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## Defense Primer: Military Separation and Severance Pay

Congress has authorized separation or severance pay for involuntarily and voluntarily discharged servicemembers throughout most of the military's history. The purposes for these authorities has been three-fold: 1) to ease the transition to civilian life for servicemembers with minor physical disabilities; 2) to compensate servicemembers for an unplanned (non-disability) end to their military career before they are eligible to retire; and 3) to aid the Department of Defense (DOD) in managing force size.

### Disability Severance Pay

The *Military Compensation Background Papers* (8<sup>th</sup> Edition) describes disability severance pay (DSP) as,

[A] special lump-sum payment to be made to members of the armed forces separated from active military service because of minor physical disabilities that, while substantial enough to adversely affect their ability to perform the military duties of their respective offices or grades, are not so severe as to seriously impair their civilian earning capacity, in order to assist such personnel in their transitions back to civilian life.

While forms of disability severance for military veterans have existed since the founding of the United States, the modern system (codified under 10 U.S.C. §1212) was adopted in the *Career Compensation Act of 1949* (P.L. 81-351, §403). This law standardized the benefit across all services, components, and pay grades.

Servicemembers who develop a medical condition affecting their fitness to serve may be referred to a medical evaluation board (DOD Instruction 1332.18). If the board determines that the disability is permanent, stable, and rated at 30% or greater, then the member may receive a disability retirement and is eligible for retired pay. Those with temporary disabilities may be placed on the disability retired list and later re-evaluated for fitness to serve. Those with service-connected disabilities rated less than 30%, are not eligible for disability retirement, but may be discharged with DSP.

### Amount of Disability Severance Pay

The amount of DSP is computed by multiplying the member's years of service (YOS) by two months of the basic pay to which the member is entitled at the time of separation or placement on the temporary disability retired list. The member is credited with a minimum of three YOS for this calculation. If the disability is combat-related the member is credited with a minimum of six YOS. The maximum creditable YOS is nineteen. DSP is distributed as a one-time, lump-sum payment and is taxable, unless related to a combat injury or the member is entitled to disability compensation from the Department of Veterans Affairs (VA).

### Involuntary Separation Pay.

Involuntary Separation Pay (ISP, 10 U.S.C. §1174), was authorized as part of the Defense Officer Personnel Management Act (DOPMA) of 1980. DOPMA repealed prior legislation authorizing "severance" or "readjustment" pay for military officers involuntarily separated from service. Among other changes to the officer personnel system, DOPMA standardized what is often referred to as an "up or out" policy for officers across all of the services. Under this provision, an officer may be involuntarily discharged for having twice failed in selection for promotion. This had the potential to impose an unplanned career end for that officer and factored into the design of the involuntary separation benefit. According to the House Armed Services Committee report to accompany the bill,

The separation pay is a contingency payment for an officer who is career committed but to whom a full military career may be denied. It is designed to encourage him to pursue his service ambition, knowing that if he is denied a full career under the competitive system, he can count on an adequate readjustment pay to ease his reentry into civilian life. (H. Rpt. 96-1462, 1980)

In 1990, during a period of force drawdowns, Congress expanded this authority to enlisted servicemembers (P.L. 101-510). Servicemembers involuntarily discharged under honorable conditions after six years but before twenty years of active service may be eligible to receive ISP as a lump sum. A condition for ISP receipt is an agreement to serve a minimum of three years in the Ready Reserve following discharge or release from active duty.

### Amount of Involuntary Separation Pay

10 U.S.C. §1174 authorizes two mechanisms to calculate ISP: 1) full payment: 10% of the product of the YOS and 12 times the servicemember's monthly pay at the time of separation; or 2) half payment of the prior amount. Full payment or half payment is at the discretion of the Secretary of the Military Department concerned. DOD policies prescribe half-payment under circumstances where members are deemed not fully qualified for retention or continuation (e.g., weight control failures, failure to meet standards, or other conditions not constituting a disability). (DODI 1332.29)

### Voluntary Separation Pay

During the force drawdown in the 1990s, Congress authorized two types of voluntary separation incentives, the Special Separation Bonus (SSB, 10 U.S.C. §1174a) and Voluntary Separation Incentive (VSI, 10 U.S.C. §1175). These separation incentives were designed to help the services reduce over-manning in certain active component pay grades or occupational specialties.

**Table 1. Comparison of Military Separation Benefits**

Separation Benefit	Authority	Payment	Termination
Disability Severance Pay	10 U.S.C. §1212	Lump-sum: YOS x 2 months' basic pay	N/A
Involuntary Separation Pay	10 U.S.C. §1174	Lump sum: 10% x YOS x 12 months' basic pay, or half of this amount	N/A
Special Separation Bonus	10 U.S.C. §1174a	Lump sum: 15% x YOS x 12 months' basic pay	December 31, 2001
Voluntary Separation Incentive	10 U.S.C. §1175	Annual annuity: 2.5% x YOS x 12 months' basic pay	December 31, 2001

**Source:** CRS analysis of statute and policy.

As a condition of VSI or SSB receipt, servicemembers were required to maintain an affiliation with the Ready Reserve, either by joining drilling units in the Selected Reserve or becoming part of the manpower pool known as the Individual Ready Reserve (IRR). VSI recipients were required to maintain this affiliation for the duration of their VSI payments (with some exceptions), while SSB recipients were required to serve a minimum of three years. Servicemembers could receive only one of these two payments and were not eligible to receive these payments and active or reserve component pay concurrently. The authority to offer incentives expired on December 31, 2001.

### Amount of Voluntary Separation Pay

A primary difference between the two voluntary incentives was the payout period for the benefit. VSI was paid as an annual annuity for twice the number of years of service at the time of separation from active duty, or until separation or retirement from a reserve component (whichever came first). For example, a servicemember who had 8 years of service at the time of separation could receive 16 years of annual payments. SSB, on the other hand, was a one-time lump sum payment upon separation. VSI was calculated as 2.5% of 12 months' basic pay at the time of transfer to the reserve component multiplied by YOS. SSB was calculated as 15% of the product of the member's YOS and 12 months' basic pay. Federal income tax was automatically withheld from the separation pay received under the VSI/SSB programs.

### Mandatory Recoupment

Servicemembers who receive any of these payments and later become eligible for military retired pay for regular or reserve service, or veteran disability compensation, are subject to recoupment provisions. These provisions have been part of statute since the benefits were first enacted, as part of historical efforts by Congress to prohibit the receipt of two government benefits for the same period of service or qualifying event. When Congress authorized DSP in 1949, the House Report to accompany the bill stated,

This title also contains a provision which is fully justified when the amount of money involved is considered. Any person who receives severance pay under the provisions of this title shall have it deducted from any compensation to which he might otherwise be entitled for the same disability from the Veterans' Administration. (H.Rpt 81-583, May 1949)

### Military Retirement Deductions

Under 10 U.S.C. §1174(h)(1), a servicemember who has received a separation or severance pay, and who later becomes eligible for military retired or retainer pay, shall have the total (pre-tax-withholding) amount of that pay deducted in monthly installments under a schedule specified by the Secretary of Defense. The provision indicates that in applying a repayment schedule, the Secretary shall take into account, "the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents."

### Veteran Disability Compensation Deductions

Under 10 U.S.C. §1174(h)(2), a servicemember who receives separation or severance pay for a specific period of service is eligible to receive VA disability compensation for that period of service; however, the after-tax separation pay amount is withheld from the VA disability compensation. Withholding does not apply to a disability that is incurred or aggravated during a later period of active service.

### Exception to VA Disability Deductions for Combat-Related Disabilities

Under 10 U.S.C. §1212(2) individuals who receive DSP "for a disability incurred in line of duty in a combat zone or incurred during performance of duty in combat-related operation" are not subject to recoupment from their VA disability compensation.

#### CRS Products

CRS Report RL34751, *Military Retirement: Background and Recent Developments*, by Kristy N. Kamarck.

CRS Report R44837, *Benefits for Service-Disabled Veterans*, coordinated by Heather M. Salazar.

CRS Infographic IG10009, *The Road to Veterans Benefits*, by Kristy N. Kamarck and Sidath Viranga Panangala.

#### Department of Defense

DODI 1332.29, Involuntary Separation Pay (Non-Disability)

DODI 1332.18, Disability Evaluation System

Defense Finance and Accounting Service, *Separation Payments*, at <https://www.dfas.mil/retiredmilitary/plan/separation-payments/>

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