

SUBCHAPTER II—MISCELLANEOUS
DEFENSE AGENCY MATTERS

Sec.	
201.	Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance.
[202.	Repealed.]
203.	Director of Missile Defense Agency.

AMENDMENTS

2002—Pub. L. 107-314, div. A, title II, § 225(b)(1)(B)(ii), Dec. 2, 2002, 116 Stat. 2486, substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization” in item 203.

1997—Pub. L. 105-107, title V, § 503(d)(1), Nov. 20, 1997, 111 Stat. 2262, struck out item 202 “Unauthorized use of Defense Intelligence Agency name, initials, or seal”.

Pub. L. 105-85, div. A, title II, § 235(b), Nov. 18, 1997, 111 Stat. 1665, added item 203.

1996—Pub. L. 104-201, div. A, title XI, § 1103(b), Sept. 23, 1996, 110 Stat. 2677, substituted “Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance” for “Consultation regarding appointment of certain intelligence officials” in item 201.

1991—Pub. L. 102-190, div. A, title IX, § 922(b), Dec. 5, 1991, 105 Stat. 1453, added item 201 and redesignated former item 201 as 202.

1986—Pub. L. 99-433, title III, § 301(a)(2), Oct. 1, 1986, 100 Stat. 1022, added subchapter heading and analysis of sections for subchapter II.

§ 201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance

(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of National Intelligence regarding the recommendation.

(b) CONCURRENCE IN APPOINTMENT.—(1) In the event of a vacancy in a position referred to in paragraph (2), before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy, the Secretary of Defense shall obtain the concurrence of the Director of National Intelligence as provided in section 106(b) of the National Security Act of 1947 (50 U.S.C. 403-6(b)).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(c) PERFORMANCE EVALUATIONS.—(1) The Director of National Intelligence shall provide annually to the Secretary of Defense, for the Secretary’s consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Intelligence Program.

(2) The positions referred to in paragraph (1) are the following:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(Added Pub. L. 102-190, div. A, title IX, § 922(a)(2), Dec. 5, 1991, 105 Stat. 1453; amended Pub. L. 104-201, div. A, title XI, § 1103(a), Sept. 23, 1996, 110 Stat. 2676; Pub. L. 108-136, div. A, title IX, § 921(d)(4), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110-181, div. A, title IX, § 931(a)(4), (5), (c)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110-417, [div. A], title IX, § 932(a)(3)–(5), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

PRIOR PROVISIONS

A prior section 201 was renumbered section 202 of this title and subsequently repealed.

AMENDMENTS

2009—Subsecs. (a), (b)(1), (c)(1). Pub. L. 111-84 repealed Pub. L. 110-417, § 932(a)(3)–(5). See 2008 Amendment notes below.

2008—Subsec. (a). Pub. L. 110-181, § 931(a)(4), and Pub. L. 110-417, § 932(a)(3), amended subsec. (a) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110-417, § 932(a)(3), was repealed by Pub. L. 111-84.

Subsec. (b)(1). Pub. L. 110-417, § 932(a)(4), which directed substitution of “Director of National Intelligence” for “Director of Central Intelligence”, could not be executed because of the intervening amendment by Pub. L. 110-181, § 931(c)(2)(A), and was repealed by Pub. L. 111-84.

Pub. L. 110-181, § 931(c)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director’s concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.”

Subsec. (c)(1). Pub. L. 110-181, § 931(c)(2)(B), substituted “National Intelligence Program” for “National Foreign Intelligence Program”.

Pub. L. 110-181, § 931(a)(5), and Pub. L. 110-417, § 932(a)(5), amended par. (1) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110-417, § 932(a)(5), was repealed by Pub. L. 111-84.

2003—Subsecs. (b)(2)(C), (c)(2)(C). Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

1996—Pub. L. 104-201 substituted “Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance” for “Consultation regarding appointment of certain intelligence officials” in section catchline and amended text generally. Prior to amendment, text read as follows: “Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency or Director of the National Security Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of this title.