

motion, a promotion board may, when authorized by the Secretary concerned, recommend that officers of particular merit, from among those officers selected for promotion, be placed higher on the promotion list established by the Secretary under section 14308(a) of this title.

(2) A promotion board may make a recommendation under paragraph (1) only if an officer receives the recommendation of—

(A) a majority of the members of the promotion board; or

(B) an alternative requirement established by the Secretary concerned and furnished to the promotion board as part of the guidelines under section 14107 of this title.

(3) For officers who receive recommendations under paragraph (1), the board shall recommend the order in which those officers should be placed on the promotion list.

(Added Pub. L. 103-337, div. A, title XVI, § 1611, Oct. 5, 1994, 108 Stat. 2928; amended Pub. L. 109-364, div. A, title V, § 512(b), Oct. 17, 2006, 120 Stat. 2184; Pub. L. 115-232, div. A, title VIII, § 809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116-92, div. A, title V, § 510(a), Dec. 20, 2019, 133 Stat. 1347.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3362(e), 5893(c), 5896, and 8362(e) of this title, prior to repeal by Pub. L. 103-337, § 1629(a)(1), (b)(2), (c)(1).

AMENDMENTS

2019—Subsec. (f). Pub. L. 116-92 added subsec. (f).

2018—Subsec. (b)(3). Pub. L. 115-232 substituted “section 7233, 8167, or 9233” for “section 3583, 5947, or 8583”.

2006—Subsec. (b). Pub. L. 109-364, § 512(b)(1), substituted “Actions” for “Majority” in heading.

Subsec. (b)(3). Pub. L. 109-364, § 512(b)(2)-(4), added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-364 effective Oct. 17, 2006, and applicable with respect to selection boards convened on or after that date, see section 512(c) of Pub. L. 109-364, set out as a note under section 616 of this title.

EFFECTIVE DATE

Section 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.

§ 14109. Reports of promotion boards: in general

(a) REPORT OF OFFICERS RECOMMENDED FOR PROMOTION.—Each promotion board convened under section 14101(a) of this title shall submit to the Secretary of the military department concerned a report in writing containing a list of the names of the officers recommended by the board for promotion. The report shall be signed by each member of the board.

(b) CERTIFICATION.—Each report under subsection (a) shall include a certification—

(1) that the board has carefully considered the record of each officer whose name was furnished to the board; and

(2) that, in the case of a promotion board convened under section 14101(a) of this title, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 14107 of this title) among those officers whose names were furnished to the selection board.

(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A promotion board convened under section 14101(a) of this title shall include in its report to the Secretary concerned the name of any 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 to show cause for retention in an active status.

(2) If such a report names an officer as having a record which indicates that the officer should be required to show cause for retention, the Secretary concerned may provide for the review of the record of that officer as provided under regulations prescribed under section 14902 of this title.

(d) REPORT OF OFFICERS RECOMMENDED FOR HIGHER PLACEMENT ON PROMOTION LIST.—A promotion board convened under section 14101(a) of this title shall, when authorized under section 14108(f) of this title, include in its report to the Secretary concerned—

(1) the names of those officers the promotion board recommends be placed higher on the promotion list; and

(2) the order in which the promotion board recommends those officers should be placed on the promotion list.

(Added Pub. L. 103-337, div. A, title XVI, § 1611, Oct. 5, 1994, 108 Stat. 2928; amended Pub. L. 116-92, div. A, title V, § 510(b), Dec. 20, 2019, 133 Stat. 1347.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in subssecs. (a) and (b) of this section were contained in section 5897 of this title, prior to repeal by Pub. L. 103-337, § 1629(b)(2).

AMENDMENTS

2019—Subsec. (d). Pub. L. 116-92 added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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.

§ 14110. Reports of promotion boards: review by Secretary

(a) REVIEW OF REPORT.—Upon receipt of the report of a promotion board submitted under section 14109(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 14107(a) of this title. Following that review, unless the Secretary concerned makes a determination as described in subsection (b), the Secretary shall submit the report as required by section 14111 of this title.

(b) RETURN OF REPORT FOR FURTHER PROCEEDINGS.—If, on the basis of a review of the report under subsection (a), 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 14107(a) 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 subsection, the selection board (or a subsequent selection board convened under section 14101(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 14109 of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2929.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5898(a) of this title, prior to repeal by Pub. L. 103-337, §1629(b)(2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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.

§ 14111. Reports of selection boards: transmittal to President

(a) TRANSMITTAL TO PRESIDENT.—The Secretary concerned, after final review of the report of a selection board under section 14110 of this title, shall submit the report with the Secretary's recommendations, to the Secretary of Defense for transmittal by the Secretary to the President for approval or disapproval. If the authority of the President to approve or disapprove the report of a promotion board is delegated to the Secretary of Defense, that authority may not be redelegated except to an official in the Office of the Secretary of Defense.

(b) REMOVAL OF NAME FROM BOARD REPORT.—(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.

(c) RECOMMENDATIONS FOR REMOVAL OF SELECTED OFFICERS FROM REPORT.—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 the report of a promotion board and the recommendation is accompanied by information that was not presented to that promotion 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. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2929; amended Pub. L. 109-364, div. A, title V, §513(b), Oct. 17, 2006, 120 Stat. 2185.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) of this section were contained in section 5898(b) and (c) of this title, prior to repeal by Pub. L. 103-337, §1629(b)(2).

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-364 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), the” for “The”, and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-364 applicable with respect to selection boards convened on or after Oct. 17, 2006, see section 513(c) of Pub. L. 109-364, set out as a note under section 618 of this title.

EFFECTIVE DATE

Section 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.

DELEGATION OF FUNCTIONS

For assignment of functions of President under first sentence of subsec. (a) of this section, see section 1(c) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, and section 1(a) of Ex. Ord. No. 13598, Jan. 27, 2012, 77 F.R. 5371, set out as notes under section 301 of Title 3, The President.

§ 14112. Dissemination of names of officers selected

(a) TIME FOR DISSEMINATION.—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:

(1) 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.

(2) 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.