

guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

(e) The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a selection board convened under section 611(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of the Navy, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2852; amended Pub. L. 99-433, title IV, §402(b), Oct. 1, 1986, 100 Stat. 1030; Pub. L. 100-456, div. A, title V, §501(a), Sept. 29, 1988, 102 Stat. 1965; Pub. L. 101-189, div. A, title V, §519, Nov. 29, 1989, 103 Stat. 1444; Pub. L. 102-190, div. A, title V, §504(a)(1), Dec. 5, 1991, 105 Stat. 1355; Pub. L. 102-484, div. A, title X, §1052(7), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 109-163, div. A, title V, §506(a), Jan. 6, 2006, 119 Stat. 3227; Pub. L. 111-383, div. A, title V, §522(b), Jan. 7, 2011, 124 Stat. 4215.)

AMENDMENTS

2011—Subsecs. (b)(5), (c). Pub. L. 111-383 substituted “of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers” for “in joint duty assignments of officers who are serving, or have served, in such assignments”.

2006—Subsec. (a)(3). Pub. L. 109-163, §506(a)(1)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 109-163, §506(a)(2)(A), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Pub. L. 109-163, §506(a)(1)(A), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 109-163, §506(a)(2)(B), substituted “, (3), and (4)” for “and (3)”.

Pub. L. 109-163, §506(a)(1)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 109-163, §506(a)(2)(C)(i), inserted “, or in paragraph (3),” after “paragraph (2)” in introductory provisions.

Pub. L. 109-163, §506(a)(1)(A), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (a)(6)(B). Pub. L. 109-163, §506(a)(2)(C)(ii), inserted “or (3), as applicable” before period at end.

Subsec. (a)(7). Pub. L. 109-163, §506(a)(1)(A), redesignated par. (6) as (7).

Subsec. (a)(7)(A). Pub. L. 109-163, §506(a)(2)(D), inserted “or (3)” after “paragraph (2)(B)” in introductory provisions.

1992—Subsec. (b)(5). Pub. L. 102-484, §1052(7)(A), substituted “subsection (c)” for “subsection (b)”.

Subsec. (d). Pub. L. 102-484, §1052(7)(B), substituted “subsection (b)” for “subsection (a)”.

1991—Pub. L. 102-190 added subsec. (a) and redesignated former subsecs. (a) to (d) as (b) to (e), respectively.

1989—Subsec. (d). Pub. L. 101-189 added subsec. (d).

1988—Subsec. (a)(4). Pub. L. 100-456, §501(a)(1), added cl. (4) and struck out former cl. (4) which read as follows: “information relating to the needs of the armed force concerned for officers having particular skills;”.

Subsec. (c). Pub. L. 100-456, §501(a)(2), added subsec. (c).

1986—Pub. L. 99-433 designated existing provisions as subsec. (a), added par. (5), redesignated former par. (5) as (6), and added subsec. (b).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title V, §506(c), Jan. 6, 2006, 119 Stat. 3228, provided that: “The amendments made by this section [amending this section and section 14107 of this title] shall take effect on October 1, 2006, and shall apply with respect to promotion selection boards convened on or after that date.”

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-190, div. A, title V, §504(e), Dec. 5, 1991, 105 Stat. 1358, provided that: “The amendments made by this section [amending this section and sections 614, 616, 618, and 619 of this title] shall apply to selection boards convened under section 611(a) of title 10, United States Code, after the end of the 60-day period beginning on the date of the enactment of this Act [Dec. 5, 1991].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-456, div. A, title V, §501(e), Sept. 29, 1988, 102 Stat. 1966, provided that: “The amendments made by this section [amending this section and sections 616 to 618 of this title] shall take effect 60 days after the date of the enactment of this Act [Sept. 29, 1988] and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after that effective date.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-433 effective with respect to selection boards convened under section 611(a) of this title after end of 120-day period beginning on Oct. 1, 1986, see section 406(f) of Pub. L. 99-433, set out as a note under section 612 of this title.

§ 616. Recommendations for promotion by selection boards

(a) A selection board convened under section 611(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under section 615(b) of this title), considers best qualified for promotion within each competitive category considered by the board.

(b) The Secretary of the military department concerned shall establish the number of officers such a selection board may recommend for promotion from among officers being considered from below the promotion zone in any competitive category. Such number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the service so require. If the number determined under this subsection is less than one, the board may recommend one such officer. The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers which the board is authorized under section 615 of this title to recommend for promotion.

(c) A selection board convened under section 611(a) of this title may not recommend an officer for promotion unless—

(1) the officer receives the recommendation of a majority of the members of the board;

(2) a majority of the members of the board finds that the officer is fully qualified for promotion; and

(3) a majority of the members of the board, after consideration by all members of the board of any adverse information about the officer that is provided to the board under section 615 of this title, finds that the officer is among the officers best qualified for promotion to meet the needs of the armed force concerned consistent with the requirement of exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable.

(d) Except as otherwise provided by law, an officer on the active-duty list may not be promoted to a higher grade under this chapter unless he is considered and recommended for promotion to that grade by a selection board convened under this chapter.

(e) The recommendations of a selection board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 617 of this title, is signed by each member of the board.

(f) The Secretary convening a selection board under section 611(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

(2) attempt to coerce or, by any unauthorized means, influence any action of a selection board or any member of a selection board in the formulation of the board's recommendations.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2852; amended Pub. L. 100-456, div. A, title V, §501(b), Sept. 29, 1988, 102 Stat. 1966; Pub. L. 102-190, div. A, title V, §504(b), Dec. 5, 1991, 105 Stat. 1357; Pub. L. 102-484, div. A, title X, §1052(8), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 109-364, div. A, title V, §512(a), Oct. 17, 2006, 120 Stat. 2184.)

AMENDMENTS

2006—Subsec. (c)(3). Pub. L. 109-364 added par. (3).

1992—Pub. L. 102-484 substituted “section 615(b)” for “section 615(a)”.

1991—Subsecs. (e), (f). Pub. L. 102-190 added subsecs. (e) and (f).

1988—Subsec. (a). Pub. L. 100-456 inserted “(as noted in the guidelines or information furnished the board under section 615(a) of this title)” after “particular skills”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, §512(c), Oct. 17, 2006, 120 Stat. 2184, provided that: “The amendments made by this section [amending this section and section 14108 of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to selection boards convened on or after that date.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 applicable to selection boards convened under section 611(a) of this title after end of 60-day period beginning Dec. 5, 1991, see section 504(e) of Pub. L. 102-190, set out as a note under section 615 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-456 effective 60 days after Sept. 29, 1988, and applicable with respect to selection boards convened under section 611(a) of this title on or after that effective date, see section 501(e) of Pub. L. 100-456, set out as a note under section 615 of this title.

§ 617. Reports of selection boards

(a) Each selection board convened under section 611(a) of this title shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing a list of the names of the officers it recommends for promotion and certifying (1) that the board has carefully considered the record of each officer whose name was furnished to it under section 615 of this title, and (2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 615(b) of this title) among those officers whose names were furnished to the selection board.

(b) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any regular or reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required under chapter 60 or 1411 of this title to show cause for his retention on active duty.

(c) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any officer considered and not recommended for promotion by the board who submitted to the board a request not to be selected for promotion or who otherwise directly caused his nonselection through written communication to the Board under section 614(b) of this title.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2853; amended Pub. L. 100-456, div. A, title V, §501(c), Sept. 29, 1988, 102 Stat. 1966; Pub. L. 102-484, div. A, title X, §1052(8), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-337, div. A, title XVI, §1623, Oct. 5, 1994, 108 Stat. 2961; Pub. L. 105-261, div. A, title V, §502(b), Oct. 17, 1998, 112 Stat. 2003; Pub. L. 106-65, div. A, title V, §503(a), Oct. 5, 1999, 113 Stat. 590.)

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-65 struck out “regular” before “officer”.

1998—Subsec. (c). Pub. L. 105-261 added subsec. (c).

1994—Subsec. (b). Pub. L. 103-337 inserted “or reserve” after “any regular” and “or 1411” after “chapter 60”.

1992—Subsec. (a). Pub. L. 102-484 substituted “section 615(b)” for “section 615(a)”.

1988—Subsec. (a)(2). Pub. L. 100-456 inserted “(as noted in the guidelines or information furnished the board under section 615(a) of this title)” after “concerned”.