

motion” for “officers to be considered by the board” in cl. 2.

§ 259. 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 258 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 251 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) After 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 271(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 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; 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.)

AMENDMENTS

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 “commodore”.

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

§ 260. Selection boards; reports

(a) Each board convened under section 251 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 271(a) of this title.

(b) A board convened under section 251 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 258 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; 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.)

AMENDMENTS

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.

§ 261. Selection boards; submission of reports

(a) A board convened under section 251 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 251 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 shall not be disclosed to any person not a member of the board.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 181.)

§ 262. Failure of selection for promotion

(a) 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 256 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.

(b) An officer shall not be considered to have failed of selection if he was not considered by a selection board because of administrative error. If he is selected by the next succeeding 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 had he been recommended by the first selection board.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 181.)

PLACEMENT OUT OF LINE OF PROMOTION PRIOR TO SEPTEMBER 24, 1963

Pub. L. 88-130, §2(a), (b), Sept. 24, 1963, 77 Stat. 190, provided that:

“(a) Officers who have been placed permanently out of line of promotion under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept. 24, 1963] shall be considered as having failed of selection for promotion to the next higher grade for the second time on the day before the effective date of this Act, and shall be subject to the provisions of sections 282 through 285 of title 14, United States Code, as appropriate. No officer shall be separated from the service under the above provisions prior to the last day of the sixth calendar month following the effective date of this Act.

“(b) Officers who have been placed temporarily out of line of promotion for appointment for temporary service under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept. 24, 1963] shall be considered as having once failed of selection for promotion to the next higher grade.”

C. PROMOTIONS

§ 271. 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 42 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) 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.

(Added Pub. L. 88-130, §1(10)(C), Sept. 24, 1963, 77 Stat. 181; 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.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-295 inserted at end “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.”

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 appoint-