

§ 724.206

(9) Change the reason for discharge from or to a physical disability

(b) Review of naval discharges shall not be undertaken in instances where the elapsed time between the date of discharge and the date of receipt of application for review exceeds fifteen years.

§ 724.206 Jurisdictional determinations.

The determination as to whether the NDRB has jurisdiction in any case shall be predicated on the policy stated in § 724.205. Decisions shall be made by administrative action without referral to the NDRB. Normally, they shall be made by the Executive Secretary of the NDRB, or they may be referred to the President, NDRB.

§ 724.207 Disposition of applications for discharge review.

One of three dispositions will be made of an application for review of a discharge:

(a) The application may be rejected for reason of:

(1) Absence of jurisdiction;

(2) Previous review on the same evidence; or

(b) The application may be withdrawn by the applicant; or

(c) The application may be accepted and the discharge reviewed by the NDRB, resulting in,

(1) Change to the discharge, or

(2) No change.

§ 724.208 Implementation of NDRB decisions.

The Commandant of the Marine Corps and the Chief of Naval Operations are responsible for implementing Naval Discharge Review Board decisions within their respective services. The Commandant of the Marine Corps shall be notified of decisions in each discharge review case and shall implement the decisions within the Marine Corps. The Commander, Naval Military Personnel Command, acting for the Chief of Naval Operations and Chief of Naval Personnel, shall be notified of decisions in each discharge review case and shall implement the decisions within the Navy.

32 CFR Ch. VI (7-1-98 Edition)

§ 724.209 Evidence supporting applications.

In the absence of law, evidence or policy to the contrary, naval discharges shall be considered just, equitable and proper as issued. When hearings are scheduled, applicants must be prepared to present their case at the scheduled time. In the absence of any other evidence, naval discharge review shall be undertaken by examination of available service and health records of the applicant. Normally, the responsibility for presenting evidence from outside available service and health records shall rest with the applicant. Applications in which elements of relevant information are obviously omitted will be returned for completion and resubmission.

§ 724.210 Review action in instances of unavailable records.

(a) In the event that Department of the Navy personnel or health records associated with a requested review of discharge are not located at the custodial activity, the following action shall be taken by the NDRB prior to consideration of the request for discharge review.

(1) A certification that the records are unavailable shall be obtained from the custodial activity.

(2) The applicant shall be notified of the situation and requested to provide such information and documents as may be desired in support of the request for discharge review. A period of not less than 30 days shall be allowed for such documents to be submitted. At the expiration of this time period, the review may be conducted with information available to the NDRB.

(3) The presumption of regularity in the conduct of government affairs may be applicable in instances of unavailable records depending on the circumstances of the case. (See § 724.211)

(b) [Reserved]

§ 724.211 Regularity of government affairs.

There is a presumption of regularity in the conduct of governmental affairs. This presumption can be applied in any review unless there is substantial credible evidence to rebut the presumption.