



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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WASHINGTON DC 20350-1000

SECNAVINST 1401.4A
ASN(M&RA)
14 February 2007

SECNAV INSTRUCTION 1401.4A

From: Secretary of the Navy

Subj: CONSIDERATION OF CREDIBLE INFORMATION OF AN ADVERSE
NATURE BY GENERAL AND FLAG OFFICER SELECTION BOARDS

Ref: (a) 10 U.S.C.
(b) DoD Instruction 1320.12, Commissioned Officer
Promotion Program, 27 September 2005
(c) DoD Instruction 1320.4, Military Officer Actions
Requiring Approval of the Secretary of Defense or the
President, or Confirmation by the Senate, 14 March
1995 (as modified by USD(P&R) memo of 19 July 2006)
(d) SECNAVINST 1420.1B

1. Purpose. To establish Department of the Navy (DON) procedures, consistent with references (a) through (d), to require that credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, is furnished to promotion selection boards considering officers for promotion to the grades of rear admiral (lower half) and brigadier general (O-7), and rear admiral and major general (O-8). This instruction is a complete revision and should be read in its entirety.

2. Cancellation. SECNAVINST 1401.4.

3. Background. The Fiscal Year 2006 National Defense Authorization Act modified sections 615 and 14107 of reference (a) to require that promotion selection boards considering officers for promotion to the grades of O-7 and O-8 are provided all credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry. The purpose of this change is to ensure that promotion selection boards consider all substantiated, relevant credible information of an adverse nature that might reasonably and materially affect the board's deliberations.

4. Scope and Applicability. This instruction applies to promotion boards convened after 1 October 2006 for the selection of commissioned officers of the active and reserve components of the Navy and Marine Corps for promotion to the grades O-7 and O-8. Any procedures established by the Navy and Marine Corps for identifying credible information of an adverse nature shall apply equally to all eligible officers.

5. Policy. To the maximum extent possible, all information relevant to an officer's qualifications for promotion shall be included in their Official Military Personnel File (for Marine Corps officers) or Service Record (for Navy officers) [service record]. Credible information of an adverse nature contained in an officially documented investigation or inquiry that is not addressed in the service record shall be provided to the selection board prior to the board making a recommendation for selection. In the case of information not available for review by the selection board, credible information of an adverse nature should be provided to a promotion review board prior to the Secretary nominating the officer for promotion.

6. Definitions

a. Credible Information of an Adverse Nature [Adverse Information].

(1) Any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, or other official record or report, including substantiated hotline allegations and regulatory violations maintained in the following systems of records: Department of Defense Inspector General reports, including DoD Hotline Program records when available; Naval Inspector General (NAVINSGEN) Reports, including DON Hotline Program records when available; Naval Criminal Investigative Service (NCIS) records; JAG Manual Investigations; Equal Employment Opportunity (EEO) files; and officer misconduct files maintained by the Services. A check of the Defense Central Index of Investigations (DCII) will be conducted to identify records that may contain potentially relevant adverse information. Information more than 10 years old or records of minor offenses that did not result in personal harm or significant property damage need not be considered. Addressees are directed to ensure that systems are in place, or created where necessary, to allow screening of all systems of records identified in this paragraph.

(2) Non-punitive letters and records of non-punitive counseling are not maintained in systems of records and, for that reason, are not considered to be adverse information by this instruction, although investigations or inquiries that substantiated misconduct leading to the issuance of such letters are considered to be adverse information.

b. Promotion Review Board. A board composed of at least three officers senior in grade to the officers under consideration convened by the Navy or Marine Corps to review adverse information that was not available for review by the selection board. After reviewing the adverse information, the board makes a recommendation to the Secretary of the Navy on the qualification for promotion of an officer selected by the promotion selection board.

7. Procedures. In accordance with reference (c), adverse information must be presented to the selection board for review if the adverse information has not been considered previously by the Secretary of the Navy during the officer's most recent successful nomination process and is substantiated 90 or more days before the convening date of a selection board. Therefore:

a. The Service Chief (or designee) will identify, by name and social security number, all officers eligible for O-7 and O-8 selection boards and will screen the records of all eligible officers against each of the systems of records identified in paragraph 6.a above. This screening shall be completed no later than 90 days before the convening of the applicable selection board.

b. Upon identification of adverse information, the Navy and Marine Corps will verify whether that adverse information is contained in the officer's service record. If the adverse information is contained in the officer's service record, then no further action is necessary. If the adverse information is not contained in the service record, but is normally placed in the service record pursuant to service regulations, the adverse information shall be forwarded for inclusion in the service record in accordance with established service procedures.

c. If the adverse information is contained in documentation that established service regulations normally do not permit placing in the service record:

(1) The Service Chief shall forward to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) [ASN(M&RA)] an Executive Summary of the information.

(2) ASN(M&RA) will confirm that the information constitutes adverse information and will notify the Service Chief (or designee) that the adverse information, or a factual summary as described in sections 615 or 14107 of reference (a), shall be provided to the selection board.

(3) The Service Chief (or designee) will then notify the officer concerned of the decision to forward the adverse information (or factual summary) to the selection board and will provide the officer a copy of the adverse information. If the officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information. The officer shall be provided 30 days from receipt of the notice and adverse material in which to provide information, comments, or other documentation to be provided to the promotion selection board in conjunction with the adverse information.

(4) Any information provided by the officer, in addition to the adverse information (or factual summary), will be provided to the promotion selection board in accordance with sections 615 or 14107 of reference (a).

d. Adverse information that is identified within 90 calendar days of the board convening date may be placed in the service record prior to the selection board provided it is placed in the service record in accordance with service regulations. Additionally, adverse information that is identified within 90 calendar days of the board convening date that is contained in documentation that service regulations do not permit placing in the service record may be provided to the selection board as long as it is provided in accordance with this instruction, including the requirement to afford the affected officer 30 calendar days to review and provide comment.

e. The determination to provide information to a selection board is not applicable to subsequent selection boards, unless the information has been properly placed in the service record of the officer concerned or a new determination is made after compliance with the above procedures and the requirements of references (a) through (d).

f. Identification of adverse information is a continuing process. The Service Chiefs shall ensure that the Secretary of the Navy is aware of any ongoing or open investigations or inquiries prior to forwarding nominations on such officers.

8. Consideration by Selection Boards. Selection board precepts shall contain guidance requiring that, if adverse information has been made available to a selection board concerning a particular officer, each member of the selection board will consider such information before recommending that officer for promotion. If an officer with adverse information is recommended for promotion, the board report will contain a certification that each member of the board reviewed the adverse information prior to selecting the officer for promotion.

9. Consideration by Promotion Review Board

a. Adverse information that was not reviewed by a promotion selection board, including adverse information that arose subsequent to convening a board or adverse information from investigations or inquiries that were not completed in time to provide the affected officer adequate notice and opportunity to comment prior to the convening of the promotion selection board, should be presented to a promotion review board. The officer shall be notified of the convening of a promotion review board and provided an opportunity to review the adverse information and provide comments, as described in paragraph 7.c above.

b. The promotion review board will consider the adverse information, the officer's official service record, any submission to the board by an officer under consideration, and the precept of the selection board that selected the officer for promotion. The promotion review board shall make a written recommendation to the Secretary of the Navy, via the Judge Advocate General and the Service Chief, as to whether, in light of the adverse information, the officer remains fully qualified for promotion to meet the needs of the Navy or Marine Corps. To the maximum extent possible, the promotion review board shall be conducted in accordance with reference (b) relating to communications with and deliberations by the promotion board.

10. Consideration by the Secretary of the Navy

a. When a selection board recommends an officer for promotion after considering adverse information that was properly placed in the officer's service record, a summary of

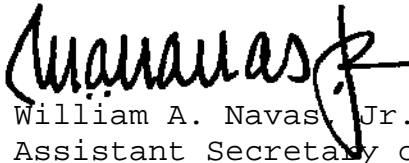
the adverse information will be forwarded to the Secretary of the Navy with the selection board's report in accordance with the procedures established in reference (c).

b. When a selection board recommends an officer for promotion after considering adverse information pursuant to this instruction, and that adverse information is not contained in the officer's service record, a summary of the adverse information, and the officer's response, when applicable, will be forwarded to the Secretary of the Navy with the selection board's report in accordance with the procedures established in reference (c).

c. When a promotion review board makes a recommendation concerning an officer's suitability for promotion after considering adverse information pursuant to this instruction, and that adverse information is not contained in the officer's service record or was not considered by the selection board, a summary of the adverse information, the officer's response, when applicable, and the written recommendation of the promotion review board will be forwarded to the Secretary of the Navy, via the Judge Advocate General and the Service Chief. If possible, the report of the promotion review board should be forwarded with the report of the selection board if doing so will not delay the processing of report of the selection board; however, in most cases, the promotion review board report will be processed separately from the report of the selection board to avoid such delays.

d. The Secretary of the Navy will consider such information, as well as any other information available to him, in determining whether to recommend to the Secretary of Defense that the officer concerned should be promoted.

11. Service Procedures. Any Navy and Marine Corps procedures further implementing this instruction shall be forwarded to ASN(M&RA) for approval and coordination with the Secretary of Defense.



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