

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(h) 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; Pub. L. 116-283, div. A, title X, §1081(a)(18), Jan. 1, 2021, 134 Stat. 3871.)

Editorial Notes

AMENDMENTS

2021—Subsec. (d). Pub. L. 116-283 substituted “section 616(h)” for “section 616(g)”.

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”.

Statutory Notes and Related Subsidiaries

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 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

servicing 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.)

Editorial Notes**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”.

Statutory Notes and Related Subsidiaries**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.

Executive Documents**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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