

shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list established under this chapter.

(d) OFFICERS SELECTED FOR POSITION VACANCIES.—(1) Except as provided in subsection (e), if a reserve officer is ordered to active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only) after being recommended for promotion under section 14315 of this title to fill a position vacancy or examined for Federal recognition under title 32, and before being promoted to fill that vacancy, the officer shall not be promoted while serving such active duty or full-time National Guard duty unless the officer—

(A) is ordered to active duty as a member of the unit in which the vacancy exists when that unit is ordered to active duty; or

(B) has been ordered to or is serving on active duty in support of a contingency operation.

(2) If, under this subsection, the name of an officer is removed from a list of officers recommended for promotion, the officer shall be treated as if the officer had not been considered for promotion or examined for Federal recognition.

(e) OFFICERS ORDERED TO ACTIVE DUTY IN TIME OF WAR OR NATIONAL EMERGENCY.—(1) A reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion—

(A) by a mandatory promotion board convened under section 14101(a) of this title or a special selection board convened under section 14502 of this title; or

(B) in the case of an officer who has been ordered to or is serving on active duty in support of a contingency operation, by a vacancy promotion board convened under section 14101(a) of this title, or by examination for Federal recognition under title 32.

(2) An officer may not be considered for promotion under this subsection after the end of the two-year period beginning on the date on which the officer is ordered to active duty.

(3) An officer may not be considered for promotion under this subsection during a period when the operation of this section has been suspended by the President under section 123(a) of this title.

(4) Consideration of an officer for promotion under this subsection shall be under regulations prescribed by the Secretary of the military department concerned.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2945; amended Pub. L. 104-106, div. A, title XV, §1501(b)(26), Feb. 10, 1996, 110 Stat. 497; Pub. L. 105-85, div. A, title X, §1073(a)(68), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 108-136, div. A, title V, §512(a), Nov. 24, 2003, 117 Stat. 1459; Pub. L. 110-417, [div. A], title V, §513, Oct. 14, 2008, 122 Stat. 4441.)

PRIOR PROVISIONS

Provisions similar to those in subsec. (a) of this section were contained in sections 3378, 5906, and 8378 of this title, prior to repeal by Pub. L. 103-337, §1629(a)(1), (b)(2), (c)(1).

AMENDMENTS

2008—Subsec. (d). Pub. L. 110-417, §513(a), designated first sentence as par. (1) and second sentence as par. (2) and, in par. (1), substituted “unless the officer—” for “unless the officer”, inserted subpar. (A) designation before “is ordered”, substituted “duty; or” for “duty.”, and added subpar. (B).

Subsec. (e)(1)(B). Pub. L. 110-417, §513(b), inserted “, or by examination for Federal recognition under title 32” before period at end.

2003—Subsec. (d). Pub. L. 108-136, §512(a)(1), substituted “Except as provided in subsection (e), if a reserve officer” for “If a reserve officer”.

Subsec. (e). Pub. L. 108-136, §512(a)(2), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title for not more than two years from the date the officer is ordered to active duty unless the President suspends the operation of this section under the provisions of section 123 or 10213 of this title.”

1997—Subsec. (d). Pub. L. 105-85 substituted “section 14315” for “section 14314”.

1996—Subsec. (e). Pub. L. 104-106 inserted heading and substituted “123 or 10213” for “10213 or 644”.

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.

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 1407—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

Sec.	
14501.	Failure of selection for promotion.
14502.	Special selection boards: correction of errors.
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).
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.
14505.	Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy.
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.
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.
14508.	Removal from the reserve active-status list for years of service: reserve general and flag officers.
14509.	Separation at age 62: reserve officers in grades below brigadier general or rear admiral (lower half).
14510.	Separation at age 62: brigadier generals and rear admirals (lower half).

Sec.	
14511.	Separation at age 64: officers in grade of major general or rear admiral and above.
14512.	Separation at age 66: officers holding certain offices.
14513.	Failure of selection for promotion: transfer, retirement, or discharge.
14514.	Discharge or retirement for years of service or after selection for early removal.
14515.	Discharge or retirement for age.
14516.	Separation to be considered involuntary.
14517.	Entitlement of officers discharged under this chapter to separation pay.
14518.	Continuation of officers to complete disciplinary action.
14519.	Deferment of retirement or separation for medical reasons.

AMENDMENTS

2008—Pub. L. 110-181, div. A, title V, § 503(c)(3), title XVIII, § 1825(a)(2), Jan. 28, 2008, 122 Stat. 95, 502, substituted “six years” for “five years” in item 14503 and “officers in grade of major general or rear admiral and above” for “major generals and rear admirals” in item 14511.

2006—Pub. L. 109-364, div. A, title V, § 503(f), Oct. 17, 2006, 120 Stat. 2178, struck out “reserve” before “brigadier” in item 14510 and substituted “62” for “60” in items 14509 and 14510, “64” for “62” in item 14511, and “66” for “64” in item 14512.

2002—Pub. L. 107-314, div. A, title V, § 522(b), Dec. 2, 2002, 116 Stat. 2541, added item 14519.

2001—Pub. L. 107-107, div. A, title V, § 517(b)(2)(B), Dec. 28, 2001, 115 Stat. 1094, substituted “Failure of selection for promotion: transfer, retirement, or discharge” for “Separation for failure of selection of promotion” in item 14513.

1999—Pub. L. 106-65, div. A, title V, § 511(b), Oct. 5, 1999, 113 Stat. 592, added item 14518.

1996—Pub. L. 104-106, div. A, title XV, § 1501(b)(27), Feb. 10, 1996, 110 Stat. 497, inserted “reserve” after “Marine Corps and” in item 14506, “reserve” after “Removal from the” in item 14507, and “in grades” after “reserve officers” in item 14509.

§ 14501. Failure of selection for promotion

(a) OFFICERS BELOW THE GRADE OF COLONEL OR NAVY CAPTAIN.—An officer on the reserve active-status list in a grade below the grade of colonel or, in the case of an officer in the Navy Reserve, captain who is in or above the promotion zone established for that officer’s grade and competitive category and who (1) is considered but not recommended for promotion (other than by a vacancy promotion board), or (2) declines to accept a promotion for which selected (other than by a vacancy promotion board), shall be considered to have failed of selection for promotion.

(b) OFFICERS TWICE FAILED OF SELECTION.—An officer shall be considered for all purposes to have twice failed of selection for promotion if any of the following applies:

(1) The officer is considered but not recommended for promotion a second time by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) of this title.

(2) The officer declines to accept a promotion for which recommended by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) or 14502(b) of this title after previously failing of selection or after the officer’s name was removed from the report of a selection board under section 14111(b)

or from a promotion list under section 14310 of this title after recommendation for promotion by an earlier selection board described in subsection (a).

(3) The officer’s name has been removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation by a mandatory promotion board convened under section 14101(a) or by a special selection board convened under section 14502(a) or 14502(b) of this title and—

(A) the officer is not recommended for promotion by the next mandatory promotion board convened under section 14101(a) or special selection board convened under section 14502(a) of this title for that officer’s grade and competitive category; or

(B) the officer’s name is again removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title.

(Added Pub. L. 103-337, div. A, title XVI, § 1611, Oct. 5, 1994, 108 Stat. 2946; amended Pub. L. 104-106, div. A, title XV, § 1501(b)(28), Feb. 10, 1996, 110 Stat. 498; Pub. L. 109-163, div. A, title V, § 515(b)(1)(TT), Jan. 6, 2006, 119 Stat. 3234.)

AMENDMENTS

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

1996—Subsec. (a). Pub. L. 104-106 inserted heading.

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.

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.

CONTINUATION ON RESERVE ACTIVE-STATUS LIST OF CERTAIN RESERVE COLONELS OF ARMY AND AIR FORCE

Pub. L. 103-337, div. A, title XVI, § 1681, Oct. 5, 1994, 108 Stat. 3021, provided that:

“(a) CONTINUATION UNDER OLD LAW.—Except as provided in subsection (b), a reserve officer of the Army or the Air Force who, on 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]—

“(1) is subject to placement on the reserve active-status list of the Army or the Air Force; and

“(2)(A) holds the reserve grade of colonel, (B) is on a list of officers recommended for promotion to the reserve grade of colonel, or (C) has been nominated by the President for appointment in the reserve grade of colonel,

shall continue to be subject to mandatory transfer to the Retired Reserve or discharge from the officer’s reserve appointment under section 3851 or 8851 of title 10, United States Code, as in effect on the day before the effective date of this title.

“(b) EXEMPTION.—This section does not apply to an officer who is—

“(1) sooner transferred from an active status or discharged under some other provision of law;

“(2) promoted to a higher grade, unless the officer was on a list of officers recommended for promotion to the reserve grade of colonel before the effective date of this title; or