

(3) In the case of officers whose names have not been sooner disseminated, such names shall be promptly disseminated—

(A) upon confirmation of the promotion of the officers by the Senate (in the case of promotions required to be submitted to the Senate for confirmation); or

(B) upon the approval of the report by the President (in the case of promotions not required to be submitted to the Senate for confirmation).

(b) NAMES NOT DISSEMINATED.—A list of names of officers disseminated under subsection (a) may not include—

(1) any name removed by the President from the report of the selection board containing that name, if dissemination is under the authority of paragraph (2) or (3)(B) of that subsection; or

(2) the name of any officer whose promotion the Senate failed to confirm, if dissemination is under the authority of paragraph (3)(A) of that subsection.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2930; amended Pub. L. 106-398, §1 [[div. A], title V, §503(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-101.)

#### Editorial Notes

##### PRIOR PROVISIONS

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

##### AMENDMENTS

2000—Pub. L. 106-398 amended text generally. Prior to amendment, text read as follows: “Upon approval by the President of the report of a promotion board, the names of the officers recommended for promotion by the promotion board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those 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.”

#### 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.

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#### Editorial Notes

##### AMENDMENTS

2006—Pub. L. 109-163, div. A, title V, §515(b)(4)(I), Jan. 6, 2006, 119 Stat. 3235, substituted “Navy Reserve” for “Naval Reserve” in item 14306.

1996—Pub. L. 104-106, div. A, title XV, §1501(b)(24), Feb. 10, 1996, 110 Stat. 497, substituted “Number” for “Numbers” in item 14307, a semicolon for a colon in item 14309, and “State” for “state” in item 14314.

#### § 14301. Eligibility for consideration for promotion: general rules

(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—

(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and

(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).

(b) REQUIREMENT FOR CONSIDERATION OF ALL OFFICERS IN AND ABOVE THE ZONE.—Whenever a promotion board (other than a vacancy promotion board) is convened under section 14101(a) of this title for consideration of officers in a competitive category who are eligible under this chapter for consideration for promotion to the next higher grade, each officer in the promotion zone, and each officer above the promotion zone, for that grade and competitive category shall be considered for promotion.

(c) CERTAIN OFFICERS NOT TO BE CONSIDERED.—A promotion board convened under section 14101(a) of this title may not consider for promotion to the next higher grade any of the following officers:

(1) An officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 14502 of this title or under chapter 36 of this title.

(2) An officer who is recommended for promotion to that grade in the report of an earlier selection board convened under a provision referred to in paragraph (1), in the case of

such a report that has not yet been approved by the President.

(3) An officer who has been approved for Federal recognition by a board convened under section 307 of title 32 and nominated by the President for promotion to that grade as a reserve of the Army or of the Air Force as the case may be, if that nomination is pending before the Senate.

(4) An officer who has been nominated by the President for promotion to that grade under any other provision of law, if that nomination is pending before the Senate.

(5) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 14308(b)(4) of this title.

(6) An officer excluded under subsection (j).

(d) OFFICERS BELOW THE ZONE.—The Secretary of the military department concerned may, by regulation, prescribe procedures to limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion. The regulations shall include criteria for determining which officers below the promotion zone are exceptionally well qualified for promotion.

(e) CERTAIN RESERVE OFFICERS OF THE AIR FORCE.—A reserve officer of the Air Force who (1) is in the Air National Guard of the United States and holds the grade of lieutenant colonel, colonel, or brigadier general, or (2) is in the Air Force Reserve and holds the grade of colonel or brigadier general, is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

(f) NONCONSIDERATION OF OFFICERS SCHEDULED FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—The Secretary of the military department concerned may, by regulation, provide for the exclusion from consideration for promotion by a promotion board of any officer otherwise eligible to be considered by the board who has an established date for removal from the reserve active-status list that is not more than 90 days after the date on which the selection board for which the officer would otherwise be eligible is to be convened.

(g) BRIGADIER GENERALS.—(1) An officer who is a reserve component brigadier general of the Army or the Air Force who is not eligible for consideration for promotion under subsection (a) because the officer is not on the reserve active status list (as required by paragraph (1) of that subsection for such eligibility) is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

(A) as of the date of the convening of the promotion board, the officer has been in an inactive status for less than one year; and

(B) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list) for at least one year.

(2) An officer who is a reserve component brigadier general of the Army or the Air Force who is on the reserve active status list but who is not eligible for consideration for promotion under subsection (a) because the officer's service does not meet the one-year-of-continuous-service requirement under paragraph (2) of that subsection is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

(A) the officer was transferred from an inactive status to the reserve active status list during the one-year period preceding the date of the convening of the promotion board;

(B) immediately before the date of the officer's most recent transfer to an active status, the officer had been in an inactive status for less than one year; and

(C) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served for at least one year on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list).

(h) OFFICERS ON EDUCATIONAL DELAY.—An officer on the reserve active-status list is ineligible for consideration for promotion, but shall remain on the reserve active-status list, while the officer—

(1) is pursuing a program of graduate level education in an educational delay status approved by the Secretary concerned; and

(2) is receiving from the Secretary financial assistance in connection with the pursuit of that program of education while in that status.

(i) RESERVE OFFICERS EMPLOYED AS MILITARY TECHNICIAN (DUAL STATUS).—A reserve officer of the Army or Air Force employed as a military technician (dual status) under section 10216 of this title who has been retained beyond the mandatory removal date for years of service pursuant to subsection (f) of such section or section 14702(a)(2) of this title is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

(j) AUTHORITY TO ALLOW OFFICERS TO OPT OUT OF SELECTION BOARD CONSIDERATION.—(1) The Secretary of a military department may provide that an officer under the jurisdiction of the Secretary may, upon the officer's request and with the approval of the Secretary, be excluded from consideration by a selection board convened under section 14101(a) of this title to consider officers for promotion to the next higher grade.

(2) The Secretary concerned may only approve a request under paragraph (1) if—

(A) the basis for the request is to allow an officer to complete a broadening assignment, advanced education, another assignment of significant value to the Department, or a career progression requirement delayed by the assignment or education;

(B) the Secretary determines the exclusion from consideration is in the best interest of the military department concerned; and

(C) the officer has not previously failed of selection for promotion to the grade for which

the officer requests the exclusion from consideration.

(k) CERTAIN OFFICERS NOT TO BE CONSIDERED FOR SELECTION FOR PROMOTION.—The Secretary of the military department concerned may provide that an officer who is in an active status, but is in a duty status in which the only points the officer accrues under section 12732(a)(2) of this title are pursuant to subparagraph (C)(i) of that section (relating to membership in a reserve component), shall not be considered for selection for promotion until completion of two years of service in such duty status. Any such officer may remain on the reserve active-status list.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2931; amended Pub. L. 105-85, div. A, title V, §§ 503(b), (c), 514(b), Nov. 18, 1997, 111 Stat. 1724, 1725, 1732; Pub. L. 105-261, div. A, title V, § 514, Oct. 17, 1998, 112 Stat. 2008; Pub. L. 106-65, div. A, title V, § 513(a), title X, § 1066(a)(32), Oct. 5, 1999, 113 Stat. 593, 772; Pub. L. 107-107, div. A, title V, § 505(c)(1)(B), Dec. 28, 2001, 115 Stat. 1087; Pub. L. 107-314, div. A, title V, § 521, Dec. 2, 2002, 116 Stat. 2540; Pub. L. 112-81, div. A, title V, § 517, Dec. 31, 2011, 125 Stat. 1397; Pub. L. 115-232, div. A, title V, §§ 505(b), 513, Aug. 13, 2018, 132 Stat. 1743, 1752.)

### Editorial Notes

#### AMENDMENTS

2018—Subsec. (c). Pub. L. 115-232, § 505(b)(1)(A), substituted “Certain Officers Not” for “Previously Selected Officers Not Eligible” in heading.

Subsec. (c)(6). Pub. L. 115-232, § 505(b)(1)(B), added par. (6).

Subsec. (j). Pub. L. 115-232, § 505(b)(2), added subsec. (j).

Subsec. (k). Pub. L. 115-232, § 513, added subsec. (k).

2011—Subsec. (i). Pub. L. 112-81 added subsec. (i).

2002—Subsec. (g). Pub. L. 107-314 amended subsec. (g) generally. Prior to amendment, text read as follows: “A reserve component brigadier general of the Army or the Air Force who is in an inactive status is eligible (notwithstanding subsection (a)) for consideration for promotion to major general by a promotion board convened under section 14101(a) of this title if the officer—

“(1) has been in an inactive status for less than one year as of the date of the convening of the promotion board; and

“(2) had continuously served for at least one year on the reserve active status list or the active duty list (or a combination of both) immediately before the officer’s most recent transfer to an inactive status.”

2001—Subsec. (c)(5). Pub. L. 107-107 added par. (5).

1999—Subsec. (g)(1), (2). Pub. L. 106-65, § 1066(a)(32), substituted “one year” for “1 year”.

Subsec. (h). Pub. L. 106-65, § 513(a), added subsec. (h).

1998—Subsec. (g). Pub. L. 105-261 added subsec. (g).

1997—Subsec. (c). Pub. L. 105-85, § 503(b)(1), substituted “grade any of the following officers:” for “grade—” in introductory provisions.

Subsec. (c)(1). Pub. L. 105-85, § 503(b)(2), (3), substituted “An officer” for “an officer” and “title.” for “title.”

Subsec. (c)(2). Pub. L. 105-85, § 503(b)(6), added par. (2). Former par. (2) redesignated (3).

Pub. L. 105-85, § 503(b)(2), (4), substituted “An officer” for “an officer” and “be.” for “be; or”.

Subsec. (c)(3). Pub. L. 105-85, § 503(c), inserted “, if that nomination is pending before the Senate” before period at end.

Pub. L. 105-85, § 503(b)(5), redesignated par. (2) as (3) and substituted “that grade” for “the next higher grade”. Former par. (3) redesignated (4).

Pub. L. 105-85, § 503(b)(2), substituted “An officer” for “an officer”.

Subsec. (c)(4). Pub. L. 105-85, § 503(c), inserted “, if that nomination is pending before the Senate” before period at end.

Pub. L. 105-85, § 503(b)(5), redesignated par. (3) as (4) and substituted “that grade” for “the next higher grade”.

Subsecs. (e) to (g). Pub. L. 105-85, § 514(b), redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows:

“(e) RESERVE OFFICERS OF THE ARMY; CONSIDERATION FOR BRIGADIER GENERAL AND MAJOR GENERAL.—In the case of officers of the Army, if the Secretary of the Army determines that vacancies are authorized or anticipated in the reserve grades of major general or brigadier general for officers who are on the reserve active-status list and who are not assigned to units organized to serve as a unit and the Secretary convenes a mandatory promotion board under section 14101(a) of this title to consider officers for promotion to fill such vacancies, the Secretary may limit the officers to be considered by that board to those determined to be exceptionally well qualified for promotion under such criteria and procedures as the Secretary may by regulation prescribe.”

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-65, div. A, title V, § 513(b), Oct. 5, 1999, 113 Stat. 593, provided that:

“(1) Subsection (h) of section 14301 of title 10, United States Code (as added by subsection (a)), shall apply with respect to boards convened under section 14101(a) of such title before, on, or after the date of the enactment of this Act [Oct. 5, 1999].

“(2) The Secretary of the military department concerned, upon receipt of request submitted in a form and manner prescribed by the Secretary, shall expunge from the military records of an officer any indication of a failure of selection of the officer for promotion by a board referred to in paragraph (1) while the officer was ineligible for consideration by that board by reason of section 14301(h) of title 10, United States Code.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 503(b), (c) of Pub. L. 105-85 effective Nov. 18, 1997, and applicable with respect to selection boards that are convened under section 611(a), 14101(a), or 14502 of this title on or after Nov. 18, 1997, see section 503(d) of Pub. L. 105-85, set out as a note under section 619 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.

### § 14302. Promotion zones

(a) PROMOTION ZONES GENERALLY.—For purposes of this chapter, a promotion zone is an eligibility category for the consideration of officers by a mandatory promotion board. A promotion zone consists of those officers on the reserve active-status list who are in the same grade and competitive category and who meet the requirements of both paragraphs (1) and (2) or the requirements of paragraph (3), as follows:

(1)(A) In the case of officers in grades below colonel, for reserve officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Navy Reserve, those who have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of officers recommended for promotion to that grade.