

submit the report as required by section 14111 of this title.

(b) RETURN OF REPORT FOR FURTHER PROCEEDINGS.—If, on the basis of a review of the report under subsection (a), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 14101(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 14109 of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2929.)

#### PRIOR PROVISIONS

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

#### EFFECTIVE DATE

Section 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.

### § 14111. Reports of selection boards: transmittal to President

(a) TRANSMITTAL TO PRESIDENT.—The Secretary concerned, after final review of the report of a selection board under section 14110 of this title, shall submit the report with the Secretary's recommendations, to the Secretary of Defense for transmittal by the Secretary to the President for approval or disapproval. If the authority of the President to approve or disapprove the report of a promotion board is delegated to the Secretary of Defense, that authority may not be redelegated except to an official in the Office of the Secretary of Defense.

(b) REMOVAL OF NAME FROM BOARD REPORT.—(1) Except as provided in paragraph (2), the name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

(2) In the case of an officer recommended by a selection board for promotion to a grade below brigadier general or rear admiral (lower half), the name of the officer may also be removed from the report of the selection board by the Secretary of Defense or the Deputy Secretary of Defense.

(c) RECOMMENDATIONS FOR REMOVAL OF SELECTED OFFICERS FROM REPORT.—If the Secretary of a military department or the Secretary of Defense makes a recommendation under this section that the name of an officer be removed from the report of a promotion board and the recommendation is accompanied by information that was not presented to that promotion board, that information shall be made available to that officer. The officer shall then

be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. If an eligible officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2929; amended Pub. L. 109-364, div. A, title V, §513(b), Oct. 17, 2006, 120 Stat. 2185.)

#### PRIOR PROVISIONS

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

#### AMENDMENTS

2006—Subsec. (b). Pub. L. 109-364 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), the” for “The”, and added par. (2).

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-364 applicable with respect to selection boards convened on or after Oct. 17, 2006, see section 513(c) of Pub. L. 109-364, set out as a note under section 618 of this title.

#### EFFECTIVE DATE

Section 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.

#### DELEGATION OF FUNCTIONS

For assignment of functions of President under first sentence of subsec. (a) of this section, see section 1(c) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, and section 1(a) of Ex. Ord. No. 13598, Jan. 27, 2012, 77 F.R. 5371, set out as notes under section 301 of Title 3, The President.

### § 14112. Dissemination of names of officers selected

(a) TIME FOR DISSEMINATION.—The names of the officers recommended for promotion in the report of a selection board shall be disseminated to the armed force concerned as follows:

(1) In the case of officers recommended for promotion to a grade below brigadier general or rear admiral (lower half), such names may be disseminated upon, or at any time after, the transmittal of the report to the President.

(2) In the case of officers recommended for promotion to a grade above colonel or, in the case of the Navy, captain, such names may be disseminated upon, or at any time after, the approval of the report by the President.

(3) In the case of officers whose names have not been sooner disseminated, such names shall be promptly disseminated—

(A) upon confirmation of the promotion of the officers by the Senate (in the case of promotions required to be submitted to the Senate for confirmation); or

(B) upon the approval of the report by the President (in the case of promotions not required to be submitted to the Senate for confirmation).

(b) NAMES NOT DISSEMINATED.—A list of names of officers disseminated under subsection (a) may not include—

(1) any name removed by the President from the report of the selection board containing that name, if dissemination is under the authority of paragraph (2) or (3)(B) of that subsection; or

(2) the name of any officer whose promotion the Senate failed to confirm, if dissemination is under the authority of paragraph (3)(A) of that subsection.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2930; amended Pub. L. 106-398, § 1 [[div. A], title V, §503(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-101.)

#### PRIOR PROVISIONS

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

#### AMENDMENTS

2000—Pub. L. 106-398 amended text generally. Prior to amendment, text read as follows: “Upon approval by the President of the report of a promotion board, the names of the officers recommended for promotion by the promotion board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.”

#### EFFECTIVE DATE

Section 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.

### CHAPTER 1405—PROMOTIONS

Sec.	
14301.	Eligibility for consideration for promotion: general rules.
14302.	Promotion zones.
14303.	Eligibility for consideration for promotion: minimum years of service in grade.
14304.	Eligibility for consideration for promotion: maximum years of service in grade.
14305.	Establishment of promotion zones: mandatory consideration for promotion.
14306.	Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system.
14307.	Number of officers to be recommended for promotion.
14308.	Promotions: how made.
14309.	Acceptance of promotion; oath of office.
14310.	Removal of officers from a list of officers recommended for promotion.
14311.	Delay of promotion: involuntary.
14312.	Delay of promotion: voluntary.
14313.	Authority to vacate promotions to grade of brigadier general or rear admiral (lower half).
14314.	Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general.
14315.	Position vacancy promotions: Army and Air Force officers.
14316.	Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion.
14317.	Officers in transition to and from the active-status list or active-duty list.

#### AMENDMENTS

2006—Pub. L. 109-163, div. A, title V, §515(b)(4)(I), Jan. 6, 2006, 119 Stat. 3235, substituted “Navy Reserve” for “Naval Reserve” in item 14306.

1996—Pub. L. 104-106, div. A, title XV, §1501(b)(24), Feb. 10, 1996, 110 Stat. 497, substituted “Number” for “Numbers” in item 14307, a semicolon for a colon in item 14309, and “State” for “state” in item 14314.

#### § 14301. Eligibility for consideration for promotion: general rules

(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—

(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and

(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).

(b) REQUIREMENT FOR CONSIDERATION OF ALL OFFICERS IN AND ABOVE THE ZONE.—Whenever a promotion board (other than a vacancy promotion board) is convened under section 14101(a) of this title for consideration of officers in a competitive category who are eligible under this chapter for consideration for promotion to the next higher grade, each officer in the promotion zone, and each officer above the promotion zone, for that grade and competitive category shall be considered for promotion.

(c) PREVIOUSLY SELECTED OFFICERS NOT ELIGIBLE TO BE CONSIDERED.—A promotion board convened under section 14101(a) of this title may not consider for promotion to the next higher grade any of the following officers:

(1) An officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 14502 of this title or under chapter 36 of this title.

(2) An officer who is recommended for promotion to that grade in the report of an earlier selection board convened under a provision referred to in paragraph (1), in the case of such a report that has not yet been approved by the President.

(3) An officer who has been approved for Federal recognition by a board convened under section 307 of title 32 and nominated by the President for promotion to that grade as a reserve of the Army or of the Air Force as the case may be, if that nomination is pending before the Senate.

(4) An officer who has been nominated by the President for promotion to that grade under any other provision of law, if that nomination is pending before the Senate.

(5) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 14308(b)(4) of this title.

(d) OFFICERS BELOW THE ZONE.—The Secretary of the military department concerned may, by regulation, prescribe procedures to limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well quali-