

of officers recommended for promotion by a selection board.

(e) CONTINUED ELIGIBILITY FOR PROMOTION.—(1) An officer whose name is removed from a list under subsection (a), (b), or (c) continues to be eligible for consideration for promotion. If he is recommended for promotion by the next selection board convened for his grade and competitive category and he is promoted, the Secretary of the military department concerned may, upon such promotion, grant him the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if his name had not been so removed.

(2) If such an officer who is in a grade below the grade of colonel or, in the case of the Navy, captain is not recommended for promotion by the next selection board convened for his grade and competitive category, or if his name is again removed from the list of officers recommended for promotion, or if the Senate again does not give its advice and consent to his promotion, he shall be considered for all purposes to have twice failed of selection for promotion.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2860; amended Pub. L. 109-364, div. A, title V, §515(a), Oct. 17, 2006, 120 Stat. 2185; Pub. L. 110-181, div. A, title X, §1063(a)(2), Jan. 28, 2008, 122 Stat. 321; Pub. L. 111-383, div. A, title V, §504(a), Jan. 7, 2011, 124 Stat. 4208; Pub. L. 114-328, div. A, title V, §504, Dec. 23, 2016, 130 Stat. 2107; Pub. L. 115-91, div. A, title V, §502, Dec. 12, 2017, 131 Stat. 1373.)

Editorial Notes

AMENDMENTS

2017—Subsec. (c)(3). Pub. L. 115-91, which directed amendment of par. (3) by substituting “the military department concerned is not able to obtain and provide to the Senate the information the Senate requires” for “the Senate is not able to obtain the information necessary”, was executed by making the substitution for “the Senate is not able to obtain information necessary”, to reflect the probable intent of Congress.

2016—Subsec. (c)(3), (4). Pub. L. 114-328 added par. (3) and redesignated former par. (3) as (4).

2011—Subsecs. (d), (e). Pub. L. 111-383 added subsec. (d) and redesignated former subsec. (d) as (e).

2008—Subsec. (d)(1). Pub. L. 110-181 inserted comma after “(a)”.

2006—Subsec. (a). Pub. L. 109-364, §515(a)(4)(A), inserted heading.

Subsec. (b). Pub. L. 109-364, §515(a)(1), inserted heading and inserted “to a grade for which appointment is required by section 624(c) of this title to be made by and with the advice and consent of the Senate” after “the President”.

Subsec. (c). Pub. L. 109-364, §515(a)(2)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109-364, §515(a)(2)(A), (4)(B), redesignated subsec. (c) as (d) and inserted heading.

Subsec. (d)(1). Pub. L. 109-364, §515(a)(3), substituted “(b), or (c)” for “or (b)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, §515(c), Oct. 17, 2006, 120 Stat. 2187, provided that: “The amendments made by this section [amending this section and section 14310 of this title] shall apply to any promotion list approved by the President after January 1, 2007.”

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. (a) to remove name of any officer from a promotion list to any grade below commodore or brigadier general 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(b), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

Functions of President under subsec. (c)(2) delegated to Secretary of Defense, with authority for Secretary to redelegate, see Ex. Ord. No. 13598, §§1(b), 2, Jan. 27, 2012, 77 F.R. 5371, set out as a note under section 301 of Title 3, The President.

§ 630. Discharge of commissioned officers with less than six years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade)

The Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense—

(1) may discharge any officer on the active-duty list who—

(A) has less than six years of active commissioned service; or

(B) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade); and

(2) shall, unless the officer has been promoted, discharge any officer described in paragraph (1)(B) at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2861; amended Pub. L. 98-525, title XIV, §1405(11), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 107-107, div. A, title V, §505(d)(2), (4)(A), Dec. 28, 2001, 115 Stat. 1088; Pub. L. 108-136, div. A, title V, §505(b), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 110-181, div. A, title V, §503(a)(1), (2), Jan. 28, 2008, 122 Stat. 95.)

Editorial Notes

AMENDMENTS

2008—Pub. L. 110-181, §503(a)(2), substituted “six years” for “five years” in section catchline.

Par. (1)(A). Pub. L. 110-181, §503(a)(1), substituted “six years” for “five years”.

2003—Par. (2). Pub. L. 108-136 substituted “paragraph” for “clause”.

2001—Pub. L. 107-107, §505(d)(4)(A), struck out “regular” before “commissioned officers” in section catchline.

Par. (1). Pub. L. 107-107, §505(d)(2), struck out “regular” before “officer” in introductory provisions and before “grade of first lieutenant” in subpar. (B).

1984—Par. (2). Pub. L. 98-525 substituted “18-month” for “eighteen-month”.

Statutory Notes and Related Subsidiaries

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.

§ 631. Effect of failure of selection for promotion: first lieutenants and lieutenants (junior grade)

(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 8146(e) or 8372 of this title applies), each officer of the Army, Air Force, Marine Corps, or Space Force on the active-duty list who holds the grade of first lieutenant and has failed of selection for promotion to the grade of captain for the second time, and each officer of the Navy on the active-duty list who holds the grade of lieutenant (junior grade) and has failed of selection for promotion to the grade of lieutenant for the second time, whose name is not on a list of officers recommended for promotion to the next higher grade shall—

(1) be discharged on the date requested by him and approved by the Secretary of the military department concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public;

(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public; or

(3) if on the date on which he is to be discharged under paragraph (1) he is within two years of qualifying for retirement under section 7311, 8323, or 9311 of this title, be retained on active duty until he is qualified for retirement and then be retired under that section, unless he is sooner retired or discharged under another provision of law.

(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

(c) An officer who is subject to discharge under subsection (a)(1) is not eligible for further consideration for promotion.

(d) For the purposes of this chapter, an officer of the Army, Air Force, Marine Corps, or Space Force who holds the grade of first lieutenant, and an officer of the Navy who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title if such a board were con-

vened but is not fully qualified for promotion when recommending for promotion under section 624(a)(3) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2861; amended Pub. L. 98-525, title V, §525(c), Oct. 19, 1984, 98 Stat. 2525; Pub. L. 107-107, div. A, title V, §505(a)(2), (d)(3), (4)(B), Dec. 28, 2001, 115 Stat. 1086, 1088; Pub. L. 108-136, div. A, title V, §505(b), Nov. 24, 2003, 117 Stat. 1457; Pub. L. 115-232, div. A, title VIII, §809(a), Aug. 13, 2018, 132 Stat. 1840; Pub. L. 116-283, div. A, title IX, §924(b)(3)(I), Jan. 1, 2021, 134 Stat. 3821; Pub. L. 118-159, div. A, title V, §505(b)(1), Dec. 23, 2024, 138 Stat. 1869.)

Editorial Notes

AMENDMENTS

2024—Subsec. (a)(1), (2). Pub. L. 118-159 substituted “the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public” for “the President approves the report of the board which considered him for the second time”.

2021—Subsecs. (a), (d). Pub. L. 116-283 substituted “Marine Corps, or Space Force” for “or Marine Corps” in introductory provisions in subsec. (a) and in subsec. (d).

2018—Subsec. (a). Pub. L. 115-232 substituted “section 8146(e) or 8372” for “section 5596(e) or 6383” in introductory provisions and “section 7311, 8323, or 9311” for “section 3911, 6323, or 8911” in par. (3).

2003—Subsec. (a)(3). Pub. L. 108-136 substituted “paragraph” for “clause”.

2001—Pub. L. 107-107, §505(d)(4)(B), struck out “regular” before “first lieutenants” in section catchline.

Subsec. (a). Pub. L. 107-107, §505(d)(3), in introductory provisions, substituted “Army, Air Force, or Marine Corps on the active-duty list” for “Regular Army, Regular Air Force, or Regular Marine Corps” and “Navy on the active-duty list” for “Regular Navy” and struck out “regular” before “grade” wherever appearing.

Subsec. (d). Pub. L. 107-107, §505(a)(2), added subsec. (d).

1984—Subsec. (c). Pub. L. 98-525 added subsec. (c).

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

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.

§ 632. Effect of failure of selection for promotion: captains and majors of the Army, Air Force, Marine Corps, and Space Force and lieutenants and lieutenant commanders of the Navy

(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 8146(e) or 8372 of this title applies) and except as provided under section 637(a) of this title, each officer of the Army, Air Force, Marine Corps, or Space Force on the ac-