

gation of retaliation” means an allegation of retaliation—

(1) made by—

(A) an alleged victim of sexual assault or sexual harassment;

(B) an individual charged with providing services or support to an alleged victim of sexual assault or sexual harassment;

(C) a witness or bystander to an alleged sexual assault or sexual harassment; or

(D) any other person associated with an alleged victim of a sexual assault or sexual harassment; and

(2) without regard to whether the allegation is reported to or investigated or inquired into by—

(A) the Department of Defense Inspector General or any other inspector general;

(B) a military criminal investigative organization;

(C) a commander or other person at the direction of the commander;

(D) another military or civilian law enforcement organization; or

(E) any other organization, officer, or employee of the Department of Defense.

(Added Pub. L. 117–81, div. A, title V, §544(a), Dec. 27, 2021, 135 Stat. 1710.)

§ 1563. Consideration of proposals from Members of Congress for honorary promotions: procedures for review and promotion

(a) REVIEW BY SECRETARY CONCERNED.—Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces that is not otherwise authorized by law. Based upon such review, the Secretary shall make a determination as to the merits of approving the promotion.

(b) NOTICE OF RESULTS OF REVIEW.—Upon making a determination under subsection (a) as to the merits of approving the honorary promotion, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives and to the requesting Member of Congress a detailed discussion of the rationale supporting the determination.

(c) AUTHORITY TO MAKE.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of Defense may make an honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces to any grade not exceeding the grade of major general, rear admiral (upper half), or an equivalent grade in the Space Force following the submittal of the determination of the Secretary concerned under subsection (b) in connection with the proposal for the promotion if the determination is to approve the making of the promotion.

(2) The Secretary of Defense may not make an honorary promotion under this subsection until 60 days after the date on which the Secretary concerned submits the determination in connection with the proposal for the promotion under subsection (b), and the detailed rationale supporting the determination as described in that

subsection, to the Committees on Armed Services of the Senate and the House of Representatives and the requesting Member in accordance with that subsection.

(3) The authority to make an honorary promotion under this subsection shall apply notwithstanding that the promotion is not otherwise authorized by law.

(4) Any promotion pursuant to this subsection is honorary, and shall not affect the pay, retired pay, or other benefits from the United States to which the former member or retired member concerned is or would have been entitled based upon the military service of such former member or retired member, nor affect any benefits to which any other person may become entitled based on the military service of such former member or retired member.

(d) DEFINITION.—In this section, the term “Member of Congress” means—

(1) a Senator; or

(2) a Representative in, or a Delegate or Resident Commissioner to, Congress.

(Added Pub. L. 106–398, §1 [[div. A], title V, §542(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–114; amended Pub. L. 108–136, div. A, title X, §1031(a)(11), Nov. 24, 2003, 117 Stat. 1597; Pub. L. 116–283, div. A, title V, §523(b), Jan. 1, 2021, 134 Stat. 3598.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, §523(b)(3), substituted “Consideration of proposals from Members of Congress for honorary promotions: procedures for review and promotion” for “Consideration of proposals for posthumous and honorary promotions and appointments: procedures for review” in section catchline.

Subsec. (a). Pub. L. 116–283, §523(b)(1)(A), substituted, in first sentence, “the honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces” for “the posthumous or honorary promotion or appointment of a member or former member of the armed forces, or any other person considered qualified,” and, in second sentence, “the promotion” for “the posthumous or honorary promotion or appointment”.

Subsec. (b). Pub. L. 116–283, §523(b)(1)(B), substituted “the honorary promotion” for “the posthumous or honorary promotion or appointment”.

Subsecs. (c), (d). Pub. L. 116–283, §523(b)(2), added subsec. (c) and redesignated former subsec. (c) as (d).

2003—Pub. L. 108–136, §1031(a)(11)(B), struck out “and recommendation” after “review” in section catchline.

Subsec. (a). Pub. L. 108–136, §1031(a)(11)(A)(i), struck out “and the other determinations necessary to comply with subsection (b)” before period at end.

Subsec. (b). Pub. L. 108–136, §1031(a)(11)(A)(ii), substituted “a detailed discussion of the rationale supporting the determination.” for “notice in writing of one of the following:

“(1) The posthumous or honorary promotion or appointment does not warrant approval on the merits.

“(2) The posthumous or honorary promotion or appointment warrants approval and authorization by law for the promotion or appointment is recommended.

“(3) The posthumous or honorary promotion or appointment warrants approval on the merits and has been recommended to the President as an exception to policy.

“(4) The posthumous or honorary promotion or appointment warrants approval on the merits and authorization by law for the promotion or appointment is required but is not recommended.

A notice under paragraph (1) or (4) shall be accompanied by a statement of the reasons for the decision of the Secretary.”

§ 1563a. Honorary promotions on the initiative of the Department of Defense

(a) IN GENERAL.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary may make an honorary promotion (whether or not posthumous) of a former member or retired member of the armed forces to any grade not exceeding the grade of major general, rear admiral (upper half), or an equivalent grade in the Space Force if the Secretary determines that the promotion is merited.

(2) The authority to make an honorary promotion under this subsection shall apply notwithstanding that the promotion is not otherwise authorized by law.

(b) NOTICE TO CONGRESS.—The Secretary may not make an honorary promotion pursuant to subsection (a) until 60 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a notice of the determination to make the promotion, including a detailed discussion of the rationale supporting the determination.

(c) NOTICE OF PROMOTION.—Upon making an honorary promotion pursuant to subsection (a), the Secretary shall expeditiously notify the former member or retired member concerned, or the next of kin of such former member or retired member if such former member or retired member is deceased, of the promotion.

(d) NATURE OF PROMOTION.—Any promotion pursuant to this section is honorary, and shall not affect the pay, retired pay, or other benefits from the United States to which the former member or retired member concerned is entitled or would have been entitled based on the military service of such former member or retired member, nor affect any benefits to which any other person is or may become entitled based on the military service of such former member or retired member.

(Added Pub. L. 116-283, div. A, title V, § 523(a), Jan. 1, 2021, 134 Stat. 3597.)

§ 1564. Security clearance investigations

(a) EXPEDITED PROCESS.—The Secretary of Defense may prescribe a process for expediting the completion of the background investigations necessary for granting security clearances for—

(1) Department of Defense personnel and Department of Defense contractor personnel who are engaged in sensitive duties that are critical to the national security; and

(2) any individual who—

(A) submits an application for a position as an employee of the Department of Defense for which—

(i) the individual is qualified; and

(ii) a security clearance is required; and

(B) is—

(i) a member of the armed forces who was retired or separated, or is expected to be retired or separated, for physical disability pursuant to chapter 61 of this title;

(ii) the spouse of a member of the armed forces who retires or is separated, after

January 7, 2011, for a physical disability as a result of a wound, injuries or illness incurred or aggravated in the line of duty (as determined by the Secretary concerned); or

(iii) the spouse of a member of the armed forces who dies, after January 7, 2011, as a result of a wound, injury, or illness incurred or aggravated in the line of duty (as determined by the Secretary concerned).

(b) REQUIRED FEATURES.—The process developed under subsection (a) shall provide for the following:

(1) Quantification of the requirements for background investigations necessary for grants of security clearances for Department of Defense personnel and Department of Defense contractor personnel.

(2) Categorization of personnel on the basis of the degree of sensitivity of their duties and the extent to which those duties are critical to the national security.

(3) Prioritization of the processing of background investigations on the basis of the categories of personnel determined under paragraph (2).

(c) REINVESTIGATION OR READJUDICATION OF CERTAIN INDIVIDUALS.—(1) The Secretary of Defense shall conduct an investigation or adjudication under subsection (a) of any individual described in paragraph (2) upon—

(A) conviction of that individual by a court of competent jurisdiction for—

(i) sexual assault;

(ii) sexual harassment;

(iii) fraud against the United States; or

(iv) any other violation that the Secretary determines renders that individual susceptible to blackmail or raises serious concern regarding the ability of that individual to hold a security clearance; or

(B) determination by a commanding officer that that individual has committed an offense described in subparagraph (A).

(2) An individual described in this paragraph is an individual who has a security clearance and is—

(A) a flag officer;

(B) a general officer; or

(C) an employee of the Department of Defense in the Senior Executive Service.

(3) The Secretary shall ensure that relevant information on the conviction or determination described in paragraph (1) of an individual described in paragraph (2) during the preceding year, regardless of whether the individual has retired or resigned or has been discharged, released, or otherwise separated from the armed forces, is reported into Federal law enforcement records and security clearance databases, and that such information is transmitted, as appropriate, to other Federal agencies.

(4) In this subsection:

(A) The term “sexual assault” includes rape, sexual assault, forcible sodomy, aggravated sexual contact, abusive sexual contact, and attempts to commit such offenses, as those terms are defined in chapter 47 of this title (the Uniform Code of Military Justice).