

§ 724.218

type under consideration, provided that such changes in policies or procedures represent a substantial enhancement of the rights afforded an applicant in such proceedings;

(e) When an individual is to be represented by counsel or representative, and was not so represented in any previous consideration of the case by the NDRB;

(f) When the case was not previously considered under uniform standards published pursuant to Pub. L. 95-126 and such application is made within 15 years after the date of discharge; or

(g) On the basis of presentation of new, substantial, relevant evidence not available to the applicant at the time of the original review. The decision whether evidence offered by an applicant in support of a request for reconsideration is in fact new, substantial, relevant, and was not available to the applicant at the time of the original review will be based on a comparison of such evidence with the evidence considered in the previous discharge review. If this comparison shows that the evidence submitted would have had a probable effect on matters concerning the propriety or equity of the discharge, the request for reconsideration shall be granted.

§ 724.218 Limitation—Continuance and Postponements.

(a) A continuance of a discharge review hearing may be authorized by the President of the NDRB or presiding officer of the panel concerned, provided that such continuance is of reasonable duration and is essential to achieving a full and fair hearing. When a proposal for continuance is indefinite, the pending application shall be returned to the applicant with the option to resubmit when the case is fully ready for review.

(b) Postponements of scheduled reviews normally shall not be permitted other than for demonstrated good and sufficient reason set forth by the applicant in a timely manner or for the convenience of the government.

§ 724.219 Withdrawal of application.

An applicant shall be permitted to withdraw an application without prejudice at any time before the scheduled review, except that failure to appear

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for a scheduled hearing shall not be construed or accepted as a withdrawal.

§ 724.220 Review on motion of the NDRB.

Reviews of Naval discharges may be initiated by the NDRB on its own motion (10 U.S.C. 1553) which includes reviews requested by the Veterans Administration under 38 U.S.C. 101, 3103 as amended by Pub. L. 95-126 of October 8, 1977 (See Pub. L. 98-209).

§ 724.221 Scheduling of discharge reviews.

(a) If an applicant requests a personal appearance discharge review, or to be represented in absentia, the NDRB shall provide a hearing in the NCR or at another site within the forty-eight contiguous states.

(b) The NDRB shall subsequently notify the applicant and representative (if any) in writing of the proposed personal appearance hearing time and place. This notice shall normally be mailed thirty to sixty days prior to the date of the hearing. If the applicant elects, this time limit may be waived and an earlier date set.

(c) When an applicant requests a documentary review, the NDRB shall undertake the review as soon as practicable. Normally, documentary reviews shall be conducted in the order in which they are received.

§ 724.222 Personal appearance discharge hearing sites.

(a) The NDRB shall be permanently located, together with its administrative staff, in the NCR. The NDRB shall routinely conduct personal appearance discharge reviews and documentary reviews at this, its permanent office.

(b) In addition, as permitted by available resources, NDRB Panels shall travel to other selected sites within the contiguous 48 states for the purpose of conducting reviews. The selection of sites and frequency of visits shall be predicated on the number of requests pending within a region and the availability of resources.