



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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SECNAVINST 1402.1
ASN (M&RA)
29 Apr 2019

SECNAV INSTRUCTION 1402.1

From: Secretary of the Navy

Subj: SPECIAL SELECTION BOARDS, SUPPLEMENTAL ALL-FULLY-QUALIFIED-OFFICERS LISTS, AND SPECIAL BOARDS

Encl: (1) References
(2) Definitions
(3) Responsibilities
(4) Special Selection Boards
(5) Supplemental All-Fully-Qualified-Officers Lists
(6) Special Boards

1. Purpose. This instruction implements sections 624(a)(3), 628, 1558, 14308(b)(4), and 14502 of reference (a) and references (b) through (i) and establishes Department of the Navy (DON) policy, procedures, and processing deadlines for: review of and action on requests for Special Selection Boards (SSBs), Supplemental All-Fully-Qualified-Officers Lists (SAFQOLs), and Special Boards (SBs); convening SSBs and SBs; requesting and processing SAFQOLs; processing related reports; and processing individual actions. This is a new instruction and should be reviewed in its entirety.

2. Applicability. This instruction applies to:

a. SSBs. Action on requests for and convening of SSBs, pursuant to sections 628 or 14502 of reference (a) and reference (b), to consider for promotion, in or above the promotion zone, those eligible Navy and Marine Corps commissioned officers, including former officers no longer on the Active Duty List (ADL) or Reserve Active Status List (RASL), who were not considered by a Promotion Selection Board (PSB) due to administrative error or who were unfairly considered and not selected for promotion.

b. SAFQOLs. Action on requests for SAFQOLs to consider for promotion those eligible Navy and Marine Corps commissioned officers, including former officers no longer on the ADL or

RASL, whose names were not included on an All-Fully-Qualified-Officers List (AFQOL) for which they were eligible under references (a) and (c) due to administrative error pursuant to sections 624(a)(3)(E) or 14308(b)(4)(E) of reference (a).

c. SBs. Action on requests for and convening of SBs pursuant to section 1558 of reference (a) to correct a military record in accordance with a recommendation made by an SB to appoint, enlist, reenlist, assign, promote, retain, separate, retire, or transfer to inactive status in a reserve component Navy and Marine Corps commissioned officers.

3. Policy. It is DON policy:

a. To conduct all SSBs and SBs, and to process all SAFQOLs, in full compliance with applicable statutes and Department of Defense (DoD) issuances, to include references (a), (b), and (d);

b. To provide careful consideration, without prejudice or partiality, for all officers eligible for a PSB, for a promotion selection process, for a Continuation Selection Board (CSB), for a continuation selection process, for a selective retirement, selective early retirement, selective removal, or selective early discharge board, or for other competitive or non-competitive selection board processes as outlined in this instruction;

c. To restrict the use of an SSB, pursuant to section 628(b) or 14502(b) of reference (a), and reference (b), for considering officers or former officers who, by maintaining reasonably careful records, may have discovered and taken steps to correct the errors or omissions on which the original boards based decisions against promotion;

d. To limit approval of an SSB request as authorized under sections 628 and 14502 of reference (a): For ADL officers, only in cases where the PSB in question convened on or after 15 September 1981 and, for RASL officers, only in cases where the PSB in question is convened on or after 1 October 1996.

4. Responsibilities. See enclosure (3).

5. Procedures

a. SSBs shall follow the procedural requirements in enclosure (4);

b. SAFQOLs shall be prepared and forwarded in accordance with enclosure (5);

c. Requests for SBs and SBs convened by the SECNAV shall follow the procedural requirements in enclosure (6). SBs should also follow the procedural requirements of the underlying selection board or process, as applicable.

6. Internal Controls. In accordance with reference (e), the establishment and use of internal controls and accounting procedures are mandated to ensure: effectiveness and efficiency of operations; reliability of financial reporting; and compliance with applicable laws and regulations. Additionally, as part of the annual Manager's Internal Control Program report, the Navy and Marine Corps will provide the ASN(M&RA) with copies of sections of their reports that are relevant to SSBs, SAFQOLs, and SBs in the DON.

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositions according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page:

<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local Records Manager or the DRMD program office.

8. Reports. The requirements contained in paragraph 1 and enclosure (3), paragraph 1a, d, e, paragraph 3e, enclosure (4), paragraph 7c, d, e, paragraph 9a, enclosure (6) paragraph 1a and paragraph 6c are exempt from information collection control, per Part IV, paragraph 7k of reference (h) and paragraph 6 is exempt

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from information collection control, per Part IV, paragraph 7n of reference (h).

The reports will include summary descriptions of internal controls used, their sufficiency, and any identified weaknesses or deficiencies.



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REFERENCES

- (a) 10 U.S.C.
- (b) DoD Instruction 1320.11 of 12 February 2013
- (c) SECNAVINST 1420.1 Series
- (d) DoD Instruction 1320.04 of 3 January 2014
- (e) SECNAVINST 5200.35F
- (f) SECNAVINST 1401.3 Series
- (g) SECNAVINST 1920.6 Series
- (h) SECNAV M-5214.1
- (i) DoD Instruction 1320.14 of 11 December 2013

Enclosure (1)

DEFINITIONS

1. All-Fully-Qualified-Officers List (AFQOL). A list to recommend eligible officers in the grade of O-2 for promotion to the grade of O-3 pursuant to sections 624(a) and 14308(b) of reference (a).
2. Special Board (SB). A board convened by the SECNAV pursuant to section 1558 of reference (a) to consider whether to recommend a person for appointment, enlistment, reenlistment, assignment, promotion, retention, continuation, separation, retirement, or transfer to an inactive status in the Reserve component, instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person. As defined by section 1558 of reference (a), an SB does not include an SSB.
3. Special Selection Board (SSB). A selection board of eligible commissioned officers convened by the SECNAV pursuant to sections 628 or 14502 of reference (a), or warrant officers pursuant to section 12242 of reference (a) and reference (b), to consider officers who were either eligible but not considered by a regularly scheduled Promotion Selection Board (PSB) due to administrative error or who were considered in an unfair manner and not selected. As used in this instruction, the term PSB refers solely to selection boards convened under sections 573(a), 611(a), and 14101(a) of reference (a).
4. Supplemental AFQOL (SAFQOL). A list prepared by the SECNAV pursuant to section 624(a)(3)(E) or 14308(b)(4)(E) of reference (a). Eligible officers not included on an AFQOL may request to be included on an SAFQOL.

RESPONSIBILITIES

1. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN(M&RA)) is authorized to perform all functions of the SECNAV under this instruction except actions pertaining to general or flag officers or those the ASN(M&RA) deems appropriate to forward for the SECNAV's action. This delegation does not prohibit the SECNAV from taking any action under this instruction.

a. Approves or disapproves requests for: SSBs under sections 628 and 14502 of reference (a); preparation of SAFQOLs under sections 624(a)(3)(E) and 14308(b)(4)(E) as applicable, of reference (a) and, SBs under section 1558 of reference (a) to correct military records regarding actions taken in the case of persons on the basis of previous reports of selection boards convened by the SECNAV, except PSBs convened under section 573(a), 611(a), or 14101(a) of reference (a);

b. Convenes SSBs and SBs under sections 628 and 14502, or 1558, as applicable, of reference (a);

c. Prepares SAFQOLs under sections 624(a)(3)(E) and 14308(b)(4)(E) of reference (a);

d. Forwards to the Office of the Secretary of Defense board reports for SSBs convened under sections 628 and 14502 of reference (a), and SAFQOLs under sections 624(a)(3)(E) and 14308(b)(4)(E), consistent with the requirements of reference (d);

e. Approves or disapproves board reports for SBs convened under this instruction.

2. Chief of Naval Operations(CNO)/Commandant of the Marine Corps (CMC)

a. Recommends to the SECNAV to approve or disapprove requests for SSBs or SAFQOLs under sections 628, 14502, 624(a)(3)(E), 628, and 14308(b)(4)(E) of reference (a) and requests for SBs under section 1558 of reference (a), when such requests are pursuant to selection boards convened by the SECNAV.

b. Disapproves untimely requests or, if recommending approval of an untimely request, forwards such recommendation to the SECNAV, requesting a waiver of untimeliness with supporting justification. May delegate this authority to the Chief of Naval Personnel(CNP) or the Deputy Commandant for Manpower and Reserve Affairs(DC(M&RA)), as appropriate.

3. CNP/DC(M&RA)

a. Forwards a recommendation to approve an SSB, SAFQOL, or SB on behalf of an officer when cause to do so is shown. Recommendations should address each issue raised in the request;

b. Notifies officers when requests are approved or disapproved and, if approved, when the applicable boards shall be convened or when the SAFQOLs shall be prepared;

c. Forwards convening orders for approved requests for boards to the SECNAV and recommends appropriate board membership;

d. Approves requests and forwards convening orders to the SECNAV in cases where an officer was clearly not considered by a PSB when the officer should have been considered;

e. Forwards board reports to the SECNAV as necessary;

f. Forwards recommended SAFQOLs to the SECNAV.

4. Board for Corrections of Naval Records (BCNR)

a. Subject to delegation by the ASN(M&RA), approves requests for SSBs, SAFQOLs, and SBs in accordance with this instruction and any other guidance provided by the ASN(M&RA).

b. Forwards SSB or SB approvals to the CNP or DC(M&RA), as appropriate, so that a convening order can be drafted and routed for approval.

5. Commissioned Officers in the Navy and Marine Corps

a. Each officer is responsible for his or her individual record. An officer is required to review his or her service record at least annually. An officer must maintain reasonably

Careful records to ensure his or her record is accurate at the time an SSB or SB convenes or at the time a promotion process is held.

b. Absent extenuating circumstances, an officer's maintenance of reasonably careful records should ensure any error or omission is corrected before any board or process commences. Moreover, officers are required to correct deficiencies in their records as soon as possible.

SPECIAL SELECTION BOARDS

1. Background

a. Sections 573, 611, and 14101 of reference (a); reference (i); and reference (c) prescribe rules and procedures for convening PSBs to consider eligible officers on the ADL and RASL of the Navy and Marine Corps for promotion to the next higher grade. Sections 628 and 14502 of reference (a), and reference (b), prescribe rules and procedures for convening SSBs. Per section 12242 of reference (a), and reference (b), those policies and procedures will also be extended, in the manner described in this instruction, to Active and Reserve warrant officers requesting SSBs.

b. When, because of administrative error, the record of an officer or former officer above or in the promotion zone is not considered by a PSB, the SECNAV is required to convene an SSB, per section 628(a) or 14502(a) of reference (a), to consider that officer for promotion.

c. The SECNAV is authorized per sections 628(b) and 14502(b) of reference (a), and encouraged by reference (b), paragraph 3, to convene an SSB to consider cases of officers or former officers who were above or in the promotion zone before a PSB, and considered, but not selected by the board, if the SECNAV determines that the action of that board was contrary to law, involved material error of fact or material administrative error, or that the board lacked some material information for consideration.

(1) SSBs will be used only to consider the records of officers in cases where errors or omissions precluded an officer's consideration, or proper consideration, by a PSB.

(2) An SSB will not be convened to consider any officer who, by maintaining reasonably careful records, might have discovered and taken steps to correct the error or omission in the official record prior to convening the PSB that considered but did not select the officer.

(3) All applications for SSBs must be received no later than three years after the date the contested board results were made public. Applications received more than three years after

the date the contested board results were made public will be treated as untimely and shall be denied by the CNO or CMC, as appropriate. This authority may be delegated.

2. Officers Not Considered by a PSB Due to Administrative Error

a. The SECNAV shall, upon determination that an administrative error prevented consideration of an officer's record before a PSB, convene an SSB to consider the record of the officer concerned. The CNO or CMC, as appropriate, or their respective designee, shall determine whether the officer should have been considered by a PSB. If an officer should have been considered by a PSB, a convening order shall be forwarded to the SECNAV for approval as soon as practicable. If the CNO or CMC, as appropriate, or their respective designee is unable to determine whether an officer should have been considered by a PSB, the officer's request shall be forwarded to the SECNAV for review. For such cases, the Judge Advocate General of the Navy (JAG) shall advise the SECNAV regarding the request.

b. Failure to submit the record of an officer to the PSB for that officer's grade and competitive category by the date that the PSB convened shall constitute administrative error if:

(1) The officer was on, or subject to placement on the ADL or RASL of the Navy or Marine Corps on or before the date the board convened, and

(2) The officer should have been considered by the board as an above-zone or in-zone eligible officer in accordance with reference (c).

3. Officers considered, but not selected by a PSB

a. An officer may request that the SECNAV convene an SSB. The officer's request must set forth the grounds for convening an SSB. Grounds for convening an SSB are provided in section 628(a) or 14502(a) of reference (a), as applicable. The grounds for convening an SSB are:

(1) The board acted contrary to law in a matter material to the decision of the board;

(2) The action of the PSB involved material error of fact or material administrative error;

(3) That material information was not before the PSB for its consideration.

b. The officer must demonstrate, by a preponderance of the evidence, that grounds for convening an SSB exist.

c. The SECNAV may convene an SSB, if the SECNAV determines that there was a material unfairness with respect to an officer or former officer who was not recommended for promotion by a selection board because:

(1) The PSB acted contrary to law by violating reference (a), or deprived the officer concerned of a constitutional or statutory right in a matter material to the decision of the board;

(2) The action of the PSB involved material error of fact or material administrative error that deprived the officer concerned of fair and impartial consideration by the board; or

(3) The PSB lacked material information. Material information is information that, when properly recorded in, or removed from, an officer's record would have been essential to a substantially accurate, complete, and fair portrayal of the officer's career.

d. The SECNAV shall determine whether a PSB acted contrary to law in a material matter, that a material error of fact or material administrative error occurred, or that the PSB did not consider material information. The SECNAV will consider the comments and recommendations of the CNO or CMC, as appropriate, or their respective designee. All requests for the SECNAV's determination shall be reviewed by the JAG. The JAG shall advise the SECNAV regarding the request.

e. Officers have a duty to review their records annually to ensure their records are complete and accurate. Pursuant to reference (b), an SSB will not be convened to consider any officer who, by maintaining reasonably careful records, could have discovered and taken steps to correct the error or omission in the officer's record before the PSB. An officer's request

for an SSB must demonstrate, by a preponderance of evidence, that the officer maintained reasonably careful records in order to ensure the completeness and accuracy of the officer's record prior to the convening of the board. The request must detail the steps the officer took to ensure the completeness and accuracy of the officer's record and include any supporting documentation, such as any requests the officer made for record correction before the board convened.

f. Officers requesting SSBs are required to raise all possible claims regarding their non-selections in their initial applications. Subsequent applications from the same officer for the same contested PSB will not be considered unless the officer can show that the subsequent application raises significant new facts or evidence regarding the officer's non-selection, and that the facts or evidence were not known by the officer at the time of the initial application, and could not have been discovered at the time of the initial application by an officer maintaining reasonably careful records.

g. If an officer has failed of selection for promotion to the next higher grade before a PSB more than once, and if more than one of these failures involved the same error as determined under paragraph 3c, the officer's case normally shall be considered by only one SSB. This SSB will be approved for the first PSB that was affected by the same error, unless the officer specifies the particular board for which relief is sought, or other circumstances exist indicating that relief for a subsequent board is more appropriate.

4. Sampling of Records

a. The CNO and CMC shall take appropriate action within their respective Services to ensure the preparation by PSBs of a sampling of records of officers of each competitive category who were recommended for promotion, and records of officers of each competitive category who were not recommended for promotion by the PSB. They or their respective designees will also prescribe the method by which the sampling of records will be selected for their respective Services.

b. The sampling of records shall enable an SSB to evaluate an officer's record according to the procedures in paragraph 7.

Sample records shall be retained for a period of at least seven years. Written communications to the board by officers whose records are retained will also be retained with the records.

c. Each board president shall deliver the sampling of records to the CNP, or Headquarters, Marine Corps, Director, Personnel Management Division (MM), as appropriate. The CNP and MM, respectively, are designated as the custodians of all sample records retained under this instruction.

5. Presentation of Records. The record of an officer presented to an SSB will be modified as necessary to reflect the record of the officer as it would have appeared to the board that should have considered the officer or, if corrected, would have appeared to the board that considered the officer. An SSB will compare the modified record to the sample records from the corresponding PSB.

6. Membership. SSB membership shall be in accordance with sections 573, 612, and 14102 of reference (a), and reference (f).

7. Procedures and Reports

a. SSBs shall be convened by precept, addressed to the president of the board, and signed by the SECNAV. The precept will appoint the president and members of the board and will include instructions governing the proceedings of the board. Guidance issued to an SSB will be consistent with that provided to the PSB that failed to consider, or failed to properly consider, the officer whose record is before the board for consideration. All guidance shall be approved by the SECNAV. Additionally, the guidance in sections 576(d), 576(f), 617(b), 618, 624, 12203, 14103, 14104, 14109, 14110, and 14111 of reference (a), as appropriate, and reference (b), shall apply to the precept and proceedings of an SSB.

b. The sample of records provides a relative base from which SSBs determine which eligible officers, in the opinion of a majority of the members of the board, are fully qualified for promotion. In making this determination, SSBs must also certify to the SECNAV that the officer selected, when compared to the officers whose sample records were considered, are both:

(1) Better qualified for promotion than all of the officers who failed of selection for promotion before the PSB; and

(2) Comparable to those officers who were selected for promotion before the PSB.

c. SSBs shall submit a written board report for approval by the Office of the Secretary of Defense (OSD) or SECNAV, as appropriate according to reference (a) sections 628, 1558, and 14502 and reference (b), signed by each member and the recorder of the board certifying that the board has carefully considered the record of each officer whose name was furnished to it. The report will mirror the original board's report instructions and contain, at a minimum, a list of officers selected or non-selected by the board. To the maximum extent practicable, the board report shall be submitted in accordance with the statutory and regulatory rules and procedures that apply to PSB reports. The report shall be forwarded for approval by an appropriate official via first, the CNP (Navy boards) or DC(M&RA) (Marine Corps boards); second, the CNO (Navy boards) or CMC (Marine Corps boards); third, the JAG for legal review; and fourth, the SECNAV. Additionally, each board shall notify the CNP or DC(M&RA), by separate memorandum, of the name of each officer whose record, in the opinion of a majority of the members of the board, indicates the officer should be required to show cause for retention on active duty or in an active status under sections 576(d), 617(b), or 14109(c) of reference (a), and reference (g), because of substandard performance of duty, misconduct, moral or professional dereliction, or because the officer's retention is clearly inconsistent with the interests of national security.

d. When the SSB is granted as a result of an individual officer's request, the report is not required to certify whether an officer submitted to the SSB a request not to be selected for promotion or who otherwise directly caused his or her non-selection through written communication to the SSB.

e. Except as authorized or required by the SECNAV, or higher authority, the proceedings and report of an SSB, including specific information regarding the sample records used and how each officer's record was rated, shall not be disclosed to any person not a member or recorder of the board.

8. Effect of Non-selection

a. If an SSB convened under paragraph 2 does not recommend for promotion an officer whose name was furnished to it for consideration as above zone or in zone, the officer shall be considered to have failed of selection for promotion.

b. If an SSB convened under paragraph 3 does not recommend for promotion an officer whose name was furnished to it for consideration, the officer shall not incur any additional failure of selection, unless the officer's previous failure of selection by the original PSB was removed by the BCNR, or by court action or other means.

9. Promotion of Officer Selected by SSBs

a. If the report of an SSB convened and approved under this instruction and reference (a) sections 628, 1558, and 14502 and reference (b) recommends for promotion to the next higher grade an officer whose name was furnished to it for consideration, such officer shall, as soon as practicable, be appointed to the next higher grade, unless the officer's appointment is withheld or delayed or pending confirmation by the Senate.

b. An officer promoted as a result of the recommendation of an SSB shall, upon promotion, have the same date of rank, the same effective date for pay and allowances of that officer's grade, and the same position on the ADL or RASL as that officer would have had if recommended for promotion by the original PSB for which the SSB was held. Former officers may apply to the BCNR under section 1552 of reference (a) to correct their records to reflect their date of rank and effective date for pay and allowances.

10. Scheduling of SSBs and Notification of Officers to be Considered

a. Per reference (b), paragraph 5a, barring extenuating circumstances, such as a heavy caseload, an SSB will meet and the results of the board will be made known to affected officers within six months after the SECNAV's finding that an SSB was warranted. The results of SSBs shall be made known to affected officers in a timely manner.

b. Officers to be considered for promotion by an SSB shall be notified at least 30 days before the board convenes that they will be considered. Such officers shall be provided an opportunity to send written communications to the board in the same manner as that provided for PSBs.

c. An officer may waive the 30-day notice requirement, so long as the eligible officer has an adequate opportunity to communicate with the board. The officer must either exercise the right to communicate in writing with the president of the board or send a written statement (which may be by electronic mail) acknowledging the waiver to the point of contact in the message provided.

d. Communications with SSBs shall contain only materials referring to events prior to the convening date of the original PSB. All third-party correspondence concerning the officer must be forwarded to the president of the board by that officer. Communications must be received not later than 10 calendar days prior to the convening date of the SSB, otherwise the material will not be considered.

11. Retention of Statistical Data. The CNO or CMC, as appropriate, shall calculate and retain the following statistics for each SSB for seven years:

a. Statistical data regarding the number of officers considered for promotion to each grade;

b. The number of officers selected for promotion to each grade and the number of officers considered, but not selected, for promotion to each grade;

c. The number of officers considered by the SSB who were not considered by the appropriate PSB due to administrative error;

d. The number of officers considered by the SSB on the basis of legal or other material error regarding previous consideration by the appropriate PSB.

12. Action

a. The CNO or CMC, as appropriate, or their respective designees, shall request the SECNAV's determination under paragraph 3 in any case in which it is alleged or discovered that the circumstances discussed in those paragraphs might warrant referral of the officer's case to an SSB. In the case of an officer who was previously considered by a PSB, but not selected, the CNO or CMC shall forward comments and recommendations for consideration by the SECNAV via the JAG. The JAG shall thoroughly review each case and advise the SECNAV concerning any questions of law and fact that the JAG determines have been raised by the request or by the comments and recommendations provided.

b. The BCNR may, in appropriate cases, conclude that an individual's case warrants referral to an SSB. If the BCNR concludes, based on applicable law and regulation, the case warrants an SSB, the BCNR shall refer the case to the CMC or CNO, as appropriate. The CNP or DC(M&RA), or their designee, will route a convening order via the JAG to the SECNAV for signature.

c. Officers who believe that they have been improperly excluded from consideration before a PSB, or who believe that lawful or material error, as described in this instruction, occurred before a PSB in their case, will bring supporting information to the attention of the CNO or CMC as appropriate.

d. The CNO or CMC, or their designee, may approve SSB requests in cases where they can clearly determine an officer was denied consideration by a regular PSB because of an administrative error. Should reasonable doubt exist or a recommendation of disapproval be warranted, the case will be forwarded to the SECNAV for a final determination.

13. Deceased Officers. If a deceased officer is considered for referral to an SSB, the provisions of this instruction shall be applied posthumously.

SUPPLEMENTAL ALL-FULLY-QUALIFIED-OFFICERS LIST

1. Background

a. Sections 624(a)(3) and 14308(b)(4) of reference (a) provide for the preparation, submission, and approval of AFQOLs for promoting eligible lieutenants (junior grade) and first lieutenants on the ADL and RASL of the Navy and Marine Corps for promotion to the next higher grade in lieu of consideration by promotion selection boards.

b. When because of administrative error, the name of an officer who should have been placed on an AFQOL is erroneously excluded from the AFQOL, the SECNAV is required to prepare and submit an SAFQOL, per section 624(a)(3)(E) or 14308(b)(4)(E) of reference (a) to recommend that officer for promotion.

2. Officers Not included on the AFQOLs Due to Administrative Error

a. The SECNAV shall, upon determination that an administrative error resulted in omission of an officer's name from the AFQOL, prepare an SAFQOL containing the name of the officer concerned. The CNO or CMC, or their respective designee, shall determine if an administrative error did or did not occur. If an administrative error is found, an SAFQOL containing the officer's name shall be forwarded to the SECNAV for approval. If CNO or CMC is unable to determine if an administrative error did or did not occur, the officer's request shall be forwarded to the SECNAV for approval. For such cases, the JAG shall advise the SECNAV regarding the request.

b. Failure of the AFQOL to include an officer's name shall constitute administrative error if:

(1) The officer was on, or subject to placement on, the ADL or RASL of the Navy or Marine Corps on or before the date the board convened;

(2) The officer's name should have been included on the AFQOL based on his or her time in grade; and

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(3) The officer is fully qualified for promotion to the next higher grade. SAFQOLs will be used only where an administrative error resulted in omission of an officer's name from an AFQOL.

(4) Forward the SAFQOL process for approval by the Office of the Secretary of Defense (OSD).

SPECIAL BOARDS

1. Background

a. Section 1558 of reference (a) provides that the SECNAV may convene SBs to correct military records regarding action taken in the case of persons on the basis of previous reports of selection boards convened by the SECNAV, except PSBs convened under section 573(a), 611(a), or 14101(a) of reference (a). An SB does not include an SSB. The SB for which an officer may request consideration includes, but are not limited to:

- (1) A Continuation Selection Board (CSB);
- (2) A Selective Early Retirement Board; or
- (3) A Selective Early Removal Board.

2. Officers who are Selected for Early Retirement or Early Removal

a. An officer may request that the SECNAV convene an SB to consider that officer. The officer's request must state the grounds for convening an SB. The grounds for convening an SB are:

- (1) An administrative error prevented consideration of an officer's record before a board; or
- (2) The original board was precluded from a fair and impartial consideration of an officer's record due to a material error.

b. The officer must demonstrate, by a preponderance of the evidence, that grounds for convening an SB exist.

3. Sampling of Records

a. Upon the SECNAV's approval of an SB, the CNO and CMC shall take appropriate action within their respective Services to prepare a sampling of records of officers from the original board. The sampling of records shall enable an SB to evaluate an officer's record according to the procedures in paragraph 7b of enclosure (4). The sample of records shall include an equal

number of selected and non-selected officers from the original board that allows the SB to compare the requesting officer's record.

b. An SB's sampling of records shall be prepared and included along with the precept of the SB for the SECNAV's action, unless the sampling of records was prepared at the time of the original board.

4. Presentation of Records. The record of an officer presented to an SB will be modified as necessary to reflect the record of the officer as it would have appeared to the board that should have considered the officer or, if corrected, would have appeared to the board that considered the officer. SBs will compare the modified record to the sample records from the corresponding PSB.

5. Membership. SB membership shall be in accordance with the procedures used to determine membership for the original precept or convening order, except membership may be reduced. However, membership shall consist of no less than five members.

6. Procedures and Reports

a. SBs shall be convened by precept, addressed to the president of the board, and signed by the SECNAV. The precept will appoint the president and members of the board and will include instructions governing the proceedings of the board. Guidance issued to an SB will be consistent with that provided to the original board that failed to consider, or failed to properly consider, the officer whose record is before the board for consideration. All guidance shall be approved by the office that originally convened the board or process.

b. The sample of records provides a relative base from which SBs determine which eligible officers, in the opinion of a majority of the members of the board, should or should not have been selected in accordance with the selection criteria in the original board.

c. An SB shall submit a written board report for approval by the SECNAV, as appropriate according to sections 628, 1558, and 14502 of reference (a), and reference (b), signed by each

member and the recorder of the board, certifying that the board has carefully considered the record of each officer whose name was furnished to it. The report will mirror the original board's report instructions and contain, at a minimum, a list of those officers selected or non-selected by the board. The report shall be forwarded for approval by an appropriate official via first, the CNP (Navy boards) or DC (M&RA) (Marine boards); second, CNO (Navy boards) or CMC (Marine Corps boards); third the JAG for legal review; and fourth, the SECNAV.

d. Except as authorized or required by the SECNAV, or higher authority, the proceedings and report of an SB, including specific information regarding the sample records used and how each officer's record was evaluated and rated, shall not be disclosed to any person not a member or recorder of the board.

7. Effect of Selection or Non-selection by a Special Board.
An officer recommended for selection or non-selection by an SB convened under this instruction will be treated as if the original board either selected or non-selected that officer, as appropriate.

8. Scheduling of SBs and Notification of Officers to be Considered

a. Officers to be considered by an SB shall be notified at least 30 days before the board convenes that they will be considered. Such officers shall be provided an opportunity to send written communications to the board in the same manner as that provided for by the original board.

b. An officer may waive the 30-day notice requirement, so long as the eligible officer has an adequate opportunity to communicate with the board. The officer must either exercise the right to communicate in writing with the president of the board or send a written statement (which may be by electronic mail) acknowledging the waiver to the point of contact in the message provided.

c. Communications with SBs shall contain only materials referring to events prior to the convening date of the board that failed to consider, or to properly consider, the officer. All third-party correspondence concerning the officer must be forwarded to the president of the board by that officer.

Communications must be received not later than 10 calendar days prior to the convening date of the SB, otherwise the material will not be considered.

d. The results of SBs shall be made known to affected officers in a timely manner.

9. Action on Special Board Requests

a. The SECNAV shall determine whether a board was affected by a material error in the consideration of an officer. The SECNAV will consider the comments and recommendations of the CNO or CMC, as appropriate, or their respective designee. All requests for the SECNAV's determination, except for those requests approved by the BCNR, shall be reviewed by the JAG. The JAG shall advise the SECNAV regarding the request.

b. The CNP or DC(M&RA) shall determine if an administrative error prevented an officer's consideration by a board. Upon determination that a board did not consider an officer due to an administrative error, the CNP for Navy boards or DC(M&RA) for Marine Corps boards shall approve an SB and forward an appropriate convening order to the SECNAV for signature.

c. Officers have a duty to review their records periodically to ensure their records are complete and accurate. An SB will not consider any officer who, by maintaining reasonably careful records, could have discovered and taken steps to correct the error or omission in the officer's record before the original board. An officer's request for an SB must demonstrate, by a preponderance of evidence, that the officer maintained reasonably careful records in order to ensure the completeness and accuracy of the officer's record prior to the convening of the board. The request must detail the steps the officer took to ensure the completeness and accuracy of the officer's record, and include any supporting documentation, such as any requests the officer made for record correction before the board convened.

d. All applications for SBs must be received no later than three years after the date the results of the contested board or process were made public or the officer was notified, as applicable. Applications received more than three years after

these dates will be treated as untimely and shall be denied by the CNO or CMC, as appropriate. The authority may be delegated.

e. Officers requesting SBs are required to raise all possible claims regarding their selection or non-selection in their initial applications. Subsequent applications from the same officer for the same contested board will not be considered unless the officer can show that the subsequent application raises significant new facts or evidence regarding the officer's selection or non-selection, and that the facts or evidence were not known by the officer at the time of the initial application, and could not have been discovered at the time of the initial application by an officer maintaining reasonably careful records.

10. Deceased Officers. If a deceased officer is considered for referral to an SB, the provisions of this instruction shall be applied posthumously.