

104-106, div. A, title XV, §1501(b)(22), Feb. 10, 1996, 110 Stat. 497.)

AMENDMENTS

1996—Pub. L. 104-106 inserted “lists” in section catchline.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

**§ 14004. Reserve active-status lists: eligibility for Reserve promotion**

Except as otherwise provided by law, an officer must be on a reserve active-status list to be eligible under chapter 1405 of this title for consideration for selection for promotion or for promotion.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2923.)

**§ 14005. Competitive categories**

Each officer whose name appears on a reserve active-status list shall be placed in a competitive category. The competitive categories for each armed force shall be specified by the Secretary of the military department concerned under regulations prescribed by the Secretary of Defense. Officers in the same competitive category shall compete among themselves for promotion.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2923.)

**§ 14006. Determination of years in grade**

For the purpose of chapters 1403 through 1411 of this title, an officer’s years of service in a grade are computed from the officer’s date of rank in grade as determined under section 741(d) of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2923.)

**CHAPTER 1403—SELECTION BOARDS**

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AMENDMENTS

2006—Pub. L. 109-364, div. A, title V, §547(d)(2), Oct. 17, 2006, 120 Stat. 2216, substituted “Nondisclosure” for “Confidentiality” in item 14104.

1996—Pub. L. 104-106, div. A, title XV, §1501(b)(23), Feb. 10, 1996, 110 Stat. 497, substituted “promotion” for “selection” in item 14105.

**§ 14101. Convening of selection boards**

(a) PROMOTION BOARDS.—(1) Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned shall convene a selection board to recommend for promotion to the next higher grade, under chapter 1405 of this title, officers on the reserve active-status list of that armed force in a permanent grade from first lieutenant through brigadier general or, in the case of the Navy Reserve, lieutenant (junior grade) through rear admiral (lower half). A selection board convened under this subsection shall be known as a “promotion board”.

(2) A promotion board convened to recommend reserve officers of the Army or reserve officers of the Air Force for promotion (A) to fill a position vacancy under section 14315 of this title, or (B) to the grade of brigadier general or major general, shall be known as a “vacancy promotion board”. Any other promotion board convened under this subsection shall be known as a “mandatory promotion board”.

(3) Paragraph (1) does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 14308(b)(4) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(b) SELECTIVE EARLY SEPARATION BOARDS.—Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned may convene a selection board to recommend officers of that armed force—

(1) for selective early removal from the reserve active-status list under section 14704 of this title; or

(2) for selective early retirement under section 14705 of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2924; amended Pub. L. 105-85, div. A, title V, §514(a), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 107-107, div. A, title V, §505(b)(3), Dec. 28, 2001, 115 Stat. 1087; Pub. L. 108-136, div. A, title V, §511(b)(1), Nov. 24, 2003, 117 Stat. 1459; Pub. L. 109-163, div. A, title V, §515(b)(1)(PP), Jan. 6, 2006, 119 Stat. 3234.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

2003—Subsec. (b). Pub. L. 108-136, §511(b)(1)(A), (D), substituted “Selective Early Separation Boards” for “Continuation Boards” in heading and struck out concluding provisions which read as follows: “A selection board convened under this subsection shall be known as a ‘continuation board’.”

Subsec. (b)(1) to (3). Pub. L. 108-136, §511(b)(1)(B), (C), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: “for continuation on the reserve active-status list under section 14701 of this title;”.

2001—Subsec. (a)(3). Pub. L. 107-107 added par. (3).

1997—Subsec. (a)(2). Pub. L. 105-85 struck out “(except in the case of a board convened to consider officers as provided in section 14301(e) of this title)” before “be known as a ‘vacancy promotion board’.”

## EFFECTIVE DATE

Chapter effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

**§ 14102. Selection boards: appointment and composition**

(a) APPOINTMENT.—Members of selection boards convened under section 14101 of this title shall be appointed by the Secretary of the military department concerned in accordance with this section. Promotion boards and special selection boards shall consist of five or more officers. Selection boards convened under section 14101(b) of this title shall consist of three or more officers. All of the officers of any such selection board shall be of the same armed force as the officers under consideration by the board.

(b) COMPOSITION.—At least one-half of the members of such a selection board shall be reserve officers, to include at least one reserve officer from each reserve component from which officers are to be considered by the board. Each member of a selection board must hold a permanent grade higher than the grade of the officers under consideration by the board, and no member of a board may hold a grade below major or lieutenant commander.

(c) REPRESENTATION OF COMPETITIVE CATEGORIES.—(1) Except as provided in paragraph (2), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

(2) A selection board need not include an officer from a competitive category to be considered by the board if there is no officer of that competitive category on the reserve active-status list or the active-duty list in a permanent grade higher than the grade of the officers to be considered by the board and otherwise eligible to serve on the board. However, in such a case, the Secretary of the military department concerned, in his discretion, may appoint as a member of the board a retired officer of that competitive category who is in the same armed force as the officers under consideration by the board who holds a higher grade than the grade of the officers under consideration.

(d) PROHIBITION OF SERVICE ON CONSECUTIVE PROMOTION BOARDS.—No officer may be a member of two successive promotion boards convened under section 14101(a) of this title for the consideration of officers of the same competitive category and grade if the second of the two boards is to consider any officer who was considered and not recommended for promotion to the next higher grade by the first of the two boards. (Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2924; amended Pub. L. 108-136, div. A, title V, §511(b)(2), Nov. 24, 2003, 117 Stat. 1459.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3362(b), (c), 5893(a), (b), and 8362(b), (c) of this title, prior to repeal by Pub. L. 103-337, §1629(a)(1), (b)(2), (c)(1).

## AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136 substituted “Selection boards convened under section 14101(b) of this title” for “Continuation boards”.

**§ 14103. Oath of members**

Each member of a selection board convened under section 14101 of this title shall take an oath to perform the duties of a member of the board without prejudice or partiality, having in view both the special fitness of officers and the efficiency of the member's armed force.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2925.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3362(d), 5894, and 8362(d) of this title, prior to repeal by Pub. L. 103-337, §1629(a)(1), (b)(2), (c)(1).

**§ 14104. Nondisclosure of board proceedings**

(a) PROHIBITION ON DISCLOSURE.—The proceedings of a selection board convened under section 14101 or 14502 of this title may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board. This prohibition is a statutory exemption from disclosure, as described in section 552(b)(3) of title 5.

(b) PROHIBITED USES OF BOARD DISCUSSIONS, DELIBERATIONS, NOTES, AND RECORDS.—The discussions and deliberations of a selection board described in subsection (a) and any written or documentary record of such discussions and deliberations—

- (1) are immune from legal process;
- (2) may not be admitted as evidence; and
- (3) may not be used for any purpose in any action, suit, or judicial or administrative proceeding without the consent of the Secretary of the military department concerned.

(c) APPLICABILITY.—This section applies to all selection boards convened under section 14101 or 14502 of this title, regardless of the date on which the board was convened.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2925; amended Pub. L. 109-364, div. A, title V, §547(b), Oct. 17, 2006, 120 Stat. 2216; Pub. L. 111-383, div. A, title V, §503(c), Jan. 7, 2011, 124 Stat. 4208.)

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5898(e) of this title, prior to repeal by Pub. L. 103-337, §1629(b)(2).

## AMENDMENTS

2011—Subsec. (a). Pub. L. 111-383, §503(c)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “The proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board.”

Subsec. (b). Pub. L. 111-383, §503(c)(2), substituted “Notes, and Records” for “and Records” in heading.

Subsec. (c). Pub. L. 111-383, §503(c)(3), added subsec. (c).

2006—Pub. L. 109-364 amended section catchline and text generally. Prior to amendment, text read as follows: “Except as otherwise authorized or required by law, the proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board.”

## EFFECTIVE DATE OF 2006 AMENDMENT

This section, as amended by Pub. L. 109-364, applicable with respect to the proceedings of all selection