

ered by a special board under this section or the Secretary concerned has denied the convening of such a board for such consideration.

(2)(A) A court of the United States may review a determination by the Secretary of a military department not to convene a special board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

- (i) arbitrary or capricious;
- (ii) not based on substantial evidence;
- (iii) a result of material error of fact or material administrative error; or
- (iv) otherwise contrary to law.

(B) If a court sets aside a determination by the Secretary of a military department not to convene a special board, it shall remand the case to the Secretary concerned, who shall provide for consideration by a special board.

(3) A court of the United States may review a recommendation of a special board or an action of the Secretary of the military department concerned on the report of a special board. In any such case, a court may set aside the action only if the court finds that the recommendation or action was—

- (A) arbitrary or capricious;
- (B) not based on substantial evidence;
- (C) a result of material error of fact or material administrative error; or
- (D) otherwise contrary to law.

(4)(A) If, six months after receiving a complete application for consideration by a special board in any case, the Secretary concerned has not convened a special board and has not denied consideration by a special board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied consideration of the case by a special board.

(B) If, six months after the convening of a special board in any case, the Secretary concerned has not taken final action on the report of the special board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

(C) Under regulations prescribed under subsection (e), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

(g) **EXISTING JURISDICTION.**—Nothing in this section limits—

- (1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or
- (2) the authority of the Secretary of a military department to correct a military record under section 1552 of this title.

(Added Pub. L. 107–107, div. A, title V, § 503(a)(1), Dec. 28, 2001, 115 Stat. 1080.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable with respect to any proceeding pending on or after Dec. 28, 2001, without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in the proceeding was initiated before, on, or after that date, but not applicable with respect to any action commenced in a court of the United States before Dec. 28, 2001, see section 503(c) of Pub. L. 107–107, set out as an Effective Date of 2001 Amendment note under section 628 of this title.

§ 1559. Personnel limitation

(a) **LIMITATION.**—Before December 31, 2025, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency.

(b) **BASELINE NUMBER.**—The baseline number for a service review agency under this section is—

- (1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of January 1, 2002; and
- (2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

(c) **SERVICE REVIEW AGENCY DEFINED.**—In this section, the term “service review agency” means—

- (1) with respect to the Department of the Army, the Army Review Boards Agency;
- (2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and
- (3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.

(Added Pub. L. 107–314, div. A, title V, § 552(a), Dec. 2, 2002, 116 Stat. 2552; amended Pub. L. 108–375, div. A, title V, § 581, Oct. 28, 2004, 118 Stat. 1928; Pub. L. 110–417, [div. A], title V, § 593, Oct. 14, 2008, 122 Stat. 4475; Pub. L. 111–383, div. A, title V, § 533(b), Jan. 7, 2011, 124 Stat. 4216; Pub. L. 112–239, div. A, title V, § 520, title X, § 1076(b)(2), Jan. 2, 2013, 126 Stat. 1722, 1949; Pub. L. 114–328, div. A, title V, § 592, Dec. 23, 2016, 130 Stat. 2152; Pub. L. 116–92, div. A, title V, § 524(a), Dec. 20, 2019, 133 Stat. 1355.)

Editorial Notes

AMENDMENTS

2019—Subsec. (a). Pub. L. 116–92 substituted “December 31, 2025” for “December 31, 2019” and “that agency.” for “that agency until—” and struck out pars. (1) and (2) which read as follows:

“(1) the Secretary submits to Congress a report that—

- “(A) describes the reduction proposed to be made;
- “(B) provides the Secretary's rationale for that reduction; and

“(C) specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

“(2) a period of 90 days has elapsed after the date on which the report is submitted.”

2016—Subsec. (a). Pub. L. 114-328 substituted “December 31, 2019” for “December 31, 2016” in introductory provisions.

2013—Subsec. (a). Pub. L. 112-239, §1076(b)(2), made technical amendment to directory language of Pub. L. 111-383. See 2011 Amendment note below.

Pub. L. 112-239, §520, substituted “December 31, 2016” for “December 31, 2013” in introductory provisions.

2011—Subsec. (a). Pub. L. 111-383, as amended by Pub. L. 112-239, §1076(b)(2), substituted “December 31, 2013” for “December 31, 2010” in introductory provisions.

2008—Subsec. (a). Pub. L. 110-417 substituted “December 31, 2010” for “October 1, 2008” in introductory provisions.

2004—Subsec. (a). Pub. L. 108-375 substituted “Before October 1, 2008,” for “During fiscal years 2003, 2004, and 2005,” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1076(b), Jan. 2, 2013, 126 Stat. 1949, provided that the amendment made by section 1076(b)(2) is effective Jan. 7, 2011, and as if included in Pub. L. 111-383 as enacted.

CHAPTER 80—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES

Sec.

- 1561. Complaints of sexual harassment: investigation by commanding officers.
- 1561a. Civilian orders of protection: force and effect on military installations.
- 1561b. Confidential reporting of sexual harassment.
- 1562. Database on domestic violence incidents.
- 1562a. Complaints of retaliation by victims of sexual assault or sexual harassment and related persons: tracking by Department of Defense.
- 1563. Consideration of proposals from Members of Congress for honorary promotions: procedures for review and promotion.
- 1563a. Honorary promotions on the initiative of the Department of Defense.
- 1564. Security clearance investigations.
- 1564a. Counterintelligence polygraph program.
- 1564b. Security vetting for foreign nationals.
- 1565. DNA identification information: collection from certain offenders; use.
- 1565a. DNA samples maintained for identification of human remains: use for law enforcement purposes.
- 1565b. Victims of sexual assault: access to legal assistance and services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates.
- 1566. Voting assistance: compliance assessments; assistance.
- 1566a. Voting assistance: voter assistance offices.
- 1567. Duration of military protective orders.
- 1567a. Mandatory notification of issuance of military protective order to civilian law enforcement.

AMENDMENT OF ANALYSIS

Pub. L. 117-81, div. A, title V, §543(b), (c), Dec. 27, 2021, 135 Stat. 1710, provided that, effective on the date that is two years after Dec. 27, 2021, this analysis is amended by striking the item relating to section 1561 and inserting the following new item:

“1561. Complaints of sexual harassment: independent investigation.”

See 2021 Amendment note below.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 80, comprised of sections 1571 to 1577, relating to Exemplary Rehabilitation Certificates, was repealed by Pub. L. 90-83, §3(2), Sept. 11, 1967, 81 Stat. 220.

AMENDMENTS

2021—Pub. L. 117-81, div. A, title V, §§543(b), 544(b), Dec. 27, 2021, 135 Stat. 1710, 1711, added items 1561 and 1562a and struck out former item 1561 “Complaints of sexual harassment: investigation by commanding officers”.

Pub. L. 116-283, div. A, title V, §§523(c), 532(a)(2), Jan. 1, 2021, 134 Stat. 3599, 3602, added items 1561b, 1563, and 1563a and struck out former item 1563 “Consideration of proposals for posthumous and honorary promotions and appointments: procedures for review”. Item 1561b was added after item 1561a to reflect the probable intent of Congress, notwithstanding directory language adding it after item 1561b.

2018—Pub. L. 115-232, div. A, title XVI, §1622(b), Aug. 13, 2018, 132 Stat. 2118, added item 1564b.

2011—Pub. L. 112-81, div. A, title V, §581(b)(2), Dec. 31, 2011, 125 Stat. 1431, added item 1565b.

2009—Pub. L. 111-84, div. A, title V, §583(b)(2), Oct. 28, 2009, 123 Stat. 2330, added item 1566a.

2008—Pub. L. 110-417, [div. A], title V, §§561(b), 562(b), Oct. 14, 2008, 122 Stat. 4470, added items 1567 and 1567a.

2003—Pub. L. 108-136, div. A, title X, §§1031(a)(11)(B), 1041(a)(2), Nov. 24, 2003, 117 Stat. 1597, 1608, struck out “and recommendation” after “review” in item 1563 and added item 1564a.

2002—Pub. L. 107-314, div. A, title X, §1063(b), Dec. 2, 2002, 116 Stat. 2653, added item 1566a.

Pub. L. 107-311, §2(b), Dec. 2, 2002, 116 Stat. 2455, added item 1561a.

2001—Pub. L. 107-107, div. A, title XVI, §1602(a)(2), Dec. 28, 2001, 115 Stat. 1276, added item 1566.

2000—Pub. L. 106-546, §5(a)(2), Dec. 19, 2000, 114 Stat. 2732, added item 1565.

Pub. L. 106-398, §1 [[div. A], title V, §542(b), title X, §1072(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-115, 1654A-277, added items 1563 and 1564.

1999—Pub. L. 106-65, div. A, title V, §594(b), Oct. 5, 1999, 113 Stat. 644, added item 1562.

Statutory Notes and Related Subsidiaries

ANNUAL PRIMARY PREVENTION RESEARCH AGENDA

Pub. L. 117-81, div. A, title V, §549A, Dec. 27, 2021, 135 Stat. 1721, provided that:

“(a) IN GENERAL.—Beginning on October 1, 2022, and annually on the first day of each fiscal year thereafter, the Secretary of Defense shall publish a Department of Defense research agenda for that fiscal year, focused on the primary prevention of interpersonal and self-directed violence, including sexual assault, sexual harassment, domestic violence, child abuse and maltreatment, problematic juvenile sexual behavior, suicide, workplace violence, and substance misuse.

“(b) ELEMENTS.—Each annual primary prevention research agenda published under subsection (a) shall—

“(1) identify research priorities for that fiscal year;

“(2) assign research projects and tasks to the military departments and other components of the Department of Defense, as the Secretary of Defense determines appropriate;

“(3) allocate or direct the allocation of appropriate resourcing for each such project and task; and

“(4) be directive in nature and enforceable across all components of the Department of Defense, including with regard to—

“(A) providing for timely access to records, data and information maintained by any component of the Department of Defense that may be required in furtherance of an assigned research project or task;

“(B) ensuring the sharing across all components of the Department of Defense of the findings and the outcomes of any research project or task; and