tion in a case arising under clause (1) of section 321 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; amended Pub. L. 97–295, § 2(10), Oct. 12, 1982, 96 Stat. 1302.)

AMENDMENTS

1982—Subsec. (c). Pub. L. 97–295 inserted ''of this title'' after ''section 321''.

§ 324. Composition of boards

(a) A board convened under section 321, 322, or 323 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 person may be a member of more than one board convened under section 321, 322, or 323 of this title to consider the same officer.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

§ 325. Rights and procedures

Each officer under consideration for removal under section 322 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.)

§ 326. 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 323 of this title. The Secretary's action in such as case is final and conclusive.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

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

(a) At any time during proceedings under section 322 or 323 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 286(c) of this title.

(b) Each officer removed from active duty under section 326 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 286(c) of this title, unless under regulations 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; 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.)

AMENDMENTS

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.

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 286 of this title.