

(2) A person who is appointed to the next higher grade as described in paragraph (1) shall, upon that appointment, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the active-duty list as the person would have had pursuant to the original recommendation for promotion of the promotion board concerned.

(g) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(h) PROMOTION BOARD DEFINED.—In this section, the term “promotion board” means a selection board convened by the Secretary under section 2106 of this title.

(Added Pub. L. 117-263, div. K, title CXII, §11245(b)(1), Dec. 23, 2022, 136 Stat. 4043.)

§ 2121. Promotions; appointments

(a) When the report of a board convened to recommend officers for promotion has been approved by the President, the Secretary shall place the names of all officers selected and approved on a list of selectees in the order of their seniority on the active duty promotion list. The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.

(b) Officers on the list of selectees may be promoted by appointment in the next higher grade to fill vacancies in the authorized active duty strength of the grade as determined under section 2103 of this title after officers on any previous list of selectees for that grade have been promoted. Officers shall be promoted in the order that their names appear on the list of selectees. The date of rank of an officer promoted under this subsection shall be the date of his appointment in that grade.

(c) An officer serving on active duty in the grade of ensign may, if found fully qualified for promotion in accordance with regulations prescribed by the Secretary, be promoted to the grade of lieutenant (junior grade) by appointment after he has completed twelve months' active service in grade. The date of rank of an officer promoted under this subsection shall be the date of his appointment in the grade of lieutenant (junior grade) as specified by the Secretary.

(d) When a vacancy in the grade of rear admiral occurs, the senior rear admiral (lower half) serving on the active duty promotion list shall be appointed by the President, by and with the advice and consent of the Senate, to fill the vacancy. The appointment shall be effective on the date the vacancy occurred.

(e) Appointments of regular officers under this section shall be made by the President, by and with the advice and consent of the Senate except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant. Appointments of Reserve officers shall be made as prescribed in section 12203 of title 10.

(f)(1) The promotion of an officer may be delayed without prejudice if any of the following applies:

(A) The officer is under investigation or proceedings of a court-martial or a board of officers are pending against the officer.

(B) A criminal proceeding in a Federal or State court is pending against the officer.

(C) The Secretary determines that credible information of an adverse nature, including a substantiated adverse finding or conclusion described in section 2115(a)(3), with respect to the officer will result in the convening of a special selection review board under section 2120a of this title to review the officer and recommend whether the recommendation for promotion of the officer should be sustained.

(2)(A) Subject to subparagraph (B), a promotion may be delayed under this subsection until, as applicable—

(i) the completion of the investigation or proceedings described in subparagraph (A);

(ii) a final decision in the proceeding described in subparagraph (B) is issued; or

(iii) the special selection review board convened under section 2120a of this title issues recommendations with respect to the officer.

(B) Unless the Secretary determines that a further delay is necessary in the public interest, a promotion may not be delayed under this subsection for more than one year after the date the officer would otherwise have been promoted.

(3) An officer whose promotion is delayed under this subsection and who is subsequently promoted shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had his promotion not been so delayed.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 181, §271; amended Pub. L. 91-278, §1(8), June 12, 1970, 84 Stat. 305; Pub. L. 97-417, §2(5), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99-145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101-225, title II, §203(2), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 103-337, div. A, title XVI, §1677(b)(2), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 107-295, title III, §313(3), Nov. 25, 2002, 116 Stat. 2103; renumbered §2121 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, §11245(d), Dec. 23, 2022, 136 Stat. 4046.)

Editorial Notes

AMENDMENTS

2022—Subsec. (f). Pub. L. 117-263 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “The promotion of an officer who is under investigation or against whom proceedings of a court-martial or a board of officers are pending may be delayed without prejudice by the Secretary until completion of the investigation or proceedings. However, unless the Secretary determines that a further delay is necessary in the public interest, a promotion may not be delayed under this subsection for more than one year after the date the officer would otherwise have been promoted. An officer whose promotion is delayed under this subsection and who is subsequently promoted shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had his promotion not been so delayed.”

2018—Pub. L. 115-282, §112(b), renumbered section 271 of this title as this section.

Subsec. (b). Pub. L. 115-282, §123(b)(2), substituted “section 2103” for “section 42”.

2002—Subsec. (a). Pub. L. 107-295 inserted at end “The names of all officers approved by the President and rec-

commended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.”

1994—Subsec. (e). Pub. L. 103-337 substituted “section 12203 of title 10” for “section 593 of title 10”.

1989—Subsec. (e). Pub. L. 101-225 inserted “except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant” before the period at end of first sentence.

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

1983—Subsec. (c). Pub. L. 97-417, §2(5)(A), inserted a comma after “ensign may”.

Subsecs. (d) to (f). Pub. L. 97-417, §2(5)(B), (C), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1970—Subsec. (c). Pub. L. 91-278 substituted “twelve” for “eighteen”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

RULE OF CONSTRUCTION

Pub. L. 112-213, title II, §208(e)(2), Dec. 20, 2012, 126 Stat. 1549, provided that: “Sections 271, 272, and 273 [now 2121, 2122, and 2123] of title 14, United States Code, apply to the activities of—

“(A) a selection board convened under section 251 [now 2106] of such title; and

“(B) a special selection board convened under section 263 [now 2120] of such title.”

PERMANENT GRADES AND TITLES FOR OFFICERS HOLDING CERTAIN GRADES ON JANUARY 3, 1983

Pub. L. 97-417, §4, Jan. 4, 1983, 96 Stat. 2087, provided that:

“(a) An officer of the Coast Guard who on the day before the effective date of this Act [Jan. 4, 1983]—

“(1) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half; or

“(2) was serving on active duty in the grade of admiral or vice admiral,

shall after that date hold the permanent grade of rear admiral.

“(b) An officer who on the day before the effective date of this Act [Jan. 4, 1983] was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date hold the permanent grade of commodore, but shall retain the title of rear admiral.

“(c) An officer who on the day before the effective date of this Act [Jan. 4, 1983] was on an approved list of officers recommended for promotion to the grade of rear admiral shall, upon promotion, hold the grade of commodore with the title of rear admiral.

“(d) An officer who on the day before the effective date of this Act [Jan. 4, 1983]—

“(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half; or

“(2) was on an approved list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore, be entitled to wear the uniform and insignia of a rear admiral.

“(e) An officer of the Coast Guard who on the day before the effective date of this Act [Jan. 4, 1983] held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled after that date to

wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

“(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

“(2) ranks among commissioned officers of the Armed Forces as and is entitled to the basic pay of—

“(A) a commodore, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

“(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

“(f) Unless entitled to a higher grade under another provision of law, an officer who on the day before the effective date of this Act [Jan. 4, 1983]—

“(1) was serving on active duty, and

“(2) held the grade of rear admiral;

and who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral. If such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform, insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.”

TEMPORARY GRADES AND RECOMMENDATIONS FOR PROMOTIONS IN EFFECT PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(a), (b), and (d) of Pub. L. 88-130, protecting officers recommended for promotion or serving in temporary grade higher than permanent grade, are set out as a note under section 2101 of this title.

Executive Documents

DELEGATION OF AUTHORITY

Authority of President under subsec. (e) of this section to appoint officers in the grades of lieutenant (junior grade) and lieutenant delegated to Secretary of Homeland Security by Ex. Ord. No. 14106, §1(d), Aug. 14, 2023, 88 F.R. 55905, set out in a note under section 2101 of this title.

§ 2122. Removal of officer from list of selectees for promotion

(a) The President may remove the name of any officer from a list of selectees established under section 2121 of this title.

(b) If the Senate does not consent to the appointment of an officer whose name is on a list of selectees established under section 2121 of this title, that officer's name shall be removed from this list.

(c) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is selected for promotion by the next selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held if his name had not been removed. However, if the officer is not selected by the next selection board or if his name is again removed from the list of selectees, he shall be considered for all purposes as having twice failed of selection for promotion.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 182, §272; renumbered §2122 and amended Pub. L. 115-282, title I, §§112(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4216, 4240.)