

or lieutenant (junior grade), lieutenant, lieutenant commander, or commander in the Navy, who is described in subsection (b) may be temporarily promoted to the grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, commander, or captain in the Navy, as applicable, under regulations prescribed by the Secretary of the military department concerned. Appointments under this section shall be made by the President, by and with the advice and consent of the Senate.

(b) COVERED OFFICERS.—An officer described in this subsection is any officer in a grade specified in subsection (a) who—

(1) has a skill in which the armed force concerned has a critical shortage of personnel (as determined by the Secretary of the military department concerned); and

(2) is serving in a position (as determined by the Secretary of the military department concerned) that—

(A) is designated to be held by a captain, major, lieutenant colonel, or colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, commander, or captain in the Navy, as applicable; and

(B) requires that an officer serving in such position have the skill possessed by such officer.

(c) PRESERVATION OF POSITION AND STATUS OF OFFICERS APPOINTED.—An appointment under this section does not change the position on the active-duty list or the permanent, probationary, or acting status of the officer so appointed, prejudice the officer in regard to other promotions or appointments, or abridge the rights or benefits of the officer.

(d) BOARD RECOMMENDATION REQUIRED.—A temporary promotion under this section may be made only upon the recommendation of a board of officers convened by the Secretary of the military department concerned for the purpose of recommending officers for such promotions.

(e) ACCEPTANCE AND EFFECTIVE DATE OF APPOINTMENT.—Each appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date such appointment is made, and a member so appointed is entitled to the pay and allowances of the grade of the temporary promotion under this section from the date the appointment is made.

(f) TERMINATION OF APPOINTMENT.—Unless sooner terminated, an appointment under this section terminates—

(1) on the date the officer who received the appointment is promoted to the permanent grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, commander, or captain in the Navy; or

(2) on the date the officer is detached from a position described in subsection (b)(2), unless the officer is on a promotion list to the permanent grade of captain, major, lieutenant colonel, or colonel in the Army, Air Force, or Marine Corps, or lieutenant, lieutenant commander, commander, or captain in the Navy, in which case the appointment terminates on the date the officer is promoted to that grade.

(g) LIMITATION ON NUMBER OF ELIGIBLE POSITIONS.—An appointment under this section may only be made for service in a position designated by the Secretary of the military department concerned for the purposes of this section. The number of positions so designated may not exceed the following:

(1) In the case of the Army—

- (A) as captain, 120;
- (B) as major, 350;
- (C) as lieutenant colonel, 200; and
- (D) as colonel, 100.

(2) In the case of the Air Force—

- (A) as captain, 100;
- (B) as major, 325;
- (C) as lieutenant colonel, 175; and
- (D) as colonel, 80.

(3) In the case of the Marine Corps—

- (A) as captain, 50;
- (B) as major, 175;
- (C) as lieutenant colonel, 100; and
- (D) as colonel, 50.

(4) In the case of the Navy—

- (A) as lieutenant, 100;
- (B) as lieutenant commander, 325;
- (C) as commander, 175; and
- (D) as captain, 80.

(Added Pub. L. 115-232, div. A, title V, §503(a)(1), Aug. 13, 2018, 132 Stat. 1740.)

CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

Subchapter	Sec.
I. Selection Boards	611
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III. Failure of Selection for Promotion and Retirement for Years of Service	627
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Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232, div. A, title V, §507(a)(2), Aug. 13, 2018, 132 Stat. 1748, added item for subchapter VI.

SUBCHAPTER I—SELECTION BOARDS

Sec.	
611.	Convening of selection boards.
612.	Composition of selection boards.
613.	Oath of members of selection boards.
613a.	Nondisclosure of board proceedings.
614.	Notice of convening of selection boards.
615.	Information furnished to selection boards.
616.	Recommendations for promotion by selection boards.
617.	Reports of selection boards.
618.	Action on reports of selection boards.

Editorial Notes

AMENDMENTS

2006—Pub. L. 109-364, div. A, title V, §547(d)(1), Oct. 17, 2006, 120 Stat. 2216, added item 613a.

1991—Pub. L. 102-190, div. A, title V, §504(a)(2)(B), Dec. 5, 1991, 105 Stat. 1357, struck out

“; communications with boards” after “selection boards” in item 614.

§ 611. Convening of selection boards

(a) Whenever the needs of the service require, the Secretary of the military department concerned shall convene selection boards to recommend for promotion to the next higher permanent grade, under subchapter II of this chapter, officers on the active-duty list in each permanent grade from first lieutenant through brigadier general in the Army, Air Force, or Marine Corps and from lieutenant (junior grade) through rear admiral (lower half) in the Navy. The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.

(b) Whenever the needs of the service require, the Secretary of the military department concerned may convene selection boards to recommend officers for continuation on active duty under section 637 of this title or for early retirement under section 638 of this title.

(c) The convening of selection boards under subsections (a) and (b) shall be under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2851; amended Pub. L. 97-86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99-145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 107-107, div. A, title V, §505(a)(3), Dec. 28, 2001, 115 Stat. 1086.)

Editorial Notes

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-107, §505(a)(3)(A), substituted “Whenever the needs of the service require, the Secretary of the military department concerned” for “Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require,” and inserted at end “The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.”

Subsec. (b). Pub. L. 107-107, §505(a)(3)(B), substituted “Whenever the needs of the service require, the Secretary of the military department concerned” for “Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require,”.

Subsec. (c). Pub. L. 107-107, §505(a)(3)(C), added subsec. (c).

1985—Subsec. (a). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1981—Subsec. (a). Pub. L. 97-86 substituted “commodore” for “commodore admiral”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter 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 FROM GRADE OF COMMODORE TO GRADE OF REAR ADMIRAL (LOWER HALF)

Pub. L. 99-145, title V, §514(e), Nov. 8, 1985, 99 Stat. 630, provided that:

“(1) An officer who on the day before the date of the enactment of this Act [Nov. 8, 1985] is serving in or has the grade of commodore shall as of the date of the enactment of this Act be serving in or have the grade of rear admiral (lower half).

“(2) An officer who on the day before the date of the enactment of this Act is on a list of officers selected for promotion to the grade of commodore shall as of the date of the enactment of this Act be considered to be on a list of officers selected for promotion to the grade of rear admiral (lower half).”

TRANSITION PROVISIONS COVERING 1980 AMENDMENTS BY DEFENSE OFFICER PERSONNEL MANAGEMENT ACT [Pub. L. 96-513]

Parts A to C of title VI of Pub. L. 96-513, Dec. 12, 1980, 94 Stat. 2940, as amended by Pub. L. 97-22, §8(a)-(n), July 10, 1981, 95 Stat. 132-135; Pub. L. 97-86, title IV, §405(d)(1), (2)(A), (e), (f), Dec. 1, 1981, 95 Stat. 1106, eff. Sept. 15, 1981; Pub. L. 98-525, title V, §§530-532, Oct. 19, 1984, 98 Stat. 2527; Pub. L. 100-456, div. A, title V, §503, Sept. 29, 1988, 102 Stat. 1967, provided that:

“PART A—TRANSITION PROVISIONS RELATING ONLY TO THE ARMY AND AIR FORCE

“REGULAR OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION TO A HIGHER GRADE

“SEC. 601. (a) Except as provided in sections 603 and 604, any regular officer of the Army or Air Force who on the effective date of this Act [Sept. 15, 1981, except as otherwise provided in section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title] is on active duty and—

“(1) is serving in a temporary grade below lieutenant general that is higher than his regular grade;

“(2) is on a list of officers recommended for promotion to a temporary grade below lieutenant general; or

“(3) is on a list of officers recommended for promotion to a regular grade higher than the grade in which he is serving;

shall be considered to have been recommended by a board convened under section 611(a) of title 10, United States Code, as added by this Act, for promotion to the regular grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

“(b) An officer referred to in clause (1) of subsection (a) who is not promoted to the grade to which he is considered under such subsection to have been recommended for promotion because his name is removed from a list of officers who are considered under such subsection to have been recommended for promotion shall be considered under chapter 36 of title 10, United States Code, as added by this Act, for promotion to the regular grade equivalent to the temporary grade in which he was serving on the effective date of this Act [Sept. 15, 1981] as if he were serving in his regular grade.

“(c) Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in subsection (a)(1) who is promoted to the temporary grade in which he is serving on the effective date of this Act [Sept. 15, 1981] is the date of his temporary appointment in that grade.

“(d)(1) Any delay of a promotion of an officer referred to in clause (2) or (3) of subsection (a) that was in effect