

tive error, it shall remand the case to the Secretary concerned, who shall provide the officer or former officer reconsideration by a new special selection board.

(i) DESIGNATION OF BOARDS.—The Secretary of the military department concerned may designate a promotion board convened under section 14101(a) of this title as a special selection board convened under this section. A board so designated may function in both capacities.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2947; amended Pub. L. 107-107, div. A, title V, §505(c)(3)(B), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 109-364, div. A, title V, §514(b), Oct. 17, 2006, 120 Stat. 2185; Pub. L. 114-92, div. A, title V, §§502(c)(2), 512, Nov. 25, 2015, 129 Stat. 807, 809.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5904 of this title, prior to repeal by Pub. L. 103-337, §1629(b)(2).

#### AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-92, §502(c)(2), struck out “or whose name was not placed on an all-fully-qualified-officers list under section 14308(b)(4) of this title because of administrative error,” after “administrative error.”

Subsec. (b)(1). Pub. L. 114-92, §512(1), substituted “a mandatory promotion board convened under section 14101(a) of this title” for “a selection board” in introductory provisions and “mandatory promotion board” for “selection board” in subpars. (A) and (B).

Subsec. (b)(3). Pub. L. 114-92, §512(2), in first sentence, substituted “The special selection board” for “Such board” and “mandatory promotion board” for “selection board”.

2006—Subsec. (b)(1)(A). Pub. L. 109-364 inserted “in a matter material to the decision of the board” after “contrary to law”.

2001—Subsec. (a)(1). Pub. L. 107-107 inserted “or whose name was not placed on an all-fully-qualified-officers list under section 14308(b)(4) of this title because of administrative error,” after “because of administrative error.”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-364 effective Mar. 1, 2007, and applicable with respect to selection boards convened on or after that date, see section 514(c) of Pub. L. 109-364, set out as a note under section 628 of this title.

### § 14503. Discharge of officers with less than six years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade)

(a) AUTHORIZED DISCHARGES.—The Secretary of the military department concerned may discharge any reserve officer who—

(1) has less than six years of service in an active status as a commissioned officer; or

(2) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade).

(b) TIME FOR DISCHARGE.—(1) An officer described in subsection (a)(2)—

(A) may be discharged at any time after being found not qualified for promotion; and

(B) if not sooner discharged, shall be discharged at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

(2) Paragraph (1) shall not apply if the officer is sooner promoted.

(c) REGULATIONS.—Discharges under this section shall be made under regulations prescribed by the Secretary of Defense and may be made without regard to section 12645 of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2949; amended Pub. L. 110-181, div. A, title V, §503(c)(1), (2), Jan. 28, 2008, 122 Stat. 95.)

#### PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) of this section were contained in sections 3819(b) and 8819(c) of this title, prior to repeal by Pub. L. 103-337, §1629(a)(2), (c)(2).

#### AMENDMENTS

2008—Pub. L. 110-181, §503(c)(2), substituted “six years” for “five years” in section catchline.

Subsec. (a)(1). Pub. L. 110-181, §503(c)(1), substituted “six years” for “five years”.

#### RIGHTS FOR OFFICERS WITH OVER THREE YEARS SERVICE

Pub. L. 103-337, div. A, title XVI, §1689, Oct. 5, 1994, 108 Stat. 3025, provided that: “A reserve officer of the Army, Navy, Air Force, or Marine Corps who was in an active status on the day before the effective date of this title [Oct. 1, 1996, see section 1691(b)(1), (2) of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title] and who was subject to placement of the reserve active-status list on the effective date of this title may not be discharged under section 14503 of title 10, United States Code, as added by this title, until on or after the day on which that officer completes three years of continuous service as a reserve commissioned officer.”

### § 14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy

(a) GENERAL RULE.—A first lieutenant on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant (junior grade) on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

(b) EXCEPTIONS.—Subsection (a) does not apply (1) in the case of an officer retained as provided by regulation of the Secretary of the military department concerned in order to meet planned mobilization needs for a period not in excess of 24 months beginning with the date on which the President approves the report of the selection board which resulted in the second failure, or (2) as provided in section 12646 or 12686 of this title.

(c) OFFICERS IN GRADE OF FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) FOUND NOT FULLY QUALIFIED FOR PROMOTION.—For the purposes of this chapter, an officer of the Army, Air Force, or Marine Corps on a reserve active-status list who holds the grade of first lieutenant, and an officer of the Navy on a reserve active-status

list who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 14308(b)(4) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2950; amended Pub. L. 107-107, div. A, title V, §505(b)(2), Dec. 28, 2001, 115 Stat. 1087.)

#### AMENDMENTS

2001—Subsec. (c). Pub. L. 107-107 added subsec. (c).

#### § 14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy

Unless retained as provided in section 12646 or 12686 of this title, a captain on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade and who has not been selected for continuation on the reserve active-status list under section 14701 of this title, shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2950.)

#### § 14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and reserve lieutenant commanders of the Navy

Unless retained as provided in section 12646, 12686, 14701, or 14702 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of major or lieutenant commander who has failed of selection to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if not earlier removed from the reserve active-status list, be removed from that list in accordance with section 14513 of this title on the later of (1) the first day of the month after the month in which the officer completes 20 years of commissioned service, or (2) the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2951; amended Pub. L. 104-106, div. A, title XV, §1501(b)(29), Feb. 10,

1996, 110 Stat. 498; Pub. L. 106-65, div. A, title V, §514(a), Oct. 5, 1999, 113 Stat. 593.)

#### AMENDMENTS

1999—Pub. L. 106-65 inserted “the later of (1)” after “in accordance with section 14513 of this title on” and “, or (2) the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time” before the period at end.

1996—Pub. L. 104-106 inserted comma after “Force” in section catchline.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title V, §514(b), Oct. 5, 1999, 113 Stat. 593, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to removals of reserve officers from reserve active-status lists under section 14506 of title 10, United States Code, on or after the date of the enactment of this Act [Oct. 5, 1999].”

#### 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.

#### § 14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy

(a) LIEUTENANT COLONELS AND COMMANDERS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of lieutenant colonel or commander and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 28 years of commissioned service.

(b) COLONELS AND NAVY CAPTAINS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Air Force, or Marine Corps who holds the grade of colonel, and each reserve officer of the Navy who holds the grade of captain, and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 30 years of commissioned service. This subsection does not apply to the adjutant general or assistant adjutants general of a State.

(c) TEMPORARY AUTHORITY TO RETAIN CERTAIN OFFICERS DESIGNATED AS JUDGE ADVOCATES.—(1) Notwithstanding the provisions of subsections (a) and (b), the Secretary of the Air Force may retain on the reserve active-status list any reserve officer of the Air Force who is designated as a judge advocate and who obtained the first professional degree in law while on an edu-