

(3) The pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board.

(4) Information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including (except in the case of a vacancy promotion board) guidelines or information relating to either a minimum number or a maximum number of officers with particular skills within a competitive category.

(5) Such other information or guidelines as the Secretary concerned may determine to be necessary to enable the board to perform its functions.

(c) **LIMITATION ON MODIFYING FURNISHED INFORMATION.**—Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits its report to the Secretary of the military department concerned pursuant to section 14109(a) of this title. However, in the case of a report returned to a board pursuant to section 14110(a) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

(d) **OFFICERS IN HEALTH-PROFESSIONS COMPETITIVE CATEGORIES.**—The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a promotion board convened under section 14101(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of officers of the Navy Reserve, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2926; amended Pub. L. 109-163, div. A, title V, §§506(b), 515(b)(1)(QQ), Jan. 6, 2006, 119 Stat. 3227, 3234.)

#### PRIOR PROVISIONS

Provisions similar to those in subsec. (b) of this section were contained in section 5895 of this title, prior to repeal by Pub. L. 103-337, §1629(b)(2).

#### AMENDMENTS

2006—Subsec. (a)(3). Pub. L. 109-163, §506(b)(1)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 109-163, §506(b)(1)(A), (2)(A), redesignated par. (3) as (4) and substituted “paragraphs (2) and (3)” for “paragraph (2)”. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 109-163, §506(b)(1)(A), (2)(B), redesignated par. (4) as (5) and substituted “, (3), and (4)” for “and (3)”. Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 109-163, §506(b)(1)(A), (2)(C)(i), redesignated par. (5) as (6) and inserted “, or in paragraph (3),” after “paragraph (2)” in introductory provisions. Former par. (6) redesignated (7).

Subsec. (a)(6)(B). Pub. L. 109-163, §506(b)(2)(C)(ii), inserted “or (3), as applicable” after “paragraph (2)”.

Subsec. (a)(7). Pub. L. 109-163, §506(b)(1)(A), redesignated par. (6) as (7).

Subsec. (a)(7)(A). Pub. L. 109-163, §506(b)(2)(D), inserted “or (3)” after “paragraph (2)(B)”.

Subsec. (d). Pub. L. 109-163, §515(b)(1)(QQ), substituted “Navy Reserve” for “Naval Reserve”.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 506(b) of Pub. L. 109-163 effective Oct. 1, 2006, and applicable with respect to promotion selection boards convened on or after that date, see section 506(c) of Pub. L. 109-163, set out as a note under section 615 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.

### § 14108. Recommendations by promotion boards

(a) **RECOMMENDATION OF BEST QUALIFIED OFFICERS.**—A promotion board convened under section 14101(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board considers best qualified for promotion within each competitive category considered by the board or, in the case of a vacancy promotion board, among those officers considered to fill a vacancy. In determining those officers who are best qualified for promotion, the board shall give 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 14107 of this title).

(b) **ACTIONS REQUIRED.**—A promotion board convened under section 14101(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 14107 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.

(c) **BOARD RECOMMENDATION REQUIRED FOR PROMOTION.**—Except as otherwise provided by law, an officer on the reserve active-status list may not be promoted to a higher grade under chapter 1405 of this title unless the officer is considered and recommended for promotion to that grade by a promotion board convened under section 14101(a) of this title (or by a special selection board convened under section 14502 of this title).

(d) **DISCLOSURE OF BOARD RECOMMENDATIONS.**—The recommendations of a promotion 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 Sec-

retary concerned to assist the board) until the written report of the recommendations of the board, required by section 14109 of this title, is signed by each member of the board.

(e) PROHIBITION OF COERCION AND UNAUTHORIZED INFLUENCE OF ACTIONS OF BOARD MEMBERS.—The Secretary convening a promotion board under section 14101(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 promotion board or any member of a promotion board in the formulation of the board's recommendations.

(f) HIGHER PLACEMENT OF OFFICERS OF PARTICULAR MERIT ON PROMOTION LIST.—(1) In selecting officers to be recommended for promotion, a promotion board may, when authorized by the Secretary concerned, recommend that officers of particular merit, from among those officers selected for promotion, be placed higher on the promotion list established by the Secretary under section 14308(a) of this title.

(2) A promotion board may make a recommendation under paragraph (1) only if an officer receives the recommendation of—

(A) a majority of the members of the promotion board; or

(B) an alternative requirement established by the Secretary concerned and furnished to the promotion board as part of the guidelines under section 14107 of this title.

(3) For officers who receive recommendations under paragraph (1), the board shall recommend the order in which those officers should be placed on the promotion list.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2928; amended Pub. L. 109-364, div. A, title V, §512(b), Oct. 17, 2006, 120 Stat. 2184; Pub. L. 115-232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116-92, div. A, title V, §510(a), Dec. 20, 2019, 133 Stat. 1347.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3362(e), 5893(c), 5896, and 8362(e) of this title, prior to repeal by Pub. L. 103-337, §1629(a)(1), (b)(2), (c)(1).

#### AMENDMENTS

2019—Subsec. (f). Pub. L. 116-92 added subsec. (f).

2018—Subsec. (b)(3). Pub. L. 115-232 substituted “section 7233, 8167, or 9233” for “section 3583, 5947, or 8583”.

2006—Subsec. (b). Pub. L. 109-364, §512(b)(1), substituted “Actions” for “Majority” in heading.

Subsec. (b)(3). Pub. L. 109-364, §512(b)(2)-(4), added par. (3).

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by 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

Amendment by Pub. L. 109-364 effective Oct. 17, 2006, and applicable with respect to selection boards convened on or after that date, see section 512(c) of Pub. L. 109-364, set out as a note under section 616 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.

### § 14109. Reports of promotion boards: in general

(a) REPORT OF OFFICERS RECOMMENDED FOR PROMOTION.—Each promotion board convened under section 14101(a) of this title shall submit to the Secretary of the military department concerned a report in writing containing a list of the names of the officers recommended by the board for promotion. The report shall be signed by each member of the board.

(b) CERTIFICATION.—Each report under subsection (a) shall include a certification—

(1) that the board has carefully considered the record of each officer whose name was furnished to the board; and

(2) that, in the case of a promotion board convened under section 14101(a) of this title, 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 14107 of this title) among those officers whose names were furnished to the selection board.

(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A promotion board convened under section 14101(a) of this title shall include in its report to the Secretary concerned the name of any 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 to show cause for retention in an active status.

(2) If such a report names an officer as having a record which indicates that the officer should be required to show cause for retention, the Secretary concerned may provide for the review of the record of that officer as provided under regulations prescribed under section 14902 of this title.

(d) REPORT OF OFFICERS RECOMMENDED FOR HIGHER PLACEMENT ON PROMOTION LIST.—A promotion board convened under section 14101(a) of this title shall, when authorized under section 14108(f) of this title, include in its report to the Secretary concerned—

(1) the names of those officers the promotion board recommends be placed higher on the promotion list; and

(2) the order in which the promotion board recommends those officers should be placed on the promotion list.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2928; amended Pub. L. 116-92, div. A, title V, §510(b), Dec. 20, 2019, 133 Stat. 1347.)

#### PRIOR PROVISIONS

Provisions similar to those in subssecs. (a) and (b) of this section were contained in section 5897 of this title, prior to repeal by Pub. L. 103-337, §1629(b)(2).