

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.

§ 618. Action on reports of selection boards

(a)(1) Upon receipt of the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 615(b) of this title. Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), the Secretary shall submit the report as required by subsection (b) or (c), as appropriate.

(2) If, on the basis of a review of the report under paragraph (1), 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 615(b) 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 paragraph, the selection board (or a subsequent selection board convened under section 611(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 617 of this title.

(b)(1) After completing the requirements of subsection (a), the Secretary concerned, in the case of the report of a selection board that considered officers who are serving on, or have served on, the Joint Staff or are joint qualified officers, shall submit the report to the Chairman of the Joint Chiefs of Staff.

(2) The Chairman, in accordance with guidelines furnished to the Chairman by the Secretary of Defense, shall review the report for the purpose of determining if—

(A) the selection board acted consistent with the guidelines of the Secretary of Defense under section 615(c) of this title to ensure that selection boards give appropriate consideration to the performance of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers; and

(B) the selection board otherwise gave appropriate consideration to the performance of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers.

(3) After reviewing the report, the Chairman shall return the report, with his determinations and comments, to the Secretary concerned.

(4) If the Chairman determines that the board acted contrary to the guidelines of the Secretary of Defense under section 615(c) of this

title or otherwise failed to give appropriate consideration to the performance of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers, the Secretary concerned may—

(A) return the report, together with the Chairman's determinations and comments, to the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) for further proceedings in accordance with subsection (a);

(B) convene a special selection board in the manner provided for under section 628 of this title; or

(C) take other appropriate action to satisfy the concerns of the Chairman.

(5) If, after completion of all actions taken under paragraph (4), the Secretary concerned and the Chairman remain in disagreement with respect to the report of a selection board, the Secretary concerned shall indicate such disagreement, and the reasons for such disagreement, as part of his transmittal of the report of the selection board to the Secretary of Defense under subsection (c). Such transmittal shall include any comments submitted by the Chairman.

(c)(1) After his final review of the report of a selection board, the Secretary concerned shall submit the report, with his recommendations thereon, to the Secretary of Defense for transmittal to the President for his approval or disapproval. The Secretary of Defense shall, before transmitting the report of a selection board to the President, take appropriate action to resolve any disagreement between the Secretary concerned and the Chairman transmitted to him under subsection (b)(5). If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.

(2) If the report of a selection board names an officer as having a record which indicates that the officer should be required to show cause for his retention on active duty, the Secretary concerned may provide for the review of the record of that officer as provided for under regulations prescribed under section 1181 of this title.

(d)(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.

(e)(1) 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:

(A) 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.

(B) 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.

(C) In the case of officers whose names have not been sooner disseminated, such names shall be promptly disseminated upon confirmation by the Senate.

(2) A list of names of officers disseminated under paragraph (1) may not include—

(A) any name removed by the President from the report of the selection board containing that name, if dissemination is under the authority of subparagraph (B) of such paragraph; or

(B) the name of any officer whose promotion the Senate failed to confirm, if dissemination is under the authority of subparagraph (C) of such paragraph.

[(f) Repealed. Pub. L. 109-364, div. A, title V, § 547(a)(2), Oct. 17, 2006, 120 Stat. 2216.]

(g) 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 a report of a selection board and the recommendation is accompanied by information that was not presented to that selection 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. 96-513, title I, § 105, Dec. 12, 1980, 94 Stat. 2853; amended Pub. L. 98-525, title V, § 524(a), Oct. 19, 1984, 98 Stat. 2524; Pub. L. 99-433, title IV, § 402(c), Oct. 1, 1986, 100 Stat. 1030; Pub. L. 100-456, div. A, title V, § 501(d), Sept. 29, 1988, 102 Stat. 1966; Pub. L. 102-190, div. A, title V, § 504(c), Dec. 5, 1991, 105 Stat. 1357; Pub. L. 102-484, div. A, title X, § 1052(8), (9), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 106-398, § 1 [[div. A], title V, § 503(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-100; Pub. L. 109-364, div. A, title V, §§ 513(a), 547(a)(2), Oct. 17, 2006, 120 Stat. 2184, 2216; Pub. L. 111-383, div. A, title V, § 522(c), Jan. 7, 2011, 124 Stat. 4215.)

AMENDMENTS

2011—Subsec. (b)(1). Pub. L. 111-383, § 522(c)(1), substituted “are serving on, or have served on, the Joint Staff or are joint qualified officers” for “are serving, or have served, in joint duty assignments”.

Subsec. (b)(2). Pub. L. 111-383, § 522(c)(2), substituted “of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers” for “in joint duty assignments of officers who are serving, or have served, in such assignments” in subpars. (A) and (B).

Subsec. (b)(4). Pub. L. 111-383, § 522(c)(3), substituted “who are serving on, or have served on, the Joint Staff or are joint qualified officers” for “in joint duty assignments” in introductory provisions.

2006—Subsec. (d). Pub. L. 109-364, § 513(a), designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), the name” for “The name”, and added par. (2).

Subsec. (f). Pub. L. 109-364, § 547(a)(2), struck out subsec. (f) which read as follows: “Except as authorized or required by this section, proceedings of a selection board convened under section 611(a) of this title may not be disclosed to any person not a member of the board.”

2000—Subsec. (e). Pub. L. 106-398 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Upon approval by the President of the report of a selection board, the names of the officers recommended for promotion by the selection board (other than any name removed by the President) may be disseminated to the armed force concerned. If such names have not been sooner disseminated, such 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.”

1992—Subsec. (a)(1), (2). Pub. L. 102-484, § 1052(8), substituted “section 615(b)” for “section 615(a)”.

Subsec. (b)(2)(A), (4). Pub. L. 102-484, § 1052(9), substituted “section 615(c)” for “section 615(b)”.

1991—Subsec. (g). Pub. L. 102-190 added subsec. (g).

1988—Subsec. (a). Pub. L. 100-456, § 501(d)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “If, after reviewing the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned determines that the board has acted contrary to law or regulation, the Secretary shall return the report 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 611(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 and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title.”

Subsec. (c)(1). Pub. L. 100-456, § 501(d)(2), struck out “, modification,” after “for his approval” and inserted at end “If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.”

1986—Subsec. (b). Pub. L. 99-433, § 402(c)(1), (2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 99-433, § 402(c)(1), (3), redesignated subsec. (b) as (c) and in par. (1) inserted provisions directing the Secretary of Defense, before transmitting the report, to take appropriate action to resolve any disagreement between the Secretary concerned and the Chairman. Former subsec. (c) redesignated (d).

Subsecs. (d) to (f). Pub. L. 99-433, § 402(c)(1), redesignated subsecs. (c) to (e) as (d) to (f), respectively.

1984—Subsec. (b)(2). Pub. L. 98-525 substituted “If the report of a selection board names an officer as having a record which indicates that the officer should be required to show cause for his retention on active duty, the Secretary concerned may provide for the review of the record of that officer as provided for under regulations prescribed under section 1181 of this title” for “The Secretary concerned may submit to a board of officers convened under section 1181 of this title the name of any officer who is named in the report of a selection board as having a record which indicates that the officer should be required to show cause for his retention on active duty”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, § 513(c), Oct. 17, 2006, 120 Stat. 2185, provided that: “The amendments made by this section [amending this section and section 14111 of this title] shall apply with respect to selection boards convened on or after the date of the enactment of this Act [Oct. 17, 2006].”

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 OF 1986 AMENDMENT

Amendment by Pub. L. 99-433 effective with respect to selection boards convened under section 611(a) of this title after end of 120-day period beginning on Oct. 1, 1986, see section 406(f) of Pub. L. 99-433, set out as a note under section 612 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.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(1) to approve, modify, or disapprove report of a selection board delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(a), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

Nothing in section 1 of Ex. Ord. No. 12396 deemed to delegate authority vested in President by subsec. (c) of this section to remove a name from a selection board report, see section 1(g) of Ex. Ord. No. 12396.

SUBCHAPTER II—PROMOTIONS

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AMENDMENTS

2008—Pub. L. 110-417, [div. A], title V, §521(b)(2), Oct. 14, 2008, 122 Stat. 4444, added item 619a and struck out former item 619a “Eligibility for consideration for promotion: joint duty assignment required before promotion to general or flag grade; exceptions”.

1993—Pub. L. 103-160, div. A, title IX, §931(c)(2), Nov. 30, 1993, 107 Stat. 1734, added items 619 and 619a and struck out former item 619 “Eligibility for consideration for promotion”.

1985—Pub. L. 99-145, title V, §514(b)(4)(B), Nov. 8, 1985, 99 Stat. 628, substituted “rear admiral (lower half)” for “commodore” in item 625.

1981—Pub. L. 97-86, title IV, §405(b)(4)(B), Dec. 1, 1981, 95 Stat. 1106, substituted “commodore” for “commodore admiral” in item 625.

§ 619. Eligibility for consideration for promotion: time-in-grade and other requirements

(a) TIME-IN-GRADE REQUIREMENTS.—(1) An officer who is on the active-duty list of the Army,

Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in the grade of ensign or lieutenant (junior grade) may not be promoted to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

(B) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade), except that the minimum period of service in effect under this subparagraph before October 1, 2008, shall be eighteen months.

(2) Subject to paragraph (4), an officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in a grade above lieutenant (junior grade) may not be considered for selection for promotion to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or of an officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

(B) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or of an officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

(3) When the needs of the service require, the Secretary of the military department concerned may prescribe a longer period of service in grade for eligibility for promotion, in the case of officers to whom paragraph (1) applies, or for eligibility for consideration for promotion, in the case of officers to whom paragraph (2) applies.

(4) The Secretary of the military department concerned may waive paragraph (2) to the extent necessary to assure that officers described in subparagraph (A) of such paragraph have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

(5) In computing service in grade for purposes of this section, service in a grade held as a result of assignment to a position is counted as service in the grade in which the officer would have served except for such assignment or appointment.

(b) CONTINUED ELIGIBILITY FOR CONSIDERATION FOR PROMOTION OF OFFICERS WHO HAVE PREVIOUSLY FAILED OF SELECTION.—(1) Except as provided in paragraph (2), an officer who has failed of selection for promotion to the next higher grade remains eligible for consideration for promotion to that grade as long as he continues on active duty in other than a retired status and is not promoted.