

CHAPTER 60—SEPARATION OF REGULAR OFFICERS FOR SUBSTANDARD PERFORMANCE OF DUTY OR FOR CERTAIN OTHER REASONS

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AMENDMENTS

1998—Pub. L. 105-261, div. A, title V, § 503(c)(2), Oct. 17, 1998, 112 Stat. 2004, struck out item 1183 “Boards of review” and substituted “inquiry” for “review” in item 1184.

1984—Pub. L. 98-525, title V, § 524(b)(2), Oct. 19, 1984, 98 Stat. 2524, substituted “Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons” for “Authority to convene boards of officers to consider separation of officers for substandard performance of duty or for certain other reasons” in item 1181.

§ 1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons

(a) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Space Force to determine whether such officer shall be required, because his performance of duty has fallen below standards prescribed by the Secretary of Defense, to show cause for his retention on active duty.

(b) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Space Force to determine whether such officer should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active duty.

(Added Pub. L. 96-513, title I, § 110, Dec. 12, 1980, 94 Stat. 2872; amended Pub. L. 98-525, title V, § 524(b)(1), Oct. 19, 1984, 98 Stat. 2524; Pub. L. 116-283, div. A, title IX, § 924(b)(4)(J), Jan. 1, 2021, 134 Stat. 3822.)

AMENDMENTS

2021—Pub. L. 116-283 substituted “Regular Marine Corps, or Regular Space Force” for “or Regular Marine Corps” in subsections (a) and (b).

1984—Pub. L. 98-525 substituted “Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons” for “Authority to convene boards of officers to consider separation of officers for substandard performance of duty or for certain other reasons” in section catchline.

Subsecs. (a), (b). Pub. L. 98-525 amended subsections (a) and (b) generally, substituting “Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record” for “Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may at any time convene a board of officers to review the record”.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title V, § 524(b)(3), Oct. 19, 1984, 98 Stat. 2524, provided that: “The amendments made by paragraphs (1) and (2) [amending this section and the analysis to this chapter] shall take effect on the first day of the first month that begins more than 60 days after the date of the enactment of this Act [Oct. 19, 1984], but shall not apply to any case in which, before that date, a board of officers has been ordered to convene under the provisions of section 1181 of title 10, United States Code, as in effect before that date.”

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter 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 PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of this title.

§ 1182. Boards of inquiry

(a) The Secretary of the military department concerned shall convene boards of inquiry at such times and places as the Secretary may prescribe to receive evidence and make findings and recommendations as to whether an officer who is required under section 1181 of this title to show cause for retention on active duty should be retained on active duty. Each board of inquiry shall be composed of not less than three officers having the qualifications prescribed by section 1187 of this title.

(b) A board of inquiry shall give a fair and impartial hearing to each officer required under section 1181 of this title to show cause for retention on active duty.

(c)(1) If a board of inquiry determines that the officer has failed to establish that he should be retained on active duty, it shall recommend to the Secretary concerned that the officer not be retained on active duty.

(2) Under regulations prescribed by the Secretary concerned, an officer as to whom a board of inquiry makes a recommendation under paragraph (1) that the officer not be retained on active duty may be required to take leave pending the completion of the officer’s case under this chapter. The officer may be required to begin