

§ 616. Recommendations for promotion by selection boards

(a) A selection board convened under section 611(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under section 615(b) of this title), considers best qualified for promotion within each competitive category considered by the board.

(b) The Secretary of the military department concerned shall establish the number of officers such a selection board may recommend for promotion from among officers being considered from below the promotion zone in any competitive category. Such number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the service so require. If the number determined under this subsection is less than one, the board may recommend one such officer. The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers which the board is authorized under section 615 of this title to recommend for promotion.

(c) A selection board convened under section 611(a) of this title may not recommend an officer for promotion unless—

(1) the officer receives the recommendation of a majority of the members of the board;

(2) a majority of the members of the board finds that the officer is fully qualified for promotion; and

(3) a majority of the members of the board, after consideration by all members of the board of any adverse information about the officer that is provided to the board under section 615 of this title, finds that the officer is among the officers best qualified for promotion to meet the needs of the armed force concerned consistent with the requirement of exemplary conduct set forth in section 7233, 8167, or 9233 of this title, as applicable.

(d) The number of officers recommended for promotion by a selection board convened under section 611(a) of this title may not exceed the number equal to 95 percent of the number of officers included in the promotion zone established under section 623 of this title for consideration by the board.

(e) Except as otherwise provided by law, an officer on the active-duty list may not be promoted to a higher grade under this chapter unless he is considered and recommended for promotion to that grade by a selection board convened under this chapter.

(f) The recommendations of a selection board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense.

Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 617 of this title, is signed by each member of the board.

(g) The Secretary convening a selection board under section 611(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

(2) attempt to coerce or, by any unauthorized means, influence any action of a selection board or any member of a selection board in the formulation of the board's recommendations.

(h)(1) In selecting the officers to be recommended for promotion, a selection board may, when authorized by the Secretary of the military department concerned, recommend officers of particular merit, from among those officers selected for promotion, to be placed higher on the promotion list established by the Secretary under section 624(a)(1) of this title.

(2) An officer may be recommended to be placed higher on a promotion list under paragraph (1) only if the officer receives the recommendation of at least a majority of the members of the board, unless the Secretary concerned establishes an alternative requirement. Any such alternative requirement shall be furnished to the board as part of the guidelines furnished to the board under section 615 of this title.

(3) For the officers recommended to be placed higher on a promotion list under paragraph (1), the board shall recommend the order in which those officers should be placed on the list.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2852; amended Pub. L. 100-456, div. A, title V, §501(b), Sept. 29, 1988, 102 Stat. 1966; Pub. L. 102-190, div. A, title V, §504(b), Dec. 5, 1991, 105 Stat. 1357; Pub. L. 102-484, div. A, title X, §1052(8), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 109-364, div. A, title V, §512(a), Oct. 17, 2006, 120 Stat. 2184; Pub. L. 115-232, div. A, title V, §504(a), title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1742, 1840; Pub. L. 116-92, div. A, title V, §503(a), Dec. 20, 2019, 133 Stat. 1344.)

AMENDMENTS

2019—Subsecs. (d) to (h). Pub. L. 116-92 added subsec. (d) and redesignated former subsecs. (d) to (g) as (e) to (h), respectively.

2018—Subsec. (c)(3). Pub. L. 115-232, §809(a), substituted "section 7233, 8167, or 9233" for "section 3583, 5947, or 8583".

Subsec. (g). Pub. L. 115-232, §504(a), added subsec. (g). 2006—Subsec. (c)(3). Pub. L. 109-364 added par. (3).

1992—Pub. L. 102-484 substituted "section 615(b)" for "section 615(a)".

1991—Subsecs. (e), (f). Pub. L. 102-190 added subsecs. (e) and (f).

1988—Subsec. (a). Pub. L. 100-456 inserted "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "particular skills".

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-92, div. A, title V, § 503(b), Dec. 20, 2019, 133 Stat. 1344, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 20, 2019], and shall apply with respect to consideration by promotion selection boards convened under section 611(a) of title 10, United States Code, of promotion zones that are established under section 623 of that title on or after that date.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 809(a) of Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, § 512(c), Oct. 17, 2006, 120 Stat. 2184, provided that: “The amendments made by this section [amending this section and section 14108 of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to selection boards convened on or after that date.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 applicable to selection boards convened under section 611(a) of this title after end of 60-day period beginning Dec. 5, 1991, see section 504(e) of Pub. L. 102-190, set out as a note under section 615 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-456 effective 60 days after Sept. 29, 1988, and applicable with respect to selection boards convened under section 611(a) of this title on or after that effective date, see section 501(e) of Pub. L. 100-456, set out as a note under section 615 of this title.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section 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.

§ 617. Reports of selection boards

(a) Each selection board convened under section 611(a) of this title shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing a list of the names of the officers it recommends for promotion and certifying (1) that the board has carefully considered the record of each officer whose name was furnished to it under section 615 of this title, and (2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 615(b) of this title) among those officers whose names were furnished to the selection board.

(b) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any regular or reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required under chapter 60 or 1411 of this title to show cause for his retention on active duty.

(c) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any officer considered and not recommended for promotion by the board who submitted to the board a request not to be selected for promotion or who otherwise directly caused his nonselection through written communication to the Board under section 614(b) of this title.

(d) A selection board convened under section 611(a) of this title shall, when authorized under section 616(g)¹ of this title, include in its report to the Secretary concerned the names of those officers recommended by the board to be placed higher on the promotion list and the order in which the board recommends that those officers should be placed on the list.

(Added Pub. L. 96-513, title I, § 105, Dec. 12, 1980, 94 Stat. 2853; amended Pub. L. 100-456, div. A, title V, § 501(c), Sept. 29, 1988, 102 Stat. 1966; Pub. L. 102-484, div. A, title X, § 1052(8), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-337, div. A, title XVI, § 1623, Oct. 5, 1994, 108 Stat. 2961; Pub. L. 105-261, div. A, title V, § 502(b), Oct. 17, 1998, 112 Stat. 2003; Pub. L. 106-65, div. A, title V, § 503(a), Oct. 5, 1999, 113 Stat. 590; Pub. L. 115-232, div. A, title V, § 504(b), Aug. 13, 2018, 132 Stat. 1742.)

REFERENCES IN TEXT

Section 616(g) of this title, referred to in subsec. (d), was redesignated section 616(h) of this title by Pub. L. 116-92, div. A, title V, § 503(a), Dec. 20, 2019, 133 Stat. 1344.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115-232 added subsec. (d).
 1999—Subsec. (c). Pub. L. 106-65 struck out “regular” before “officer”.
 1998—Subsec. (c). Pub. L. 105-261 added subsec. (c).
 1994—Subsec. (b). Pub. L. 103-337 inserted “or reserve” after “any regular” and “or 1411” after “chapter 60”.
 1992—Subsec. (a). Pub. L. 102-484 substituted “section 615(b)” for “section 615(a)”.
 1988—Subsec. (a)(2). Pub. L. 100-456 inserted “(as noted in the guidelines or information furnished the board under section 615(a) of this title)” after “concerned”.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title V, § 503(b), Oct. 5, 1999, 113 Stat. 590, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to boards convened under section 611(a) of title 10, United States Code, on or after the date of the enactment of this Act [Oct. 5, 1999].”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title V, § 502(c), Oct. 17, 1998, 112 Stat. 2003, provided that: “The amendments made by this section [amending this section and section 1174 of this title] shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after the date of the enactment of this Act [Oct. 17, 1998].”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 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.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-456 effective 60 days after Sept. 29, 1988, and applicable with respect to selection

¹ See References in Text note below.