues SBP participation under Chapter 43, the premium terminates on the effective date of the election which is the first day of the month following the date of the receipt of the request. Any premium deducted for periods on or after such effective date must be refunded and the member notified of the final action concerning termination of coverage.

* 450606. Other Suspension and Termination Situations

See Table 45-4 for other suspension and termination of premium situations.

450607. Cost of Living Adjustment (COLA)

SBP premiums normally increase at the same time, and by the same percentage, that retired pay increases by COLA. When the payment of increased retired pay resulting from a COLA is delayed, the increase to SBP premiums will occur at the same time the retired pay is increased rather than the effective date of the COLA increase (or the date that the retired pay would have increased if the member were currently in receipt of retired pay).

4507 PAYMENT OF PREMIUM

450701. Payments

A member who receives enough retired pay to cover the premiums for SBP has those premiums withheld from his or her retired pay. Voluntary allotments may be discontinued to satisfy the premiums for SBP coverage. See Chapter 19 for more information. The reduction in retired pay for the premium of SBP coverage is not treated as a collection for accounting purposes.

450702. Waiver of Retired Pay

A. For any period in which the member is not receiving retired pay because of non-entitlement to or waiver of such pay or the pay received is not enough to cover the total cost of coverage, the member must remit the amount due to the DFAS-CL Site. Deposits are due on the effective date of coverage. For example, member retires June 1; the first payment is due June 1, for the period June 1-30. A member who waives full retired pay for Veterans Affairs (VA) compensation may pay the premium by direct remittance or by deduction from the compensation payments.

B. If the member waives participation in the military survivor benefit program and elects participation in the civil service SBP, and the civil service waiver later becomes ineffective for any period for any reason, previous participation in the military survivor benefit program is resumed and military SBP premium is due from the member.

450703. Emergency Officer's Retired List (EORL)

A member on the EORL may pay premiums by direct remittance or by deduction from EORL payments.

450704. Active Duty Recall

If a member is recalled to active duty for more than 30 days after a break in service, the member does not pay the premium while on active duty.

450705. Active Judicial Duty

The member remains a SBP participant while on active judicial duty and is required to pay the SBP premiums while military retired pay is suspended.

4508 DELINQUENT SBP PREMIUMS

Interest is owed for any delinquent SBP premiums. [The interest rate is a percentage that is compounded annually by the DoD Board of Actuaries.](#) Any delinquent Retired Serviceman's Family Protection Plan premiums existing on date of conversion to SBP continue with interest, until paid. Upon the death of a retiree, any delinquency, plus interest, is collected from the annuitant's benefits before payment of any annuity will commence.

4509 PAID UP SBP PREMIUMS AFTER 30 YEARS AND AGE 70

450901. Coverage In Effect October 2008

Effective with the retired pay entitlement and SBP coverage in effect for the month of October 2008, SBP premium reductions will no longer be made if the member is a qualified SBP participant described in [450902](#). Deposits made by a SBP participant during a period when the participant is not entitled to retired pay qualify as premium reductions.

450902. Birthday Month

A member is a qualified participant for purposes of paid up SBP coverage if the retired member is age 70 or older whose retired pay has been reduced for SBP coverage for 360 months or more. If the member's 70th birthday occurs later than the 360th month for which the member paid SBP premiums, no SBP premiums will be made for that month regardless of the day on which the member becomes age 70.

450903. Effective Date

The first payment that can be affected is the payment for the period of retired pay entitlement beginning October 1, 2008 (due November 3, 2008).

***450904.** Buy-In Premium

A member who elected or changed SBP coverage during the open enrollment periods March 1, 1999 through February 29, 2000 and October 1, 2005 through September 30, 2006 was charged a one-time buy-in premium in addition to the prospective monthly premium. The buy-in premium was due and payable in a lump sum payment at the time the member filed the election. A member who paid the lump sum, buy-in premium received credit toward the 360 months as if the member's retired pay had been reduced monthly for SBP premiums.

***450905.** Paid Up Premiums

A. Premiums for SBP participation are permanently paid up (no further reductions to retired pay or remittances) when a member attains age 70 and has had 360 months of premium payments. See section 4509 for more information.

*B. A member who became an SBP participant or increased the base amount coverage during April 1, 1992 through March 31, 1993 was required to pay the basic SBP premium and an additional premium, which was a percentage of the basic premium determined by the actuary. The additional premium accounted for the premiums the member would have paid if the member had elected SBP at the earliest possible date. A member who paid the additional premium received credit towards the 360 months paid-up based upon the additional premium paid.

4510 TAXABILITY OF PREMIUMS

For federal income tax purposes, premiums for SBP coverage are excluded from taxable income when they are deducted from the member's retired pay. A member whose pay is subject to tax reporting will, while in a pay status, receive the tax benefit through a reduction in the taxable income reported to the Internal Revenue Service (IRS). No reduction against the taxable income can be given for interest paid on the delinquent premiums.

***4511 INCOME EXCLUSION**

For federal income tax purposes, premiums for SBP/Retired Serviceman's Family Protection Plan coverage are excluded from taxable income when they are deducted from the member's retired pay. A member whose pay is subject to tax reporting will, while in a pay status, receive the tax benefit through a reduction in the taxable income reported to the IRS. No reduction against the taxable income can be given for interest paid on the delinquent premiums. Since a direct remitter has waived retired pay and has no taxable military retired pay he or she does not qualify for the tax benefit.

4512 DISCONTINUATION DUE TO VA DISABILITY*451201. Discontinuing SBP Participation****A. A retiree may withdraw from participation if:**

1. The retiree has a service connected disability rated by the VA as totally disabling for 10 or more continuous years; or

2. The retiree has had a total disability rating from the VA at least 5 continuous years from the last date of active duty.

B. Withdrawal is permitted because the surviving spouse will likely qualify for Dependency and Indemnity Compensation benefits from the VA and retiree's death will be presumed to be from service-connected reasons.

C. A request for withdrawal requires the written consent of the beneficiary. Upon death, the surviving spouse will be entitled to a refund of all the SBP costs that were paid.

451202. Written Statement

When a retiree requests withdrawal under these rules, DFAS must furnish a written statement outlining the advantages and disadvantages of withdrawing. The retiree must confirm receipt of the information and sign acknowledgment of intent to withdraw. An election is effective as of the first day of the first month following the month in which the Secretary concerned receives the confirmation and acknowledgment. The member may revoke the request to discontinue participation within the 30-day period following submission of such request to the Secretary concerned. If, for some reason, the VA disability rating is withdrawn or reduced, SBP coverage may be resumed at the request of the retiree. The request to resume must be made within 1 year after the VA rating has been withdrawn or reduced.

Table 45-1. Computation of SBP Premium on Establishment

COMPUTATION OF SBP PREMIUM ON ESTABLISHMENT		
R U L E	A	B
	If beneficiary is	the formula is
1	spouse or former spouse (spouse category)	6.5 percent of the base amount (note 1) or 2.5 percent of the threshold amount (note 2), as adjusted, plus 10 percent of the remaining base amount. If gross retired pay is less than the threshold amount, use 2.5 percent of gross retired pay.
2	spouse (former spouse-spouse category) and children (notes 3 and 4)	determined under Rule 1, plus an additional premium for children computed by applying the factor from the SBP Factor Table against the base amount. See section 4504 for examples.
3	children only (notes 3 and 4)	shown in the SBP Factor Table, based on the ages of the member and youngest dependent child, against the base amount. See section 4504 for example.
4	NIP or former spouse (NIP category)	10 percent of the member's gross retired pay if the age of the beneficiary is equal to or greater than member's age. If the beneficiary's age is less than member's age, the formula is 10 percent of the member's gross retired pay, plus an additional 5 percent of the gross retired pay for each full 5 years that the beneficiary is younger than member. Six months or more is not counted as an additional year. Total premium may not exceed 40 percent of gross retired pay.

NOTES:

- Members who first became a member of a Uniformed Service on or after March 1, 1990, and receive a regular retirement will have their spouse premium computed under the flat rate formula of 6.5 percent of the base amount. The following members are entitled to spouse premium computation under the formula that provides the lesser premium:
 - A member who is entitled to retired pay based on disability;
 - A member who is entitled to retired pay based on a non-Regular service retirement; or
 - A member who first became a member of a Uniformed Service before March 1, 1990.
- The threshold amount is subject to indexing equal to the percentage increases for active duty basic pay rates.
- Do not recalculate premiums when a child different from the child first established as the youngest child becomes the youngest eligible child.
- Dependent Child - use the age of the youngest child. Exception: Use age 17 for an incapacitated child over 18 years of age when there is a competent child also over 18, but younger than the incapacitated child.

Table 45-2. Effective Date of Premium - Initial Election

EFFECTIVE DATE OF PREMIUM - INITIAL ELECTION					
R U L E	A	B			
	If on the date of election (pre-September 21, 1972 retiree) or date of retirement (post-September 21, 1972 retiree), the member has	the effective date of premium is first day of the month following			
		retirement	election by the Secretary of the Military Department concerned	receipt of the election	the first anniversary of the marriage
1	spouse, spouse and children, children only, or NIP (pre-September 21, 1972 retiree)			X	
2	spouse, spouse and children, children only, or NIP (post-September 21, 1972 retiree)	X			
3	no dependents, later marries (note 1)				X (note 4)
4	no dependents, later acquires dependent children (note 1)			X (note 2)	
5	no dependents, later marries and acquires dependent children (note 1)			X (note 3)	X (note 5)
6	been declared mentally incompetent (Secretary may make election)		X		
7	former spouse (post-September 7, 1982 retiree) or former spouse and children (post-February 28, 1986 retiree)	X (note 6)			

NOTES:

1. Member must elect within 1 year of marriage or acquiring dependent children.
2. Compute the child premium using the ages of the member and the youngest child as of date of receipt of the election.
3. The child only premium is established and continues until the first of the month following the first anniversary of the marriage. Compute child only premium using the ages of the member and youngest child on date of receipt of the election. When the spouse becomes an eligible beneficiary, child only coverage is changed to spouse and child coverage and compute the new premium using the ages of the member, spouse, and the youngest child on the date the spouse becomes an eligible spouse beneficiary.
4. If the first anniversary is on the first day of the month, the premium is changed for that month.
5. If a child is born of that marriage before the first anniversary, the premium for spouse and child coverage is effective the first of the month following the birth of the child. If the birth or anniversary is the first day of the month, the premium is charged for that month.
6. The effective date of the premium for an election for a former spouse election made from September 8, 1982 through January 31, 1983 is February 1, 1983.

Table 45-3. Effective Date for Change of Premium

EFFECTIVE DATE FOR CHANGE OF PREMIUM					
R U L E	A	B			
	If on the date of election (pre-September 21, 1972 retiree) or date of retirement (post-September 21, 1972 retiree), the member has	the effective date of premium is first day of the month			
		following receipt of election	following family status change	following first anniversary of (re)marriage	after loss of eligibility or October 1, 1976, whichever is later
1	spouse, no child, later acquires children (notes 1 and 2)	X			
2	no spouse, child only, later acquires spouse (notes 1, 7 and 8)			X	
3	NIP (or former spouse), later marries (notes, 1, 7, 8 and 11)				
4	NIP (or former spouse), later acquires child (notes, 1, 3, 8 and 11)	X			
5	NIP (or former spouse), later acquires spouse and child (notes 1, 4, 7, 8 and 11)	X (child)		X (spouse)	
6	spouse, loses spouse, remarries (notes 1, 7, 8 and 9)			X	
7	spouse and child (or former spouse and child), loses spouse (or former spouse), premium is recomputed for child (notes 5 and 9)				
8	spouse and child (or former spouse and child), loses child (note 6)		X		
9	(a) Spouse and child, loses spouse, premium recomputed for child, member later marries (notes 4, 7, 8 and 11) (b) Spouse or spouse and child, divorces and changes to former spouse and child, loses former spouse, premium recomputed for child, member later marries (note 12) (c) Former spouse and child, loses former spouse, premium recomputed for child, member later marries and was not married at retirement (note 13)		X (child only until first anniversary)	X	

Table 45-3. Effective Date for Change of Premium (Continued)

EFFECTIVE DATE FOR CHANGE OF PREMIUM					
R U L E	A	B			
	If on the date of election (pre-September 21, 1972 retiree) or date of retirement (post-September 21, 1972 retiree), the member has	the effective date of premium is first day of the month			
		following receipt of election	following family status change	following first anniversary of (re)marriage	and
10	spouse and/or child, acquires former spouse, changes coverage to former spouse or former spouse and child	X			
11	former spouse or former spouse and child, loses former spouse, changes coverage to spouse or spouse and child	X			
12	elected former spouse deemed by Secretary concerned (note 14).				
13	been declared mentally incompetent but later adjudged competent may, within 180 days, change a Secretarial election	X			

NOTES:

- Member must elect within 1 year of (re)marriage or acquiring the dependent child or children. If the election change is from former spouse coverage to spouse coverage, there is no time limitation on the election period so long as the former spouse is still living. If the member elects to change from former spouse to spouse coverage after 1 year of remarriage, the coverage is effective on the date of election receipt and the associated premium is effective on the first day of the month after election receipt.
- Compute premium for additional child using ages of member, spouse, and youngest child as of date of receipt of election.
- Compute premium for child using ages of member and youngest child as of date of receipt of election.
- Child only premium is effective until the first of the month following the first anniversary of the (re)marriage. Compute child only premium using ages of member and youngest child on the date of receipt of the election or on the day after the date spouse eligibility is lost (Rules 5 and 8). When spouse becomes an eligible beneficiary, child only coverage is changed to spouse and child coverage and compute child premium using ages of member, spouse, and youngest child on date spouse becomes an eligible spouse beneficiary.
- Compute child only premium using ages of member and youngest child as of the first date following the date the spouse (or former spouse) became an ineligible beneficiary or October 1, 1976, whichever is later. If eligibility was lost the first day of the month, the child only premium begins the following month.
- If member gives exact date of loss of last dependent child, the change in premium is effective the first of the month following date provided. If exact date is not given, use first day of the month after receipt of notification.

Table 45-3. Effective Date for Change of Premium (Continued)

7. The premium for spouse coverage is effective on the first day of the month following the birth of the child of that marriage if earlier than first anniversary of the marriage.
8. If birth or anniversary is the first day of the month, the premium is effective that month.
9. Before enactment of Public Law (PL) 94-496, October 14, 1976, the deduction for spouse premium continued past the date spouse became an ineligible beneficiary.
10. Member must make election within 1 year of the date of a decree of divorce, dissolution, or annulment of marriage to spouse. Election for former spouse only may not be effective before September 24, 1983 (earliest day for premium is October 1, 1983). Election for former spouse and child may not be effective before March 1, 1986 (earliest date for premium is March 1, 1986).
11. An election to terminate coverage for a NIP premium, a former spouse, a spouse or spouse and child must be done in accordance with Chapter 43.
12. If a member elects former spouse (or former spouse and child) coverage, and if the member is married at the time the former spouse dies, the member may elect spouse coverage within one year of the death of the former spouse (10 U.S.C. § 1448(a)(7)(B)(ii)).
13. If a member elects former spouse or former spouse and child coverage at the time the member becomes eligible to participate (10 U.S.C. § 1448(b)(2)), but is not married when the member becomes eligible to participate and remarries after the former spouse dies, the member may elect spouse coverage within one-year of the marriage to that spouse (10 U.S.C. § 1448(a)(5)).
14. The effective date of premium and coverage is on the later of: (a) member's retirement date; (b) the first day member could have voluntarily made such an election; or (c) the first day of month after the effective date of court order involved.

Table 45-4. Suspension and Termination of Premium

SUSPENSION AND TERMINATION OF PREMIUM				
R U L E	A	B	C	D
	If a member	the premium is	with an effective date	and the member is
1	is deceased	terminated	of the date of the member's death.	
2	is recalled to active duty for more than 30 days	suspended	of the day before entry on active duty	not required to remit premium for coverage while on active duty.
3	waives retired pay for a civil service retirement		of the waiver as furnished by member	providing coverage elected under civil service retirement.
4	is removed from the Temporary Disability Retired List (TDRL) and retired pay is terminated (note 1)	terminated	of the removal from TDRL	not entitled to a refund of prior premiums.
5	elected for children and the last dependent child is no longer an eligible beneficiary (note 2)		of the first of the month after loss of eligibility (notes 3 and 4)	due a refund from first of month after loss of eligibility (note 5).
6	who has been declared mentally incompetent is restored to competency and, within 180 days, revokes election made on his or her behalf		of the first of month after receipt of election	not due a refund for period of coverage.
7	elected for spouse (or former spouse) and spouse (or former spouse) becomes an ineligible beneficiary	suspended	of the first day of month after that in which spouse became an ineligible beneficiary.	
8	elected coverage for a NIP (or former spouse in NIP category) who dies before the member	terminated	of the last day of month in which beneficiary dies.	
9	elected coverage for a NIP (not a former spouse) and member discontinues participation from the Plan (see Chapter 54, paragraph 541003 for the Reserve Component Survivor Benefit Plan participant).		of the first day of month after receipt of request.	
10	discontinues participation on the second anniversary of the date of retirement		of the first day of month after receipt of request.	

Table 45-4. Suspension and Termination of Premium (Continued)

SUSPENSION AND TERMINATION OF PREMIUM				
R U L E	A	B	C	D
	If a member	the premium is	with an effective date	and member is
11	is age 70 and has paid 360 monthly premiums	terminated	of the later of: (a) The premium for October 2008; (b) First day of the month after the 360th monthly premium; or, (c) The first day of the month in which the member reaches age 70.	
12	elected former spouse coverage (or former spouse coverage was deemed) after retirement or eligibility to participate and former spouse dies and member did not change former spouse to spouse coverage while former spouse was still living (note 6)	terminated	of the last day of the month in which the beneficiary dies	no longer a participant in the SBP.

NOTES:

1. If the member returns to active duty and is subsequently retired, a new election must be made. Any election in effect while on TDRL is void.
2. A child is no longer an eligible beneficiary when he or she dies, marries, is between age 18 and 22 and not attending school, or has reached age 22 (see note 3).
3. A student whose 22nd birthday occurs before July 1 or after August 31 of any calendar year is considered age 22 on July 1 after that birthday and the premium is discontinued.
4. When the birthday is the first day of the month, the premium terminates the first day of that month.
5. If the member gives exact date of loss of last dependent child, cost is terminated the first of the next month. If exact date is not given, use first day of month after receipt of notification.
6. Once an election from spouse or spouse and child is **changed** to former spouse or former spouse and child, all previous coverage under the Plan terminates (10 U.S.C. § 1448(b)(3)). In that instance, if the member remarries, an election from former spouse coverage to spouse coverage can only be made while the former spouse is still living. However, if a member elects former spouse or former spouse and child coverage at the time the member becomes eligible to participate (10 U.S.C. § (b)(2)), but is not married when the member becomes eligible to participate and remarries after the spouse dies, the member may elect spouse coverage within one-year of the marriage to that spouse (10 U.S.C. § 1448(a)(5)).

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Table 45-1 Computation of SBP Premium on Establishment

Rules 1-4	10 U.S.C. § 1452
	DoDD 1332.27, January 4, 1974, Chapter 5
Notes 1-4	10 U.S.C. § 1452
	62 Comp Gen 553

Table 45-2 Effective Date of Premium - Initial Election

Rule 1	10 U.S.C. § 1448
Rule 2	10 U.S.C. § 1448
Rule 3	10 U.S.C. § 1448
Note 1	10 U.S.C. § 1448(a)(5)
Note 3	57 Comp Gen 847

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Table 45-3 Effective Date for Change of Premium

Rules 2 & 3	10 U.S.C. § 1448
Rule 6	10 U.S.C. § 1448
Rules 7-9	57 Comp Gen 847
Rule 10	10 U.S.C. § 1448(b)
Rule 11	10 U.S.C. § 1448(b)
Rule 12	10 U.S.C. § 1449
Note 1	10 U.S.C. § 1448(a)(5)
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Notes 2-5	57 Comp Gen 847
	62 Comp Gen 553
Note 7	57 Comp Gen 847
Note 8	48 Comp Gen 167
Note 10	10 U.S.C. § 1448(b)(3)
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Table 45-4 Suspension and Termination of Premium

Rule 2	10 U.S.C. § 1452(d)
Rule 3	10 U.S.C. § 1452(e)
Rule 4	10 U.S.C. § 1448(c)
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VOLUME 7B, CHAPTER 46: “SURVIVOR BENEFIT PLAN (SBP) – ANNUITIES”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated July 2011 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated this chapter to comply with current administrative instructions.	Revision
460104.A.1.a	Provided information on due process notice when debt collection is required.	Revision
460104.A.5	Updated the reference for currency-blocked countries to 31 Code of Federal Regulations (CFR) 211.1.	Revision
460402.C.2	Provided information on due process notice when debt collection is required.	Revision
460701	Provided information on due process notice when debt collection is required.	Revision
461102	Clarified the requirement to provide a Certificate of Eligibility after the spouse/former spouse has reached age 55.	Revision
460501 & 461301	Combined two paragraphs, “General Causes of Overpayment” and “General Reason For Suspension Of Payment.”	Revision
4614	Renumbered section to 4613, to include all paragraphs (461301-461306).	Revision
461301	Replaced reference to Table 46-3 with Internal Revenue Manual (IRM) 3.21.3.71.12.	Revision
4615	Renumbered section to 4614, to include all paragraphs (461401-461406).	Revision
Table 46-3	Deleted Table 46-3.	Deletion
Table 46-4	Renumbered table to Table 46-3.	Revision
Bibliography	Updated references.	Revision

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CHAPTER 46

SURVIVOR BENEFIT PLAN (SBP) ANNUITIES

*4601 GENERAL

460101. Overview

A. The Survivor Benefit Plan (SBP) provides a monthly annuity of 55 percent of the annuity base amount, cost-of-living adjusted, to the eligible spouse or children. The monthly annuity for a natural person with an insurable interest is 55 percent of the amount of the gross retired pay after cost of participation is subtracted.

B. If a former spouse election was effective prior to March 1, 1986, the annuity was provided under the insurable interest category. If a former spouse election was effective March 1, 1986 or later, or coverage was changed to spouse category with the former spouse's concurrence, the annuity is provided under the spouse category.

C. Effective October 1, 2005, the phased-elimination of the two-tier system began. After April 1, 2008, the SBP annuity for a spouse or former spouse was no longer reduced at age 62.

*460102. Authoritative Guidance

Authoritative guidance information for this chapter is located in the bibliography.

460103. Eligible Annuitants

A. Spouse Only. See Table 46-1. The SBP annuity for a spouse may be reduced by any Dependency and Indemnity Compensation (DIC) if the annuity is payable on behalf of the same member. See Section 4604.

B. Children Only. If there is more than one eligible child, the annuity is paid in equal shares. The annuity for children is not subject to DIC offset.

C. Spouse and Child or Former Spouse and Child. The annuity is paid to the spouse or former spouse as long as eligibility exists. If the surviving spouse or former spouse dies, remarries before age 55, or otherwise loses eligibility, the annuity is paid to the child annuitants. An election for [the](#) former spouse and child includes only the children that resulted from the member/former spouse marriage. The annuity amount for the spouse or former spouse is shown on Table 46-1. The annuity for children is divided [into](#) equal shares. If the spouse is not married to the member for one year prior to the member's death, [the](#) spouse qualifies as the eligible annuitant on the birth of a posthumous child resulting from the member's marriage.

D. Natural Person With an Insurable Interest. The annuity is payable only to the natural person with an insurable interest as designated by, or on behalf of, the member. The

annuity amount is 55 percent of the member's gross retired pay less the SBP premium cost at the time of member's death.

*460104. Payment of Annuity

A. Payments in General. The SBP annuity is paid monthly to the eligible annuitant. The SBP payment is effective the first day after the death of a member unless death occurs on the 30th day of a 31-day month. In that case, the annuity starts on the first day of the next month. Annuity payments end effective the last day of the month before the month in which the annuitant becomes ineligible.

* 1. Payments subject to offset:

a. When the payment of premiums is in arrears, no annuity may be paid until that debt with interest accrued has been recovered. See subparagraph 461301.C. No interest will accrue until the annuitant has been provided with due process notice in accordance with Chapter 28, Section 2805 or other implementing regulations pertaining to debt collection found elsewhere in this regulation to include the amount of the debt and the method in which debt may be liquidated. Thereafter, interest accumulates on any unpaid balance at the rate established by the Department of Defense (DoD) Board of Actuaries until the full amount has been repaid.

b. Debts to the United States or any of its instrumentalities incurred by the annuitant may be offset from the annuity.

2. Debts of a deceased member, other than for delinquent premiums, are not the responsibility of the annuitant and may not be offset involuntarily against the annuity.

3. The annuity is neither assignable nor subject to execution, levy, attachment, or garnishment (except for alimony or child support).

4. If the Secretary of the Military Department (Secretary) concerned determines that a participating member is presumed dead, the annuity accrues from the first day after retired or retainer pay was suspended or would have been suspended had the member been in receipt of pay on the basis that the member is missing.

* 5. Do not mail checks to an annuitant living in a currency-blocked country. See 31 CFR 211.1 for specific conditions for withholding the delivery of checks to addresses outside the United States.

B. Third Party Payees

1. Trustees in Bankruptcy. The annuity may be paid of behalf on an annuitant to a trustee in bankruptcy pursuant to the order of the bankruptcy court in a proceeding under Chapter 13 of the Bankruptcy Code since such proceeding is voluntary.

2. Incapacitated Annuitants. An annuity may be paid to a third party on behalf of an incapacitated annuitant only if the third party has been appointed as guardian, custodian, or other fiduciary pursuant to the state court order or has been designated a representative payee under subparagraph 460103.C. Otherwise, the annuity may be paid only to the annuitant unless the annuitant has been determined to be incompetent of managing his or her own affairs by a state court, physician, or psychologist. If the annuity cannot be paid directly to the annuitant or to a third party, amounts will remain unpaid and credited on account until the annuitant is determined to be competent or until a third party has been properly appointed to receive the annuity on behalf of the annuitant. The annuity payment will still be treated as income to the annuitant. Regardless of whether the Representative Payee is a trustee, an Internal Revenue Service (IRS) Form 1099 (Miscellaneous Income) will be issued in the annuitant's name. See paragraph 461301.

3. Power of Attorney. An eligible survivor who is physically or mentally incapacitated (but who has not been determined to be mentally incompetent by a state court, physician, or psychologist) may accept assistance from a person holding a power of attorney in completing (including the signature element) and filing the annuity application form. Benefit payments based on an annuity application signed by the person holding the power of attorney must be made payable directly to the annuitant.

4. Minor Child Annuitants. An annuity for a minor child is paid to the legal guardian or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as the custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The child is considered an adult for annuity purposes and a custodian or legal fiduciary is not required. See Volume 7B, Appendix H for age of majority by state.

5. Surety Bonds. In cases where it appears necessary to protect the annuitant, the Secretary concerned may require a person receiving payments on behalf of the annuitant to provide a surety bond in an amount sufficient to protect the interests of the annuitant. The payee may pay for such bond(s) out of the SBP annuity. This is part of the periodic financial accounting by the payee. The Secretary concerned will determine the amount necessary in the surety bond(s) based on the amount of the SBP annuity payable. A surety bond ordinarily will not be required if the payee is a close family member or a government or financial institution.

6. Accounting. Any person receiving payment on behalf of the annuitant, except as stated below, shall be required to maintain and, upon request by the Secretary concerned, provide a periodic accounting of expenditures and investments of amounts paid to the payee. If the payee is a close family member or a government or financial institution, a periodic accounting will not be required, but may be requested. In situations where a periodic accounting is required, it ordinarily will be submitted annually, unless the Secretary concerned determines that a more frequent submission is required.

a. Final financial reporting will be required upon the loss of the beneficiary's eligibility, a change of representative payee, or the determination later that an annuitant is competent to manage their financial affairs.

b. Major expenditures (i.e., those in excess of \$1,000 or the value of the annuity for 1 year, whichever is less) from the payee's bank account for the annuitant require prior written approval by the Secretary concerned.

c. If the Secretary concerned has evidence to suggest that the annuity funds have been or are being misused by the payee, the annuity may be suspended. An investigation will be conducted to determine if a new payee should be appointed or if payments may be resumed to the payee.

C. Representative Payee. The SBP annuity due a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed may be paid to a representative payee who, in the judgment of the Secretary concerned is responsible for the care of the annuitant. The representative payee is required to spend or invest the amount paid on behalf of the annuitant solely for the benefit of the annuitant. The representative payee must certify that SBP payments received on the annuitant's behalf are used for the annuitant's benefit.

1. An annuitant is determined to be incompetent if the Secretary concerned receives an actual determination of incompetency made either by a state court or by a physician or psychologist. A representative payee will not be established solely on the basis of a letter request from a third party that an annuitant is incapable of handling financial affairs. The annuitant will be notified of actions being taken to make a determination of incompetency and will be provided an opportunity to review the evidence being considered. The annuitant also will have the opportunity to submit additional evidence before a determination is made.

2. If a court order provides for payment of a fee to the representative payee, or if the Secretary concerned determines that payment of a fee is necessary in order to obtain the fiduciary services of a representative payee, a monthly fee will be allowed. In such circumstances, a fee of 4 percent of the monthly SBP annuity will be allowed, unless a court order dictates a lesser fee. In the case of a spouse or former spouse annuitant, the fee will be no more than 4 percent of the adjusted annuity (gross annuity less any DIC offset). Any court order that provides for a fee in excess of 4 percent shall be limited to 4 percent. The representative payee will be notified of the fee percentage allowed. The fee is not a separate payment mailed to a representative payee, but can be withheld by the representative payee from the monthly annuity payment. The fee is part of the periodic financial accounting by the representative payee.

3. The selection of a representative payee will be made on the basis of the individual annuitant's circumstances. Generally, the order of preference for appointing a representative payee is the:

a. Spouse,

- b. Son or daughter or legally adopted son or daughter,
- c. Brother or sister,
- d. Parents,
- e. Head of Federal or state institution,
- f. Trustee of a private trust,

g. Any other individual whose appointment appears to be in the best interest of the annuitant. NOTE: If more than one person or institution requests to be named the representative payee of the annuitant, the Secretary of the Military Department concerned shall determine which applicant is a more appropriate payee.

4. In addition to SBP annuity payments (including payments to Minimum Income Widows covered under Section 4614), annuity payments under Uniformed Services Contingency Option Act Retired Serviceman Family Protection Plan (RSFPP), and Reserve Component SBP (RCSBP) also may be made to a representative payee.

5. The representative payee will be required to submit Reports of Existence and Certificates of Continued Eligibility as specified in Section 4611 or 4612.

6. An annuity paid to a person on behalf of the annuitant in accordance with these provisions discharges the obligation of the United States for the payment to the annuitant of the amount of the annuity paid.

D. Rounding. Monthly annuities, if not a whole dollar, shall be rounded to the next lower whole dollar (for example, if a monthly annuity is calculated to be \$500.99 the annuity paid will be \$500).

E. Cost of Living Adjustments

1. Normally, SBP annuities increase at the same time and by the same percentage that retired pay increases. Exception: When the payment of increased retired pay due to a cost-of-living adjustment is delayed by law, the increased annuity due to a cost-of-living adjustment is not delayed. The cost-of-living adjustment applies to the monthly gross annuity amount before any reductions, such as DIC.

2. See subparagraph 461402.A regarding cost-of-living adjustments for the minimum income widow annuity.

460105. Provisional Annuity Payments

A. In cases involving delayed receipt of an annuity application, the Director, Retired and Annuitant Pay Operations, Defense Finance and Accounting Service – Cleveland

(DFAS-CL) may authorize provisional annuity payments for 2 consecutive months, provided that all of the following conditions have been met:

1. The Military Service verifies that the member is deceased, and
2. The annuitant has been contacted, and
3. The SBP election confirms the beneficiary's identity and eligibility, and
4. The Military Service verifies school attendance for a dependent child annuitants age 18 to 22.

B. Upon receipt of the annuity application, there will be an adjustment for the difference between the actual annuity entitlement due and the provisional annuity payments made.

C. Annuity payments will be suspended if a completed annuity application is not received within 60 days of the first provisional payment.

4602 DEATH OF MEMBER ON ACTIVE DUTY

460201. Active Duty Deaths

A. SBP Benefits. SBP benefits under this section may be payable as provided in section 4601 for:

1. A member who dies while on active duty after:
 - a. becoming eligible to receive retired pay; or
 - b. qualifying for retired pay, except that the member has not applied for or been granted that pay; or
 - c. completing 20 years of service but before the member is eligible to retire as a commissioned officer, because the member has not completed 10 years of active commissioned or service; or
2. A member who dies on active in the line of duty on or after September 10, 2001. Active duty includes members on active duty for annual training. Reserve members on active duty are included whether or not their orders specify a period of more than 30 days. Limited benefits may be payable under this section when the death is not in the line of duty in the case of a member who is eligible to receive retired pay prior to the date of death.

B. Death in the Line of Duty. If the member was on active duty at the time of death and death is in the line of duty, the death qualifies for SBP benefits under this section.

C. Death is Not in the Line of Duty

1. If the member was on active duty and retirement eligible at the time of death, as described in paragraph 460201 and death is not in the line of duty, the SBP base amount is equal to the retired pay. [The retired pay is computed](#) as if the member were retired for length of service under applicable law of the respective service of the deceased member.

2. If the member was not on active duty, or was on active duty but not eligible for retired pay and death is not in the line of duty, the member's death does not qualify for SBP benefits.

460202. Qualified Annuitants

The annuity payment will be made based on the following priority:

A. Former Spouse Based on the Court Order. The annuity is payable to a former spouse if the member is required by a court order or spousal agreement or has made an election to provide such coverage. If there are multiple court orders for former spouse elections, the court order with the earliest date will take precedence.

B. Current Spouse. The annuity is payable to a surviving spouse unless the annuity is payable to a former spouse.

C. Children. The annuity is payable to the dependent children of the member when:

1. There is no eligible former spouse and either there is no eligible surviving spouse or the surviving spouse later dies; or

2. For a member who dies on or after October 7, 2001, the Secretary of the military department concerned, in consultation with the surviving spouse, determines it appropriate to provide an annuity for the dependent children instead of paying an annuity to the surviving spouse.

D. Insurable Interest Deemed Election. If no annuity is payable under subparagraphs [460202.A](#), [460202.B](#), or [460202.C](#), the Secretary concerned may pay an annuity to a natural person with an insurable interest in the member, if the person is a dependent of the member as defined in [10 U.S.C. 1072\(2\)](#).

460203. Annuity Amount

The annuity is computed with a base amount equal to the amount of retired pay that would have been paid to the member had the member been retired on the date of death, as follows:

A. Qualified Death in the Line of Duty. The SBP base amount is equal to the retired pay as if the member retired with a total (100 percent) disability which is equal to 75 percent of the appropriate retired pay base. The annuity is computed at 55 percent of the SBP base amount. For members of the Reserve Components who die while serving on active duty, the retired pay base will be computed as if the member had been entitled to basic pay for the 36 months preceding retirement or the entire period the member was a member of a uniformed service (if less than 36 months), regardless of whether the member served the entire period on active duty.

B. Qualified Death Not in the Line of Duty. The SBP base amount will be computed as if the member retired for length of service based on the final basic pay or high-36 average as applicable. However, for members who elected to receive the Career Status Bonus (see Volume 7A, [Chapter 66](#), Section 6601), the SBP base will be computed using the [Reduced Retirement \(REDUX\)](#) method with the prescribed reduced cost-of-living adjustment. The annuity is computed at 55 percent of the SBP base amount.

C. Insurable Interest Deemed Election. If an annuity is payable pursuant to subparagraph 460202.D., the SBP base amount is equal to the retired pay computed as if the member retired with a total (100 percent) disability, which is equal to 75 percent of the appropriate retired pay base, less the cost of participation. The annuity is computed at 55 percent of the SBP base amount.

460204. Line of duty Determination

A. Purpose. For the purpose of determining eligibility for SBP benefits, a member's death will generally be considered to have occurred in the line of duty unless the death:

1. Occurred while the member was not serving on active duty;
2. Was the result of the member's own intentional misconduct or willful negligence; or
3. Occurred during a period of unauthorized absence.

B. Investigation to Determine the Cause of Death. The military services will conduct an investigation and make a written finding as to whether a member's death was in the line of duty while the member was on active duty. The written finding must describe the circumstances under which the member died, and it must also address whether the death was caused by the member's own intentional misconduct or willful negligence, or whether the death occurred during a period of unauthorized absence.

460205. Responsibilities

A. Military Services. The Military Services must review the death of each member who died on active duty to ascertain whether the death was in the line of duty and

whether there are any qualified survivors entitled to [an](#) SBP annuity. The Military Services will inform DFAS-CL Site of their line of duty determinations using the DD Form 1300, “Report of Casualty”; Block 10 of the DD Form 261, “Report of Investigation Line of Duty and Misconduct Status”; or any other form authorized under individual Service regulations. All line of duty determinations, however, must be supported by a written finding which describes the circumstances of death that support the line of duty determination.

B. DFAS-CL Site. DFAS-CL Site does not require a copy of the written finding, only an official communication from the Military Service to indicate the Military Service’s determination that death is in the line of duty, i.e., “YES” or “NO.” Once DFAS-CL Site receives the determination, DFAS-CL Site will compute and pay SBP annuities to qualified survivors for qualified deaths.

4603 INACTIVE-DUTY TRAINING DEATH

460301. Entitlement

A Reserve Component member who dies from injuries or illness incurred or aggravated while performing inactive-duty training and death is determined to have occurred in the line of duty is entitled to coverage under the SBP program.

A. Death in the Line of Duty. Qualified survivors of a member who is not retirement eligible and dies from injuries or illness incurred or aggravated while performing inactive-duty training and death is determined to be in the line of duty, may be eligible for SBP benefits.

B. Death Not in the Line of Duty. The death of a Reserve Component member who is not retirement eligible and whose death is determined to have occurred “not in the line of duty” does not qualify under this section.

460302. Qualified Annuitants

The annuity payment will be made based on the following priority:

A. Former Spouse by Court Order. The annuity is payable to the former spouse if the member was required under a court order or spousal agreement to provide an annuity to the former spouse upon becoming eligible to participate in the RCSBP or if the member has made an election to provide an annuity to the former spouse.

B. Current Spouse. The annuity is payable to the current surviving spouse unless the annuity is payable to the former spouse.

C. Children. The annuity is payable to children of a member when the former spouse is not eligible, and either there is no surviving spouse or the surviving spouse later dies. The children are not qualified annuitants if a surviving spouse loses entitlement to [an](#) annuity for a reason other than death, see [Chapter 44](#), Section 4401.

460303. Annuity Amount

The annuity payable for a death that occurred while performing inactive-duty training under this section shall be the amount equal to 55 percent of the retired pay to which the member would have been entitled based on the member's years of service at the time of death. [Retired pay base](#) computed for a Reserve Component retirement includes points for drills and other time.

460304. Line of duty Determination

For the purpose of determining eligibility for SBP benefits, a service member's death will be generally considered [being](#) in the line of duty unless:

- A. The death occurred while the member was not serving on inactive-duty training;
- B. The death was the result of the member's own intentional misconduct or willful negligence; or
- C. The death occurred from injuries or illness incurred or aggravated during a period of unauthorized absence.

460305. Responsibilities

The Military Services will make a determination and a written finding as to whether a member's death occurred in the line of duty from injuries or illness incurred or aggravated while performing inactive-duty. A written finding must describe the circumstances under which the member died, and it must also address whether the death was caused by the member's own intentional misconduct or willful negligence. Once [DFAS-CL Site](#) receives the determination, [DFAS-CL Site](#) will compute and pay the annuity to qualified survivors.

4604 DEPENDENCY AND INDEMNITY COMPENSATION (DIC) OFFSETS AND SPECIAL SURVIVOR INDEMNITY ALLOWANCE (SSIA)

460401. When Required

The gross SBP annuity payable to a surviving spouse must be offset by an award of DIC, unless the eligible surviving spouse remarries after age 57, and thereby, retains entitlement to DIC. A surviving spouse who receives DIC due to remarriage after age 57 becomes entitled to the full SBP annuity unreduced by DIC, as well as the full DIC entitlement.

[*460402.](#) DIC Offset

The Department of Veterans Affairs (VA) determines entitlement to and the amount of the DIC award. DIC rates are listed in Appendix L. DIC rates were based on pay grade of member until January 1, 1993. Effective January 1, 1993, DIC is payable at a flat rate, with the cost-of-living adjusted. The survivors of members who died before January 1, 1993 continue to

receive DIC rates based on pay grade if it exceeds the flat rate. The award is effective the first day of the month in which the retiree dies. The DIC payment begins on the first day of the month after the effective date of the award. Except as provided in [subparagraph 460402.C](#), the SBP annuity is reduced by the amount of the DIC as of the date on which the DIC payment begins. The DIC offset if applicable, equals the actual DIC payment the spouse receives, and it increases each time DIC rates increase. For offset purposes, the DIC entitlement does not include any amount attributable to child entitlement or aid and attendance. Payment of the SBP annuity is not withheld or delayed pending verification of the DIC award if the annuitant signs a statement authorizing the VA to collect any overpayment that results from the overlap of the DIC and SBP payments.

A. Premium Refund Due to DIC Award

1. Partial Refund. When an annuity is reduced due to DIC entitlement, a refund of SBP premiums is made based on the difference between the [actual](#) premiums paid and the premiums that would have been needed to provide the annuity payable after the DIC reduction. If DIC entitlement is lost due to remarriage of the surviving spouse after age 55, but prior to age 57, SBP may be reinstated. See [subparagraph 460402.C](#).

2. Full Refund. When DIC is equal to or greater than the annuity, the SBP annuity ends permanently, except under the conditions shown in [subparagraph 460402.C](#). The SBP premium is refunded after any annuity debt is liquidated. If the annuitant dies before a refund of SBP premium is made, the refund shall be made to the annuitant's beneficiaries in the order of precedence. See [Chapter 30, subparagraph 300104.A](#), for further information.

3. Supplement Survivor Benefit Plan (SSBP). SSBP premiums are not refunded.

B. Sample Computation of Refund. See Tables 46-2, 46-3, and 46-4 for a sample computation of [a](#) refund.

C. Reinstatement of SBP Annuity Upon Loss of Entitlement to DIC Because of Remarriage Between Ages 55 and 57

1. If the spouse whose SBP annuity entitlement was adjusted under [subparagraph 460402.A](#) subsequently loses entitlement to DIC because of remarriage occurring on or after the beneficiary's 55 birthday, but before age 57, the annuity is reinstated under conditions specified in [subparagraph 460402.C.2](#) on the effective date of the loss of DIC entitlement. The annuity is adjusted to reflect all authorized cost-of-living adjustments.

* 2. The surviving spouse who loses entitlement to DIC must repay all amounts refunded under [subparagraphs 460402.A.1. and 2.](#), in either a lump sum or installments. If [the](#) repayment is in installments, the installment payments are deducted from the SBP annuity payable. The installment will be 50 percent of the DIC amount or 50 percent of the gross annuity, whichever is less. When annuity is increased by cost-of-living adjustment, the

same percentage increase will be applied to the installment deduction. No interest will accrue until the annuitant has been provided with due process notice in accordance with Chapter 28, Section 2805 or other implementing regulation pertaining to debt collection found elsewhere in this regulation to include the amount of the debt and the method in which debt may be liquidated. Thereafter, interest accumulates on any unpaid balance at the rate established by the Department of Defense (DoD) Board of Actuaries, until the full amount has been repaid. Thus, the remaining debt on the date of each installment deduction will be increased by a factor established by the DoD Board of Actuaries. This is based on the 12th root of 1 plus the current annual interest rate used by the DoD Board of Actuaries to determine the retirement accrual cost. Contact via email at <http://actuary.defense.gov/> at the “Other Points of Contact” section and select SPB.

D. Late Award of DIC. When a claim for DIC is not filed within 1 year after the member’s death, and the spouse received an SBP annuity, no cost refund is made when DIC is later awarded. The effective date of the reduced annuity is the date that the VA received the claim.

E. Special Survivor Indemnity Allowance (SSIA). A surviving spouse who is receiving DIC and who is not collecting the full amount of SBP due to receipt of DIC may be entitled to an SSIA. SSIA is a separate fixed monthly entitlement, but may not exceed the amount of the annuity in any month that is subject to offset by the DIC. Receipt of the SSIA is conditioned upon the requirements enumerated in the law.

460403. Social Security Offset

Effective April 1, 2008, the Social Security Offset Method was eliminated permanently for all annuitants.

4605 CAUSES OF OVERPAYMENTS AND SUSPENSION OF PAYMENT

460501. General Causes of Overpayment

Generally, SBP annuity overpayments are caused by:

- A. Failure to reduce an annuity by the amount of DIC,
- B. Non-termination of annuity because of ineligibility,
- C. Erroneous computation,
- D. Insufficient or untimely information, or
- E. A determination by the Secretary of the Military Department concerned (or designee) that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead.

*460502. General Reasons for Suspension of Payment

Generally, payments are suspended for:

- A. Non-receipt of certificate of eligibility or report of existence;
- B. Non-receipt of verification of school attendance;
- C. An annuitant will not receive annuity payments while there are still premiums owed on the SBP account. Once all premiums that are owed have been recouped, payment of the annuity will commence/recommence;
- D. Adjustment of the annuity due to administrative error, and/or,
- E. An incapacitated child over age 18 becomes independently capable of earning amounts sufficient for his or her own particular personal needs through substantial and sustainable gainful employment. Once suspended, payments can be reinstated. See paragraph 461002.

4606 LIABILITY

460601. Overview

The annuitant is liable for debts created from the overpayment of an annuity. The member is liable for any indebtedness created because annuity payments were made based on the presumption of such member's death. The member's indebtedness cannot be considered for waiver under [10 U.S.C. 2774](#) or [10 U.S.C. 1453](#). If the member dies before such payments are fully recovered, the annuitant may be liable for the indebtedness if such annuitant was the recipient of the annuity payments made under the presumption of death. (See Chapter 28, Table 28-1 for the collection of member's indebtedness.).

*460602. Frequency of Certification

- A. Annually. A Certificate of Eligibility must be submitted annually for a spouse or former spouse annuitant under age 55, custodian, or legal fiduciary for a minor child. After the spouse/former spouse has reached age 55 the certificate is no longer required.
- B. Biennially. A medical certification must be submitted to the DFAS-CL Site every 2 years for an incapacitated child over 18 years of age, unless medical prognosis indicates the disability is permanent.
- C. Other. A student between the ages of 18 and 22 must submit evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided.

1. A payment to a student continues during any interval between school years that **does** not exceed 150 days if the student demonstrates, to the satisfaction of the DFAS-CL Site, that he or she has a bona fide intention of resuming or continuing a full-time course of study or training in a recognized educational institution immediately after that interval.

2. An eligible student annuitant under SBP properly enrolled in a recognized educational institution employing the usual quarter or semester system, who becomes ill or requires non-elective surgery during the school term, retains his or her student status for the rest of that term.

4607 LIQUIDATION OF DEBT

*460701. Debt Liquidation

Upon discovery of an overpayment, **provide the annuitant with due process notice in accordance with Chapter 28, Section 2805 or other implementing regulations pertaining to debt collection found elsewhere in this regulation including the amount** of the debt and the method in which the overpayment is being, or may be, liquidated.

460702. Direct Remittance

The annuitant **may liquidate the overpayment by** making direct remittance to the DFAS-CL Site.

460703. Reduce DIC

The VA **may** reduce DIC and remit the amount collected to the DFAS-CL Site.

460704. Reduce SBP Annuity

The DFAS-CL Site **may reduce** later SBP annuity payments.

4608 WAIVER OF INDEBTEDNESS

460801. Request a Waiver of Indebtedness

When applicable, the DFAS-CL Site advises the annuitant of the right to request a waiver of indebtedness. The right to request a waiver does not constitute removal of the responsibility for repayment of the debt. If a waiver request is granted, repayment of the debt is not required.

460802. Receipt of Waiver Request

Suspension of collection action may be authorized upon receipt of a waiver request. Refund of an amount withheld before receipt of a request for a waiver is not authorized. When a waiver is granted, any amount collected after the receipt of the waiver request is refunded to the annuitant.

4609 TERMINATION OF ANNUITY

460901. Time of Termination

Entitlement to an SBP annuity terminates effective as of the first day of the month in which eligibility is lost. If a determination is made by the Secretary of the Military Department concerned (or designee) that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead, the annuity is terminated immediately since no entitlement exists.

460902. Reasons for Termination

Terminate the SBP annuity when:

A. DIC equals or exceeds an SBP annuity that is subject to offset. No annuity is paid to children when the SBP annuity is no longer payable due to DIC, although the member had also provided coverage for children.

B. Spouse or former spouse (spouse category) annuitant remarries before age 55 or dies. If the member also provided coverage for children, the full annuity is payable, in equal shares, to the remaining eligible dependent children effective on the first of the month in which the spouse or former spouse dies or remarries.

C. Child or children annuitants lose eligibility because of:

1. Child's attaining age 18 and not pursuing a full-time course of study.

2. Marriage or death of child annuitant.

3. An incapacitated child over age 18 becomes independently capable of earning amounts sufficient for his or her own particular personal needs through substantial and sustainable gainful employment. This termination is not automatic; an annuitant will be given an opportunity to submit rebutting evidence. This annuity may be reinstated; see paragraph 460902.

4. Termination of student status (child over age 18 and under age 22). If the student reaches age 22 before July 1 or after August 31 of a calendar year, the child's annuity terminates on the first of July after the 22 birthday. *If a student reaches age 22 between July 1 and August 31 (inclusive) of a calendar year, the student loses eligibility and the annuity terminates on the first day of the month in which the age of 22 was reached.*

5. Reinstatement of a spouse or former spouse (spouse category) annuity following divorce or annulment.

D. A natural person with an insurable interest dies. The termination is final. There are no provisions for designating a contingent survivor annuitant.

E. A determination by the Secretary of the Military Department concerned (or designee) that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead.

460903. Death of Annuitant

For the payment of any unpaid annuity amounts, see [Chapter 31](#), Section 3101.

4610 REINSTATEMENT OF ANNUITY

461001. Reinstatement of Spousal Annuity

A. Remarriage Before Age 55 that is Terminated by Death of Spouse. Reinstatement of the annuity effective the first day of the month in which the death occurs. If annuity entitlement from the terminated marriage exists, the spouse or former spouse (may not receive both annuities but must elect the one desired. If the spouse or former spouse elects to receive the annuity which had formerly been terminated, update the annuity by any cost-of-living increases which occurred after termination.

B. Remarriage Terminated by Divorce or Annulment. Reinstatement of the SBP annuity effective the first day of the month in which the marriage terminated by divorce or annulment. Legal review is appropriate if discrepant information or annotations result in doubt or if divorce or annulment was granted by a court in a foreign country.

C. Loss of DIC Entitlement Because of Remarriage Between Ages 55 and 57. The annuity is reinstated effective as of the date of the loss of the DIC entitlement, adjusted to reflect all cost-of-living adjustments. See subparagraph 460402.C.

461002. Reinstatement of Child Annuity

A. Reinstatement of Annuity to Incapacitated Annuitant. An annuity to an incapacitated child over 18 years of age may be reinstated upon the recurrence of the original disability rendering the annuitant incapable of self-support, or if the annuitant furnishes evidence that, although engaged in substantial and sustainable gainful employment, wages are not sufficient to cover his or her particular personal needs.

B. Child Resumes School Attendance. The child's eligibility for an annuity which is terminated for school nonattendance is reinstated effective the first day of the month that the child resumes school attendance.

C. Child's Marriage Terminated by Annulment. An annulment of a child's marriage which renders the marriage void or invalid, or by a judicial decree by a court of competent jurisdiction declaring the marriage void, would serve as a basis for reinstating a child's eligibility for annuity prospectively from the date of the judicial decree. The termination of a child's marriage by death or divorce does not serve as a basis for reinstatement of annuity eligibility.

4611 CERTIFICATIONS OF ELIGIBILITY

461101. Purpose

The certificate validates continued eligibility of annuitants, whether eligible spouse, former spouse or children. The spouse, former spouse, and [the](#) child must meet eligibility requirements in [Chapter 44, Section 4402](#).

461102. Failure to Furnish Certificate

Annuity payments are suspended if the annuitant, custodian, or legal fiduciary fails to furnish the certificate as required. Payments are restarted only after receiving satisfactory proof of eligibility.

461103. Method of Completing Certifications

The annuitant as identified in [paragraph 460102](#) may submit the required certification in writing or by electronic signature via [MyPay](#). A valid electronic signature must include the annuitant's Social Security number and personal identification number. If [annuity](#) payments are made [to a representative payee or other third party on behalf of the annuitant, the third party may submit the required certification by electronic signature via MyPay, but](#) the annuitant's name must also accompany the electronic signature. An electronic signature is not authorized for medical certifications or intent to attend school.

4612 REPORT OF EXISTENCE (ROE)

461201. Purpose

The ROE fulfills the requirement for:

- A. An annuitant who receives payment through foreign postal channels.

NOTE: The ROE is not required when the payment is addressed to a United States Consulate, American Embassy, military attaché, or FPO or APO address.

- B. A mentally incompetent annuitant who receives payments through either a court-ordered legal representative or representative payee.

461202. Frequency

[The](#) ROE is required on a semiannual basis for an annuitant described in paragraph 461201. Receipt of the certificate semiannually verifies the annuitant's existence. Under no circumstances may the ROE be signed by other than the annuitant, custodian, or legal fiduciary; however, an electronic signature is authorized via MyPay. A valid electronic signature must include the annuitant's Social Security Number and personal identification number. If [annuity](#) payments are made [to a representative payee or other third party on behalf of the annuitant, the](#)

third party may submit the required certification by electronic signature via MyPay, but the annuitant's name must also accompany the electronic signature.

461203. Failure to Return Report of Existence

Annuity payments are suspended if the annuitant, custodian, or legal fiduciary fails to return the ROE as required. Payments are resumed only after receiving satisfactory proof of existence.

4613 TAXABILITY OF ANNUITIES

*461301. Taxability of SBP Annuity Payments

SBP annuity payments are taxable for Federal income tax purposes. See [Internal Revenue Manual \(IRM\) 3.21.3.71.12](#) for exceptions. In the case of a representative payee receiving an annuity payment on behalf of an annuitant, the income is attributable to the annuitant and an IRS Form 1099 will be issued in the annuitant's name.

461302. Taxability of SBP Cost Refunds

A refund of SBP costs (i.e., SBP premiums, resulting from an administrative error, correction of records, or awarding of DIC may or may not be taxable income to the member or the annuitant. The taxability of an SBP cost refund depends on the source from which it is made, as discussed in this section (also see Table 46-3). The SBP cost refund:

A. Constitutes taxable gross income to the retired member or the annuitant when it includes premium deductions taken from the retired member's taxable retired pay in order to pay for the cost of SBP coverage.

B. Does not constitute taxable gross income to the retired member or the annuitant when it is made from the retired member's direct remittance payments (by check or electronic mechanism, i.e., Pay.gov or Electronic Fund Transfer) to pay for the cost of SBP coverage, and

C. Does not constitute taxable gross income to the retired member or the annuitant when it is made from the retired member's VA disability compensation or by deduction from nontaxable military disability retired pay.

461303. Federal Income Tax Withholding (FITW)

A. Monthly or Periodic Payments. Monthly or periodic SBP annuity payments are treated as income for FITW purposes. An annuitant, however, may elect no withholding of Federal income tax. In the absence of an annuitant election, or if the annuitant does not otherwise submit a withholding certificate, the DFAS-CL Site will withhold on the basis of "married, three exemptions." The annuitant may use TD Form W-4P (Withholding Certificate for Pension and Annuity Payments) or any substitute form furnished by DFAS.

B. Notice Requirements. The DFAS-CL Site must advise the annuitant of the withholding requirement, as well as the right to elect that no tax be withheld, when making the first monthly or periodic payment to the annuitant. Thereafter, the DFAS-CL Site must provide annual notice to the annuitant of the right to elect no withholding, to revoke an election, or to submit a new withholding certificate. An annuitant also may submit a withholding certificate at any time to elect no withholding, revoke an election, or request any rate of withholding.

C. Lump-Sum (One-Time) or Nonperiodic Distribution Payments.

1. SBP Cost Refunds. An SBP cost refund is a refund of premiums rather than a distribution of benefits. As a nonperiodic distribution, an SBP cost refund is subject to FITW at the rate of 10 percent. The annuitant, however, may elect no withholding of FITW. The annuitant has the right to make an FITW election for this refund separately from any election already in operation for all other SBP annuity payments.

2. Other. Retroactive SBP annuity payments paid in a lump sum constitute periodic distributions and are subject to the tax withholding rules of subparagraph 461403.A. Likewise, if the lump sum payment of an SBP annuity is the result of administrative error or delay in the start of an annuity, the payment is treated as a periodic payment subject to the withholding rules of subparagraph 461303.A.

461304. Income Exclusion

A. Consideration for Contract. The SBP annuitant is entitled to an income exclusion when, upon death of the participant member, the “consideration for contract” has been excluded in whole from the member’s gross income. The member’s survivor receiving the annuity may exclude from gross income such annuity payments received until the total exclusion equals the portion of the “consideration of contract” not previously excluded from the member’s taxable income. The DFAS-CL Site will accomplish the applicable direct reduction in taxable income for the annuitant and report the residual amount as taxable income on the annuitant’s IRS Form 1099-R (Distributions From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.). Contact the IRS for further assistance.

Example: When a member died, \$1,000 of the total “consideration for contract” had not yet been excluded from the member’s nondisability retired pay. DFAS-CL Site would report the taxable annuity less \$1,000, and this reported residual amount would be used by the surviving spouse in his or her income-tax computation for the calendar year.

B. Direct-Cost Payments. The tax-free benefit on SBP premiums is not available to members who waived military retired pay to receive disability compensation from the VA (see Chapter 12, Section 1202). Instead, upon the member’s death, the annuity paid to the member’s survivor will be exempt from Federal income tax until the amount excluded equals the total of the member’s direct cost payments.

461305. Amount of Annuity Subject To Federal Estate Tax

The value of the annuity at the time of the member's death may be subject to Federal estate tax if any portion of the cost was paid by direct remittance, or if the value of the annuity exceeds the amount that may be excluded from the gross estate. DFAS-CL Site may furnish the annuitant the current annuity amount and/or a summary of annual payments, and total cost paid (separate totals for deductions and direct remittances). For a computation of the amount of an annuity that will be subject to the tax, if any, the executor of the member's estate can contact the IRS for further assistance.

461306. State Taxation

The IRS Form 1099-R information is furnished to the appropriate state tax authority regardless of whether SBP annuities are subject to state inheritance or income tax. The method of calculating such tax depends upon the laws of the state concerned.

4614 MINIMUM INCOME WIDOW/SURVIVING SPOUSE

461401. Eligibility Criteria

An annuity under the minimum income widow/surviving spouse provision of the SBP law (see [Chapter 42](#), paragraph 420102) is payable to surviving spouses who meet all of the following conditions:

A. The surviving spouse is not otherwise entitled to an annuity under other provisions of the SBP or to DIC from the VA.

B. The surviving spouse is eligible for a widow's non-service-connected death pension from the VA.

C. The surviving spouse has annual income from all sources (including amount of RSFPP annuity entitlement, but excluding the amount of VA pension), as determined by the VA, that is less than the annual income rate in Appendix R. If the surviving spouse previously was denied an annuity because of income in excess of income limitations, entitlement may exist upon notice from the widow or from the VA that his or her current yearly income, as determined by the VA, is less than the income limitation.

D. The surviving spouse is a person who, on September 21, 1972, was – or during the period beginning on September 22, 1972, and ending on March 20, 1974, became – a surviving spouse of a person who was entitled to retired or retainer pay when he or she died. Remarriage by the surviving spouse bars entitlement to an annuity under this provision of law unless the remarriage is terminated by an annulment. If there are questions as to whether an annuity should be reinstated after an annulment, refer the matter to the appropriate legal office.

NOTE: DD Form 1885 (Survivor Benefit Plan – Minimum Income Claim) and DD Form 1895 (Request for Veterans Administration Pension and Annual Income Information) are used in administering the minimum income widow annuity.

461402. Amount of Annuity

The maximum annuity payable is shown in Appendix R. The VA determines the yearly entitlement and advises DFAS-CL Site. This amount is prorated by the DFAS-CL Site and is paid on a monthly basis.

A. The amount of the annuity is neither rounded nor increased to reflect retired pay cost-of-living adjustments; however, the annual income rates (Appendix R) shall be increased by the same amount and shall have the same effective date whenever there is an increase in the limitation on annual income for the purposes of eligibility for pension benefits.

B. The annuity is subject to Federal income tax.

C. The annuity is neither assignable nor subject to execution, levy, attachment, or garnishment (except for alimony or child support).

461403. Effective Date of Entitlement

The effective date of entitlement is the date on which the requirements of law are met, subject to the 6-year statute of limitations.

461404. Annuitant, Mentally or Physically Incapacitated

A. If, for any reason, a minimum income surviving spouse is mentally or physically incapable of applying for or negotiating the payment of the annuity, a court-appointed guardian may act on his or her behalf. If no guardian has or will be appointed, the person having care, custody, and control of the incapacitated annuitant is authorized to act on his or her behalf.

B. An ROE is required when the annuitant receives payments through foreign postal channels, or through a third party if the annuitant is incapacitated. See Section 4611.

C. The yearly certificate of continued eligibility is not required.

461405. Changes and Termination

Changes in the amount of the annuity payable or termination of the annuity must be in accordance with the effective date of change or termination as shown by the VA. If termination is due to death of the annuitant, entitlement ceases as of the first day of the month in which death occurs. Any amounts which are due and payable at the time of annuitant's death may, upon receipt of a properly executed and documented claim, be paid to the [person living on the date of the annuitant's death who is the highest in the order of precedence under, Chapter 30, subparagraph 300104.A.2. See also Chapter 31, paragraph 310103 \(Payment of the Arrears\).](#)

461406. Reopened Claim

The DFAS-CL Site will reestablish an annuity that has been temporarily suspended because of the excessive income or net worth of the surviving spouse as of the first day of the month in which the surviving spouse meets the income level for an annuity as determined by the VA. Notification of any change in income is the responsibility of the surviving spouse.

461407. Causes of Overpayment

A. The minimum income annuity for the surviving spouse was not timely terminated when his or her annual income exceeded the applicable rates shown in Appendix R.

B. Erroneous computation.

C. Insufficient or untimely information.

461408. Liability

The annuitant is liable for debts caused by overpayment of the annuity. The annuity may not be used as an offset against an indebtedness incurred by the member. The debt may be liquidated by:

A. The annuitant by making direct remittance to the DFAS-CL Site.

B. The annuitant authorizing the VA to reduce the pension and remitting the amount collected to the DFAS-CL Site.

C. The DFAS-CL Site by reducing later annuity payments to minimum income widows.

461409. Waiver of Indebtedness

The request for waiver consideration is handled under the provisions of Section 4608.

Table 46-1. Annuity for Surviving Spouse or Former Spouse

ANNUITY FOR SURVIVING SPOUSE OR FORMER SPOUSE					
R U L E	A	B	C	D	E
	If member dies or is declared dead	and	and the annuitant	then the annuity is (notes 2 and 6)	and is offset by (note 9)
1	in a retired status	the member elected to participate in the program	was married to member on date of election or on date of retirement and is married to member at time of member's death (note 1)	55 percent of base amount of coverage on date of member's death	Dependency and Indemnity Compensation (DIC).
2		the member elected to participate in the program	was married to member a minimum of 1 year at time of member's death (note 3)		
3		the member elected to participate in the program	is the parent of a "living issue" of the marriage which occurred after the date of retirement (note 4)		
4		the member became eligible and elected to participate on or after September 8, 1982	is the former spouse of a member when member became eligible or the former spouse that a member acquired after becoming eligible to participate and who had been married to member at least 1 year or is the parent of issue of that marriage (note 4)		
5	on active duty	the member's death was found to be in the line of duty	is married to member on member's date of death, or was the former spouse of a member required under a court order or spousal agreement to provide an annuity upon becoming eligible to participate	55 percent of retired pay base to which member would have been entitled had they been retired for a 100% disability on the date of death	DIC.

Table 46-1. Annuity for Surviving Spouse or Former Spouse (Continued)

ANNUITY FOR SURVIVING SPOUSE OR FORMER SPOUSE					
R U L E	A	B	C	D	E
	If member dies or is declared dead	and	and the annuitant	then the annuity is (notes 2 and 6)	And is offset by (note 9)
6	on active duty and was entitled to retired or retainer pay, (note 7)	the member's death was found to be NOT in the line of duty	is married to member on member's date of death, or was the former spouse of a member required under a court order or spousal agreement to provide an annuity upon becoming eligible to participate	55 percent of retired pay to which the member would have been entitled at date of death based upon the member's years of active service	DIC.
7	on active duty and qualified for retired pay but had not yet applied for or been granted such pay or after completing 20 years of active service, but before member is able to retire as a commissioned officer because member has less than 10 years of active commissioned service (note 7)	the member's death was found to be NOT in the line of duty	is married to member on member's date of death, or was the former spouse of a member required under a court order or spousal agreement to provide an annuity upon becoming eligible to participate	55 percent of retired pay to which the member would have been entitled at date of death based upon the member's years of active service, in the case of a member who first became a member before September 8, 1980, use the rate of basic pay in effect for the grade in which serving at time of death, unless, as determined by the Secretary concerned, the member would have been entitled to be retired in a higher grade	DIC.

Table 46-1. Annuity for Surviving Spouse or Former Spouse (Continued)

ANNUITY FOR SURVIVING SPOUSE OR FORMER SPOUSE					
R U L E	A	B	C	D	E
	If member dies or is declared dead	and	and the annuitant	then the annuity is (notes 2 and 6)	and is offset by (note 9)
8	while eligible to provide a Reserve Component annuity but: (a) before being notified of retirement eligibility, or (b) during the 90-day period beginning when member receives notification of retirement eligibility	the member had not made an RCSBP election	is married to member on member's date of death, or was the former spouse of a member required under a court order or spousal agreement to provide an annuity upon becoming eligible to participate	55 percent of retired pay to which the member would have been entitled on the date of death based upon the member's years of creditable service	DIC.
9	before becoming eligible to provide a Reserve Component annuity	the member's death is in the line of duty from injuries or illness incurred or aggravated while performing inactive-duty training (note 10)	is married to member on member's date of death, or was the former spouse of a member required under a court order or spousal agreement to provide an annuity upon becoming eligible to participate		DIC.

Table 46-1. Annuity for Surviving Spouse or Former Spouse (Continued)

ANNUITY FOR SURVIVING SPOUSE OR FORMER SPOUSE					
R U L E	A	B	C	D	E
	If member dies or is declared dead	and	and the annuitant	then the annuity is (notes 2 and 6)	and is offset by (note 9)
10	retired from both military and civil service	the member elected to participate in the program and did not waive military service for civil service purposes	is the spouse or former spouse of a member when member became eligible or the spouse or former spouse that a member acquired after becoming eligible to participate and who had been married to member at least 1 year or is the parent of issue of that marriage (notes 1, 2, 3, and 4)	55 percent of base amount of coverage on date of member's death	DIC.
11	retired from both military and civil service	the member elected to participate in the program and waived military retired pay for civil service purposes, but did not elect survivor coverage at any level under the civil service retirement			

NOTES:

1. For a member married to the same spouse at time of retirement and date of death, the statute does not require that an intervening divorce be followed by 1 year of remarriage immediately before date of death.
2. An annuity ends for a spouse of former spouse if remarried before age 55. If the annuity is terminated because of remarriage, it shall be reinstated if the new marriage ends.
3. Minimum requirement for a marriage is 1 year.
4. "Living issue" means the "issue by that marriage" or a child of such marriage who dies shortly after birth (such child's birth is the criterion, not the duration of the child's life).
5. If member is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to participate in the SBP or if a member has made an election to provide former spouse annuity, the Secretary of the Military Department concerned may not pay the annuity to the surviving spouse.
6. All SBP monthly annuities if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.
7. If the "forgotten widow" is entitled to an SBP annuity resulting from a subsequent marriage to a member, the individual may not receive the two annuities, but must elect in writing which to receive. The annuity for a "forgotten widow" is effective December 1, 1980.
9. An offset for DIC shall be removed if an annuitant remarries subsequent to their 57th birthday.
10. See [10 U.S.C.1448\(f\)](#) for additional information.

Table 46-2. Refund of Monthly Premium for SBP Effective January 4, 1994

REFUND OF MONTHLY PREMIUM FOR SBP EFFECTIVE JANUARY 4, 1994 (See note)																									
The refund of premiums due a spouse or former spouse is determined using the following defined values:																									
<p><u>Current Basic Premium (CBP)</u>: The actual current premium amount for the basic Survivor Benefit Plan (SBP) spouse coverage elected by the member. This does not include premiums for child coverage, Supplemental SBP (SSBP) premiums, open-enrollment premium additions, or any interest charges.</p>																									
<p><u>Current Recalculated Premium (CRP)</u>: The implied current premium associated with recalculated SBP basic annuity as reduced due to receipt of Dependency and Indemnity Compensation (DIC). This does not include premiums for child coverage, SSBP premiums, open-enrollment premium additions, or any interest charges.</p>																									
<p><u>Total Premiums (TP)</u>: The Total Premiums paid by the member for basic SBP. (Lump sum open enrollment buy-in premiums are not refundable). This does not include any premiums for child coverage, SSBP premiums, or interest charges. This amount may be obtained from historical pay files pertaining to the member and/or from a file of total spouse premiums to be produced under the Director of Compensation, ODASD (Military Personnel Policy) by the DoD Actuary and the Defense Manpower Data Center in coordination with the DFAS-CL Site.</p>																									
<p><u>Premium Refund (PR)</u>: This is the premium refund amount. The premium refund is determined according to the following formula:</p> $PR = (1 - CRP/CBP) \times TP$																									
<p>For example: Member is a retired 0-5, deceased July 1, 1993. Data is for June 1994.</p> <table> <tr> <td>Retired Pay:</td><td>\$2,297.00</td></tr> <tr> <td>Current Basic Premium (CBP):</td><td>149.31</td></tr> <tr> <td>SBP Spouse Annuity: .55 X 2,297 =</td><td>1,263.00 (note 1)</td></tr> <tr> <td>DIC Annuity:</td><td>750.00</td></tr> <tr> <td>Recalculated SBP Annuity</td><td>1,263.00 - 750.00 = 513.00</td></tr> <tr> <td>Implied Base Amount = \$513.00/.55</td><td>= 932.73</td></tr> <tr> <td>Current Recalculated Premium (CRP)</td><td>= 60.63</td></tr> <tr> <td>Total Premiums (TP) from Data Files</td><td>= 10,153.08</td></tr> <tr> <td>Premium Refund (PR) is:</td><td></td></tr> <tr> <td>PR = (1 - 60.63/149.31) X 10,153.08</td><td></td></tr> <tr> <td>= (1 - .4060679) X 10,153.08</td><td></td></tr> <tr> <td>= .5939321 X 10,153.08 = 6,030.24</td><td></td></tr> </table>		Retired Pay:	\$2,297.00	Current Basic Premium (CBP):	149.31	SBP Spouse Annuity: .55 X 2,297 =	1,263.00 (note 1)	DIC Annuity:	750.00	Recalculated SBP Annuity	1,263.00 - 750.00 = 513.00	Implied Base Amount = \$513.00/.55	= 932.73	Current Recalculated Premium (CRP)	= 60.63	Total Premiums (TP) from Data Files	= 10,153.08	Premium Refund (PR) is:		PR = (1 - 60.63/149.31) X 10,153.08		= (1 - .4060679) X 10,153.08		= .5939321 X 10,153.08 = 6,030.24	
Retired Pay:	\$2,297.00																								
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SBP Spouse Annuity: .55 X 2,297 =	1,263.00 (note 1)																								
DIC Annuity:	750.00																								
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= (1 - .4060679) X 10,153.08																									
= .5939321 X 10,153.08 = 6,030.24																									

NOTE: Table 46-2 is effective January 4, 1994 for deaths which occurred on or after January 1, 1993.

1. SBP Spouse Annuity amount is rounded down.

*Table 46-3. Taxability of SBP Cost Refunds

TAXABILITY OF SBP COSTS REFUND			
R U L E	A	B	C
	If the source of refunded cost is for	then it is taxable to the	
		member	annuitant
1	premium deductions from taxable retired pay	yes (note 1)	yes (note 2)
2	premiums paid from VA Disability compensation or premiums deducted from nontaxable military disability retired pay	no (note 3)	no (note 4)
3	premiums paid directly by member	no (note 5)	no (note 6)

NOTES:

1. [Title 26 United States Code \(U.S.C.\) section 122](#) caused amounts deducted from military retired pay to fund an SBP annuity to be excluded from income. Had the deducted amount been paid directly to the member instead, it would have been fully taxable. Consequently, refunded costs that were taken from military retired pay constitute gross income to the member.
2. Under [26 U.S.C. 691](#), the refund is income in respect of a decedent. The tax status of the refund is the same to the annuitant as it would have been had it been refunded to the member. Since the refund of costs deducted from military retired pay would have been gross income to the member, it is also gross income to the annuitant.
3. VA disability compensation is exempt from taxation, as shown in [38 U.S.C. 5301](#). Under certain circumstances, military disability retired pay is also nontaxable, as shown in [26 U.S.C. 104](#). If the deducted amount had been paid directly to the member instead, it would have been exempt from taxation. Consequently, refunded costs that were taken from VA disability compensation or nontaxable military disability retired pay are also exempt from taxation.
4. Under 26 U.S.C. 691, the refund is income in respect of a decedent. The tax status of the refund is the same to the annuitant as it would have been had it been refunded to the member. Since the refund of costs deducted from VA disability compensation or from nontaxable military disability retired pay would have been excluded from the gross income of the member, it is excluded from the gross income of the annuitant.
5. Amounts paid directly by the member to fund the SBP annuity were subject to tax before they were paid by the member. Direct payments by the member do not result in any tax benefit to the member. Consequently, refunds of premiums that were directly paid by the member constitute a nontaxable return of capital and do not constitute gross income.
6. Since the refund would have been a return of capital in the hands of the decedent (and would not have been includible in the decedent's gross income), it is also a return of capital to the decedent's beneficiary (and is not includible in the gross income of the beneficiary of the decedent).

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461502	Public Law 92-425, Section 4, September 21, 1972, amended By Public Law 94-496, Section 2, October 14, 1976 10 U.S.C. 1450(i) Public Law 95-30, Section 501, May 23, 1977
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Table 46- 3	DoD/GC(Fiscal) opinion March 7, 2000

VOLUME 7B, CHAPTER 49: “SURVIVOR BENEFIT PLAN (SBP) COST-OF-LIVING ADJUSTMENT (COLA)”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an **asterisk (*)** symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **July 2014** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	This chapter is updated and formatted to comply with current administrative instructions.	Revision
490101	Added “Purpose” paragraph.	Addition
490102	Added “Authoritative Guidance” paragraph.	Addition
490301	Updated information for “Periodic Adjustments for Cost-of-Living.”	Revision

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CHAPTER 49

SURVIVOR BENEFIT PLAN (SBP) COST-OF-LIVING ADJUSTMENT (COLA)

4901 GENERAL

***490101. Purpose**

This chapter addresses Survivor Benefit Plan (SBP) base amounts, which increase by the cost-of-living adjustment (COLA) at the same time and by the same total percentage as retired or retainer pay. See Chapter 54 for information pertaining to the computation of the Reserve Component Survivor Benefit Plan (RCSBP) and Chapter 8, Table 8-1 for COLA.

***490102. Authoritative Guidance**

The bibliography at the end of this chapter lists the authoritative references.

4902 PREMIUMS

The COLA increases all SBP and RCSBP premiums.

4903 ANNUITIES

***490301. Periodic Adjustments for Cost-of-Living**

A. Whenever retired pay is increased, each annuity that is payable under SBP must be increased at the same time.

B. The increase must, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive (and otherwise entitled to such pay).

C. The amount of the increase must be based on the monthly annuity payable before any reductions, such as Dependency and Indemnity Compensation.

490302. Minimum Income Widow Annuities

See Chapter 46, regarding COLA for minimum income widow annuities.

490303. Rounding Down

The monthly amount of an annuity payable, if not a multiple of \$1, is rounded to the next lower multiple of \$1.

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VOLUME 7B, CHAPTER 54: “RESERVE COMPONENT SURVIVOR BENEFIT PLAN (RCSBP)”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version dated [May 2015](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and reformatted to comply with current administrative instructions.	Revision
540101	Renamed paragraph title from “Overview” to “Purpose” to comply with current administrative instructions.	Revision
540102	Replaced the “Authoritative Guidance” paragraph with the standard statement used with other chapters for consistency.	Revision
5402-5412	Relocated paragraph 540103 to section 5402 and renumbered the sections from 5402 through 5411 to 5403 through 5412, respectively.	Revision
540214	Deleted the fifth sentence in paragraph since the reduction in RCSBP coverage cannot occur for a member who does not survive to the age necessary to become actually entitled to retired pay.	Deletion
540305	Added paragraph to introduce “Special Needs Trust.”	Addition
540403.B	Deleted subparagraph because members no longer elect a percentage of pay. Subsequent subparagraphs are renumbered 540403.B through 540403.D.	Deletion
540502.G.2	Consolidated formerly 540402.G.3.	Revision
540502.G.3	Consolidated formerly 540402.G.2 with the former 540402.H.1 and 540402.H.2.	Revision
540702.G	Deleted subparagraph due to RCSBP participation is irrevocable if not revoked before the end of the 90-day period beginning on the date on which notification is received for eligibility of Reserve Component retired pay.	Deletion
540702.Note	Deleted note. Discontinuance of Survivor Benefit Plan participation on second anniversary of the date of commencement of retired pay does not pertain to Reserve Component retirees. See section 5407.	Deletion

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
541002	Reorganized and rephrased paragraph (formerly paragraph 540902) to provide clarity and an accurate computation for Reserve Component Premium by using 1.61 percent (0.0161) which is the actual RCSBP rate derived from the RCSBP tables as determined by the actuary.	Revision
541002.B	Rephrased last sentence of previous subparagraph 540902.B for clarity.	Revision
541002.C	Modified example at previous subparagraph 540902.A to provide an accurate computation for Reserve Component Premium by using 1.61 percent (0.0161) which is the actual RCSBP rate derived from the RCSBP tables as determined by the actuary. Reorganized and rephrased subparagraph 541002.C.1 through 541002.C.3 (previously 540902.B through 540902.D) for clarity.	Revision
5413	Transferred section 4604 to 5413 and added information based on the Fiscal Year (FY) 2017 National Defense Authorization Act (NDAA).	Addition
5414	Renumbered section 5412 to 5414.	Revision
541401.B	Added information based on the FY 2017 NDAA.	Addition
5415 and 5416	Renumbered section from 5414 and 5415 to 5415 and 5416, respectively.	Revision
Table 54-2, Rule 7	Added to text at Rule 7, Column D, "Additionally, deduction for Insurable Interest coverage will be deducted and prorated based on the number of months that coverage was in effect in accordance with Note 1 and Rule 6."	Addition
Table 54-3	Added Table 54-3, RCSBP – General Information.	Addition
Table 54-4	Added Table 54-4, Reservist Who Dies Not in the Line of Duty or Not in a Duty Status.	Addition
Bibliography	Renumbered sections and paragraphs to coincide with text. Updated Bibliography references.	Revision

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CHAPTER 54**RESERVE COMPONENT SURVIVOR BENEFIT PLAN (RCSBP)****5401 GENERAL*****540101. Purpose**

[This chapter provides information for RCSBP.](#) [RCSBP](#) extends eligibility to the Survivor Benefit Plan (SBP) to Reserve Component members who would otherwise be eligible to receive retired pay except they have not yet reached retirement age. RCSBP allows members to provide an annuity based on their retired pay to qualified survivors.

***540102. Authoritative Guidance**

[The bibliography at the end of this chapter lists the authoritative references.](#)

5402 DEFINITIONS OF SPECIALIZED TERMS*[540201.](#) Base Amount**

The dollar amount selected by the member upon which the SBP premium and the annuity are calculated. A member may elect a full base amount or a reduced base amount. See paragraph 540403 for base amount elections.

[540202.](#) Date of Receipt of Election for RCSBP

The date of the receipt of the election by the member's records custodian, or the date of postmark on the envelope in which the records custodian received the election when the election intent may be prejudiced.

[540203.](#) Date of Retirement

The first day the member is entitled to receive retired pay or the first day the member would have received pay if alive at retirement age.

[540204.](#) The 90-Day Period

The 90-day period in which the member must complete an election for RCSBP begins on the date that the member receives notification that the member has completed the requisite years of service to be eligible for retired pay at a later age (usually age 60).

[540205.](#) Eligible for Retired Pay

A member becomes eligible for non-regular retired pay upon completion of 20 [qualifying](#) years of satisfactory service. Often notification is provided by letter referred to as the "20-year

letter” because it notifies the member that he has served the requisite years of service to be eligible for retired pay, but is not yet entitled to receive the pay because of his age. See Chapter 1, subparagraph 010208.F.

540206. Eligible to Participate in RCSBP

The date the member receives notice of eligibility for retired pay except for not having reached the age for entitlement to retired pay (usually age 60). The eligibility age cannot be reduced below age 50.

540207. Entitled to Retired Pay

A person who has completed the requisite service and reached the requisite age (usually age 60) and is entitled to receive retired pay for non-regular service.

540208. Member

A member of a Reserve Component.

540209. RCSBP

The RCSBP is a benefit plan that enables members who served in the Reserve Components to leave a benefit called an “annuity.” An annuity is a monthly payment that normally lasts the lifetime of the beneficiary after the member passes away. The amount of the monthly payment is a percentage of the retired pay, and that percentage depends upon the election the member made when the member signed up for RCSBP.

540210. SBP

The SBP is for members of the Uniformed Services. NOTE: SBP (see Chapter 42) and RCSBP share many of the same terms. Chapter 42, section 4202 provides additional terms not specifically defined in this section.

540211. SBP Premium

SBP Premium is the combination of the “Standard Premium,” the “Reserve Component Premium,” and the “Survivor’s Annuity Premium Deduction.”

540212. Standard Premium

Standard Premium is the reduction in retired pay made to provide the member with SBP coverage for the period after a member becomes entitled to retired pay. The Standard Premium is described in Chapter 45. It is distinct and separate from the Reserve Component Premium and the Survivor’s Annuity Premium Deduction which are described in paragraphs [540213](#) and [540214](#).

540213. Reserve Component Premium

When a Reserve member participates in the RCSBP after first becoming eligible based on 20 [qualifying](#) years of satisfactory service, coverage for the member's survivors commences but premiums are not paid until the member first becomes actually entitled to retired pay (usually age 60). Note: See also Chapter 1, subparagraphs 010208.F.1 through 5 which reduces the eligibility age below 60 years of age for a reservist to receive retirement pay. At that time, reductions in the member's retired pay are made that are specifically related only to the RCSBP coverage that was already provided while the member awaited the requisite age of entitlement to retired pay. These reductions are the Reserve Component Premium. They are made after the member begins receiving retired pay for the RCSBP coverage that was provided before the member received retired pay. They are distinct from the Standard Premium (in paragraph 540212) which are reductions made for the SBP coverage that is provided after the member becomes entitled to retired pay. They are also distinct from the Survivor's Annuity Premium Deduction.

540214. Survivor's Annuity Premium Deduction

When an RCSBP participant dies, any annuity payable to a survivor is reduced for the RCSBP coverage provided while the member awaited the requisite age of entitlement to retired pay. This reduction is unique to RCSBP coverage. The [Department of Defense \(DoD\) Office of the Actuary, herein referred to as the Actuary](#), sets the rate of the reduction of the survivor's annuity and the rate is currently set at .0001 of the base amount. The reduction in the annuity is known as the Survivor's Annuity Premium Deduction. The Survivor's Annuity Premium Deduction is distinct from the Standard Premium and Reserve Component Premium described in paragraphs [540212](#) and [540213](#).

540215. Reserve Components

The following is a listing of the Reserve Components:

- A. The Army National Guard of the United States,
- B. The Army Reserve,
- C. The Navy Reserve,
- D. The Marine Corps Reserve,
- E. The Air National Guard of the United States,
- F. The Air Force Reserve, and
- G. The Coast Guard Reserve.

***5403 ELIGIBLE BENEFICIARIES**

Eligible beneficiaries under the RCSBP include spouse, child, former spouse, and natural person with an insurable interest. Members eligible to participate in RCSBP may elect coverage in one of the following coverage categories: spouse; spouse and child; child only; former spouse; former spouse and child; natural person with an insurable interest; or [Special Needs Trust \(SNT\)](#).

540301. Spouse (Including the Spouse of a Common-Law Marriage)

The spouse is an eligible beneficiary if:

A. Married to the member on the date that the member became eligible to participate in RCSBP and was [continuously](#) married to the member [through the date](#) when the member died;

B. Married to the member for at least 1 year after the date that the member became eligible to participate in RCSBP [and met both of the following two conditions](#):

1. [The](#) member's election to provide spouse coverage was received within 1 year of the marriage; and

2. [The spouse](#) was [continuously](#) married to the member [from the date of the election through the date](#) when the member died;

C. Married to the member after the date that the member became eligible to participate in RCSBP, and married for less than 1 year before member's death, but is a parent of a living child from that marriage, and member's election received within 1 year of the marriage;

D. Married to a member who is eligible to provide a Reserve Component annuity and who dies before notified of eligibility of retired pay for non-regular service retirement or during the 90-day period if the member had not made an RCSBP election; [or](#)

E. Married to a member after the date that the member became eligible to participate in RCSBP, and was married to the member for at least 1 year or is a parent of a living child from that marriage and [meet the following two conditions](#):

1. Member previously elected former spouse or former spouse and child coverage under [Title 10, United States Code \(U.S.C.\), section 1448\(b\)](#) for a person the member divorced after becoming eligible to participate in RCSBP; and

2. After a subsequent remarriage, the member changed the prior former spouse or former spouse and child election to cover the newly acquired spouse, or spouse and child under [10 U.S.C. § 1450\(f\)](#).

540302. Children (Including Children of a Common-Law Marriage)

Children are eligible beneficiaries if they are:

A. Children of a member who elected child coverage when he or she initially became eligible to participate in RCSBP. Note: Child age requirements are described in Chapter 44, paragraph 440202;

B. Children of a member who elected child coverage within 1 year of first acquiring such dependent child(ren) after initially becoming eligible to participate in RCSBP;

C. Children of a member who died after becoming eligible for retired pay, but before being notified of retirement eligibility or during the 90-day period immediately following such notification; or

D. Children of a member who elected spouse and child or former spouse and child coverage, if the spouse or former spouse dies, remarries before age 55 or otherwise becomes ineligible. If former spouse coverage is in place, only the child(ren) who resulted from the marriage to the former spouse are eligible beneficiaries.

540303. Former Spouse

The former spouse is an eligible beneficiary if he or she:

A. Is the member's former spouse when the member becomes eligible to participate in RCSBP and elected the beneficiary by the member or deemed as the beneficiary by the Secretary concerned upon request by the former spouse;

B. Was not the member's former spouse when the member became eligible to participate in RCSBP and a prior spouse election is changed to provide coverage for a former spouse in accordance with subparagraph 540702.C. A former spouse must have been married to the member for at least 1 year or be a parent of a child born of the marriage; or

C. Was the former spouse for whom coverage was provided under the insurable interest category for an election made before November 8, 1985. The former spouse will remain an eligible beneficiary following a remarriage, unless the remarriage is to a member who is providing the former spouse coverage.

540304. Natural Person With Insurable Interest

The natural person with an insurable interest is an eligible beneficiary if the beneficiary that member designated is:

A. A person who has a reasonable and lawful expectation of pecuniary benefit from the continued life of the member. This may include parents, stepparents, grandparents,

grandchildren, aunts, uncles, sisters, brothers, half-sisters, half-brothers, a dependent or non-dependent child or step-child, or any other person more nearly related than a cousin; or

B. Any individual having a reasonable and lawful basis, founded upon the relationship of parties to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the retiree.

NOTE: Proof of financial benefit from the continuance of the life of the member may be required for other than persons listed in subparagraph 540304.A.

***540305. SNT**

The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015, Public Law (PL) 113-291, amended 10 U.S.C. §§ 1448, 1450, and 1455, to give Military Service members and retirees the option to direct payment of an annuity for a dependent child to an SNT. See Chapter 46.

***5404 ELECTION TO PARTICIPATE**

540401. 90-Day Period

Any member who is notified of his or her completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in RCSBP before the end of the 90-day period. A member who is married or has a dependent child, and who receives notice of eligibility for retired pay, after January 1, 2001, is automatically an **immediate** participant in RCSBP unless the member elects (with spousal concurrence, if required) not to participate **or to defer the decision or delay coverage** before the end of the 90-day period. See subparagraph 540502.G.

540402. Annuity Options

A member electing to participate must designate an immediate election, a deferred election, or indicate a decision to delay the election until reaching retirement age. These are described as Options A, B, or C.

A. Option A. The member defers a survivor annuity election or declines coverage until retirement age. There is no coverage for the years between becoming eligible for retirement and reaching retirement entitlement age. If a member dies before reaching retirement age, no survivor annuity is payable. At retirement age, regardless if that age is before age 60, the member may elect to participate in SBP as any other member becoming entitled to retired pay. If a **married** member chooses Option A, spousal concurrence is required. See subparagraph 540502.G.

B. Option B. The member elects to provide a deferred survivor annuity that begins on the date **that the member would have attained the age of 60**, or on the day after the member's death, whichever is later. If a **married** member chooses Option B, spousal concurrence is required. See subparagraph 540502.G.

C. Option C. The member elects to provide an immediate survivor annuity beginning on the day after the member's death, whether before or after reaching retirement age.

540403. Base Amount

A member who receives a 20-year notification of eligibility and who elects to participate in RCSBP must elect to cover:

A. One hundred percent of retired pay or a given dollar amount which is greater than or equal to \$300, but less than 100 percent of retired pay;

B. One hundred percent of retired pay, if member's full retired pay computed as of the effective date of election, is less than \$300.00;

C. One hundred percent of retired pay, if the member elects to cover a dollar amount greater than 100 percent of his or her retired pay as of the effective date of election; or

D. An elected dollar amount of retired pay, but which is not less than \$300.00. However, any dollar election is converted to a percentage of retired pay as of the effective date of the election. A member who elects less than full base amount should be advised that his or her election will be converted to a percentage of retired pay as would be payable if he or she were of retirement age on the date the RCSBP election becomes effective. The base amount is that same percentage of retired pay regardless of the changes in the retired pay that may occur because of pay rate increases, additional points accumulated, promotion or longevity step increases. Note: Spousal concurrence is required when member elects spousal coverage for less than the maximum coverage. See subparagraph 540502.G.1.

540404. RCSBP Participation within 1 Year of Acquiring Eligible Beneficiary

Any Reserve member who does not have an eligible beneficiary when becoming eligible to participate in the RCSBP, who later marries or acquires a dependent child, may elect to participate in the RCSBP, if the election is completed within 1 year of acquiring a spouse or dependent child. See paragraph 540601 for specific rules.

540405. Natural Person With Insurable Interest

Pursuant to 10 U.S.C. § 1448(b), any Reserve member who is not married and does not have a dependent child, may elect to provide RCSBP coverage for a natural person with an insurable interest. Additionally, a member who is unmarried but who has one dependent child may provide coverage for that child under the insurable interest provision.

5405 ELECTION DATA*540501. RCSBP Election Certificate**

The DoD (DD) Form [2656-5](#), Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate, is required for making an RCSBP election and is also required if the member defers the election under Option A in subparagraph 540402.A.

***540502. Contents of DD 2656-5**

The contents of the election document should show:

A. The member's name, Social Security number, date of birth, and date of retirement (if known);

B. If participating, the member has elected coverage for:

1. Spouse and/or children,
2. Former spouse or former spouse and children, or
3. Natural person with an insurable interest (at maximum level of coverage only);

C. If participating, the member has elected coverage amount or percentage;

D. If participating, the member's election must contain an election for Option B or Option C. See subparagraphs 540402.B or C;

E. If participating, the member's designated beneficiary. Show the name, birth date, and Social Security number for each beneficiary named. If the coverage includes spouse, the member must furnish the date of marriage. Show the address and relationship when the beneficiary is a natural person with an insurable interest. For a natural person with an insurable interest, the member must provide a signed statement to show proof of financial benefit if the person designated is more distantly related than cousin;

F. The member must sign and date the election. The member's signature must be witnessed. The witness may not be the member's spouse or beneficiary. The witness should not be a minor, but minority of a witness will not necessarily invalidate the member's election. In the event a member is unable to complete his signature and instead makes his mark (such as an "X"), two disinterested persons must witness the election form. An addendum to DD 2656-5 will suffice in such situations. NOTE: An election made on behalf of the member through a power of attorney is not valid. Such an election is not binding and is without force or effect of law; and

G. Spousal concurrence in certain elections is a requirement. The spouse signature must appear on DD 2656-5, the spouse's signature must be notarized, and the spouse must sign after the member has signed the form.

1. A retirement eligible Reserve member who elects RCSBP spouse coverage for less than maximum coverage when the member becomes eligible to participate must obtain the concurrence of the spouse in writing. With respect to members who receive notification of retired pay eligibility pursuant to [10 U.S.C. Chapter 1223](#) after January 1, 2001, a retirement eligible Reserve member must obtain the concurrence of the spouse in writing. Spousal concurrence is required if the member declines coverage (Option A), elects deferred coverage (Option B), elects coverage for spouse at less than the maximum level, or elects coverage for a dependent child but not for the spouse. Without spousal concurrence, an election for less than maximum coverage is invalid

* 2. If a member marries during the 90-day period (see paragraph 540401), spousal concurrence is not required, but the spouse must be notified of the member's election. Note: The failure to retain evidence that the spouse was notified of the member's election will not invalidate the member's election.

* 3. If former spouse coverage is elected or deemed, the spousal concurrence is not required; however, the spouse must be notified of the former spouse coverage. Note: The failure to retain evidence that the spouse was notified of an election for coverage for a former spouse will not invalidate the former spouse election.

a. To elect former spouse coverage, the member must complete a [DD 2656-1](#), Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage. If the member elects former spouse coverage, the election must include information setting forth whether the election was made pursuant to the requirements of a court order, or a voluntary written agreement previously entered into by the member as part of, or incidental to, a proceeding of divorce, dissolution, or annulment, and, if so, whether such agreement was incorporated, ratified, or approved by a court order.

b. In order for a former spouse to deem an election, the former spouse must, within 1 year of the date of the court order involved, complete and send a [DD 2656-10](#), Survivor Benefit Plan (SBP)/Reserve Component (RC) SBP Request for Deemed Election, and a copy of the court order, regular on its face, which requires the former spouse SBP election, or which incorporates, ratifies, or approves the voluntary, written agreement of such a person or a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law. A deemed election will fail unless both the DD 2656-10 and a copy of the court order or written agreement are received in accordance with the applicable instructions in the form.

5406 CHANGES IN ELECTION AND COVERAGE*540601. Later-Acquired Spouse and/or Child**

This election must be received within 1 year of the event.

A. If a member has no eligible beneficiary at the end of the 90-day period, the member may later elect for an eligible class of beneficiary, if the election is completed within 1 year of acquiring a spouse or dependent child.

B. If a member with spouse or spouse and child coverage loses the spouse beneficiary through death or divorce, the member may, upon remarriage, increase the level of coverage up to and including full-retired pay, or elect not to resume spouse coverage. If a member takes no action, spouse coverage will automatically resume upon the 1-year anniversary of the remarriage [at the coverage amount originally elected](#).

C. The member may not add child coverage by virtue of this marriage if child coverage was previously declined.

D. The member may not reduce the level of RCSBP coverage nor may child coverage be eliminated.

E. If the member elects not to resume spouse coverage or provides coverage at less than the maximum level, the spouse must be notified. Note: The failure to retain evidence that the spouse was notified of the member's election will not invalidate the member's election.

F. If the member has former spouse coverage, an election for a newly acquired child must be made within 1 year of acquiring a child.

G. If a member has insurable interest coverage, he or she may elect coverage for the newly acquired spouse and/or child if the member completes the election within 1 year of the marriage or acquisition of a dependent child. This election terminates the insurable interest coverage.

540602. Former Spouse or Former Spouse and Child Elections**A. General Rules.**

1. A former spouse election prevents an annuity to the member's spouse and child (other than a child beneficiary under a former spouse and child election).

2. If the member is married at the time of the former spouse election, the spouse must be notified of the member's election for the former spouse. Note: The failure to retain evidence that the spouse was notified of an election for coverage for a former spouse will not invalidate the former spouse election.

3. The provisions for deemed former spouse elections shown in Chapter 43, paragraph 430302 under SBP apply to RCSBP deemed former spouse elections.

B. Former Spouse Elections when the Member Becomes Eligible to Participate.

1. A member who has a former spouse and/or dependent child when becoming eligible to participate may elect former spouse or former spouse and child coverage provided the child is the result of the member-former spouse marriage.

2. If there is no court order or voluntary written agreement requiring the member to elect former spouse coverage in place at the time the member makes his election, the former spouse's ability to retain former spouse coverage could be affected at a later date.

C. Former Spouse Elections After the Member Becomes Eligible to Participate but Before the Member Meets Age Requirements.

1. A member who elected spouse or spouse and child coverage when becoming eligible to participate in the RCSBP, may within 1 year of the date of the decree of divorce, dissolution, or annulment of that marriage, change that election to provide the RCSBP annuity to the former spouse or the former spouse and child.

2. An election of former spouse coverage may be deemed to have been elected for the former spouse under the following conditions:

a. The Secretary concerned may deem an election when a member is ordered by a court or voluntarily enters into a written agreement, incidental to a proceeding of divorce, dissolution, or annulment, to elect former spouse SBP coverage, and the agreement has been incorporated in, or ratified or approved by the court, and the member fails or refuses to make the election.

b. The former spouse or former spouse's attorney **must** request, that the Secretary concerned deem an election for former spouse coverage within 1 year of the date of the relevant court order.

540603. Natural Person with Insurable Interest

A member may make an election for a natural person with an insurable interest only when there is no eligible spouse or dependent child(ren). See paragraph 540405 for exceptions. A member must elect gross retired pay as the base amount under an election for a natural person with an insurable interest.

5407 IRREVOCABLE ELECTIONS AND DISCONTINUED PARTICIPATION*540701. 90-Day Period**

Elections filed during the 90-day period referred to in paragraph 540401 are generally irrevocable unless revoked before the expiration of the 90-day period.

540702. Exceptions

Exceptions to the general rule on irrevocability occur under the following circumstances:

A. The member discontinues participation as a totally disabled member as described in Chapter 43, paragraph 430704;

B. The mentally incapacitated member is later determined to be mentally competent and revokes or changes the RCSBP election within 180 days after such determination of judgment. See Chapter 43, subparagraph 430401.F;

C. The member elected less than maximum coverage without spousal concurrence and the member fails to establish to the Secretary of the Military Department concerned (or designee) that spousal concurrence was not required, either because the spouse's whereabouts cannot be determined or other exceptional circumstances prevent obtaining the spouse's consent. In this instance, the member's election is invalid. See subparagraph 540502.G.1;

D. The Secretary concerned revokes an election when necessary to correct an administrative error. Revocation or correction based on administrative error is a Secretarial prerogative and, except when procured by fraud, is final and conclusive on all officers of the United States;

E. A member may change the beneficiary election to provide former spouse coverage or to remove former spouse coverage as shown in Chapter 43, section 4306 and section 5406; or

F. The member voluntarily terminates RCSBP coverage for a natural person with an insurable interest who is not a former spouse.

540703. Changed Retirement Eligibility

If a member elects RCSBP coverage and subsequently becomes eligible for retirement under another law, thereby losing eligibility, the RCSBP election remains effective until the member actually retires. A member may make a new election as any other retiring member.

***5408 PREMIUMS**

The Government does not subsidize the cost of providing RCSBP coverage under the immediate or deferred annuity option, but the members and beneficiaries who potentially will benefit from the coverage share the cost. The cost to the retiree, known as the Reserve Component Premium, is in the form of an additional deduction from his or her retired pay beyond the Standard Premium. The RCSBP, unlike SBP, requires a reduction in the survivor annuity. That reduction, known as the Survivor's Annuity Premium Deduction, begins when the survivor begins to receive an annuity. The Reserve Component Premium and the Survivor's Annuity Premium Deduction increase at the same time and by the same percentage that retired pay increases by cost-of-living adjustments.

***5409 RCSBP COST RATE TABLES**

The Actuary provides RCSBP rate tables to reflect military-specific death rates, to include remarriage and divorce rates and to incorporate dynamic actuarial assumptions. The tables are built on a "years younger or older than member" concept. The ages at the nearest birthday to date of election receipt are used. When ages expressed in years are the same, the table is determined by comparing months and days. Note: The tables for child only rates use the ages of the member and child; not years younger or older.

5410 CALCULATION OF THE RESERVE COMPONENT PREMIUM AND THE SURVIVOR'S ANNUITY PREMIUM DEDUCTION*541001. Premium Description**

The SBP Premium consists of a Standard Premium, Reserve Component Premium, and a Survivor's Annuity Premium Deduction. The Standard Premium is the reduction in retired pay made to provide coverage for the period after a member becomes entitled to retired pay. The Reserve Component Premium is the reduction in retired pay made for the RCSBP coverage that was already provided while the member awaited the requisite age of entitlement to retired pay. The Survivor's Annuity Premium Deduction is a further premium applied to the survivor's annuity for the RCSBP coverage provided while the member awaited the requisite age of entitlement to retired pay. The premiums described in paragraph 541002 pertain only to the Reserve Component Premium and the Survivor's Annuity Premium Deduction. The method to compute the Standard Premium may be found in Chapter 45. The amount of the Reserve Component Premium depends on the type of beneficiary option elected, the annuity type elected, and the ages of the member and the beneficiary.

***541002. Calculating the Premiums Based on RCSBP Coverage Amount**

* A. The member must elect a given dollar amount or full retired pay as the base amount. Convert any dollar election to a percentage of gross retired pay as of the effective date of an election to guarantee full indexing in proportion to member's retired pay.

* B. Address questions to the Actuary about the methods and assumptions used to determine the RCSBP rate in calculating the Reserve Component Premium. Go to <http://actuary.defense.gov/> and select “Contact Us” and then “Survivor Benefit Plan.”

* C. The following table serves as an example for calculating the premium based on the RCSBP coverage amount:

Information at RCSBP election:	
Member's age =	52
Spouse's age =	45
Member's elected monthly base amount =	\$300.00
Member's estimated current monthly retired pay =	\$1,000.00
Ratio =	$300/1000 = .30$ (30 percent)
Eight years later:	
Member's monthly retired pay at age 60 =	\$2,000.00
Member's base amount at age 60 =	$.30$ (30 percent) \times \$2,000.00 = \$600.00
RCSBP rate from RCSBP table =	.0161
Reserve Component Premium at age 60 =	\$9.66 (\$600.00 \times .0161)

1. If the given dollar amount exceeds 100 percent of the member's retired pay on the effective date of the election, the base amount is 100 percent of the monthly retired pay. If the given dollar amount is less than 100 percent of gross retired pay, but greater than \$300.00 when computed against the retired pay, use the ratio against the gross retired pay entitlement at age 60, assuming the member has met age and service requirements.

2. To calculate the Reserve Component Premium, multiply the member's base amount at age 60 by the ratio of the elected base/retired pay of .30 (30 percent) and then by the rate from the RCSBP tables of 1.61 percent. See also subparagraph 541002.B. The example in subparagraph 541002.C provides the member's base amount at age 60 as \$600.00 (\$2,000.00 \times .30). Therefore, the Reserve Component Premium would be computed as follows: \$600.00 \times .0161 = \$9.66.

3. To calculate the Survivor's Annuity Premium Deduction, multiply the base amount by .0001, from the example in subparagraph 541002.C, the Survivor's Annuity Premium Deduction: .0001 \times \$600.00 = \$0.06.

*5411 INITIAL PREMIUM AND EFFECTIVE DATE OF THE RESERVE COMPONENT PREMIUM

541101. Beginning Date

If a member has eligible beneficiaries, the Reserve Component Premium begins on the first day of the month after the member meets the age and service requirements necessary to be entitled to non-regular retired pay even if the member meets those age and service requirements before age

60. The payment of premiums will be required if the member chose Option B or Option C from paragraph 540402. If the member meets the age and service requirements on the first day of the month, the premium is effective that month. If the member specifies a retirement date which is after the date the member meets age and service requirements, or if the member delays application for retirement, the premium is retroactive to the date that the member meets age and service requirements.

541102. Member's Death

If a member who elected RCSBP (Option B or Option C) dies before he or she meets the age and service requirements, the Survivor's Annuity Premium Deduction for the pre-age 60 coverage begins with the immediate or deferred annuity as an actuarial reduction of the survivor's annuity.

541103. Coverage Change

In some instances, a member may change the type of coverage before premiums begin. The initial premium for election changes is effective on the first day of the month after the member meets age and service requirements (or, if the member meets age and service requirements on the first day of the month, the premium is effective that month). Such elections include:

A. A member has no spouse beneficiary when first becoming eligible to participate in RCSBP and acquires a spouse beneficiary effective before the member meets age and service requirements and elects to establish coverage for the newly acquired spouse within 1 year of the marriage;

B. An unmarried member elects child coverage when first becoming eligible to participate in RCSBP and later acquires a spouse beneficiary before the date member meets age and service requirements and elects to establish coverage for the newly acquired spouse within 1 year of the marriage;

C. A member has no child beneficiary when first becoming eligible to participate in RCSBP and later elects child coverage within 1 year of acquiring a child, which is before the member meets age and service requirements;

D. A member elects former spouse or former spouse and child when first becoming eligible to participate in RCSBP, later marries and requests change to spouse or spouse and child coverage effective before the member meets age and service requirements;

E. A member has no coverage and coverage is changed to a former spouse under a deemed election by the Secretary concerned; and

F. A member elects insurable interest coverage when first becoming eligible to participate in RCSBP, acquires a spouse and/or child before the date member meets age and service requirements and elects to establish coverage for the newly acquired spouse and/or child within 1 year of the marriage or acquisition of the dependent child.

5412 RESERVE COMPONENT PREMIUM*541201. Changes in Reserve Component SBP Coverage**

A change in the type of Reserve Component SBP coverage elected can impact the Reserve Component Premium that will be deducted from a member's retired pay. There are an extensive number of possible changes available under the law depending on changes to a member's individual family circumstances. The most prevalent election options and changes, and the impact of those elections and changes are reflected in Tables 54-1 and 54-2. Note: The premium deduction rules reflected on those tables pertain only to the Reserve Component Premiums.

541202. Reserve Component Premium Deductions

The Reserve Component Premiums are the deductions from the member's retired pay that are made for RCSBP coverage provided while the member waits to attain the requisite age necessary to become entitled to retired pay. The tables do not reflect the Standard Premium which is the reduction in the member's retired pay made to provide coverage for the period after a member becomes entitled to retired pay. Chapter 45 provides the method to compute the Standard Premium. The tables also do not reflect the Survivor's Annuity Premium Deduction which is a further premium applied to the survivor's annuity for the RCSBP coverage provided while the member awaited the requisite age of entitlement to retired pay.

***5413 DEATH OF MEMBER ON INACTIVE DUTY TRAINING (IDT)**

Effective December 23, 2016, section 642 of the NDAA for FY 2017 amended 10 U.S.C. §§ 1448, 1450, and 1451. The amendments changed the calculation of SBP annuities paid to the survivors of Reserve Component members who die in the "line of duty" while performing IDT to align that benefit with the annuity paid to the survivors of Reserve Component members who die on active duty. Additionally, the amendments allow the payment of an RCSBP annuity in certain circumstances to dependent children of covered Reserve Component members who die in the line of duty on IDT or after completing the years of service required for a non-regular retirement and clarifies how retired pay is calculated for those Reserve Component members who die after completing the years of service but prior to notification or prior to electing RCSBP coverage. See also Table 54-3 and Table 54-4.

541301. Entitlement

A Reserve Component member who dies from injuries or illness incurred or aggravated while performing IDT in which the death is determined to have occurred in the line of duty is entitled to automatic coverage under the SBP program whether or not the member is retirement eligible.

A. Death in the Line of Duty

1. The Secretary concerned will make a written determination as to whether the member's death occurred while in the line of duty while performing IDT. A member who is determined to have died in the line of duty is one who is in an authorized duty status and whose death is determined not to be the result of his or her own intentional misconduct or willful negligence. Line of duty is defined in 37 U.S.C. § 204(g)(1). The finding must describe the circumstances under which the member died.

2. In accordance with PL 114-328, the survivor of a Reserve Component member who died in the line of duty while performing IDT will receive an RCSBP annuity calculated as if the member was a fully-disabled retiree on the date of his or her death. Survivors of Reserve Component members who died in the line of duty on IDT prior to December 23, 2016, are entitled to prospective recalculation of future benefits beginning December 23, 2016, or the date the survivor annuity commenced, whichever is later. Note: These calculations are not retroactive for any payments made prior to December 23, 2016.

B. Not in the Line of Duty Death Prior to Retirement Eligibility. The death of a Reserve Component member who is not retirement eligible and whose death is determined to have occurred “not in the line of duty” does not qualify under this section.

C. Not in the Line of Duty Death After Retirement Eligibility. The survivor of a Reserve Component member whose death is determined to have occurred “not in the line of duty” but after completing 20 qualifying years of satisfactory service is eligible for an RCSBP annuity. The annuity is computed based upon that member's or former member's years of service in accordance with 10 U.S.C. § 12731 and paid to the survivor of a member whose death is not in the line of duty and who died or who dies after:

1. Completing the years of service requirement to be eligible for a non-regular retirement, but
2. Before being notified of such completion as required under 10 U.S.C. § 12731(d).

D. Not in the Line of Duty Death Within 90 Days of Notification. The survivor of a Reserve Component member whose death is determined to have occurred “not in the line of duty” after completing 20 qualifying years of satisfactory service, but prior to notification of eligibility, or during the period that is 90 days from notification, is eligible for an SBP annuity. The annuity is computed based upon that former member's years of service and paid to the survivor of a member who died or who dies after he or she is notified of:

1. Having completed the years of service required to be eligible for a non-regular retirement, but within 90 days of that notification and before the member has made an election to participate in the RCSBP, and

2. Having died not in the line of duty.

541302. Qualified Annuitants

In order of precedence, qualified annuitants are former spouse by court order, current spouse, and children.

A. Former Spouse by Court Order. The annuity is payable to the former spouse if the member was required under a court order or spousal agreement to provide an annuity to the former spouse upon becoming eligible to participate in the RCSBP or if the member has made an election to provide an annuity to the former spouse.

B. Current Spouse. The annuity is payable to the current surviving spouse unless the annuity is payable to the former spouse.

C. Children

1. In the case the surviving spouse becomes ineligible to receive an annuity, the Secretary concerned may pay an annuity to the dependent children of that person under 10 U.S.C. §§ 1448(f)(2) and 1450(a)(2).

a. For deaths occurring prior to December 23, 2016, dependent children were not considered eligible annuitants if a surviving spouse lost entitlement to an annuity for a reason other than death. Note: Pursuant to NDAA FY 2017 and PL 114-328, December 23, 2016, dependent children became eligible annuitants if the surviving spouse lost entitlement to an annuity for reasons other than death.

b. For deaths occurring on or after December 23, 2016, if the annuity was suspended because the spouse became ineligible due to remarriage, that annuity may resume and be paid to a dependent child or children, if any. These payments may resume no sooner than December 23, 2016, or the date the annuity suspended, whichever is later.

2. If, in consultation with an eligible surviving spouse who has an eligible dependent child or children, the Secretary concerned determines it is more appropriate for the dependent child or children to receive the RCSBP annuity rather than the surviving spouse, the RCSBP annuity may be paid directly to a dependent child or children in lieu of payment to the eligible spouse.

541303. Line of Duty Determination

The Secretary concerned will make a written determination as to whether the member's death occurred while in the line of duty while performing IDT. For the purpose of determining eligibility for SBP benefits, a service member's death will be generally considered being in the line of duty unless:

- A. The death occurred while the member was not serving on IDT;
- B. The death was the result of the member's own intentional misconduct or willful negligence; or
- C. The death occurred from injuries or illness incurred or aggravated during a period of unauthorized absence.

***5414 ANNUITY AMOUNT**

541401. General

A. RCSBP Annuity. Compute the amount of RCSBP annuity payable to a surviving spouse or former spouse beneficiary in the same manner as the SBP (see Chapter 46) except that the base annuity amount is 55 percent of the difference between the base amount and the cost of the Survivor's Annuity Premium Deduction. Compute the monthly annuity for a dependent child on the base annuity amount less the Survivor's Annuity Premium Deduction, multiplied by 55 percent. Compute the monthly annuity for a natural person with an insurable interest or former spouse (insurable interest category) as 55 percent of the difference between the member's retired pay and the sum of the premium reduction and cost of the Survivor's Annuity Premium Deduction. The Actuary determines amount of the Survivor's Annuity Premium Deduction. See section 5410. Round monthly RCSBP annuities, if not a multiple of \$1.00, to the next lower multiple of \$1.00.

1. If a member dies before attaining the eligibility age applicable to that member to begin receiving retired pay and elected the immediate annuity option, Option C, the initial annuity amount is payable beginning immediately following death and is computed on the basis of what the member's retired pay would have been on the date of the member's death using the basic pay rates on that date. Note: If a member retires before age 60 pursuant to 10 U.S.C. § 12731, and subsequently dies before what would have been his 60th birthday, the initial annuity amount is payable beginning immediately following death.

2. If a member dies before attaining the eligibility age applicable to that member to begin receiving retired pay and elected the deferred annuity option, Option B, the initial annuity amount is payable beginning the first day of the month following the date the member would have attained the age of 60. Compute the initial annuity amount based on the retired pay the member would have initially received.

* B. RCSBP Annuity - Death in Line of Duty. An annuity paid to the survivor of a member who died or who dies in the line of duty while performing IDT will be 55 percent of the retired pay the member was or would have been entitled to on the day the member died, computed as if the member was retired with a total (100 percent) disability under 10 U.S.C. § 1201.

C. Age 62 Offset. Prior to March 31, 2008, a spouse or former spouse incurred a reduction of RCSBP at age 62 because of entitlement to Social Security benefits. The age 62 offset was eliminated effective April 1, 2008.

541402. Eligible Annuitants and Amounts

A. Spouse or Former Spouse. See Chapter 46, Table 46-1. The RCSBP annuity may be less than 55 percent, depending on the Survivor's Annuity Premium Deduction, which is deducted in determining the annuity amount.

B. Children Only. If there is more than one eligible child, pay the annuity in equal shares. The annuity for children is not subject to Dependency and Indemnity Compensation (DIC) offset.

C. Spouse and Child or Former Spouse and Child. Pay annuity to the spouse or former spouse, as long as eligibility exists. If the surviving spouse or former spouse loses eligibility due to death or remarriage before age 55, or otherwise become ineligible, pay the annuity to the child annuitants. A former spouse and child election includes only the children of the member's marriage to the former spouse. See also Chapter 42 for definition of a surviving spouse.

D. Natural Person with an Insurable Interest. The annuity is payable only to the natural person with an insurable interest as designated by or on behalf of the member. The annuity is not transferable to another person.

541403. Payment of Annuity

The provisions in Chapter 46 for making annuity payments to representative payees also apply to the RCSBP program.

***5415 OFFSETS TO THE ANNUITY**

See Chapter 46 for DIC offsets paid to a surviving spouse by the Department of Veteran Affairs. Note: The information in Chapter 46, excluding the minimum-income annuitant material, applies to the RCSBP annuitant.

***5416 TAXABILITY OF ANNUITY**

The provisions of Chapter 46 regarding the taxability of annuities also apply to annuities under RCSBP.

Table 54-1. RESERVE COMPONENT PREMIUMS FOR SPOUSE, FORMER SPOUSE, AND CHILD ONLY COVERAGE

The Premium deduction rules reflected on this table pertain only to the Reserve Component Premiums. The Reserve Component Premiums are the deductions from the member's retired pay that are made for RCSBP coverage provided while the member waited to attain the requisite age necessary to become entitled to retired pay. This table does not reflect the Standard Premium which is the reduction in the member's retired pay made to provide coverage for the period after a member becomes entitled to retired pay. The method to compute the Standard Premium may be found in Chapter 45. This table also does not reflect the Survivor's Annuity Premium Deduction which is a further premium applied to the survivor's annuity for the RCSBP coverage provided while the member awaited the requisite age of entitlement to retired pay. The method to compute the Survivor's Annuity Premium Deduction may be found in section 5410.

R U L E	A	B	C
	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP for	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
1.	Spouse Coverage	the spouse upon whom the initial election was based is still an eligible spouse beneficiary	full spouse premium deductions will be made until the earlier of: (a) the first day of the month in which the spouse is no longer eligible due to death, divorce, or annulment; or (b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.
2.	Spouse Coverage	the spouse upon whom the initial election was based is no longer an eligible beneficiary due to death	no spouse premium deductions will be made for the period that RCSBP spouse coverage was previously provided before the spouse died. Note 1.

Table 54-1. RESERVE COMPONENT PREMIUMS FOR SPOUSE, FORMER SPOUSE, AND CHILD ONLY COVERAGE (Continued)

R U L E	A	B	C
	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP for	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
	3. Spouse Coverage	the spouse upon whom the initial election was based is no longer an eligible spouse beneficiary due to divorce or annulment	no spouse premium deductions will be made for the period that spouse RCSBP coverage was previously provided before the marriage ended. Notes 1 and 2.
	4. Former Spouse Coverage	the former spouse upon whom the initial election was based is still an eligible former spouse beneficiary	full former spouse premium deductions will be made until the earlier of : (a) the first day of the month in which the former spouse is no longer eligible due to death, (b) the first day of the month in which the former spouse coverage is suspended due to remarriage before age 55, or (c) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months. Note 3.
	5. Former Spouse Coverage	the former spouse upon whom the initial election was based is no longer an eligible beneficiary due to death	no former spouse premium deductions will be made for the former spouse coverage previously provided before the former spouse died. Note 4.

Table 54-1. RESERVE COMPONENT PREMIUMS FOR SPOUSE, FORMER SPOUSE, AND CHILD ONLY COVERAGE (Continued)

R U L E	A	B	C
	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP for	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
	6. Former Spouse Coverage	coverage for the former spouse upon whom the initial election was based was suspended due to remarriage before age 55	former Spouse premium deductions for the period that former spouse coverage was previously provided are suspended. No premium deductions are made during the period of suspension. Note 5.
	7. Child Only Coverage	the member has any child who is still an eligible child beneficiary	child premium deductions will be made until the earlier of: (a) the first day of the month in which all of the children for whom RCSBP child only coverage was previously provided are no longer eligible due to death, or (b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months. Note 6.
	8. Child Only Coverage	the member has no living children for whom RCSBP coverage was provided	no child premium deductions will be made for the RCSBP child only coverage previously provided before the child(ren) died.

Table 54-1. RESERVE COMPONENT PREMIUMS FOR SPOUSE, FORMER SPOUSE, AND CHILD ONLY COVERAGE (Continued)

R U L E	A	B	C
	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP for	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
9.	Child Only Coverage	all of the member's children have lost eligibility due to age or marriage	child premium deductions will be made until the earlier of: (a) the first day of the month in which all of the children for whom RCSBP child only coverage was previously provided are no longer eligible due to death, or (b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months. Note 6.

NOTES:

1. If the member subsequently remarried (i.e. acquired a subsequent spouse) before meeting the age and service requirements to become actually entitled to receive retired pay and spouse coverage was established for the subsequent spouse, full spouse premium deductions will be made in accordance with Rule (1) in Table 54-1. The premium rate is based on the ages of the member and the spouse for whom the initial election is made.
2. If, after the divorce from the spouse upon whom the initial election was based, former spouse coverage is elected by the member (or deemed to be elected by the former spouse) before the member meets the age and service requirements to become actually entitled to receive retired pay, full former spouse premium deductions will be made from the member's retired pay in accordance with Rule (4) in Table 54-1.

Table 54-1. RESERVE COMPONENT PREMIUMS FOR SPOUSE, FORMER SPOUSE, AND CHILD ONLY COVERAGE (Continued)

NOTES: (Continued)

3. If premiums are suspended because the former spouse loses eligibility due to remarriage before age 55, in the event that marriage ends due to death or divorce, the former spouse regains eligibility and deductions will be restarted and made until the earlier of (a) the first day of the month in which the former spouse is no longer eligible due to death; (b) the first day of the month that the former spouse coverage is suspended again due to remarriage before age 55; or (c) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.
4. If, after the former spouse died and before the time the member met the age and service requirements to become actually entitled to receive retired pay, the member had a spouse for whom and spouse coverage was established, full spouse premium deductions will be made from the member's retired pay for the spouse coverage until the earlier of (a) the first day of the month in which the spouse is no longer eligible due to death, divorce, or annulment; or (b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.
5. If premiums are suspended because the former spouse lost eligibility due to remarriage before age 55, in the event that the former spouse's marriage ends due to death or divorce, the former spouse regains eligibility and deductions will be started and made until the earlier of (a) the first day of the month in which the former spouse is no longer eligible due to death; (b) the first day of the month that the former spouse coverage is suspended again due to remarriage before age 55; or (c) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.
6. As long as one of the children for whom RCSBP coverage was provided is still living, premium deductions will be made until member has retired pay reduced for a total of 360 months. The child only deductions are made even after the child(ren)'s eligibility is lost due to age or marriage. See the "Special Rule for Certain RCSBP Participants" in 10 U.S.C. § 1452(b)(3). If a member acquires a new youngest child, the original Reserve Component Premium will remain.

*Table 54-2. RESERVE COMPONENT PREMIUMS FOR INSURABLE INTEREST COVERAGE

The Premium deduction rules reflected on this table pertain only to the Reserve Component Premiums. The Reserve Component Premiums are the deductions from the member's retired pay that are made for RCSBP coverage provided while the member waits to attain the requisite age necessary to become entitled to retired pay. This table does not reflect the Standard Premium which is the reduction in the member's retired pay made to provide coverage for the period after a member becomes entitled to retired pay. The method to compute the Standard Premium may be found in Chapter 45. This table also does not reflect the Survivor's Annuity Premium Deduction which is a further premium applied to the survivor's annuity for the RCSBP coverage provided while the member awaited the requisite age of entitlement to retired pay. The method to compute the Survivor's Annuity Premium Deduction may be found in section 5410.

	A	B	C	D
R U L E	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	and after the member started to receive retired pay, the below listed condition occurs:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
1.	Insurable Interest Coverage	the insurable interest beneficiary upon whom the initial election was based is still an eligible insurable interest beneficiary	no changes are made to the insurable interest coverage	full insurable interest premium deductions will be made until the earlier of: (a) the first day of the month in which the insurable interest beneficiary dies, or (b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.

Table 54-2. RESERVE COMPONENT PREMIUMS FOR INSURABLE INTEREST COVERAGE (Continued)

	A	B	C	D
R U L E	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	and after the member started to receive retired pay, the below listed condition occurs:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
2.	Insurable Interest Coverage	the insurable interest beneficiary upon whom the initial election was based is still an eligible insurable interest beneficiary	the insurable interest beneficiary dies	full insurable interest premium deductions will be made until the earlier of: (a) the first day of the month in which the insurable interest beneficiary dies, or (b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.

Table 54-2. RESERVE COMPONENT PREMIUMS FOR INSURABLE INTEREST COVERAGE (Continued)

	A	B	C	D
R U L E	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	and after the member started to receive retired pay, the below listed condition occurs:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
3.	Insurable Interest Coverage	the insurable interest beneficiary upon whom the initial election was based is still an eligible insurable interest beneficiary	the member voluntarily elected to terminate/discontinue insurable interest coverage under 10 U.S.C. § 1448(b)(1)(B)	full insurable interest premium deductions will be made until the earlier of : (a) the first day of the month in which the insurable interest beneficiary dies, or (b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.

Table 54-2. RESERVE COMPONENT PREMIUMS FOR INSURABLE INTEREST COVERAGE (Continued)

	A	B	C	D
R U L E	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	and after the member started to receive retired pay, the below listed condition occurs:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
4.	Insurable Interest Coverage	the insurable interest beneficiary upon whom the initial election was based is still an eligible insurable interest beneficiary	the member voluntarily elects to change the insurable interest election to provide an annuity to a spouse or dependent child under 10 U.S.C. § 1450(f).	full insurable interest premium deductions will be made until the earlier of: (a) the first day of the month following the month in which the member voluntarily elects to change the insurable interest election to provide an annuity to a spouse or dependent child under 10 U.S.C. § 1450(f), or (b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.

Table 54-2. RESERVE COMPONENT PREMIUMS FOR INSURABLE INTEREST COVERAGE (Continued)

	A	B	C	D
R U L E	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	and after the member started to receive retired pay, the below listed condition occurs:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
5.	Insurable Interest Coverage	the insurable interest beneficiary upon whom the initial election was based is no longer an eligible beneficiary due to death	no subsequent changes are made to the insurable interest coverage	no insurable interest premium deductions will be made for the RCSBP insurable interest coverage previously provided before the insurable interest beneficiary died.

Table 54-2. RESERVE COMPONENT PREMIUMS FOR INSURABLE INTEREST COVERAGE (Continued)

	A	B	C	D
R U L E	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	and after the member started to receive retired pay, the below listed condition occurs:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
6.	Insurable Interest Coverage	the insurable interest beneficiary upon whom the initial election was based is no longer an eligible beneficiary because the member voluntarily elected to terminate/discontinue insurable interest coverage under 10 U.S.C. § 1448(b)(1)(B)		<p>prorated insurable interest premium deductions will be made until the earlier of:</p> <p>(a) the first day of the month in which the insurable interest beneficiary dies, or</p> <p>(b) the first day of the month following the month in which the member has retired pay reduced for a total of 360 months.</p> <p>The deductions will be prorated based on the number of months that coverage was in effect in accordance with the Note.</p>

Table 54-2. RESERVE COMPONENT PREMIUMS FOR INSURABLE INTEREST COVERAGE (Continued)

	A	B	C	D
R U L E	If the member made the below listed RCSBP election (Options B or C) when first eligible to participate in the RCSBP	and at the time the member met the age and service requirements to become actually entitled to receive retired pay, the below listed condition also existed:	and after the member started to receive retired pay, the below listed condition occurs:	then the below listed Reserve Component Premium deductions will be made from the member's retired pay:
*7.	Insurable Interest Coverage	the insurable interest beneficiary upon whom the initial election was based is no longer an eligible beneficiary because the member voluntarily elected to change the insurable interest election to provide an annuity to a spouse or dependent child under 10 U.S.C. § 1450(f)		premiums will be deducted for the spouse or dependent child coverage that was elected under 10 U.S.C. § 1450(f). The premiums will be established in accordance with Table 54-1 and will be based on the ages of the member, spouse and/or child at the time the coverage is elected. Additionally, deduction for Insurable Interest coverage will be deducted and prorated based on the number of months that coverage was in effect in accordance with the Note.

Table 54-2. RESERVE COMPONENT PREMIUMS FOR INSURABLE INTEREST COVERAGE (Continued)

Note: An RCSBP participant who voluntarily terminates coverage for a natural person with an insurable interest (not a former spouse) before the member meets the age and service requirements to become actually entitled to receive retired pay, will pay a prorated Reserve Component Premium based on the number of months for which coverage was effective. To calculate the prorated premium, multiply the original RCSBP [rate](#) by the number of full months during which the member had coverage, dividing the result by the number of full months the member would have had coverage if coverage had not terminated before age 60. The result, rounded to 4 decimal places, [will](#) serve as the member's prorated Reserve Component Premium.

$$\begin{array}{ccccccc} \text{Revised} & & \text{Original} & & \text{No. of months} & & \text{No. of months} \\ \text{RCSBP} & = & \text{RCSBP} & \times & \text{member had} & \div & \text{member would} \\ \text{Rate} & & \text{rate} & & \text{pre-age 60} & & \text{have had pre-} \\ & & & & \text{coverage} & & \text{age 60} \\ & & & & & & \text{coverage} \end{array}$$

*Table 54-3. RCSBP - GENRAL INFORMATION

R U L E	A	B	C
	A reservist who is	and dies in the line of duty, then	dies not in the line of duty, then
1.	serving on Active Duty with fewer than 20 creditable years of service	the RCSBP annuity is calculated as if the member is totally disabled in accordance with 10 U.S.C. § 1201, or	the member is not eligible to participate in the RCSBP.
2.	serving on Active Duty with more than 20 creditable years of service		the RCSBP annuity is calculated based on years of active service in accordance with 10 U.S.C. § 1451 (c)(1)(A)(ii).
3.	serving on Inactive Duty with fewer than 20 creditable years of service		the member is not eligible to participate in the RCSBP.
4.	serving on Inactive Duty with more than 20 creditable years of service		the RCSBP annuity is calculated based on years of active service in accordance with 10 U.S.C. § 12733.

*Table 54-4. RESERVIST WHO DIES NOT IN THE LINE OF DUTY OR NOT IN A DUTY STATUS

R U L E	A	B	C
	A reservist, who is not in the line of duty or not in a duty status, dies	and	then
1.	after completing 20 years of service	has not yet received a letter of notification of eligibility to retire,	the RCSBP annuity is calculated based on years of active service in accordance with 10 U.S.C. § 12733.
2.		within 90 days of receiving a letter of notification of eligibility to retire, has not yet elected RCSBP coverage,	
3.		received a letter of notification of eligibility to retire and elected to participate in RCSBP,	
4.	having not yet completed 20 years of service		the member is not eligible to participate in RCSBP.

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Benefit Plan for Reserve Component Members

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April 26, 2017, Subject: Amendments to Survivor

Benefit Plan for Reserve Component Members

VOLUME 7B, CHAPTER 59: “VICTIMS OF ABUSE – RETIREMENT-ELIGIBLE MEMBERS”

SUMMARY OF MAJOR CHANGES

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **February 2015** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
All	Renumbered sections and paragraphs accordingly.	Revision
590101	Changed paragraph title from “Overview” to “Purpose” per current administrative instructions.	Revision
590102	Changed paragraph title from “Authority” to “Authoritative Guidance” per current administrative instructions.	Revision
5902	Relocated paragraph 590103 into section 5902 and renumbered.	Revision
590201	Renumbered and reformatted subparagraph 590201.C.2 for better flow of information and clarity.	Revision
590505	Rephrased paragraph for clarity.	Revision
Bibliography	Updated references.	Revision

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CHAPTER 59

VICTIMS OF ABUSE - RETIREMENT-ELIGIBLE MEMBERS

5901 GENERAL

***590101** Purpose

A member or former member, while in the Armed Forces and after becoming eligible to retire from the Armed Forces on the basis of years of service, may have his or her eligibility to receive retired pay terminated as a result of misconduct involving abuse of the spouse or dependent child. This chapter provides policy on benefits and payments of retired pay in compliance with a court order for spouses, former spouses, and dependent child(ren) of the retirement-eligible member or former member.

***590102.** Authoritative Guidance

[Title 10, United States Code \(U.S.C.\), section 1408\(h\)](#) authorizes various benefits for the spouses, former spouses, and dependent child(ren) of retirement-eligible members who lose eligibility for retired pay because of misconduct involving abuse of dependents. Generally, the spouses and former spouses are provided the same rights and benefits that they would have received had there been no abuse and the member had retired under normal circumstances.

5902 DEFINITIONS**590201.** Court Order

A court order is:

A. A final decree of divorce, dissolution, annulment, or legal separation issued by a court;

B. A court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation); or

C. A court ordered, ratified, or approved property settlement incident to such previously issued decree, or a support order, as defined in the Social Security Act, [42 U.S.C. § 653\(p\)](#), which:

1. Is issued in accordance with the laws of the jurisdiction of that court; and

2. Provides for:

a. Payment of child support (as defined in [42 U.S.C. § 659\(i\)\(2\)](#));

b. Payment of alimony (as defined in 42 U.S.C. § 659(i)(3)); or

c. Division of property, [which](#) specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired pay, from the disposable retired pay of a member to the spouse or former spouse of that member.

[590202.](#) Dependent Child

In this chapter, dependent child means an unmarried legitimate child, including an adopted child or stepchild, of the member or former member who is:

A. Under 18 years of age;

B. Incapable of self-support because of a mental or physical incapacity that existed before 18 years of age and is dependent on the member or former member for over one-half of the child's support; or

C. Enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this subparagraph, is less than 23 years of age and is dependent on the member or former member for over one-half of the child's support.

[590203.](#) Disposable Retired Pay

Disposable retired pay [is](#) the total monthly retired pay to which a member is entitled, less amounts which:

A. Are owed by that member to the United States for previous overpayments of retired pay and for recoupments [from entitlement to retired pay as required by law](#);

B. Are deducted from the retired pay of such member as a result of forfeitures of retired pay ordered by a court-martial or as a result of a waiver of retired pay required by law in order to receive compensation under Titles 5 or 38 of the U.S.C.;

C. Are equal to the amount of [the member's retired pay](#) under [10 U.S.C., Chapter 61](#), computed using the percentage of the member's disability on:

1. The date when the member was retired; or

2. The date on which the member's name was placed on the temporary disability retired list; and

D. Are deducted because of an election under 10 U.S.C., Chapter 73 to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired pay is being made pursuant to a court order under section 5902.

590204. Spouse or Former Spouse

The term spouse or former spouse means the husband or wife, or former husband or wife, respectively, of a member who, on or before the date of a court order, was married to that member.

590205. Retired Pay

The term retired pay includes retainer pay.

5903 ELIGIBILITY

590301. Eligibility

The following individuals are eligible for payments by the Defense Finance and Accounting Service (DFAS):

A. Spouse or Former Spouse. A spouse or former spouse is eligible if the spouse or former spouse was married to the member for a period of 10 years or more, during which the member performed at least 10 years of service creditable in determining the member's eligibility for retired pay; and

1. Was the victim of the abuse and married to the member or former member at the time of that abuse; or

2. Is a natural or adopted parent of a dependent child of the member or former member who was the victim of the abuse.

B. Dependent Child. A dependent child is considered eligible if the other parent of the child died because of misconduct that resulted in the termination of the member's retired pay.

590302. Court Order

A. The court order must specifically provide for the payment of an amount, expressed in dollars or as a percentage, from the disposable retired pay of a member to the spouse or former spouse of that member. The court order must satisfy the requirements of 10 U.S.C. § 1408(a)(2).

B. If a court order provides for the payment of child support from the disposable retired pay of a member or former member to an eligible dependent child of the member or former member, then the Secretary of the Military Department concerned (or designee) will:

1. Ensure payment of such amount is made to the dependent child; and
2. Ensure payments to the dependent child begin upon effective service of such court order.

590303. Court-Martial

If a member of the Armed Forces receives a sentence by a court-martial that will terminate the member's eligibility to receive retired pay, then the member's eligibility to receive retired pay, as determined by the Secretary of the Military Department concerned (or designee), is terminated effective upon the approval of the court-martial sentence.

590304. Civilian Court Conviction

If a member of the Armed Forces is convicted by a civilian court of a crime involving abuse of a spouse or dependent child(ren), after becoming eligible to be retired on the basis of years of service, and the Secretary of the Military Department concerned (or designee) discharges the member from the Armed Forces as a result of that civilian court conviction, then the member's eligibility to receive retired pay is terminated effective upon the member's discharge from the Armed Forces.

5904 APPLICATION FOR PAYMENT

An eligible spouse or former spouse must apply for payment from the supporting DFAS site in the same manner as an application for former spouse payments from retired pay, as described in Chapter 29, section 2904.

5905 CONDITIONS FOR PAYMENT

590501. Payment

A. The court or an eligible spouse or former spouse, or an eligible dependent child, of a member or former member of the Armed Forces, may request of the Secretary of the Military Department concerned (or designee) to provide certification of the amount of the monthly retired pay in connection with a civil action for the issuance of a court order. The Secretary of the Military Department concerned (or designee) will determine and certify the amount of the monthly retired pay (including any cost-of-living increases to retired pay through the date of certification) to which the member or former member would have been entitled on the date of the certification if:

1. The member or former member's eligibility for retired pay had not been terminated as a result of misconduct involving abuse of a spouse or dependent child; and

2. In the case of a member or former member not receiving retired pay immediately before termination of eligibility for retired pay, the member or former member had retired on the effective date of that termination of eligibility.

B. When certifying retired pay of a member separated for misconduct involving abuse of a dependent, the Secretary of the Military Department concerned (or designee) [will](#) ignore reductions in grade and forfeitures of pay or retired pay resulting from the administrative separation or court-martial for the misconduct.

C. The amount certified by the Secretary of the Military Department concerned (or designee) [will](#) be deemed to be the disposable retired pay of the member for the purposes of this provision. The total amount payable under this provision may not exceed 50 percent of such disposable retired pay.

D. A court order may provide that whenever retired pay is increased under [10 U.S.C. § 1401a](#) (or any other provision of law), the amount payable under the court order to the spouse or former spouse [will](#) be increased at that time and by the percent retired pay would have increased if the member or former member were receiving retired pay.

E. Payments [will](#) not be made more frequently than once a month, and the Secretary of the Military Department concerned (or designee) [will](#) not be required to vary normal pay and disbursement cycles for retired pay in order to comply with a court order.

F. If a member's eligibility for retired pay is terminated as described in paragraph 590303, then the effective date for computing retired pay [will](#) be the date that the sentence terminating eligibility for retired pay is approved by the appropriate official. If a member's retired pay eligibility is terminated as described in paragraph 590304, then the effective date for computing retired pay [will](#) be the effective date of the member's discharge.

G. Payments made to an eligible spouse based on being the natural or adopted parent of a dependent child, who was the victim of abuse, [will](#) not cease solely because the dependent child is no longer considered a dependent child. Payment requires only that the child was dependent at the time of the abuse, and not necessarily at the time of payment.

H. Payments [will](#) be made from funds in the Department of Defense Military Retirement Fund or, in the case of the Coast Guard, out of funds appropriated to the Department of Homeland Security for payment of retired pay for the Coast Guard.

I. Payments under this chapter must be coordinated with Transitional Compensation benefits payable to an eligible spouse under Chapter 60, paragraph 600401.

590502. Termination of Payment

A. Payments from the disposable retired pay of a member [will](#) terminate pursuant to the terms of the applicable court order, [on](#) the date of death of the member or former member, or [on](#) the date of death of the spouse or former spouse to whom payments are being made, whichever occurs first.

B. If a former spouse who is receiving payments under these conditions marries again after the payments begin, then his or her eligibility to receive further payments terminates on the date of the marriage. In the event of termination of that marriage by death, annulment, or divorce, payments resume as of the first day of the month in which the marriage is terminated. The monthly amount [will](#) be the amount that would have been paid if the continuity of the payments had not been interrupted by the marriage.

C. If the punishment that results in the termination of eligibility to receive retired pay is later remitted, set aside, or mitigated to a punishment that does not result in termination of eligibility, then benefits to the eligible dependent based on that punishment [will](#) cease. Such benefits cease on the first day of the first month after the month [in which](#) the Secretary of the Military Department concerned (or designee) notifies the recipient in writing that benefits [will](#) cease. The recipient [will](#) not be required to repay the benefits received [prior to](#) that effective date, excluding any erroneous payments.

590503. Other Entitlements

A. A spouse or former spouse, while receiving payments under this chapter, [will](#) be entitled to receive medical and dental care, commissary and exchange privileges, and any other benefits a spouse or former spouse of a retired member may be entitled as if the member or former member [was](#) entitled to retired pay. This entitlement includes the right to the Survivor Benefit Plan if the spouse or former spouse is an eligible beneficiary pursuant to [10 U.S.C. § 1448](#).

B. A dependent child, who was a member of the household of the member or former member at the time of the misconduct, is entitled to receive medical and dental care, commissary and exchange privileges, and any other benefits [provided to dependents of retired members of the Armed Forces in the same manner as if](#) the member or former member was entitled to retired pay.

590504. Accrual of Payments

No payments under this chapter [will](#) accrue for periods before October 23, 1992.

*590505. Taxability

[The spouse or former spouse who receives payment under this chapter will be responsible for the tax liability. DFAS will withhold taxes and will issue the appropriate annual tax form, Form 1099-R, "Distribution From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's, Insurance Contracts, etc."](#)

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VOLUME 7B, CHAPTER 60: “VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS (TRANSITIONAL COMPENSATION)”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version dated [April 2016](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated the chapter with hyperlinks and revised to comply with current administrative instructions.	Revision
600101.B	Pursuant to Title 10, United States Code (U.S.C.), section 1059 and Department of Defense Instruction 1342.24, revised subparagraph for accuracy by adding the sentence, “No payment will be made for any period before November 30, 1993.”	Addition
600302.A.2	Pursuant to 10 U.S.C. § 1059(m)(1), revised subparagraph for accuracy to read, “The former member was separated from active duty in a manner other than described in paragraph 600202, on or after November 24, 2003.”	Revision
600403.A-C	Updated the “Dependency and Indemnity Compensation (DIC)” rates, effective December 1, 2016.	Revision
600403.A-C	Deleted “DIC” rates prior to 2010. Transitional compensation may be payable to abused dependents or former dependents of nonretirement eligible members of the Armed Forces for a period of not less than 12 and not more than 36 months.	Deletion
600405.A.2	Pursuant to 10 U.S.C. § 1059(f)(3) added, "If the payments to the spouse terminates due to remarriage and there are dependent children not living in the same household as the spouse or member, payment will be made to each dependent child."	Addition
Bibliography	Updated references at paragraph 600403.	Revision

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CHAPTER 60

VICTIMS OF ABUSE – NONRETIREMENT ELIGIBLE MEMBERS
(TRANSITIONAL COMPENSATION)

6001 GENERAL

*600101. Purpose

This chapter covers transitional compensation that may be payable to abused dependents or former dependents of nonretirement eligible members of the Armed Forces for a period of not less than 12 and not more than 36 months. Transitional Compensation is a congressionally authorized program pursuant to Title 10, United States Code (U.S.C.), [section 1059](#) which provides temporary monetary payments and benefits to dependent family members of service members or former service members who are separated from the military due to dependent-abuse offenses. For information on benefits for spouses and former spouses of retirement-eligible members who lose eligibility for retired pay because of misconduct involving abuse of dependents, see Chapter 59.

A. Transitional compensation provisions apply to members who, on or after November 30, 1993:

1. Separate from active duty under a court-martial sentence resulting from a dependent-abuse offense,
2. Separate from active duty for administrative reasons if the basis for separation includes a dependent-abuse offense, or
3. Are sentenced to forfeiture of all pay and allowances by a court-martial that has convicted the member of a dependent-abuse offense.

* B. Transitional compensation is payable to dependents who qualify on or after [November 30, 1993](#). [No payment will be made for any period before November 30, 1993](#). In cases where a spouse or former spouse is receiving payments and there is an eligible dependent child or children not residing in the same household as the spouse, former spouse, or member, transitional compensation is payable to the dependent children for periods on or after November 1, 1998.

600102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

6002 DEFINITIONS

600201. Dependent-Abuse Offense

A dependent-abuse offense is conduct by a member of the Armed Forces, while on active duty for more than 30 days, that involves the abuse of the spouse or dependent child of the member and is a criminal offense defined by [10 U.S.C. §§ 801-940](#) or other criminal code applicable to the jurisdiction where the act of abuse is committed. Crimes that may qualify as dependent-abuse offenses are sexual assault, rape, sodomy, assault, battery, murder, and manslaughter. The aforementioned offenses are not an exhaustive or exclusive listing of dependent-abuse offenses.

600202. Punitive or Other Adverse Actions

Punitive or other adverse actions are actions in which a member of the Armed Forces who has been on active duty more than 30 days [and who, on or after November 30, 1993, is:](#)

A. Convicted of a dependent-abuse offense [that](#) results in separation from active duty under a court-martial sentence or forfeiture of all pay and allowances under a court-martial sentence; or

B. Administratively separated, voluntarily or involuntarily, from active duty according to applicable Military Service regulations, [if the basis for separation includes a dependent-abuse offense.](#)

600203. Cohabitation

Cohabitation is when the spouse, former spouse, or dependent child is residing in the same household as the former member after punitive or other adverse action is executed against the member or former member.

600204. Dependent Child

A dependent child:

A. [Is an unmarried child, including:](#)

1. [An adopted child or a stepchild residing with the member or eligible spouse at the time of the dependent-abuse offense resulting in the separation of the former member;](#) or

2. [A child who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member, and was subsequently born alive to the eligible spouse or former spouse \(as defined in 10 U.S.C. § 1059\(1\)\); and](#)

B. [Meets one of the following age requirements:](#)

1. Is under age 18;
2. Is age 18 or older and incapable of self-support, due to a mental or physical incapacity that existed before age 18, and is (or, at the time a punitive or other adverse action was carried out in the case of the former member, was) dependent on the former member for over one-half of the child's support; or
3. Is age 18 or older, but less than age 23 and enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense, and is (or, at the time a punitive or other adverse action was carried out in the case of the former member, was) dependent on the former member for over one-half of the child's support.

600205. Spouse or Former Spouse

The term spouse or former spouse refers to the husband or wife, or former husband or former wife, respectively, of the member or former member at the time of the commission of the dependent-abuse offense resulting in separation from military service.

6003 ELIGIBILITY FOR TRANSITIONAL COMPENSATION

600301. Eligibility for Transitional Compensation Payment

The dependents of a member, or former member, who separated on or after November 30, 1993, and the basis for the separation includes a dependent-abuse offense, are eligible for transitional compensation payments. Payments begin on or after December 1, 1993, for eligible dependents. If a recipient is incapable of handling his or her affairs, then payments are made only to a court-appointed guardian. In the case of a dependent child under 18 years of age, payments are made only to a court-appointed guardian or a natural parent (who is not a spouse of the member) if the natural parent has legal custody of the dependent child.

A. Spouse or Former Spouse. In the case of a separation from active duty under punitive or other adverse action, payments are made to the person who was the member's spouse at the time of the offense. The spouse or former spouse does not have to be the victim in order to receive transitional compensation.

B. Dependent Child. Effective November 1, 1998, a dependent child of the member who does not reside in the same household as the member's spouse or former spouse may be paid transitional compensation benefits. Payments may be made to such dependent child as prescribed in paragraph 600401. A dependent child's eligibility is determined as of the date on which the member is convicted of the dependent-abuse offense or the date on which the member is administratively separated. Prior to November 1, 1998, there was no provision mentioned for the member's dependent children who did not reside in the same household as the eligible spouse or former spouse.

*600302. Exceptional Eligibility Authority

A. The Secretary of the Military Department concerned may authorize eligibility for transitional compensation benefits for dependents and former dependents of a former member of the Armed Forces for cases in which the dependents are not otherwise eligible for such benefits if the Secretary of the Military Department concerned determines that:

1. The former member engaged in conduct that is a dependent-abuse offense; and

* 2. The former member was separated from active duty in a manner other than those described in paragraph 600202, on or after November 24, 2003.

B. Benefits authorized under this section will be provided in the same manner as if the former member was an individual separated as described in paragraph 600202. The Secretary of the Military Department concerned will adjust the commencement and duration of payment provisions of paragraph 600401, as the Secretary considers necessary according to the circumstances, in order to provide benefits equivalent to those provided in the case of an individual separated in a manner described in paragraph 600202.

C. Exceptional eligibility authority by the Secretary of the Military Department concerned may not be delegated.

600303. Application

An individual can request transitional compensation through a Military Service representative. The Military Service representative may:

A. Approve payment;

B. Assist applicant in filling out the Department of Defense (DD) Form 2698, Application for Transitional Compensation;

C. Have the applicant submit a Standard Form 1199A, Direct Deposit Sign-up Form, completed by the applicant and the financial institution or a voided check/deposit slip with a written authorization for direct deposit of payments; and

D. Provide the Operation and Maintenance fund citation, and forward the application and information for direct deposit to the Defense Finance and Accounting Service (DFAS) at the following address:

Defense Finance and Accounting Service
Attn: VOA
P.O. Box 998011
Cleveland, OH 44199-8011

Facsimile Numbers:

DSN: 580-6470

Commercial Number: (216) 522-6470

6004 PAYMENT

600401. Recipients of Payments

Transitional compensation **will** be paid as follows:

A. If the member or former member was married at the time of the dependent-abuse offense, then compensation **will** be paid to the spouse or former spouse to whom the member or former member was married to at that time. An amount will be included for each, if any, dependent child of the member or former member, provided the child resides in the same household as the spouse or former spouse.

B. If a spouse or former spouse has forfeited his or her entitlement for reasons described in paragraph 600405, then compensation **will** be paid to each eligible dependent child who does not reside in the household of the member or the ineligible spouse or former spouse.

C. If there is no eligible spouse or former spouse, then such compensation **will** be paid to the dependent children of the member or former member.

600402. Commencement and Duration of Payment

A. In the case of a member convicted by a court-martial of a dependent-abuse offense, payments begin:

1. As of the date that the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad-conduct discharge, or forfeiture of all pay and allowances; or

2. If there is a pretrial agreement that provides for disapproval or suspension of the dismissal, dishonorable discharge, bad-conduct discharge, or forfeiture of all pay and allowances, as of the date the court-martial sentence was approved by the person acting under [10 U.S.C. § 860\(c\)](#), only if the sentence as approved, includes an unsuspended dismissal, dishonorable discharge, bad-conduct discharge, or forfeiture of all pay and allowances.

B. In the case of a member being administratively separated based on a dependent-abuse offense, payment begins as of the date that the separation action was initiated by

the commander under regulations determined by the Secretary of the Military Department concerned.

C. Payments are made for a period of not less than 12 months, but cannot exceed 36 months, based on policies established by the Secretary of the Military Department concerned.

1. When the unserved portion of the member's obligated active duty service, as of the starting date of payment, is greater than 12 months and less than or equal to 36 months, the duration of payments will be no less than the unserved portion.

2. For enlisted members, the obligated active duty service is the time remaining on their term of enlistment. For officers, the obligated active duty service is indefinite unless the officer has a date of separation established, in which case it is the time remaining until the date of separation.

D. A dependent child who was carried during pregnancy at the time of the dependent-abuse offense resulting in the separation of the former member, who was subsequently born alive to the eligible spouse or former spouse (as defined in 10 U.S.C. § 1059(l)), will not receive payment until after the child is born. Payments to a child under this paragraph will not cover any period prior to the birth of the child. Payments under this provision are effective January 2, 2013. There is no authority for payments prior to January 2, 2013.

*600403. Amount of Payment

* A. A spouse or former spouse receives transitional compensation at the same rate as monthly Dependency and Indemnity Compensation (DIC) under 38 U.S.C. § 1311(a)(1).

<u>DIC Rate</u>	<u>Effective Date</u>
\$1,154.00	December 1, 2010
\$1,195.00	December 1, 2011
\$1,215.00	December 1, 2012
\$1,233.23	December 1, 2013
\$1,254.19	December 1, 2014
\$1,254.19	December 1, 2015
\$1,257.95	December 1, 2016

NOTE: See the Veterans Administration website at http://benefits.va.gov/Compensation/current_rates_dic.asp for information on DIC and other rates.

* B. If the spouse or former spouse has custody of a dependent child or children of the member who resides in the same household as that spouse or former spouse, then transitional compensation is increased for each child by an amount equal to the monthly DIC amount payable for dependent children under 38 U.S.C. § 1311(b).

<u>DIC Rate</u>	<u>Effective Date</u>
\$286.00	December 1, 2010
\$296.00	December 1, 2011
\$301.00	December 1, 2012
\$305.52	December 1, 2013
\$310.71	December 1, 2014
\$310.71	December 1, 2015
\$311.64	December 1, 2016

* C. If transitional compensation is payable to a dependent child under subparagraph 600101.B, then payments are made in equal shares, in an amount equal to the monthly DIC amount payable for dependent children under [38 U.S.C. § 1313](#).

DIC Child Rates

<u>Effective</u>	<u>1 Child</u>	<u>2 Children</u>	<u>3 Children</u>	<u>Over 3 Children</u>
December 1, 2010	\$488.00	\$701.00	\$915.00	\$915.00 plus \$174.00 for each child over 3
December 1, 2011	\$505.00	\$726.00	\$947.00	\$947.00 plus \$180.00 for each child over 3
December 1, 2012	\$513.00	\$738.00	\$963.00	\$963.00 plus \$183.00 for each child over 3
December 1, 2013	\$520.70	\$749.07	\$977.45	\$977.45 plus \$185.75 for each child over 3
December 1, 2014	\$529.55	\$761.80	\$994.07	\$994.07 plus \$188.91 for each child over 3
December 1, 2015	\$529.55	\$761.80	\$994.07	\$994.07 plus \$188.91 for each child over 3
December 1, 2016	\$531.14	\$764.09	\$997.05	\$997.05 plus \$189.48 for each child over 3

D. Payments will be prorated for months when payments start or stop in the middle of a month (e.g., if the former spouse receiving transitional compensation remarries, then compensation terminates effective as of the date of the marriage).

E. When paying multiple children and the payment amount does not divide equally, the youngest child [will](#) receive the odd cent(s).

F. Transitional compensation payments will stop effective the date of death of the recipient. Arrears of compensation will not be paid.

G. Advance payment of transitional compensation benefits is not authorized.

600404. Effect of Continuation of Military Pay

In the case of payment of transitional compensation by reason of a total forfeiture of pay and allowances pursuant to a sentence of a court-martial, payment of transitional compensation [will](#) not be made for any period for which an order, in whole or in part:

- A. Suspends that part of a sentence that includes forfeiture of the member's pay and allowances; or
- B. Otherwise results in the continuation of the member's pay and allowances.

*600405. Forfeiture Provisions

A. The following will result in the forfeiture of transitional compensation payable to the spouse or former spouse:

* 1. Cohabitation. If, after a punitive or other adverse action has been executed, the former member resides in the same household as the spouse or former spouse or child who is receiving transitional compensation, compensation terminates as of the date the former member begins residing in the household. Any compensation paid before the member resides in the household [will](#) not be recouped. Once terminated for cohabitation, the payments do not resume.

2. Remarriage. If the former spouse receiving compensation remarries, then compensation terminates effective as of the date of the former spouse's remarriage. Payments do not resume if the subsequent marriage is terminated. [If the payments to the spouse terminate due to remarriage and there are dependent children not living in the same household as the spouse or member, payment will be made to each of those dependent children.](#)

3. Active Participation. If the victim was a dependent child, and the competent authority designated by the Secretary of the [Military Department](#) concerned has found that the spouse was an active participant in the conduct constituting the criminal offense, or actively aided or abetted the member in such conduct against that dependent child, then the spouse or former spouse may not be paid transitional compensation.

B. Annual [certification](#) is the certificate provided by the spouse or former spouse that certifies annually to the DFAS-Cleveland Site that he or she has not remarried and has not been cohabiting with the offender. The form to be used is a Certificate of Eligibility (COE).

1. DFAS-Cleveland Site Notification. The spouse or former spouse must notify the DFAS-Cleveland Site within 30 days of the date of remarriage or the date the member begins residing in the same household as the spouse, former spouse, or dependent child.

2. Parent or Court-Approved Guardian COE Requirement. The parent or court-approved guardian will certify annually that the dependent child or children are not residing with the offender or ineligible spouse via the COE process. If the COE is not received within 60

days of the date of the COE, then payments will be suspended until verification of eligibility is received.

600406. Termination of Payments

Transitional compensation is not payable when a member's court-martial sentence, which includes a dismissal, dishonorable discharge, or bad-conduct discharge, is remitted, set aside, or mitigated to a lesser punishment that does not include such punishment, or the administrative separation is disapproved. Any payment of transitional compensation that has started **will** stop effective the first day of the month after the Secretary of the Military Department concerned notifies the recipient in writing that payment **will** cease for such reason. The recipient is not required to repay transitional compensation received before the effective date of termination, excluding erroneous payments.

600407. Taxability

Transitional compensation payments are considered benefits that are excludable from taxation and should not be reported on Internal Revenue Service Form 1099R, Distribution From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.

6005 OTHER BENEFITS

600501. Coordination of Benefits

A. Election of Benefits. A spouse or former spouse may not concurrently receive both payments of transitional compensation under 10 U.S.C. § 1059 and payments under 10 U.S.C. § 1408(h)(1) (see Chapter 59 for spouses and former spouses of retirement-eligible members who lost eligibility for retired pay as a result of misconduct involving abuse of dependents). If a spouse or former spouse has obtained a court order awarding compensation pursuant to 10 U.S.C. § 1408(h)(1), then the spouse or former spouse **will** elect which benefit to receive. An application for payment under 10 U.S.C. § 1408(h), pursuant to the requirements of Chapter 59, will be considered an election to receive 10 U.S.C. § 1408(h) payments. See Chapter 59, paragraph 5903 for application requirements.

B. Effective Date. The election to receive benefits under 10 U.S.C. § 1408(h) is effective on the date that a complete application is received. If the applicant is not eligible to receive benefits under 10 U.S.C. § 1408(h) on the date the application is received, then the effective date will be the date the applicant becomes eligible for payments under 10 U.S.C. § 1408(h). Payments of transitional compensation under 10 U.S.C. § 1059 will be terminated and payments under 10 U.S.C. § 1408(h) **will** commence on the first day of the first month after the date the election to receive payments under 10 U.S.C. § 1408(h) is effective.

600502. Commissary and Exchange Benefits

A. A dependent or former dependent entitled to payment of monthly transitional compensation **will**, while receiving payments in accordance with 10 U.S.C. § 1059, be

entitled to use commissary and exchange stores to the same extent and manner as a dependent of a member of the Armed Forces on active duty for a period of more than 30 days.

B. If a dependent or former dependent is eligible or entitled to use commissary and exchange stores under another provision of law, then the eligibility or entitlement of that dependent or former dependent to use commissary and exchange stores [will](#) be determined under the other provision of law rather than under this paragraph.

600503. Medical and Dental Care

A. Eligible dependents may, while receiving transitional compensation, receive dental and medical care, including mental health services, through military facilities as TRICARE beneficiaries. Pursuant to the approval of the Secretary of the Military Department concerned, eligible dependents of a member or former member are entitled to medical and or dental care for problems associated with the abuse.

B. The Secretary [of the Military Department](#) concerned may furnish medical care in facilities of the uniformed services to the dependent for the treatment of any adverse health condition resulting from such dependent's knowledge of the abuse, or any injury or illness suffered by the abused person because of such abuse.

C. Medical and dental care furnished to a dependent of a former member of the uniformed services in facilities of the uniformed services [will](#) be limited to the health care prescribed by [10 U.S.C. § 1077](#), and subject to the availability of space, facilities, and the capabilities of the medical and dental staff.

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(TRANSITIONAL COMPESTATION)**

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Office of the Assistant Secretary of Defense/Force
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600407	Armed Forces Tax Council Memorandum, December 16, 1994

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600501	10 U.S.C. § 1059(i)
600502	10 U.S.C. § 1059(j)
600503	10 U.S.C. § 1076(e)

**VOLUME 7B, CHAPTER 61: “ANNUITIES FOR CERTAIN MILITARY
SURVIVING SPOUSES (ACMSS)”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [March 2016](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
Table 61-1	Updated amount for “Annuities for Certain Military Surviving Spouses,” effective December 1, 2016.	Revision
Bibliography	Added memorandum dated January 13, 2017.	Addition

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CHAPTER 61

ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES (ACMSS)

6101 GENERAL

610101. Purpose

The purpose of this chapter is to provide guidance, policy, delegation of authority, and assignment of responsibilities, as they apply to ACMSS.

610102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

6102 ELIGIBILITY FOR PAYMENT

610201. General

Effective November 18, 1997, ACMSS was established under Public Law (PL) 105-85 to provide annuity payments to certain qualified surviving spouses.

610202. Payment

An annuity is paid to the qualified surviving spouse of each member of the uniformed services who meets the criteria listed in paragraph 610401.

6103 ANNUITY APPLICATION

610301. General

An annuity application is required before payment will be made.

610302. Application Procedure

A. Application. A Department of Defense [*\(DD\) Form 2769*](#), Application for Annuity Certain Military Surviving Spouses, should be submitted to the Military Service concerned.

B. Documentation. If information is unavailable from existing records, such as the Defense Enrollment Eligibility Reporting System (DEERS), the applicant may be required to submit the following documentation to the Military Service concerned:

1. Certified copies of the member's death certificate and/or marriage certificate;

2. DD 214, Certificate of Release or Discharge from Active Duty;
3. Retirement order;
4. Retired pay statement; and
5. Any additional information needed to substantiate the claim.

C. Review and Approval. The Military Service concerned will then:

1. Review the claim and determine whether the applicant is qualified for an ACMSS annuity;
2. Notify the applicant on the disposition of the claim within 60 days; and
3. Forward approved claims to the Defense Finance and Accounting Service Cleveland (DFAS-CL) site for payment.

6104 QUALIFIED SURVIVING SPOUSE AND DECEASED RETIRED MEMBER

610401. Qualified Surviving Spouse

Only a surviving spouse who meets the following criteria qualifies for these annuity payments:

A. A spouse who:

1. Is not qualified for an annuity under any other provision of Title 10, United States Code (U.S.C.), Chapter 73;
2. Is not entitled to an annuity under PL 92-425, section 4 (Minimum Income Widow's benefit); and
3. Was married to a deceased retired member of a uniformed service, described in paragraph 610402, at the time of such member's death and has never been remarried; and

B. Who either:

1. Was married to the member at the time the member became eligible for retired pay; or
2. Had been married to the member for at least one year before the date of death (or was the parent of a child born of such marriage).

610402. Deceased Retired Member

A deceased retired member for the purpose of this annuity is one who did not decline participation in the Survivor Benefit Plan (SBP) or Reserve Component (RC) SBP, and either:

A. Retired before September 21, 1972, died before March 21, 1974, and was entitled to retired or retainer pay on the date of death; or

B. Was a member of an RC during the period beginning September 21, 1972 and ending October 1, 1978; died before October 1, 1978; and at the time of death, would have been entitled to retired pay under [10 U.S.C., section 1331](#) (renumbered by P.L. 103-337, effective December 1, 1994, to [10 U.S.C. § 12731](#)), but for the fact that he or she was under 60 years of age.

6105 PAYMENT OF ANNUITY

610501. Payment Effective Date

Payment to a qualified surviving spouse begins within 30 days upon receipt of a validated claim endorsed by the Military Service, DFAS-CL site. The monthly payments begin effective December 1, 1997, except where entitlement is under subparagraph 610402.B, in which case entitlement begins effective October 1, 1999.

610502. Representative Payee

ACMSS payments due to a mentally incompetent or otherwise legally disabled person, for whom a guardian or other fiduciary has not been appointed, may be paid to a representative payee the same as the SBP. See Chapter 46.

610503. Report of Existence (ROE) and Certificate of Eligibility (COE)

The procedures for ROE and COE on SBP annuity payments also apply to ACMSS payments. See Chapter 46.

610504. Debt Collection

Overpayments of annuity are subject to the same collection action as SBP. See Chapter 46.

610505. Taxability

The taxability of ACMSS payments is similar to an SBP annuity. See Chapter 46.

610506. Death of Annuitant

The annuity terminates the first day of the month in which the annuitant dies.

Any amounts that are due and payable at the time of the annuitant's death may be paid in accordance with the provisions of Chapter 31. The unpaid annuity will only be paid upon receipt of a properly executed and documented claim, approved by the Secretary of the Military Department concerned (or designee).

610507. Remarriage

The annuity terminates the first day of the month in which the annuitant remarries, without regard to the age of the annuitant.

6106 ANNUITY AMOUNT AND OFFSET

610601. Amount

The annuity to a qualified surviving spouse was initially established at \$165 per month. The amount is subject to the same cost-of-living adjustment (COLA) and at the same time as military retired pay increases. The first COLA was effective December 1, 1997 as shown on Table 61-1. The provision for rounding monthly SBP annuity is not applicable.

610602. Offset

The amount of annuity to which a surviving spouse is entitled under this section for any period shall be reduced (but not below zero) by any amount paid to the surviving spouse for the same period under any of the following:

- A. Retired and RC SBP;
- B. Retired Serviceman's Family Protection Plan;
- C. Minimum Income Widow's benefit; or
- D. Dependency and Indemnity Compensation.

6107 FUNDING

The approving Military Service must fund the annuities from operations and maintenance funds for the fiscal year in which the payment is made.

*Table 61-1. ACMSS ANNUITY AMOUNT

Date of Increase	Percent	Amount
November 1, 1997		\$165.00
December 1, 1997	2.1	\$168.47
December 1, 1998	1.3	\$170.66
December 1, 1999	2.4	\$174.76
December 1, 2000	3.6	\$181.05
December 1, 2001	2.6	\$185.76
December 1, 2002	1.4	\$188.36
December 1, 2003	2.1	\$192.32
December 1, 2004	2.7	\$197.51
December 1, 2005	4.1	\$205.61
December 1, 2006	3.3	\$212.40
December 1, 2007	2.3	\$217.29
December 1, 2008	5.8	\$229.89
December 1, 2009	0	\$229.89
December 1, 2010	0	\$229.89
December 1, 2011	3.6	\$238.17
December 1, 2012	1.7	\$242.22
December 1, 2013	1.5	\$245.85
December 1, 2014	1.7	\$250.03
December 1, 2015	0	\$250.03
December 1, 2016	0.3	\$250.78

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CHAPTER 61 – ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES (ACMSS)

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6103 Annuity Application

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6104 Qualified Surviving Spouse and Deceased Retired Member

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610402.B

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610601

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610602.A

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VOLUME 7B, CHAPTER 63: “COMBAT-RELATED SPECIAL COMPENSATION (CRSC)”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **September 2015** is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated chapter and format to comply with administrative instructions.	Revision
630101.C.2	Pursuant to Title 10, United States Code (U.S.C.), section 1452(d)(2), deleted subparagraph because Survivor Benefit Plan (SBP) premiums can now be deducted from CRSC. Subparagraph 630101.C.3 is renumbered to 630101.C.2.	Deletion
630803	Pursuant to 10 U.S.C. § 1452(d)(2), added paragraph that will deduct SBP premiums from the retiree's CRSC in lieu of deduction from retired pay.	Addition
630804	Pursuant to 10 U.S.C. § 1450(e), added paragraph that will refund SBP premiums to the surviving spouse or former spouse.	Addition
Bibliography	Added references to paragraphs 630803 and 630804.	Addition

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CHAPTER 63

COMBAT-RELATED SPECIAL COMPENSATION (CRSC)

6301 GENERAL

630101. Purpose

CRSC provides special compensation to members of the Uniformed Services who have retired pay reduced because of receiving U.S. Department of Veterans Affairs (VA) disability compensation where a portion of such VA disability compensation is the result of disabilities that are combat-related as determined by the Military Department.

A. Effective Date. The CRSC program became effective May 31, 2003. Payments are made on the first day of the first month following the month in which the compensation accrued, provided the member is receiving VA disability compensation for a disability that has been determined to be combat-related by the Military Department. No CRSC is payable for any month prior to June 2003.

1. For a member who qualifies on May 31, 2003, compensation accrues beginning in June 2003.

2. For an eligible member whose disability percentage is less than 60 percent, compensation is effective January 1, 2004.

3. For an eligible member who is retired under Title 10, United States Code (U.S.C.), Chapter 61 with less than 20 years of active duty or with less than sufficient service and age to qualify for retirement under 10 U.S.C., section 12731, compensation is effective January 1, 2008.

4. For a member who did not meet the qualifications on June 1, 2003, January 1, 2004, or January 1, 2008, but who later meets the qualifications, entitlement accrues the first day of the following month.

B. Funding and Payment. CRSC is not military retired pay. It is a monthly entitlement that is paid only in whole-month increments. Prior to October 1, 2003, CRSC was payable from funds appropriated for pay and allowances payable by the Secretary of the Military Department concerned (or designee) for that fiscal year (FY). Effective October 1, 2003, the source of funding is the Department of Defense (DoD) Military Retirement Fund.

C. Relationship to Other Provisions.

1. CRSC is not retired pay, and it is not subject to the provisions of 10 U.S.C. § 1408 relating to payment of retired or retainer pay in compliance with court orders.

2. CRSC is subject to a Treasury offset to recover a debt owed to the United States as well as to garnishment for child support or alimony. In addition, debts due the government may be collected from CRSC, including overpayments of retired pay or erroneous payments of CRSC, by means of an administrative offset. An administrative offset of CRSC to collect a debt due the government is subject to the due process requirements of [31 U.S.C. § 3716](#) and [31 Code of Federal Regulations \(CFR\), part 901](#). Claims for overpayments of CRSC may be considered for waiver in accordance with [10 U.S.C. § 2774](#). Finally, CRSC payments are not subject to Chapter 13 bankruptcy court orders to pay a Chapter 13 trustee.

D. Tax Consideration.

CRSC payments are considered tax exempt from Federal income tax under provisions of [26 U.S.C. § 104](#).

630102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

6302 ENTITLEMENT

630201. Monthly Entitlement

CRSC is a monthly entitlement. A retiree is entitled to CRSC for each month during which, for the entire month, the member:

- A. Has applied for and elected CRSC under these provisions (section 6303),
- B. Meets preliminary CRSC criteria (section 6304), and
- C. Meets final CRSC criteria (section 6305).

630202. Expanded Eligibility in 2008

As of January 1, 2008, section 641 of the FY 2008 National Defense Authorization Act and [10 U.S.C. § 1413a](#) provide special rules for CRSC-eligible retirees with fewer than 20 years of service, to include members who have waived their retired pay in order to receive VA disability compensation. This expanded authority includes both 10 U.S.C., Chapter 61 (10 U.S.C. §§ 1201-1222) disability retirees and Temporary Early Retirement Authority (TERA) retirees. However, a Reserve Component retiree who receives retired pay for early retirement with physical disabilities under [10 U.S.C. § 12731b](#) is specifically excluded from entitlement to CRSC by 10 U.S.C. § 1413a(c)(1).

6303 APPLICATION AND ELECTION

630301. Application and Election

A member may not be paid CRSC unless he or she has applied for and elected to receive compensation under the CRSC program by filing an application on DoD (DD) Form 2860, Claim For Combat-Related Special Compensation (CRSC), with the Military Department from which he or she retired. A member may submit an application for CRSC at any time and, if otherwise qualified for CRSC, compensation will be paid for any month after May 2003 for which all conditions of eligibility were met.

630302. Election of CRSC or Concurrent Retirement and Disability Payments (CRDP)

The law states that a member eligible for both CRSC, under 10 U.S.C. § 1413a, and CRDP, under [10 U.S.C. § 1414](#), may not receive both, but must elect which compensation to receive. The Defense Finance and Accounting Service (DFAS)-Cleveland site will advise the member which of the two payments is being paid pursuant to such election. In addition, the DFAS-Cleveland site will provide further notice in the event the amounts payable under either program result in a situation where a change in this election would result in greater compensation. The member will have one opportunity annually to reverse the current election. This will allow the member to assess the impact of annual adjustments to retired pay, VA disability compensation, CRSC, and CRDP. The DFAS-Cleveland site will advise members of their options and the procedures to make such elections. See also section 6405 for more information.

6304 PRELIMINARY CRITERIA

A retired member of the Uniformed Services must satisfy the following applicable conditions to meet the preliminary criteria to receive CRSC.

630401. Years of Service Requirement

A. On or after January 1, 2004. A retired member must have had 20 or more years of service for the purpose of computing retired pay.

B. January 1, 2004 through December 31, 2007. Beginning January 1, 2004, and prior to January 1, 2008, a retired member must have had 20 or more years of service for the purpose of computing retired pay or have been entitled to Reserve Component retired pay under 10 U.S.C. § 12731 (other than by reason of section 12731b) to be eligible for CRSC.

C. Before January 1, 2008. For the purposes of both subparagraphs [630401.A](#) and [630401.B](#) the following apply:

1. The 20 years of service required for computing retired pay may be inferred from the retired pay multiplier. Thus, a member who retired for years of service (not for disability under 10 U.S.C., Chapter 61) who has a retired pay multiplier of not less than 50 percent,

or a member retired under the Military Retirement Reform Act of 1986 (referred to as REDUX) who is still under age 62 with a retired pay multiplier of not less than 40 percent, may be presumed to have at least 20 years of service for retired pay computation purposes. A member who retired under 10 U.S.C., Chapter 61 should be evaluated in terms of what the multiplier would be if the member had not retired for disability. See subparagraph 630401.C.4.

2. A member retired under the provisions of section 4403 of [Public Law 102-484](#), October 23, 1992, as amended, and by section 504 of [Public Law 112-81](#), December 31, 2011 (commonly known as the TERA program) is generally not eligible unless the member is credited with sufficient service for a 50 percent multiplier or has been recalled to active duty long enough to accumulate 20 years or more of service in the Uniformed Services for the purpose of computing retired pay. Service in Public and Community Service positions under the provisions of section 4403 of Public Law 102-484, October 23, 1992, [that is](#) creditable for re-computation of retired pay at age 62 does not count for these purposes. A TERA retiree who has a retired pay increase of 10 percent granted on the basis of extraordinary heroism is not eligible under these provisions if the retired pay multiplier would otherwise be less than 50 percent.

3. Prior to January 1, 2004, a retired reservist had to have at least 7,200 points to be eligible for CRSC. Effective January 1, 2004, a retired Reservist with retired pay computed under 10 U.S.C. § 12731 is eligible for CRSC unless retired for disability under 10 U.S.C. § 12731b with more than 15 but less than 20 years as required under 10 U.S.C. § 12731(a)(2). Specifically, those retired under the Reserve TERA provisions, as prescribed in [10 U.S.C. § 12731a](#), who served fewer than 20 years, but were considered to meet the criteria of 10 U.S.C. § 12731(a)(2) are eligible under these provisions.

4. CRSC is payable to otherwise qualifying applicants receiving retired pay based on the DoD-assigned percentage of disability under 10 U.S.C., Chapter 61. For such members, the CRSC payment is subject to reduction as explained in paragraph 630805.

D. [On or After January 1, 2008](#). A retired member who meets the criteria of paragraphs 630402 through 630404 satisfies the preliminary criteria to receive CRSC, without regard to having 20 or more years of creditable service for computing retired pay.

1. A member retired for disability under 10 U.S.C., Chapter 61, with less than 20 years of service is eligible to receive CRSC, subject to reduction under subparagraph 630805.B.

2. A member retired under the provisions of section 4403 of Public Law 102-484, October 23, 1992, as amended, and by section 504 of Public Law 112-81, December 31, 2011, (commonly known as the TERA program) is entitled to CRSC. The monthly amount of CRSC payable to qualifying TERA retirees [will](#) not be reduced under the special rules for CRSC-entitled disability retirees with less than 20 years of service which are applicable only to Chapter 61 retirees.

630402. Retired Status

A member must be in a retired status (i.e., on the retired rolls), or have been transferred to the Fleet Reserve or Fleet Marine Corps Reserve. A member who is recalled to, or retained on, active duty is not in a retired status and therefore is not entitled to CRSC for such period of active duty.

630403. Entitled to Retired Pay

A. A member must be entitled to retired pay, notwithstanding that such retired pay may be reduced due to receipt of VA disability compensation. A reservist who has not reached the requisite age to receive retired pay (generally age 60) is not eligible to receive CRSC payments. See Chapter 1, subparagraph 010208.F, for when the eligibility age of a reservist [will](#) be reduced below 60 years of age and become eligible for retired pay.

B. A member who waives retired pay in order to credit military service for the purposes of establishing eligibility for a civil service retirement, or for any reason other than to receive disability compensation from the VA, is not eligible to receive CRSC payments. A member who combines his military time with his civil service time for the sole purpose of enhancing his civil service retirement may be eligible for CRSC, if the member is still eligible to receive military retired pay. Members should consult the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) [*Handbook for Personnel and Payroll Offices*](#) for further information on eligibility.

630404. Qualifying Disability Ratings (Percentages)

A. A member must be entitled to compensation for service-connected disabilities under [38 U.S.C.](#), as rated by [the](#) VA. The rating must be awarded prior to the member's date of death.

B. Disability ratings by the Secretary of the Military Department concerned (or designee), as of the date on which the member retired, may be used to help make determinations of whether the member meets [preliminary CRSC criteria](#). The actual computation of the amount of CRSC payable to an eligible retiree is based solely on VA disability determinations and the amount of VA compensation paid, without regard to any disability that is not combat-related. Military retirement decisions may be used to determine whether such disabilities are combat-related.

6305 FINAL CRITERIA

In order for the member to be entitled to CRSC, the member must meet all four [preliminary CRSC criteria](#) (as prescribed in paragraphs 630401 through 630404), and the appropriate Service must determine that the member has a combat-related disability or disabilities, as defined by [paragraphs](#) 630501 and 630502, that are compensated by the VA.

630501. Purple Heart Disability

A. Purple Heart Disability is a disability with an assigned medical diagnosis code from the VA Schedule for Rating Disability (VASRD) that was attributed to injuries for which the member was awarded a Purple Heart.

B. If the member meets the preliminary CRSC criteria and has been awarded a Purple Heart, then the Military Department must determine which disabilities of the member, if any, are attributed to Purple Heart injuries. If the member was not awarded a Purple Heart, then no such determination will be made.

C. Determination that a disability is a Purple Heart Disability requires documentary information that there is a sufficient causal relationship between the disability and injury for which a Purple Heart was awarded to conclude that the disability is attributable to such injury. Such a disability will be classified as a Purple Heart Disability and will also be included in any other CRSC determinations based on combat-related disabilities.

630502. Other Combat-Related Disabilities

A combat-related disability is a disability with an assigned medical diagnosis code from the VASRD. The Military Departments will determine whether a disability is combat-related based on the following criteria:

- A. As a direct result of armed conflict,
- B. While engaged in hazardous service,
- C. In the performance of duty under conditions simulating war, or
- D. Through an instrumentality of war.

The Department will record for each disability determined to be combat-related which of the circumstances provided qualifies the disability as combat-related. A determination of combat-relatedness (see section 6306) will be made with respect to each separate disability with an assigned medical diagnosis code from the VASRD. A retiree may have disabilities that are not combat-related. Such disabilities will not be considered in determining eligibility for CRSC or the amount of CRSC payable. An uncorroborated statement in a record that a disability is combat-related will not, by itself, be considered determinative for purposes of meeting the combat-related standards for CRSC prescribed herein. CRSC determinations must be made on the basis of the program criteria.

6306 DETERMINATIONS OF COMBAT-RELATEDNESS

The following criteria, terms, definitions, and explanations will apply to making combat-related determinations in the CRSC Program.

630601. Direct Result of Armed Conflict

A. The disability is a disease or injury incurred in the line of duty as a direct result of armed conflict. To support a combat-related determination, it is not sufficient to only state the fact that a member incurred the disability during a period of war, in an area of armed conflict, or while participating in combat operations. There must be a definite causal relationship between the armed conflict and the resulting disability.

B. Armed conflict includes a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerilla action, riot, or any other action in which Service members are engaged with a hostile or belligerent nation, faction, force, or with terrorists.

C. Armed conflict may also include such situations as incidents involving a member while interned as a prisoner of war or while detained against his or her will in custody of a hostile or belligerent force, or while escaping or attempting to escape from such confinement, prisoner of war, or detained status.

630602. While Engaged in Hazardous Service

Hazardous service is service that includes, but is not limited to, aerial flight, parachute duty, demolition duty, experimental stress duty, and diving duty. A finding that a disability is the result of such hazardous service requires that the injury or disease be the direct result of actions taken in the performance of such service. Travel to and from such service, or actions incidental to a normal duty status not considered hazardous, are not included.

630603. In the Performance of Duty Under Conditions Simulating War

In general, performance of duty under conditions simulating war covers disabilities resulting from military training, such as war games, practice alerts, tactical exercises, airborne operations, leadership reaction courses, grenade and live fire weapon practice, bayonet training, hand-to-hand combat training, repelling, and negotiation of combat confidence and obstacle courses. It does not include physical training activities such as calisthenics, jogging, formation running, or supervised sport activities.

630604. Instrumentality of War

A. There must be a direct causal relationship between the instrumentality of war and the disability. It is not required that a member's disability be incurred during an actual period of war. The disability must be incurred incident to a hazard or risk of the service.

B. An instrumentality of war is a vehicle, vessel, or device designed primarily for Military Service and intended for use in such Service at the time of the occurrence or injury. It may also include such instrumentality not designed primarily for Military Service if use of or occurrence involving such instrumentality subjects the individual to a hazard peculiar to Military

Service. Such use or occurrence differs from the use or occurrence under similar circumstances in civilian pursuits.

C. A determination that a disability is the result of an instrumentality of war may be made if the disability was incurred in any period of service as a result of such diverse causes as wounds caused by a military weapon, accidents involving a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or materiel.

D. For example, if a member is on a field exercise, and is engaged in a sporting activity and falls and strikes an armored vehicle, then the injury will not be considered to result from the instrumentality of war (armored vehicle) because it was the sporting activity that was the cause of the injury, not the vehicle. On the other hand, if the individual was engaged in the same sporting activity and the armored vehicle struck the member, then the injury would be considered the result of an instrumentality of war.

6307 SPECIAL MONTHLY COMPENSATION (SMC)

630701. General

SMC, under [38 U.S.C. § 1114](#), is payable for service-connected disabilities caused by each anatomical loss or loss of use of specific organs or parts of the body. SMC is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed the monthly rate set forth in 38 U.S.C. § 1114(k).

630702. Special Determination

Each Military Department will make a special determination regarding whether a member entitled to CRSC who also receives SMC from the VA under 38 U.S.C. § 1114(k) through (s) could receive increased CRSC as a result of an SMC determination. The Military Department will first determine whether all their VA-compensated disabilities have been determined to be combat-related disabilities under the CRSC program. For members with VA-compensated disabilities that are both combat-related and not combat-related, the Military Department will classify each award of SMC as either Combat-Related SMC (CR-SMC) or not (Non-CR-SMC), consistent with the corresponding determination of the diagnostic codes on which the SMC is based. The DFAS-Cleveland site will be notified of all such determinations and will include any CR-SMC in CRSC computations.

630703. Grades Not Requiring SMC Determinations

The Military Department need not make a combat-related determination for any member who would not receive added compensation even if SMC was determined to be combat-related. Any SMC on such member will be passed to DFAS as “undetermined combat-relatedness.”

6308 CRSC AMOUNT

The monthly amount of CRSC is equal to the full monthly amount prescribed in paragraph 630801, reduced as prescribed in paragraph 630805 and limited in accordance with paragraph 630802.

630801. Gross Monthly Amount

The monthly amount of disability compensation the member would be paid by the VA under the provisions of 38 U.S.C. if compensated solely for the disabilities determined to be attributable to an injury for which the member received the Purple Heart or determined to be otherwise combat-related. See section 6305. Applicable compensation is set forth in [38 U.S.C., Chapter 11](#).

Example: A member with a spouse and two children has qualifying combat-related disabilities rated at 100 percent by the VA. The member's current monthly VA benefit amount is \$3,264 which is the prescribed rate for a 100 percent disability for a veteran with a spouse and two children as of December 1, 2012. The gross monthly amount for CRSC purposes is based on this full rate and not just the veteran-alone amounts as applied to CRSC for periods on or after January 1, 2004.

A. Compensation of Dependents. Additional compensation for dependents is to be included as part of any applicable CRSC compensation. DFAS will use the same dependency rates for the combat-related compensation as VA uses to determine the member's full disability compensation. For example, if a member is compensated by VA at the 100 percent disability rate for a veteran with spouse and one child and the combat-related percentage is 60 percent, then the gross CRSC will be determined as the 60 percent rate for a veteran with a spouse and one child. The rates of such compensation are set forth in [38 U.S.C. § 1115](#).

B. SMC. The amount of SMC will be considered as part of gross CRSC compensation only if the SMC is paid on the basis of disabilities determined by the Military Department to be combat-related. See section 6307.

C. Retired Members Considered Unemployable. DFAS **must** coordinate with VA to ascertain whether a member is compensated by VA under 38 U.S.C. § 1114(j) by virtue of a rating of Individual Unemployability on the basis of being unemployable under the provisions of [38 CFR 4.16](#) or [4.18](#), for any member whose current combined combat-related disability percentage is 60 percent or greater. Such member **will** be given a combined gross CRSC disability, which is rated as total or 100 percent.

630802. Adjusted Amount

The CRSC payment may not exceed the current reduction in retired pay applicable to the retiree under [38 U.S.C. §§ 5304](#) and [5305](#). Thus, CRSC is not payable if there is no reduction because the member is not receiving any monthly disability compensation from VA, or because the member is not receiving retired pay (such as a reserve member before reaching retirement age

at 60 or other reduced retirement age), or for other reasons (such as a member who waives military retired pay in order to credit military service for a civil service retirement). The amount of a member's CRSC entitlement will be adjusted to be the lesser of the gross CRSC from paragraph 630801 or the reduction to the retired pay entitlement.

Example: The member, described in [paragraph 630801](#) is retired after 22 years of service with a high-three pay base of \$3,000, resulting in retired pay of \$1,650 monthly (55 percent of \$3,000). The potential retired pay of \$1,650 is reduced to \$0 by receipt of the VA disability compensation. Thus the adjusted amount of CRSC is the \$1,650 reduction in retired pay since it is less than the gross amount of \$3,264 determined in the example in [paragraph 630801](#).

***630803. Deduction from CRSC When Retired Pay Not Adequate**

Pursuant to 10 U.S.C. § 1452(d)(2), if a deduction from the member's retired pay for any period cannot be made in the full amount required to satisfy the Survivor Benefit Plan (SBP) premium, the premium will be deducted from the retiree's CRSC in lieu of deduction from the member's retired pay in the amount that would otherwise have been deducted from the member's retired pay for that period.

***630804. SBP Premium Deduction from CRSC When Dependency and Indemnity Compensation (DIC) Offset is Applicable**

Pursuant to 10 U.S.C. § 1450(e), the SBP premium deducted from CRSC of the deceased will be refunded to the surviving spouse when DIC offset is applicable. See Chapter 46.

630805. CRSC Payment Reduction for 10 U.S.C., Chapter 61 Disability Retirees

The adjusted monthly amount specified in paragraph 630802 will be reduced according to the provisions of subparagraph 630805.A or 630805.B, whichever is applicable.

A. Reduction for periods prior to January 1, 2013.

1. Members retired for disability under 10 U.S.C., Chapter 61 with 20 or more years of creditable service computed under section [10 U.S.C. § 1208](#) will have the maximum CRSC payment reduced by the amount, if any, by which the amount of the member's gross retired pay under Chapter 61 exceeds the applicable retired pay to which the member would otherwise have been entitled under any other provisions of law. A retiree who accepted the Career Status Bonus will have the reduced amount calculated based on retired pay that would otherwise have been computed under [10 U.S.C. § 1409\(b\)\(2\)](#).

Example: The member described in [paragraph 630802](#), who would have received \$1,650 in retired pay had he retired for his years of service, was retired under 10 U.S.C., Chapter 61 with a disability rated at 60 percent. Thus, the member receives retired pay of \$1,800 monthly (60 percent of \$3,000). However, in this case, the member has a combined VA rating of 100 percent, but combat-related

disabilities rated at 60 percent. The member's current monthly VA benefit amount is \$3,264, of which \$1,365 is combat-related. The member has a total offset of retired pay. The maximum CRSC entitlement under paragraphs 630801 and 630802 is \$1,365. The maximum CRSC entitlement will be reduced by the difference in the Chapter 61 retirement and the longevity retirement amounts, or \$150 (\$1,800 less \$1,650). This reduction reflects the amount by which the member's disability retired pay exceeds his or her longevity retired pay. The member's CRSC benefit of \$1,365 is reduced by \$150 to \$1,215. In this case, the member will receive \$3,264 from the VA and \$1,215 in CRSC from DoD.

2. Members retired for disability under 10 U.S.C., Chapter 61 with less than 20 years of creditable service computed under 10 U.S.C. § 1208 and who initially qualify for CRSC on or after January 1, 2008, will have the maximum CRSC payment reduced by the amount, if any, by which the amount of the member's gross retired pay under Chapter 61 exceeds the amount that is equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under [10 U.S.C. § 1406\(b\)\(1\)](#) or [10 U.S.C. § 1407](#), whichever is applicable to the member.

NOTE: A retired reserve member, retired under the provisions of 10 U.S.C., Chapter 61 is entitled to CRSC. The gross amount of CRSC determined under paragraph 630801 will be adjusted as required under paragraph 630802 and then further reduced under paragraph 630805. For Reserve Component members with less than 20 years of service as determined under [10 U.S.C. § 12733](#), reduce the adjusted CRSC amount by the amount, if any, by which the disability retired pay exceeds the amount equal to 2½ percent times the years of creditable service determined under 10 U.S.C. § 12733 multiplied by the member's applicable retired pay base. For Reserve Component members with 20 or more years of service as determined under 10 U.S.C. § 12733, reduce the adjusted CRSC amount by the amount, if any, by which the disability retired pay exceeds the retired pay to which the member would be entitled if the member were 60 years old.

B. Reductions for periods on or after January 1, 2013.

1. Members retired for disability under 10 U.S.C., Chapter 61 with 20 or more years of creditable service computed under section 10 U.S.C. § 1208 will have the maximum CRSC payment restricted to the amount, which when combined with any remaining retired pay after VA offset, will not exceed the applicable retired pay to which the member would otherwise have been entitled under any other provisions of law. A retiree who accepted the Career Status Bonus will have the reduced amount calculated based on retired pay that would otherwise have been computed under 10 U.S.C. § 1409(b)(2).

Example: The same member, as described in [paragraph 630802](#), was retired under 10 U.S.C., Chapter 61, with a disability rated at 60 percent. Thus, the member receives retired pay of \$1,800 monthly (60 percent of \$3,000). However, in this case, the member has a combined VA rating of 100 percent, but combat-related disabilities rated at 60 percent. The member's current monthly VA benefit amount is \$3,264, of which \$1,365 is combat-related. The member has a total offset of retired pay. Since there is no residual retired pay after offset of the full VA benefit amount, the member's CRSC entitlement of \$1,365, is fully payable as it does not exceed the applicable retired pay to which the member would otherwise have been entitled under any other provisions of law. In this case, the member will receive \$3,264 from the VA and \$1,365 in CRSC from DoD.

2. Members retired for disability under 10 U.S.C., Chapter 61, with less than 20 years of creditable service computed under 10 U.S.C. § 1208, and who [are](#) qualified for CRSC, on or after January 1, 2013, will have the maximum CRSC payment restrictions. The CRSC payment amount, which when combined with any remaining retired pay after VA offset, will not exceed the amount that is equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under 10 U.S.C. § 1406(b)(1) or 10 U.S.C. § 1407, whichever is applicable to the member.

NOTE: A retired reserve member, retired under the provisions of 10 U.S.C., Chapter 61, is entitled to CRSC. The gross amount of CRSC determined under [paragraph 630801](#) will be adjusted as required under [paragraph 630802](#). For Reserve Component members with less than 20 years of service as determined under 10 U.S.C. § 12733, the CRSC amount when combined with the amount of retired pay payable to the retiree after reduction for the full VA disability compensation, if any, may not exceed the disability retired pay amount that is equal to 2½ percent times the years of creditable service determined under 10 U.S.C. § 12733 multiplied by the member's applicable retired pay base. For Reserve Component members with 20 or more years of service as determined under 10 U.S.C. § 12733, the CRSC amount when combined with the amount of retired pay payable to the retiree after reduction for the full VA disability compensation, if any, may not exceed the disability retired pay to which the member would be entitled if the member were 60 years old.

C. Chapter 61 Disability Retiree Out-Year Deductions. In all cases, once established (based on date the member was first placed on either the Permanent or Temporary Disability Retirement List), the CRSC reduction amount will be increased by each increase in the retired pay cost of living allowance. It will not be re-computed using current pay tables unless the member otherwise qualifies for re-computation of retired pay by reason of recall to duty or correction of official records.

6309 COMBINED DISABILITY RATING PERCENTAGE

630901. The VA Combined Ratings Table

The [combined disability rating](#) table combines multiple disability ratings as set forth in [38 CFR 4.25](#). The table is based on the consideration of an individual's efficiency, as affected by the most disabling conditions, if any, in the order of severity. Thus, a person having a 60 percent disability is considered 40 percent efficient. Proceeding from this 40 percent efficiency, the effect of a further 30 percent disability is to leave only 70 percent of the efficiency remaining after consideration of the first disability (70 percent of 40 percent), leaving 28 percent efficiency altogether. The individual is thus 72 percent disabled.

630902. Multiple Combined Disability Ratings

When [a retiree has two or more disability ratings](#), use the [following](#) formula to determine the combined rating of multiple disabilities:

- A. Subtract each disability percent from 100 percent to obtain the remaining efficiency,
- B. Multiply the remaining efficiencies together,
- C. Subtract the result from 100 percent, and
- D. Round to the nearest 10 percent (round upward for 5 percent and up, down for 4 percent and below) to determine the combined disability rating.

Example 1: Consider a retiree having three disabilities from VA, rated 50 percent, 40 percent, and 30 percent. If added together, then the total would be 120 percent. Instead, the member's combined rating is determined as follows:

1. The three disabilities leave efficiencies of 50 percent, 60 percent, and 70 percent respectively;
2. Multiply the three efficiencies together:
$$.50 \times .60 \times .70 = .21 \text{ or } 21 \text{ percent;}$$
3. The disability is 100 percent less 21 percent = 79 percent; [and](#)
4. Adjust the result upward to a combined disability rating of 80 percent.

Example 2: Now consider what happens if the Military Department determines that only the 40 percent and 30 percent disabilities are combat-related, then the member's combined disability rating for CRSC would be:

1. The two disabilities of 40 percent and 30 percent leave efficiencies of 60 percent and 70 percent;

2. Multiply the two efficiencies together:

$$.60 \times .70 = .42 \text{ or } 42 \text{ percent};$$

3. The disability is 100 percent less 42 percent = 58 percent; and

4. Adjust the result upward to a combined disability rating of 60 percent.

630903. VA Retroactive Increase

When VA makes a retroactive increase in a member's VA disability compensation pertinent to a member's combat-related disabilities under CRSC, DFAS and VA will exchange data to determine the additional retroactive amount that the member is entitled to receive as the result of CRSC. DFAS will compute the additional entitlement and advise VA in order for VA to pay the member the appropriate additional authorized VA disability compensation. Any increase affecting CRSC qualified disabilities in the current month requires that CRSC be re-computed.

6310 REVIEW PROCESS

631001. Basis for Determination

A. Determinations of whether a disability is combat-related will be based on the preponderance of available documentary information where quality of information is more important than quantity. All relevant documentary information is to be weighed in relation to known facts and circumstances, and determinations will be made on the basis of credible, objective documentary information in the records as distinguished from personal opinion, speculation, or conjecture.

B. The burden of proof that a disability is combat-related rests with the applicant, who is required to provide copies of documents in his or her possession to the best of his or her ability. A record submitted by a member may be used in support of his or her application if that record appears regular on its face and is consistent with Military Service documents and procedures in use at the time, based on the best information available. Military Departments may compile a list of typical documents used in various time periods. If necessary, the Military Departments, under agreement with VA may request copies of certain documents (i.e., DD 214, "Certificate of Release or Discharge From Active Duty", medical records, final VA ratings) from VA to support CRSC determinations.

631002. Processing of Applications

Each Military Department will receive and process applications submitted by members retired from that Military Department on DD 2860, Claim For Combat-Related Special Compensation (CRSC). Applications will be reviewed, and an application will be approved only if the applicant satisfies both preliminary and final CRSC criteria. An application must be received by the military department prior to the member's death in order to be considered. An application for CRSC submitted by member's survivors will not be considered. The DFAS-Cleveland site will be notified of each approved application for payment.

A. Initial Review. Each Service Department will review the member's application to determine if the member meets the preliminary criteria in section 6304. If a member does not satisfy each of the preliminary CRSC criteria, then the application will be denied and no further consideration is necessary. The member may reapply at such time as his or her ratings satisfy the specified thresholds and meet all four preliminary CRSC criteria in section 6304.

B. Final Review. If the member meets all four preliminary criteria in section 6304, then the Military Department will determine whether the member's disabilities are qualifying combat-related disabilities, as prescribed in section 6306. The Military Department will record each disability determined to be combat-related with assigned medical diagnosis code from VASRD. The Military Department will forward the approved claims with VASRD codes categorized as either combat or Purple Heart to the DFAS-Cleveland site for payment.

631003. Denial and Appeals

When a Military Department denies a CRSC application, they will provide a letter to the member specifying the reasons(s) for the denial. The Military Department will inform the member that he or she may seek reconsideration by submitting additional, clarifying, or new documentary information to the Military Department in support of his or her claim. The Military Department will review the additional or new information and will inform the member of the results of the review. The Military Department will also inform the member that CRSC is subject to the same appeals and correction processes applicable to military pay and allowances, including application to the appropriate Board for Correction of Military Records (BCMR) under the provisions of 10 U.S.C. § 1552. The Military Department will provide the member a DD 149, Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, section 1552, and the address of the BCMR, including its website. In considering an application where the issue of whether a disability is combat-related for the purposes of CRSC, BCMR will seek an advisory opinion from the Director of Compensation, Office of the Deputy Under Secretary of Defense (Military Personnel Policy), and comply with the requirements of 10 U.S.C. § 1556. The BCMR will provide the Director of Compensation a copy of any final decision concerning any application involving a determination as to whether a disability is combat-related.

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630401.C.3	10 U.S.C. § 12731 10 U.S.C. § 12731a 10 U.S.C. § 12731b 10 U.S.C. § 12731(a)(2)
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630701	38 U.S.C. § 1114 38 U.S.C. § 1114(k)
630702	38 U.S.C. § 1114(k) through (s)

6308 – CRSC Amount

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- 630901 38 CFR 4.25

6310 – REVIEW PROCESS

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**VOLUME 7B, CHAPTER 64: “CONCURRENT RETIREMENT AND DISABILITY
PAY (CRDP)”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [November 2014](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and reformatting to comply with current administrative instructions.	Revision
640101	Added “Purpose” paragraph.	Addition
640102	Added “Authoritative Guidance” paragraph.	Addition
640503	Paragraph rephrased for clarity.	Revision
Bibliography	Deleted references to Title 38, United States Code, sections 5304 and 5305.	Deletion

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CHAPTER 64**CONCURRENT RETIREMENT AND DISABILITY PAYMENT (CRDP)****6401 GENERAL*****640101. Purpose**

Effective January 1, 2004, eligible military retirees are entitled to concurrent receipt of both retired pay and Department of Veterans Affairs (VA) disability compensation. The CRDP program provides for a 10-year phase-out of the offset to retired pay due to receipt of VA disability compensation. The CRDP program provides a restoration of monthly retired pay calculated on the circumstances of each entitled individual.

***640102. Authoritative Guidance**

The bibliography at the end of this chapter lists the authoritative references.

6402 ELIGIBILITY**640201. Qualified Retiree**

A qualified retiree must be a member or former member of the Uniformed Services who is entitled for any month to both retired pay and VA disability compensation that is based on a qualifying service-connected disability.

640202. Qualifying Service-Connected Disability

A qualifying service-connected disability is a service-connected disability (or combination of service-connected disabilities) that VA rates at 50 percent or higher.

640203. Physical Disability Retirement

Members retired for physical disability who have less than 20 years of service creditable for the purposes of computing retired pay are not eligible for CRDP, unless they have 20 years of service for determining entitlement to non-regular (reserve) retired pay and are otherwise eligible for such reserve retired pay.

640204. Non-Regular Retired Pay

Members eligible for retirement for non-regular service are not eligible to receive CRDP until they reach retirement age and have applied for and have become entitled to receive retired pay.

640205. Retired Pay Waived

A member who waives retired pay in order to credit military service for the purpose of establishing eligibility for a civil service retirement, or for any reason other than to receive VA disability compensation, is not eligible to receive CRDP payments. A member who combines his military time with his civil service time for the sole purpose of enhancing his civil service retirement may be eligible for CRDP. Members who are in receipt of a civil service retirement and believe they may be eligible for CRDP should consult the Civil Service Retirement System and Federal Employees Retirement System Handbook for Personnel and Payroll Offices for further information on eligibility. See also <http://www.opm.gov/retire/pubs/handbook/hod.htm>.

6403 APPLICATION

A member is not required to submit an application to receive CRDP payments. The Defense Finance and Accounting Service (DFAS) will establish procedures to ensure that qualified retirees receive CRDP to which they are entitled pursuant to [Title 10, United States Code \(U.S.C.\), section 1414](#). Members who believe they are entitled to CRDP but are not receiving it should submit a written inquiry to DFAS to ascertain the reason they are not currently receiving CRDP. The claim should be sent to DFAS, U.S. Military Retired Pay, P.O. Box 7130, London, KY 40742-7130.

6404 MONTHLY PAYMENT AMOUNT

Subject to the provisions of paragraphs 640401 and 640402, the monthly amount of retired pay restored under CRDP will be the amount of the offset imposed by receipt of VA disability compensation.

640401. Special Rule for Disability Retirement

Members retired for disability under [10 U.S.C., Chapter 61 §§ 1201 through 1222](#) remain subject to the offset required under [38 U.S.C. §§ 5304](#) and [5305](#) for any retired pay they receive that is in excess of the amount of retired pay to which they would be entitled under any other provision of law based on service in the Uniformed Services, had they not retired for disability. Since retired pay in excess of the amount calculated for years in service is still subject to offset under the CRDP program, a member with an amount of retired pay remaining after offset of VA disability compensation, that is greater than the amount calculated for years of service, is not eligible for any increase in payment of retired pay under the CRDP program.

640402. Phase-in Period

During the phase-in period of January 1, 2004 through December 31, 2013, payments are limited to the amounts determined as described in subparagraphs 640402.A-E. Effective January 1, 2014, qualified retirees will receive full concurrent payments of both retired pay and VA disability compensation subject only to the restriction in paragraph 640401.

A. Restored retired pay computed under CRDP will be determined monthly. The values that determine the amount of retired pay to be restored are dynamic and may change from one month to another depending on a number of factors that cause retired pay and VA disability compensation payments to change. Therefore, CRDP will be recomputed for any month of the phase-in period in which changes to retired pay or VA disability compensation occur.

B. The formula for computing retired pay under the CRDP program during the phase-in period is:

$$(\text{GRP} - \text{CBO}) + ((\text{CBO} - 2004 \text{ Base}) \times \text{Phase-in } \%) + 2004 \text{ Base}$$

Where:

GRP = Gross Retired Pay before any offset for VA Disability Compensation.

CBO = Current Baseline Offset which is the lesser of ARP and VADC.

ARP = Applicable Retired Pay which is that portion earned for years of service.

VADC = VA Disability Compensation is the monthly disability compensation received.

VADP = VA Disability Percentage as currently assigned by VA.

Phase-in % = The cumulative percentage for a specific calendar year during the phase-in.

2004 Base = The value assigned by law for a specific VADP.

C. The 2004 CRDP base amounts are as follows:

<u>VADP</u>	<u>2004 CRDP Base</u>
100%	\$750
90%	\$500
80%	\$350
70%	\$250
60%	\$125
50%	\$100

D. The phase-in percentage rates for calendar years 2004 to 2013 are as follows:

<u>Calendar Year</u>	<u>Phase-in Percentage</u>
2004	00.00%
2005	10.00%
2006	28.00%
2007	49.60%
2008	69.76%
2009	84.88%
2010	93.95%

2011	98.18%
2012	99.64%
2013	99.96%

E. Calendar year 2004 is the baseline year for the phase-in. In calendar year 2004, the phase-in percentage is zero; therefore, a qualified retiree will be paid monthly CRDP that is equal to the amount, if any, of their GRP in excess of their CBO plus the 2004 CRDP baseline amount based on their VADP. The CRDP amount determined payable may not exceed the amount of retired pay to which the member would otherwise be entitled after the phase-in period. For calendar years 2005 to 2013, a qualified retiree will be paid monthly retired pay in accordance with the calculation in subparagraph 640402.B. Use the 2004 CRDP base amount applicable to the retired member's current VADP for the current month of entitlement being calculated, regardless of the VADP applicable in 2004. Use the phase-in percentage for the calendar year applicable to the current month of entitlement being calculated.

640403. Exception to Phase-in Period

In the case of a qualified retiree receiving VA disability compensation for a disability rated at 100 percent, or 100 percent by reason of a determination of individual unemployability (IU), payment of retired pay is subject to the phase-in only during the period beginning on January 1, 2004 and ending on December 31, 2004. Subsequently, qualified retirees who received VA disability compensation at 100 percent may be entitled to restoration of the full CRDP entitlement from the date of qualification, if the retiree 100 percent disability compensation was payable by reason of an IU rating and, if prior to October 1, 2008, it was subject to the phase-in.

6405 RELATION TO OTHER PROVISIONS

640501. Relation to Combat-Related Special Compensation (CRSC)

A member entitled to both CRDP and CRSC may receive either one, but not both. An approved application for CRSC will cause the member's CRDP payments to be reconsidered. Unless the member elects otherwise, CRSC will be paid instead of CRDP, if the member has applied for and been approved for such benefits and the gross CRSC entitlement is found to exceed the gross CRDP entitlement.

A. All members entitled to both CRDP and CRSC will be provided an annual open season period during which the member may elect to change between the two programs.

B. Eligible members will be notified of the opportunity to elect to change between CRDP and CRSC. The notification will be based on the entitlement information available at the time the notice is provided, and will specify the date that an election change will be effective.

C. Changes in the amount of a member's entitlement to either CRDP or CRSC, which occur after the close of an annual open season period, **will** not be the basis to alter a current election between CRDP and CRSC prior to the next annual open season. This limitation includes changes in a member's VA disability rating, which have a retroactive effective date prior to the date that DFAS is notified of the change. **Note:** The limitation in the prior sentence does not apply if maintaining the member's most recent CRDP or CRSC open season election would result in the member incurring a retired pay debt or losing the CRDP or CRSC entitlement altogether.

640502. Relation to Regular Retired Pay

As a restoration of retired pay, CRDP remains subject to the requirement to make direct payment of retired or retainer pay as property of a former spouse in compliance with court orders. Receipt of CRDP does not alter or affect any coverage under the Survivor Benefit Plan (SBP) but is available for deduction of any SBP premiums otherwise due. If a member has sufficient CRDP to cover SBP premiums, then **SBP** premiums will be deducted from CRDP. CRDP is also subject to a Treasury offset to recover a debt owed to the United States, as well as garnishment for child support or alimony. CRDP is subject to any other action or process, such as allotments, that applies to retired pay generally.

*640503. Taxability

The CRDP entitlement represents the ability of an eligible military retiree to receive both retired pay and VA disability compensation without regard to the waiver and offset requirement in 38 U.S.C. §§ 5304 and 5305. Accordingly, payments of CRDP are payments of retired pay and are taxable.

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640401

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**VOLUME 7B, APPENDIX F: “SURVIVOR BENEFIT PLAN (SBP)/RETIRED
SERVICEMAN’S FAMILY PROTECTION PLAN (RSFPP) COMPOUND INTEREST
TABLE”**

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an [asterisk \(*\)](#) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version dated [January 2015](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated “SBP/RSFPP Compound Interest Table” rates based on Memorandum dated October 21, 2016 from the Department of Defense Office of the Actuary.	Revision

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*APPENDIX F

*SBP/RSFPP COMPOUND INTEREST TABLE
(Period October 1, 2016 – Current Date)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
1	1.00000	41	42.68805	81	87.85414
2	2.00201	42	43.77365	82	89.03031
3	3.00602	43	44.86143	83	90.20885
4	4.01205	44	45.95139	84	91.38974
5	5.02009	45	47.04354	85	92.57301
6	6.03016	46	48.13788	86	93.75865
7	7.04225	47	49.23441	87	94.94666
8	8.05637	48	50.33314	88	96.13706
9	9.07253	49	51.43407	89	97.32984
10	10.09072	50	52.53721	90	98.52502
11	11.11096	51	53.64257	91	99.72259
12	12.13324	52	54.75014	92	100.92257
13	13.15757	53	55.85993	93	102.12495
14	14.18396	54	56.97194	94	103.32974
15	15.21240	55	58.08619	95	104.53695
16	16.24290	56	59.20267	96	105.74658
17	17.27548	57	60.32139	97	106.95863
18	18.31012	58	61.44235	98	108.17312
19	19.34684	59	62.56556	99	109.39004
20	20.38563	60	63.69103	100	110.60940
21	21.42651	61	64.81875	101	111.83120
22	22.46948	62	65.94873	102	113.05546
23	23.51454	63	67.08098	103	114.28217
24	24.56169	64	68.21550	104	115.51134
25	25.61094	65	69.35229	105	116.74298
26	26.66230	66	70.49136	106	117.97708
27	27.71577	67	71.63272	107	119.21367
28	28.77135	68	72.77636	108	120.45273
29	29.82904	69	73.92230	109	121.69427
30	30.88886	70	75.07054	110	122.93831
31	31.95080	71	76.22108	111	124.18483
32	33.01487	72	77.37393	112	125.43386
33	34.08108	73	78.52909	113	126.68540
34	35.14942	74	79.68656	114	127.93944
35	36.21991	75	80.84636	115	129.19600
36	37.29254	76	82.00848	116	130.45508
37	38.36732	77	83.17293	117	131.71668
38	39.44426	78	84.33972	118	132.98081
39	40.52336	79	85.50885	119	134.24748
40	41.60462	80	86.68032	120	135.51669

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*SBP/RSFPP COMPOUND INTEREST TABLE (Continued)
(Period October 1, 2016 – Current Date)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
121	136.78844	161	189.80534	201	247.24544
122	138.06274	162	191.18596	202	248.74125
123	139.33960	163	192.56934	203	250.24005
124	140.61902	164	193.95551	204	251.74186
125	141.90101	165	195.34445	205	253.24668
126	143.18556	166	196.73617	206	254.75452
127	144.47269	167	198.13069	207	256.26538
128	145.76241	168	199.52800	208	257.77927
129	147.05470	169	200.92812	209	259.29620
130	148.34959	170	202.33104	210	260.81617
131	149.64708	171	203.73678	211	262.33919
132	150.94717	172	205.14533	212	263.86526
133	152.24987	173	206.55671	213	265.39439
134	153.55517	174	207.97092	214	266.92659
135	154.86310	175	209.38797	215	268.46186
136	156.17365	176	210.80786	216	270.00021
137	157.48682	177	212.23059	217	271.54164
138	158.80263	178	213.65618	218	273.08616
139	160.12108	179	215.08463	219	274.63379
140	161.44218	180	216.51594	220	276.18451
141	162.76592	181	217.95012	221	277.73835
142	164.09231	182	219.38718	222	279.29530
143	165.42137	183	220.82712	223	280.85537
144	166.75309	184	222.26994	224	282.41857
145	168.08748	185	223.71566	225	283.98491
146	169.42455	186	225.16428	226	285.55439
147	170.76430	187	226.61581	227	287.12701
148	172.10673	188	228.07024	228	288.70279
149	173.45186	189	229.52759	229	290.28173
150	174.79968	190	230.98787	230	291.86384
151	176.15021	191	232.45107	231	293.44911
152	177.50345	192	233.91720	232	295.03757
153	178.85940	193	235.38628	233	296.62921
154	180.21807	194	236.85830	234	298.22404
155	181.57946	195	238.33328	235	299.82208
156	182.94358	196	239.81121	236	301.42331
157	184.31044	197	241.29211	237	303.02776
158	185.68004	198	242.77597	238	304.63542
159	187.05239	199	244.26281	239	306.24631
160	188.42748	200	245.75263	240	307.86043

*APPENDIX F

*SBP/RSFPP COMPOUND INTEREST TABLE (Continued)
(Period October 1, 2016 – Current Date)

Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor	Total Payments Due	Compound Interest Factor
241	309.47779	281	376.90218	321	449.95180
242	311.09838	282	378.65799	322	451.85409
243	312.72223	283	380.41731	323	453.76020
244	314.34934	284	382.18017	324	455.67013
245	315.97971	285	383.94656	325	457.58389
246	317.61334	286	385.71649	326	459.50149
247	319.25026	287	387.48997	327	461.42293
248	320.89045	288	389.26701	328	463.34823
249	322.53394	289	391.04761	329	465.27738
250	324.18072	290	392.83178	330	467.21041
251	325.83080	291	394.61953	331	469.14731
252	327.48419	292	396.41086	332	471.08810
253	329.14090	293	398.20579	333	473.03277
254	330.80093	294	400.00431	334	474.98135
255	332.46429	295	401.80645	335	476.93383
256	334.13098	296	403.61219	336	478.89023
257	335.80102	297	405.42156	337	480.85056
258	337.47440	298	407.23456	338	482.81481
259	339.15114	299	409.05119	339	484.78301
260	340.83124	300	410.87146	340	486.75515
261	342.51472	301	412.69539	341	488.73124
262	344.20156	302	414.52297	342	490.71130
263	345.89180	303	416.35422	343	492.69533
264	347.58542	304	418.18913	344	494.68333
265	349.28243	305	420.02773	345	496.67533
266	350.98285	306	421.87002	346	498.67131
267	352.68668	307	423.71600	347	500.67130
268	354.39393	308	425.56568	348	502.67530
269	356.10460	309	427.41907	349	504.68332
270	357.81870	310	429.27618	350	506.69537
271	359.53623	311	431.13701	351	508.71145
272	361.25721	312	433.00157	352	510.73158
273	362.98165	313	434.86988	353	512.75575
274	364.70954	314	436.74192	354	514.78398
275	366.44089	315	438.61773	355	516.81629
276	368.17572	316	440.49729	356	518.85266
277	369.91403	317	442.38063	357	520.89312
278	371.65582	318	444.26774	358	522.93767
279	373.40110	319	446.15863	359	524.98633
280	375.14989	320	448.05332	360	527.03909

Note: Source from Department of Defense Office of the Actuary, Memorandum dated October 21, 2016.

VOLUME 7B, APPENDIX H: “AGE OF MAJORITY BY STATE AND UNITED STATES POSSESSIONS”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version dated [November 2015](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Chapter is certified as current. No revision is necessary.	Current

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AGE OF MAJORITY BY STATE AND UNITED STATES POSSESSIONS

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Arkansas	18	New Jersey	18
California	18	New Mexico	18
Colorado	18	New York	18
Connecticut	18	North Carolina	18
Delaware	18	North Dakota	18
District of Columbia	18	Ohio	18
Florida	18	Oklahoma	18
Georgia	18	Oregon	18
Hawaii	18	Pennsylvania	18
Idaho	18	Puerto Rico	21
Illinois	18	Rhode Island	18
Indiana	18	South Carolina	18
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VOLUME 7B, APPENDIX J: “STATE TAX REPORTING”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by *bold, italic, blue and underlined font*.

The previous version dated *July 2015* is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	This chapter is certified as current. No revision necessary.	Current

APPENDIX J

STATE TAX REPORTING

State	Mail Copy 1 of IRS TD 1099 or Automated Reports to:	State	Mail Copy 1 of IRS TD 1099 or Automated Reports to:
Alabama	Department of Revenue Income Tax Division Montgomery, AL 36102	Indiana	Gross Income Tax Division Indianapolis, IN 46204
Arizona	State Tax Commission Phoenix, AZ 85007	Iowa	Department of Revenue Lucas State Office Building Des Moines, IA 50319
Arkansas	Department of Finance and Administration Little Rock, AR 72203	Kansas	Department of Revenue Topeka, KS 66625
California	Franchise Tax Board Sacramento, CA 95876	Kentucky	Department of Revenue Frankfort, KY 40601
Colorado	Department of Revenue Denver, CO 80203	Louisiana	Department of Revenue Baton Rouge, LA 70821
Connecticut	Taxpayer Services Department of Revenue 92 Farmington Avenue Hartford, CT 06105	Maine	Bureau of Taxation Augusta, ME 04330
Delaware	Department of Finance 601 Delaware Avenue Wilmington, DE 19899	Maryland	Comptroller of the Treasury Income Tax Division Annapolis, MD 21404
District of Columbia	Department of Finance and Revenue Municipal Center Washington, DC 20001	Massachusetts	Department of Corporations and Taxation Boston, MA 02133
Georgia	Department of Revenue Trinity Washington Building Atlanta, GA 30334	Michigan	Department of Management and Budget Lansing, MI 48913
Hawaii	Department of Taxation Honolulu, HI 96813	Minnesota	Department of Revenue Centennial Office Building St Paul, MN 55145
Idaho	State Tax Commission P.O. Box 36 Boise, ID 83722	Mississippi	State Tax Commission P.O. Box 960 Jackson, MS 39205
Illinois	Department of Revenue Springfield, IL 62708	Missouri	Department of Revenue Jefferson City, MO 65101

APPENDIX J

STATE TAX REPORTING**(Continued)**

State	Mail Copy 1 of IRS TD 1099 or Automated Reports to:	State	Mail Copy 1 of IRS TD 1099 or Automated Reports to:
Montana	Department of Revenue Mitchell Building Helena, MT 59620	Pennsylvania	Department of Revenue Harrisburg, PA 17127
Nebraska	Department of Revenue Lincoln, NE 68509	Puerto Rico	Director, Income Tax Division Treasury Department Box S-4515 San Juan, PR 00901
New Jersey	Department of the Treasury State House Trenton, NJ 08625	Rhode Island	Department of Administration State House Providence, RI 02903
New Mexico	Department of Finance and Administration State Capitol Santa Fe, NM 87501	South Carolina	State Tax Commission Columbia, SC 29201
New York	Department of Taxation and Finance State Campus Albany, NY 12227	Utah	Department of Finance 147 State Capitol Salt Lake City, UT 84114
North Carolina	Department of Revenue Raleigh, NC 27640	Vermont	Executive Department State of Vermont Montpelier, VT 05602
North Dakota	State Tax Commission Bismarck, ND 58505	Virginia	Department of Taxation Richmond, VA 23215
Ohio	Department of Taxation Columbus, OH 43215	West Virginia	State Tax Department Charleston, WV 25305
Oklahoma	State Tax Commission Oklahoma City, OK 73105	Wisconsin	Department of Revenue Madison, WI 53702
Oregon	Department of Revenue Salem, OR 97310	Commonwealth of Northern Mariana Islands	Department of Finance P.O. Box 5234 CHRB Saipan, MP 96950

NOTE: Information shown in this appendix was extracted from the Financial Management Service, [*Treasury Financial Manual, Volume 1, Part 3, Chapter 5000*](#). Forty-one states, the District of Columbia, Commonwealth of Northern Mariana Island, and Puerto Rico impose personal income taxes. New Hampshire and Tennessee apply income tax only to personal income earned from interest and dividends. Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming do not tax personal income.

VOLUME 7B, APPENDIX L: “DEPENDENCY AND INDEMNITY COMPENSATION (DIC) RATES”**A SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [March 2016](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated “Dependency and Indemnity Compensation Rates,” effective December 1, 2016.	Revision

*APPENDIX L

DEPENDENCY AND INDEMNITY COMPENSATION (DIC) RATES**DIC Rates: For deaths before January 1, 1993 (See notes 1 and 2)**

Pay Grade	PL 109-461 Effective Dec 1, 2006	PL 110-111 Effective Dec 1, 2007	PL 110-389 Effective Dec 1, 2008	PL 112-53 Effective Dec 1, 2011 (See note 3)	PL 112-198 Effective Dec 1, 2012	PL 113-52 Effective Dec 1, 2013	PL 113-181 Effective Dec 1, 2014	PL 114-328 Effective Dec 1, 2016 (See note 4)
E1	\$1,067	\$1,091	\$1,154	\$1,195	\$1,215	\$1,233.23	\$1,254.19	\$1,257.95
E2	1,067	1,091	1,154	1,195	1, 215	1, 233.23	1,254.19	1,257.95
E3	1,067	1,091	1,154	1,195	1, 215	1, 233.23	1,254.19	1,257.95
E4	1,067	1,091	1,154	1,195	1, 215	1, 233.23	1,254.19	1,257.95
E5	1,067	1,091	1,154	1,195	1, 215	1, 233.23	1,254.19	1,257.95
E6	1,067	1,091	1,154	1,195	1, 215	1, 233.23	1,254.19	1,257.95
E7	1,104	1,129	1,194	1,236	1,257	1,275.86	1,297.55	1,301.44
E8	1,165	1,191	1,260	1,305	1,327	1,346.91	1,369.81	1,373.92
E9	1,215	1,242	1,314	1,361	1,384	1,404.76	1,428.64	1,432.93
Sgt Major — Army	1,312	1,342	1,419	1,470	1,494	1,516.41	1,542.19	1,546.82
Sr Enl Adv — Navy	1,312	1,342	1,419	1,470	1,494	1,516.41	1,542.19	1,546.82
Ch MSgt — Air Force	1,312	1,342	1,419	1,470	1,494	1,516.41	1,542.19	1,546.82
Sgt Major — Marines	1,312	1,342	1,419	1,470	1,494	1,516.41	1,542.19	1,546.82
MCPO of the Coast Guard	1,312	1,342	1,419	1,470	1,494	1,516.41	1,542.19	1,546.82
W-1	1,128	1,153	1,219	1,262	1,283	1,302.25	1,324.39	1,328.36
W-2	1,172	1,198	1,267	1,312	1,334	1,354.01	1,377.03	1,381.16
W-3	1,207	1,234	1,305	1,351	1,373	1,393.60	1,417.29	1,421.54
W-4	1,276	1,305	1,380	1,429	1,453	1,474.80	1,499.87	1,504.37
O-1	1,128	1,153	1,219	1,262	1,283	1,302.25	1,324.39	1,328.36
O-2	1,165	1,191	1,260	1,305	1,327	1,346.91	1,369.81	1,373.92
O-3	1,246	1,274	1,347	1,395	1,418	1,439.27	1,463.74	1,468.13
O-4	1,319	1,349	1,427	1,478	1,503	1,525.55	1,551.48	1,556.13
O-5	1,452	1,485	1,571	1,627	1,654	1,678.81	1,707.35	1,712.47
O-6	1,637	1,674	1,771	1,834	1,865	1,892.98	1,925.16	1,930.94
O-7	1,768	1,808	1,912	1,980	2,013	2,043.20	2,077.93	2,084.16
O-8	1,941	1,985	2,100	2,175	2,211	2,244.17	2,282.32	2,289.17
O-9	2,076	2,123	2,246	2,326	2,365	2,400.48	2,441.29	2,448.61
O-10	2,276	2,328	2,463	2,551	2,594	2,632.91	2,677.67	2,685.70
Chm Joint Chiefs of Staff	2,443	2,499	2,643	2,738	2,784	2,825.76	2,873.80	2,882.42
Chief of Staff – Army	2,443	2,499	2,643	2,738	2,784	2,825.76	2,873.80	2,882.42
Chief of Naval Operations	2,443	2,499	2,643	2,738	2,784	2,825.76	2,873.80	2,882.42
Chief of Staff – Air Force	2,443	2,499	2,643	2,738	2,784	2,825.76	2,873.80	2,882.42
Commandant – Marine Corps	2,443	2,499	2,643	2,738	2,784	2,825.76	2,873.80	2,882.42
Commandant – Coast Guard	2,443	2,499	2,643	2,738	2,784	2,825.76	2,873.80	2,882.42

DIC Rates: For deaths on or after January 1, 1993 (See notes 1, 3, and 4)

Flat Rate	Additional	Effective Date
\$750	\$165	January 1, 1993
769	169	December 1, 1993
790	173	December 1, 1994
810	177	December 1, 1995
833	182	December 1, 1996
850	185	December 1, 1997
861	187	December 1, 1998
881	191	December 1, 1999
911	197	December 1, 2000
935	202	December 1, 2001
948	204	December 1, 2002
967	208	December 1, 2003
993	213	December 1, 2004
1,033	221	December 1, 2005
1,067	228	December 1, 2006
1,091	233	December 1, 2007
1,154	246	December 1, 2008
1,154	246	December 1, 2009
1,154	246	December 1, 2010
1,195	254	December 1, 2011
1,215	258	December 1, 2012
1,233.23	261.87	December 1, 2013
1,254.19	266.32	December 1, 2014
1,254.19	266.32	December 1, 2015
1,257.95	267.12	December 1, 2016

NOTE 1: An additional amount may be payable if the veteran was receiving Service-connected disability compensation (or would have but for the receipt of retired or retainer pay) for at least 8 years immediately preceding death. If a veteran died before January 1, 1993, then DIC was payable based on the pay grade of the veteran. Effective January 1, 1993, DIC was payable at the flat rate of \$750 (including \$165, if applicable according to [Title 38, United States Code, section 1311\(a\)\(2\)](#)) if it is more favorable than the DIC amount based on the veteran's pay grade. This table provides the historical flat rates (including additional amount, if applicable) through current.

NOTE 2: If current year is not listed, see the [Dependency and Indemnity Compensation Rates](#) at the Department of Veterans Affairs website. Additionally, see the Department of Veterans Affairs website for any rate effective before December 1, 2006.

NOTE 3: The DIC rates remained unchanged from December 1, 2008 through November 30, 2011.

NOTE 4: The DIC rates remained unchanged from December 1, 2014 through November 30, 2016.

VOLUME 7B, APPENDIX P: “DATA FOR PAYMENT OF RETIRED PERSONNEL”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by *blue font*.

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by ***bold, italic, blue and underlined font***.

The previous version dated *February 2015* is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instruction.	Revision
P00102	Added “Authoritative Guidance” paragraph.	Addition
P002	Revised section to reflect information provided in the Department of Defense Form 2656.	Revision
Bibliography	Added a Bibliography.	Addition

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APPENDIX P

DATA FOR PAYMENT OF RETIRED PERSONNEL

P001 GENERAL

P00101. Purpose

This Appendix provides for the administration and completion of the Department of Defense (DD) Form 2656, Data for Payment of Retired Personnel, and DD 2656-1, Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage, if appropriate.

*P00102. Authoritative Guidance

The bibliography at the end of this chapter lists the authoritative references.

*P002 APPLICABILITY AND SCOPE

P00201. Establishing Retired/Retainer Pay Account

Those Service members requesting retirement or members transferring to the Fleet Reserve, Retired Reserve, or Inactive Reserve, and former members who qualify to retire under Title 10, United States Code (U.S.C.), Chapter 1223, must complete the DD 2656 and DD 2656-1, if appropriate. The DD 2656 is the most important financial related document to complete in preparing for military retirement. The Defense Finance and Accounting Service Cleveland (DFAS-CL) will establish the service member's retired/retainer pay account based on the data provided on the form(s) and retirement/transfer orders.

P00202. Required Data

The service member's personnel office and SBP Counselor will assist them in the proper completion and submission of the DD 2656 and DD 2656-1, if appropriate. See section P003. The data provided is required to establish a retired/retainer pay account, including:

- A. Direct deposit/electronic funds transfer information,
- B. Designation of beneficiaries for unpaid retired pay,
- C. Federal and state withholding tax information,
- D. Information on dependents, and
- E. An election of SBP coverage.

Note: The DD 2656 replaced Navy Comptroller Form 2272, Department of Army Form 4240, and Air Force Forms 1266, 1267, and 1268.

P003 RESPONSIBILITIES

P00301. [DFAS-CL](#) Site Responsibilities

The DFAS-CL Site is the primary source for information and technical guidance concerning the DD 2656 and [DD](#) 2656-1. The DFAS-CL Site processes the documents for military retirement submitted by the Military Services.

P00302. Military Service Responsibilities

Each respective personnel activity will provide pre-retirement counseling to prospective retirees. As part of the counseling process, each personnel activity will ensure that the prospective retirees properly complete DD 2656 and [DD](#) 2656-1, if appropriate. The personnel activity will forward the forms and appropriate documentation to the DFAS-CL Site electronically, or mail to:

DFAS
U.S. Military Retired Pay
P.O. Box 7130
London, KY 40742-7130

P00303. Service Member Responsibilities

Members requesting retirement or transfer to the Fleet Reserve, Retired Reserve, or Inactive Reserve, and former members who qualify under 10 U.S.C., Chapter 1223, will complete the DD 2656 and DD 2656-1, if appropriate. Completion of these forms is necessary to establish the retired/retainer pay account. [See paragraph P00202.](#)

***BIBLIOGRAPHY**

APPENDIX P – DATA FOR PAYMENT OF RETIRED PERSONNEL

P001 – GENERAL

10 U.S.C., Chapter 73, subchapter II

P002 – APPLICABILITY AND SCOPE

10 U.S.C., Chapter 1223

Department of Defense Instruction 1332.42

**VOLUME 7B, APPENDIX R: “ANNUAL INCOME RATES FOR MINIMUM
INCOME ANNUITIES UNDER SURVIVOR BENEFIT PLAN (SBP)”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

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The previous version dated [March 2016](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Added the “Minimum Annual Income” changes, effective December 1, 2016.	Addition
All	Revised the “Maximum Monthly Annuity Payable” rates for 2014 and 2015.	Revision
All	Added and amended notes for clarification.	Addition

APPENDIX R

ANNUAL INCOME RATES FOR MINIMUM INCOME ANNUITIES UNDER
SURVIVOR BENEFIT PLAN (SBP)

MAXIMUM MONTHLY ANNUITY PAYABLE	MINIMUM ANNUAL INCOME	EFFECTIVE FROM
*721.33	8,656	December 1, 2016
*719.17	8,630	December 1, 2015
*719.17	8,630	December 1, 2014
707.08	8,485	December 1, 2013
696.58	8,359	December 1, 2012
684.92	8,219	December 1, 2011
661.08	7,933	December 1, 2010
661.08	7,933	December 1, 2009
661.08	7,933	December 1, 2008
624.83	7,498	December 1, 2007
610.75	7,329	December 1, 2006
591.17	7,094	December 1, 2005
567.83	6,814	December 1, 2004
552.83	6,634	December 1, 2003
541.42	6,497	December 1, 2002
533.92	6,407	December 1, 2001
519.75	6,237	December 1, 2000
502.17	6,026	December 1, 1999
490.33	5,884	December 1, 1998
484.00	5,808	December 1, 1997
470.75	5,649	December 1, 1996
457.33	5,488	December 1, 1995
445.58	5,347	December 1, 1994
433.33	5,200	December 1, 1993
422.25	5,067	December 1, 1992
409.83	4,918	December 1, 1991
395.08	4,741	December 1, 1990
374.67	4,496	December 1, 1989
357.67	4,292	December 1, 1988
343.75	4,125	December 1, 1987
329.75	3,957	December 1, 1986
325.42	3,905	December 1, 1985
315.50	3,786	December 1, 1984
304.67	3,656	December 1, 1983
294.25	3,531	June 1, 1982
273.75	3,285	June 1, 1981

**ANNUAL INCOME RATES FOR MINIMUM INCOME ANNUITIES UNDER
SURVIVOR BENEFIT PLAN (SBP) (Continued)**

MAXIMUM MONTHLY ANNUITY PAYABLE	MINIMUM ANNUAL INCOME	EFFECTIVE FROM
245.83	2,950	June 1, 1980
214.67	2,576	June 1, 1979
195.00	2,340	October 1, 1978
175.00	2,100	October 1, 1976
116.67	1,400	September 21, 1972

NOTE 1: The rate remained unchanged from December 1, 2008 through November 30, 2011.

*NOTE 2: The rate remained unchanged from December 1, 2014 through December 1, 2015.

*NOTE 3: For current and historic rate charts refer to [Survivors Pension Rate Tables](#).

VOLUME 7B, “DEFINITIONS”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [September 2015](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatted to comply with current administrative instructions.	Revision
Concurrent Retirement and Disability Pay	Added information for clarification.	Addition
Parent of Issue	Added definition based on Title 10, United States Code, section 1448.	Addition

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DEFINITIONS

A. General

The following list defines general terms of significance or importance relating to military retired pay policies for the Department of Defense that are discussed in various chapters. These definitions are provided for general information; it is by no means an exhaustive list of all financial management terms, and it does not define terms when standard dictionary definitions apply.

B. List of Definitions

Active Duty

Full-time duty in the active service of a Uniformed Service, including full-time training duty, annual training duty, and attendance while in the active service at a school designated as a Military Service school by law or by the Secretary of the Military Service concerned (or designee).

Active Duty List

A single list for the Army, Navy, Air Force, or Marine Corps which contains the names of all officers of that Armed Force, other than officers described in [Title 10, United States Code \(U.S.C.\), section 641](#), who are serving on active duty.

Amendatory Birth Certificate

A birth certificate that has been corrected, changed, or revised.

Annuitant

The person receiving a monthly payment as a result of a Service member's specific survivorship plan.

Annuity

A monthly payment made to a person as a result of a specific survivorship plan.

Armed Forces of the United States

A term used to denote collectively all components of the Army, Marine Corps, Navy, Air Force, and the Coast Guard when mobilized to augment the Navy.

Basic Pay

The active duty pay rates prescribed for an officer or enlisted member according to pay grade and years of service.

Beneficiary

The term beneficiary means the recipient of certain benefits due as a result of a relationship to or designation by a member.

Common-Law Marriage

A marriage not solemnized by religious or civil ceremony as defined in pertinent state law.

Combat Related Special Compensation (CRSC)

CRSC is a program that provides a special compensation to members of the Uniformed Services who have their retired pay reduced by reason of receiving Department of Veterans Affairs (VA) disability compensation where a portion of such VA compensation is the result of disabilities that are combat-related.

*Concurrent Retirement and Disability Pay (CRDP)

Under the CRDP program, regular or reserve members who are entitled to retired pay based on either length of service or disability, and who are also entitled to VA disability compensation based on a combined VA disability rating of 50 percent or greater may receive both retired pay and disability pay concurrently. Members retired under military disability provisions under 10 U.S.C., Chapter 61 must have at least 20 years of creditable service and otherwise be entitled to receive retired pay under another provision of law in order to be eligible for the CRDP program.

Cost-of-Living Adjustment

The percentage change applied to retired pay and Survivor Benefit Plan annuities based on laws using the Consumer Price Index, Urban Wage Earners, and Clerical Workers-U.S. City Average, as published by the Bureau of Labor Statistics.

Currency-Blocked Country

A country specified by the Treasury Department to which dollar instruments may not be transmitted.

Dependency and Indemnity Compensation

Compensation paid by the VA to the eligible survivors of Military Service members who died after December 31, 1956, from a service-connected or compensable disability.

Entitlement

Legally established benefits available to any person meeting eligibility requirements established by law.

Fiduciary

A person, legally designated, who holds something in trust for another person.

Fleet Reserve or Fleet Marine Corps Reserve

A Component of the Regular Service to which members may be transferred and released from active duty after obtaining 20 or more years of active Federal service.

Foreign Address

An address outside of the United States, its possessions and territories is a foreign address.

Inactive Duty Training

Inactive duty training refers to:

- a. Duty prescribed for members of a Reserve Component by the Secretary of the Military Service concerned (or designee); or
- b. Special additional duties authorized for members of a Reserve Component by an authority designated by the Secretary of the Military Service concerned and performed by them on a voluntary basis in connection with prescribed training or maintenance activities of the units to which they are assigned.

Military Retired Pay (Includes Fleet Reserve and Fleet Marine Corps Reserve Retainer Pay)

The gross entitlement for a member based on conditions of the retirement law, pay grade, years of service for basic pay, years of service for percentage multiplier, percentage of disability, if applicable, and date of retirement (transfer).

Missing Status

Includes missing, missing-in-action, interned in a foreign country, captured, beleaguered, besieged by a hostile force, or detained in a foreign country against a member's will.

Overpayment

An amount paid to a retiree, annuitant, or legal fiduciary which is more than that to which entitlement exists.

*Parent of Issue

The biological parent, other than the member, of a child or other lineal descendants (direct bloodline) such as grandchildren and great-grandchildren.

Pay Grade

The step or degree in a graduated scale to which members of the Uniformed Services are assigned or distributed for military pay and allowances purposes. See Volume 7A, "Comparable Grades."

Reserve Component

With respect to the Armed Forces, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the National Guard of the United States, and the Air National Guard of the United States.

Retainer Pay

Pay received by a member of the Fleet Reserve/Fleet Marine Corps Reserve.

Retired List

Any one of several lists of military members retired from the Regular or Reserve Components of the Armed Forces.

Retired Saved Pay

Special pay provisions that allow retired members, under certain conditions, to retain entitlement to pay under prior laws when beneficial to the member.

Retirement Date

The term retirement date means the first day of entitlement to retired pay, not a day of active duty.

Service Connected

With respect to disability or death, such disability was incurred or aggravated or the death resulted from a disability incurred or aggravated in the line of duty in the active military, naval, or air service (VA definition only).

Surviving Spouse

A person who was legally married to the decedent on the date of the decedent's death and who survived the decedent is the surviving spouse. There may be additional requirements in order to qualify as surviving spouse for certain entitlements.

Tower Amendment

The law provided that a member retiring after January 1, 1971, may not receive less retired pay than the monthly retired or retainer pay to which he or she would be entitled if the member had become entitled to retired or retainer pay at an earlier date. A member who fully qualifies for retirement on a date earlier than the actual retirement date, receives the most favorable rate of pay as though the member actually retired on the earlier date.

Transfer Date (Fleet Reservists, Fleet Marine Corps Reservists)

Date of release from active duty (a day of entitlement to active duty pay and allowances).

Uniformed Services

The Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service comprise the Uniformed Services.

United States

The United States includes the 50 states and the District of Columbia.

