

“with:” in introductory provisions, and added subsec. (b).

1996—Cl. (2). Pub. L. 104-324 struck out “, with identification of those officers who are in the promotion zone” after “officers for promotion”.

1966—Pub. L. 89-444 substituted “officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion” for “officers to be considered by the board” in cl. 2.

### § 2116. Officers to be recommended for promotion

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board, giving due consideration to the needs of the Coast Guard for officers with particular skills so noted in specific direction furnished to the board by the Secretary under section 2115 of this title, considers best qualified of the officers under consideration for promotion. No officer may be recommended for promotion unless he receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(b) The number of officers that a board convened under section 2106 of this title may recommend for promotion to a grade below rear admiral (lower half) from among eligible officers junior in rank to the junior officer in the appropriate promotion zone may not exceed—

(1) 5 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of lieutenant or lieutenant commander;

(2) 7½ percent of the total number of officers that the board is authorized to recommend for promotion to the grade of commander; and

(3) 10 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of captain;

unless such percentage is a number less than one, in which case the board may recommend one such officer for promotion.

(c)(1) In selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 2121(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed three times the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary

publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 180, §259; amended Pub. L. 97-417, §2(4), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 107-295, title III, §313(1), Nov. 25, 2002, 116 Stat. 2102; Pub. L. 111-281, title II, §212(3), Oct. 15, 2010, 124 Stat. 2915; Pub. L. 112-213, title II, §217(3), Dec. 20, 2012, 126 Stat. 1557; renumbered §2116 and amended Pub. L. 115-282, title I, §§112(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4216, 4240; Pub. L. 117-263, div. K, title CXII, §11238, Dec. 23, 2022, 136 Stat. 4037.)

### Editorial Notes

#### AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117-263 inserted “three times” after “may not exceed”.

2018—Pub. L. 115-282, §112(b), renumbered section 259 of this title as this section.

Subsec. (a). Pub. L. 115-282, §123(b)(2), substituted “section 2115” for “section 258”.

Subsec. (b). Pub. L. 115-282, §123(b)(2), substituted “section 2106” for “section 251” in introductory provisions.

Subsec. (c)(1). Pub. L. 115-282, §123(b)(2), substituted “section 2121(a)” for “section 271(a)”.

2012—Subsec. (c)(1). Pub. L. 112-213 substituted “In selecting” for “After selecting”.

2010—Subsec. (a). Pub. L. 111-281 inserted “, giving due consideration to the needs of the Coast Guard for officers with particular skills so noted in specific direction furnished to the board by the Secretary under section 258 of this title,” after “whom the board”.

2002—Subsec. (c). Pub. L. 107-295 added subsec. (c).

1985—Subsec. (b). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commadore”.

1983—Subsec. (b). Pub. L. 97-417 substituted “commadore” for “real admiral”.

### § 2117. Selection boards; reports

(a) Each board convened under section 2106 of this title shall submit a report in writing, signed by all the members thereof, containing the names of the officers recommended for promotion and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 2121(a) of this title.

(b) A board convened under section 2106 of this title shall certify that, in the opinion of at least a majority of the members if the board has five members, or in the opinion of at least two-thirds of the members if the board has more than five members, the officers recommended for promotion are the best qualified for promotion to meet the needs of the service (as noted in specific direction furnished the board by the Secretary under section 2115 of this title) of those officers whose names have been furnished to the board.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 180, §260; amended Pub. L. 107-295, title III,

§ 313(2), Nov. 25, 2002, 116 Stat. 2103; Pub. L. 111-281, title II, § 212(4), Oct. 15, 2010, 124 Stat. 2915; renumbered § 2117 and amended Pub. L. 115-282, title I, §§ 112(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4216, 4240.)

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-282, § 112(b), renumbered section 260 of this title as this section.

Subsec. (a). Pub. L. 115-282, § 123(b)(2), substituted “section 2106” for “section 251” and “section 2121(a)” for “section 271(a)”.

Subsec. (b). Pub. L. 115-282, § 123(b)(2), substituted “section 2106” for “section 251” and “section 2115” for “section 258”.

2010—Subsec. (b). Pub. L. 111-281 inserted “to meet the needs of the service (as noted in specific direction furnished the board by the Secretary under section 258 of this title)” after “qualified for promotion”.

2002—Subsec. (a). Pub. L. 107-295 inserted “and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title” before period at end.

#### § 2118. Selection boards; submission of reports

(a) A board convened under section 2106 of this title shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review, the Secretary shall submit the report of the board to the President for his approval, modification, or disapproval.

(b) If any officer recommended for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

(c) Upon approval by the President the names of officers selected for promotion by a board convened under section 2106 of this title shall be promptly disseminated to the service at large.

(d) Except as required by this section, the proceedings of a selection board, including a special selection board convened under section 2120, shall not be disclosed to any individual who is not a member of the board.

(e) If the Secretary makes a recommendation under this section that the name of an officer be removed from a report of a selection board and the recommendation is accompanied by information that was not presented to that selection 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. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181, § 261; amended Pub. L. 112-213, title II, § 208(b), Dec. 20, 2012, 126 Stat. 1549; renumbered § 2118 and amended Pub. L. 115-282, title I, §§ 112(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4216, 4240; Pub. L. 116-283, div. G, title LVXXXV [LXXXV], § 8505(a)(16), Jan. 1, 2021, 134 Stat. 4748; Pub. L.

117-263, div. K, title CXII, § 11245(c), Dec. 23, 2022, 136 Stat. 4045.)

#### Editorial Notes

##### AMENDMENTS

2022—Subsec. (e). Pub. L. 117-263 added subsec. (e).

2021—Subsec. (d). Pub. L. 116-283 substituted “individual who is” for “person”.

2018—Pub. L. 115-282, § 112(b), renumbered section 261 of this title as this section.

Subsecs. (a), (c). Pub. L. 115-282, § 123(b)(2), substituted “section 2106” for “section 251”.

Subsec. (d). Pub. L. 115-282, § 123(b)(2), substituted “section 2120” for “section 263”.

2012—Subsec. (d). Pub. L. 112-213 substituted “selection board, including a special selection board convened under section 263,” for “selection board”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-213, title II, § 208(e)(1), Dec. 20, 2012, 126 Stat. 1549, provided that: “The amendments made by this section [enacting section 263 of this title and amending this section and section 262 of this title] shall take effect on the date of enactment of this Act [Dec. 20, 2012] and the Secretary may convene a special selection board on or after that date under section 263 [now 2120] of title 14, United States Code, with respect to any error or other action for which such a board may be convened if that error or other action occurred on or after the date that is 1 year before the date of enactment of this Act.”

#### Executive Documents

##### DELEGATION OF AUTHORITY

Authority of President under subsecs. (a) and (b) of this section to approve, modify, or disapprove the report of a selection board, and to remove a name of an officer from a selection board report, respectively, delegated to Secretary of Homeland Security by Ex. Ord. No. 14106, § 1(a), (b), Aug. 14, 2023, 88 F.R. 55905, set out in a note under section 2101 of this title.

#### § 2119. Failure of selection for promotion

An officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade under section 2111 of this title, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181, § 262; amended Pub. L. 112-213, title II, § 208(c), Dec. 20, 2012, 126 Stat. 1549; renumbered § 2119 and amended Pub. L. 115-282, title I, §§ 112(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4216, 4240.)

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-282, § 123(b)(2), substituted “section 2111” for “section 256”.

Pub. L. 115-282, § 112(b), renumbered section 262 of this title as this section.

2012—Pub. L. 112-213 amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) describing failure of selection for promotion with an exception made if an officer was not considered because of administrative error.