

ant to subparagraph (A)) for consideration by the Secretary for recommendation to the President for appointment to that position.

(2) Whenever the Secretaries of the military departments are required to submit the names of officers under paragraph (1)(A), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of each officer whose name is submitted under that paragraph (and of any officer whose name the Chairman submits to the Secretary under paragraph (1)(B) for consideration for the same vacancy). The Chairman's evaluation shall primarily consider the performance of the officer as a member of the Joint Staff and in other joint duty assignments, but may include consideration of other aspects of the officer's performance as the Chairman considers appropriate.

(b) COVERED POSITIONS.—Subsection (a) applies to the following positions:

(1) Commander of a combatant command.

(2) Commander, United States Forces, Korea.

(Added Pub. L. 103-337, div. A, title IV, § 405(c)(1), Oct. 5, 1994, 108 Stat. 2745; amended Pub. L. 104-201, div. A, title IV, § 404(a), Sept. 23, 1996, 110 Stat. 2506; Pub. L. 106-65, div. A, title V, § 509(a), Oct. 5, 1999, 113 Stat. 592; Pub. L. 107-314, div. A, title IV, § 405(a), Dec. 2, 2002, 116 Stat. 2526; Pub. L. 108-136, div. A, title V, § 504(a), Nov. 24, 2003, 117 Stat. 1456; Pub. L. 114-328, div. A, title V, § 502(e), Dec. 23, 2016, 130 Stat. 2102.)

AMENDMENTS

2016—Subsec. (b)(3). Pub. L. 114-328 struck out par. (3) which read as follows: "Deputy commander, United States European Command, but only if the commander of that command is also the Supreme Allied Commander, Europe."

2003—Subsec. (c). Pub. L. 108-136 struck out heading and text of subsec. (c). Text read as follows: "This section shall cease to be effective at the end of December 31, 2004."

2002—Subsec. (c). Pub. L. 107-314 substituted "December 31, 2004" for "September 30, 2003".

1999—Subsec. (c). Pub. L. 106-65 substituted "September 30, 2003" for "September 30, 2000".

1996—Subsec. (c). Pub. L. 104-201 substituted "September 30, 2000" for "September 30, 1997".

§ 605. Promotion to certain grades for officers with critical skills: colonel, lieutenant colonel, major, captain; captain, commander, lieutenant commander, lieutenant

(a) IN GENERAL.—An officer in the grade of first lieutenant, captain, major, or lieutenant colonel in the Army, Air Force, or Marine Corps, or lieutenant (junior grade), lieutenant, lieutenant commander, or commander in the Navy, who is described in subsection (b) may be temporarily promoted to the grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, commander, or captain in the Navy, as applicable, under regulations prescribed by the Secretary of the military department concerned. Appointments under this section shall be made by the President, by and with the advice and consent of the Senate.

(b) COVERED OFFICERS.—An officer described in this subsection is any officer in a grade specified in subsection (a) who—

(1) has a skill in which the armed force concerned has a critical shortage of personnel (as determined by the Secretary of the military department concerned); and

(2) is serving in a position (as determined by the Secretary of the military department concerned) that—

(A) is designated to be held by a captain, major, lieutenant colonel, or colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, commander, or captain in the Navy, as applicable; and

(B) requires that an officer serving in such position have the skill possessed by such officer.

(c) PRESERVATION OF POSITION AND STATUS OF OFFICERS APPOINTED.—An appointment under this section does not change the position on the active-duty list or the permanent, probationary, or acting status of the officer so appointed, prejudice the officer in regard to other promotions or appointments, or abridge the rights or benefits of the officer.

(d) BOARD RECOMMENDATION REQUIRED.—A temporary promotion under this section may be made only upon the recommendation of a board of officers convened by the Secretary of the military department concerned for the purpose of recommending officers for such promotions.

(e) ACCEPTANCE AND EFFECTIVE DATE OF APPOINTMENT.—Each appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date such appointment is made, and a member so appointed is entitled to the pay and allowances of the grade of the temporary promotion under this section from the date the appointment is made.

(f) TERMINATION OF APPOINTMENT.—Unless sooner terminated, an appointment under this section terminates—

(1) on the date the officer who received the appointment is promoted to the permanent grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, commander, or captain in the Navy; or

(2) on the date the officer is detached from a position described in subsection (b)(2), unless the officer is on a promotion list to the permanent grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, commander, or captain in the Navy, in which case the appointment terminates on the date the officer is promoted to that grade.

(g) LIMITATION ON NUMBER OF ELIGIBLE POSITIONS.—An appointment under this section may only be made for service in a position designated by the Secretary of the military department concerned for the purposes of this section. The number of positions so designated may not exceed the following:

(1) In the case of the Army—

(A) as captain, 120;

(B) as major, 350;

(C) as lieutenant colonel, 200; and

(D) as colonel, 100.

(2) In the case of the Air Force—

(A) as captain, 100;

- (B) as major, 325;
- (C) as lieutenant colonel, 175; and
- (D) as colonel, 80.
- (3) In the case of the Marine Corps—
 - (A) as captain, 50;
 - (B) as major, 175;
 - (C) as lieutenant colonel, 100; and
 - (D) as colonel, 50.
- (4) In the case of the Navy—
 - (A) as lieutenant, 100;
 - (B) as lieutenant commander, 325;
 - (C) as commander, 175; and
 - (D) as captain, 80.

(Added Pub. L. 115-232, div. A, title V, §503(a)(1), Aug. 13, 2018, 132 Stat. 1740.)

CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

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AMENDMENTS

2018—Pub. L. 115-232, div. A, title V, §507(a)(2), Aug. 13, 2018, 132 Stat. 1748, added item for subchapter VI.

SUBCHAPTER I—SELECTION BOARDS

Sec.	
611.	Convening of selection boards.
612.	Composition of selection boards.
613.	Oath of members of selection boards.
613a.	Nondisclosure of board proceedings.
614.	Notice of convening of selection boards.
615.	Information furnished to selection boards.
616.	Recommendations for promotion by selection boards.
617.	Reports of selection boards.
618.	Action on reports of selection boards.

AMENDMENTS

2006—Pub. L. 109-364, div. A, title V, §547(d)(1), Oct. 17, 2006, 120 Stat. 2216, added item 613a.

1991—Pub. L. 102-190, div. A, title V, §504(a)(2)(B), Dec. 5, 1991, 105 Stat. 1357, struck out “; communications with boards” after “selection boards” in item 614.

§ 611. Convening of selection boards

(a) Whenever the needs of the service require, the Secretary of the military department concerned shall convene selection boards to recommend for promotion to the next higher permanent grade, under subchapter II of this chapter, officers on the active-duty list in each permanent grade from first lieutenant through brigadier general in the Army, Air Force, or Marine Corps and from lieutenant (junior grade) through rear admiral (lower half) in the Navy. The preceding sentence 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 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(b) Whenever the needs of the service require, the Secretary of the military department concerned may convene selection boards to recommend officers for continuation on active duty under section 637 of this title or for early retirement under section 638 of this title.

(c) The convening of selection boards under subsections (a) and (b) shall be under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2851; amended Pub. L. 97-86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99-145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 107-107, div. A, title V, §505(a)(3), Dec. 28, 2001, 115 Stat. 1086.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-107, §505(a)(3)(A), substituted “Whenever the needs of the service require, the Secretary of the military department concerned” for “Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require,” and inserted at end “The preceding sentence 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 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.”

Subsec. (b). Pub. L. 107-107, §505(a)(3)(B), substituted “Whenever the needs of the service require, the Secretary of the military department concerned” for “Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require,”.

Subsec. (c). Pub. L. 107-107, §505(a)(3)(C), added subsec. (c).

1985—Subsec. (a). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1981—Subsec. (a). Pub. L. 97-86 substituted “commodore” for “commodore admiral”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

TRANSITION FROM GRADE OF COMMODORE TO GRADE OF REAR ADMIRAL (LOWER HALF)

Pub. L. 99-145, title V, §514(e), Nov. 8, 1985, 99 Stat. 630, provided that:

“(1) An officer who on the day before the date of the enactment of this Act [Nov. 8, 1985] is serving in or has the grade of commodore shall as of the date of the enactment of this Act be serving in or have the grade of rear admiral (lower half).

“(2) An officer who on the day before the date of the enactment of this Act is on a list of officers selected for promotion to the grade of commodore shall as of the date of the enactment of this Act be considered to be