

§ 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-

lations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 189, §327; amended Pub. L. 97-295, §2(10), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 99-348, title II, §205(b)(6), July 1, 1986, 100 Stat. 700; Pub. L. 105-383, title II, §201(c), Nov. 13, 1998, 112 Stat. 3414; Pub. L. 107-295, title IV, §416(a)(5), Nov. 25, 2002, 116 Stat. 2122; renumbered §2164 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 327 of this title as this section.

Subsec. (a). Pub. L. 115-282, §123(b)(2), substituted “section 2159 or 2160” for “section 322 or 323” in introductory provisions.

Subsec. (a)(2). Pub. L. 115-282, §123(b)(2), substituted “section 2146(c)” for “section 286(c)”.

Subsec. (b). Pub. L. 115-282, §123(b)(2), substituted “section 2163” for “section 326” in introductory provisions.

Subsec. (b)(2). Pub. L. 115-282, §123(b)(2), substituted “section 2146(c)” for “section 286(c)”.

2002—Pub. L. 107-295, §416(a)(5)(A), substituted “separation” for “severance” in section catchline.

Subsec. (a)(2). Pub. L. 107-295, §416(a)(5)(B), added par. (2) and struck out former par. (2) which read as follows: “for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321 of this title; or”.

Subsec. (a)(3). Pub. L. 107-295, §416(a)(5)(C), struck out par. (3) which read as follows: “for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321 of this title.”

Subsec. (b)(2). Pub. L. 107-295, §416(a)(5)(D), added par. (2) and struck out former par. (2) which read as follows: “if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month’s basic pay of that grade, in those cases arising under clause (1) of section 321 of this title; or”.

Subsec. (b)(3). Pub. L. 107-295, §416(a)(5)(E), struck out par. (3) which read as follows: “if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month’s basic pay of that grade, in those cases arising under clause (2) of section 321 of this title, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.”

1998—Subsec. (b)(3). Pub. L. 105-383 inserted before period at end “, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay”.

1986—Subsec. (b)(1). Pub. L. 99-348 struck out “, and with the pay” after “in the grade”.

1982—Pub. L. 97-295 inserted “of this title” after “section 322 or 323” and “section 321” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-295 effective 4 years after Nov. 25, 2002, see section 416(c) of Pub. L. 107-295, set out as a note under section 2146 of this title.

§ 2165. Relief of retired officer promoted while on active duty

Any regular officer on the retired list recalled to active duty who during such active duty is advanced to a higher grade under an appointment shall, upon relief from active duty, if his performance of duty under such appointment has been satisfactory, be advanced on the retired list to the highest grade held while on such active duty.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 189, §333; renumbered §2165, Pub. L. 115-282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 333 of this title as this section.

§ 2166. Continuation on active duty; Coast Guard officers with certain critical skills

(a) IN GENERAL.—The Commandant may authorize an officer in a grade above grade O-2 to remain on active duty after the date otherwise provided for the retirement of such officer in section 2154 of this title, if the officer possesses a critical skill, or specialty, or is in a career field designated pursuant to subsection (b).

(b) CRITICAL SKILLS, SPECIALTY, OR CAREER FIELD.—The Commandant shall designate any critical skill, specialty, or career field eligible for continuation on active duty as provided in subsection (a).

(c) DURATION OF CONTINUATION.—An officer continued on active duty pursuant to this section shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 40 years of active service.

(d) POLICY.—The Commandant shall carry out this section by prescribing policy which shall specify the criteria to be used in designating any critical skill, specialty, or career field for purposes of subsection (b).

(Added Pub. L. 117-263, div. K, title CXII, §11235(a), Dec. 23, 2022, 136 Stat. 4035.)

SUBCHAPTER III—GENERAL PROVISIONS

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282, title I, §112(c)(5), Dec. 4, 2018, 132 Stat. 4221, inserted subchapter III designation and heading.

§ 2181. Physical fitness of officers

The Secretary shall prescribe regulations under which the physical fitness of officers to perform their duties shall be periodically determined.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 190, §335; renumbered §2181, Pub. L. 115-282, title I, §112(b), Dec. 4, 2018, 132 Stat. 4216.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 335 of this title as this section.