

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 293 of this title as this section.

§ 2155. Retirement for physical disability after selection for promotion; grade in which retired

An officer whose name appears on an approved list of officers selected for promotion to the next higher grade and who is retired for physical disability under the provisions of chapter 61 of title 10 prior to being promoted shall be retired in the grade to which he was selected for promotion.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 187, §294; renumbered §2155, Pub. L. 115-282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 294 of this title as this section.

Statutory Notes and Related Subsidiaries

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 2101 of this title.

§ 2156. Deferment of retirement or separation for medical reasons

(a) Subject to subsection (b), the Secretary may defer the retirement or separation of a commissioned officer, other than a commissioned warrant officer, if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization, medical observation, or other physical disability processing that cannot be completed before the date on which the officer would otherwise be retired or separated.

(b) A deferment under subsection (a)—

(1) may only be made with the consent of the officer involved; and

(2) if the Secretary receives written notice from the officer withdrawing that consent, shall end not later than the end of the sixty-day period beginning on the date the Secretary receives that notice.

(Added Pub. L. 98-557, §17(b)(2)(A), Oct. 30, 1984, 98 Stat. 2867, §295; renumbered §2156, Pub. L. 115-282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216.)

Editorial Notes

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2018—Pub. L. 115-282 renumbered section 295 of this title as this section.

§ 2157. Flag officers

During any period in which the Coast Guard is not operating as a service in the Navy, section 1216(d) of title 10 does not apply with respect to flag officers of the Coast Guard.

(Added Pub. L. 113-281, title II, §212(a), Dec. 18, 2014, 128 Stat. 3029, §296; renumbered §2157, Pub.

L. 115-282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 296 of this title as this section.

§ 2158. Review of records of officers

The Secretary may at any time convene a board of officers to review the record of any officer of the Regular Coast Guard to determine whether he shall be required to show cause for his retention on active duty—

(1) because his performance of duty has fallen below the standards prescribed by the Secretary, or

(2) because of moral dereliction, professional dereliction, or because his retention is not clearly consistent with the interests of national security.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 187, §321; renumbered §2158, Pub. L. 115-282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 321 of this title as this section.

§ 2159. Boards of inquiry

(a) Boards of inquiry shall be convened at such places as the Secretary may prescribe to receive evidence and make findings and recommendations whether an officer who is required to show cause for retention under section 2158 of this title should be retained on active duty.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer so required to show cause for retention.

(c) If a board of inquiry determines that the officer has failed to establish that he should be retained, it shall send the record of its proceedings to a board of review.

(d) If a board of inquiry determines that the officer has established that he should be retained, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 2158 of this title, and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 188, §322; amended Pub. L. 97-295, §2(10), Oct. 12, 1982, 96 Stat. 1302; renumbered §2159 and amended Pub. L. 115-282, title I, §§112(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4216, 4240.)

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AMENDMENTS

2018—Pub. L. 115-282, §112(b), renumbered section 322 of this title as this section.

Subsecs. (a), (d). Pub. L. 115-282, §123(b)(2), substituted “section 2158” for “section 321”.

1982—Subsec. (d). Pub. L. 97-295 inserted “of this title” after “section 321”.

§ 2160. Boards of review

(a) Boards of review shall be convened at such times as the Secretary may prescribe, to review the records of cases of officers recommended by boards of inquiry for removal.

(b) If, after reviewing the record of the case, a board of review determines that the officer has failed to establish that he should be retained, it shall send its recommendation to the Secretary for his action.

(c) If, after reviewing the record of the case, a board of review determines that the officer has established that he should be retained on active duty, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 2158 of this title and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 188, §323; amended Pub. L. 97-295, §2(10), Oct. 12, 1982, 96 Stat. 1302; renumbered §2160 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 323 of this title as this section.

Subsec. (c). Pub. L. 115-282, §123(b)(2), substituted “section 2158” for “section 321”.

1982—Subsec. (c). Pub. L. 97-295 inserted “of this title” after “section 321”.

§ 2161. Composition of boards

(a) A board convened under section 2158, 2159, or 2160 of this title shall consist of at least three officers of the grade of commander or above, all of whom are serving in a grade senior to the grade of any officer considered by the board.

(b) No individual may be a member of more than one board convened under section 2158, 2159, or 2160 of this title to consider the same officer.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 188, §324; renumbered §2161 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)(19), Jan. 1, 2021, 134 Stat. 4748.)

Editorial Notes

AMENDMENTS

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

2018—Pub. L. 115-282, §123(b)(2), substituted “section 2158, 2159, or 2160” for “section 321, 322, or 323” in subsecs. (a) and (b).

Pub. L. 115-282, §112(b), renumbered section 324 of this title as this section.

§ 2162. Rights and procedures

Each officer under consideration for removal under section 2159 of this title shall be—

(1) notified in writing at least thirty days before the hearing of the case by a board of inquiry of the reasons for which the officer is being required to show cause for retention;

(2) allowed reasonable time, as determined by the board of inquiry under regulations of the Secretary, to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry; and

(4) allowed full access to, and furnished copies of, records relevant to the case at all stages of the proceeding, except that a board shall withhold any records that the Secretary determines should be withheld in the interests of national security. In any case where any records are withheld under this clause, the officer whose case is under consideration shall, to the extent that the national security permits, be furnished a summary of the records so withheld.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 188, §325; renumbered §2162 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 2159” for “section 322” in introductory provisions.

Pub. L. 115-282, §112(b), renumbered section 325 of this title as this section.

§ 2163. Removal of officer from active duty; action by Secretary

The Secretary may remove an officer from active duty if his removal is recommended by a board of review under section 2160 of this title. The Secretary’s action in such a case is final and conclusive.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 189, §326; renumbered §2163 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 2160” for “section 323”.

Pub. L. 115-282, §112(b), renumbered section 326 of this title as this section.

§ 2164. Officers considered for removal; retirement or discharge; separation benefits

(a) At any time during proceedings under section 2159 or 2160 of this title, and before the removal of an officer, the Secretary may grant a request—

(1) for voluntary retirement, if the officer is otherwise qualified therefor; or

(2) for discharge with separation benefits under section 2146(c) of this title.

(b) Each officer removed from active duty under section 2163 of this title shall—

(1) if on the date of removal the officer is eligible for voluntary retirement under any law, be retired in the grade for which he would be eligible if retired at his request; or

(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 2146(c) of this title, unless under regu-