

§ 724.502

32 CFR Ch. VI (7-1-12 Edition)

(c) To appear before the NDRB in person, with or without counsel/representative; with counsel/representative concurrence, to have counsel/representative present the applicant's case in the absence of the applicant; or to have the review conducted based on records and any additional documentation submitted by the applicant or counsel/representative.

(d) To request copies of any documents or other evidence to be considered by the NDRB in the review of the applicant's discharge or dismissal other than the documents or evidence contained in the official record or submitted by the applicant prior to the conduct of the formal review and to be afforded an opportunity to examine such other documents or evidence or to be provided with copies of them.

(e) To withdraw the request for discharge review without prejudice at any time prior to the scheduled review, except that failure to appear for a scheduled hearing shall not be construed or accepted as a withdrawal.

(f) To request a continuance of the review when the continuance is of a reasonable duration and essential to achieving a full and fair hearing. The request must indicate the reason why the continuance is required.

(g) To request postponement of the discharge review for good and sufficient reason set forth in a timely manner.

(h) To request reconsideration of the discharge review under the conditions set forth in § 724.217.

(i) To have access to the information to be considered by the NDRB prior to the actual review of the applicant's case.

(j) To have the applicant's right to privacy protected in any review conducted by the NDRB.

(k) When appearing personally before the NDRB:

(1) To introduce witnesses, documents, and sworn or unsworn testimony.

(2) To present oral or written arguments personally or through counsel/representative.

(1) To submit documents, affidavits, briefs or arguments in writing. When the counsel/representative appears in

person before the NDRB, arguments may be presented orally.

(m) To state clearly and specifically the issue or issues which the applicant desires the NDRB to answer in writing. These must be presented in writing on DD Form 293 by the applicant or counsel/representative.

(n) To have the applicant's discharge reviewed under the standards of equity and propriety outlined in subpart I.

(o) To be provided with a written decision on the applicant's review.

(p) If the case is to be forwarded for Secretarial review, to present a timely statement rebutting any findings, conclusions, or reasons of the NDRB or the President, NDRB, which are alleged to be erroneous on the facts, against the substantial weight of the evidence, or contrary to law or governing regulation, prior to that Secretarial review.

[50 FR 10943, Mar. 19, 1985, as amended at 75 FR 747, Jan. 6, 2010]

§ 724.502 Actions to be taken by the applicant preliminary to discharge review.

(a) *Application for Review of Discharge or Dismissal from the Armed Forces of the United States*, DD Form 293 must be used in requesting a discharge review. DD Form 293 is available at most military installations and regional offices of the Veterans Administration. This form is to be signed personally by the applicant. In the event the discharged individual is deceased or incompetent, the form must be signed by an authorized individual as discussed in § 724.113 of this Manual.

(b) The application is to be accompanied by:

(1) A copy of the certificate of discharge, if available;

(2) A copy of the Armed Forces of the United States Report of Transfer or Discharge (DD-214), if available;

(3) Certification of death, incompetency and evidence of relationship in applicable cases (§ 724.113);

(4) Other statements, affidavits, depositions, documents and information desired by the applicant to be considered by the NDRB.

(c) Correspondence relating to review of naval discharges should be addressed to:

Department of the Navy, DoD

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Naval Discharge Review Board, 720 Kennon Ave SE., Suite 309, Washington, DC 20374-5023

(d) NDRB telephone number is (202) 685-6600.

[50 FR 10943, Mar. 19, 1985, as amended at 75 FR 747, Jan. 6, 2010]

§ 724.503 NDRB response to application for discharge review.

(a) The NDRB shall acknowledge receipt of the application.

(b) In the event a documentary review is requested, the applicant shall normally receive no further communication from the NDRB until notified of the decision in the case.

(c) In the event a personal appearance discharge review is requested, the applicant shall be notified of the proposed time and place of this review and shall be advised of the availability of the official documents to be considered by the NDRB.

(d) A copy of NDRB correspondence to an applicant shall be sent to the representative of record, if any.

§ 724.504 NDRB actions preliminary to discharge review.

(a) When each application for discharge review is received by the NDRB, the service record and, if required, health record of the applicant will be requested from the appropriate record custodian.

(b) Upon receipt, each record of service will be reviewed to determine whether or not the applicant appears to have been discharged under circumstances which might act as a bar to Veterans' Administration benefits under 38 U.S.C. 3103. These circumstances of discharge are:

(1) Discharge or dismissal by reason of the sentence of a general court-martial.

(2) Discharge as a conscientious objector who refused to perform military duty, to wear the uniform or otherwise to comply with lawful orders of competent military authority.

(3) Discharge as a deserter.

(4) Discharge on the basis, or as part of the basis, of an absence without authority from active duty for a continuous period of at least 180 days, if such discharge was under conditions other than honorable. Additionally, such ab-

sence is computed without regard to the applicant's normal or adjusted expiration of term of service.

(5) Discharge or dismissal of an officer based on acceptance of the officer's resignation for the good of the service.

(6) Discharge, on his/her own application, during a period of hostilities, as an alien.

(c) If it appears that the applicant was discharged under one or more of the circumstances outlined in § 724.504b, a written notification will be sent which informs the applicant that:

(1) An initial service record review reveals that the discharge may have been awarded under circumstances which make the applicant ineligible for receipt of VA benefits regardless of any action taken by the NDRB.

(2) Separate action by the Board for Correction of Naval Records (BCNR) and/or the VA, in case of 180 days consecutive UA disqualification, may confer eligibility for VA benefits. Instructions for making application to the BCNR and for contacting the VA are provided.

[50 FR 10943, Mar. 19, 1985, as amended at 75 FR 747, Jan. 6, 2010]

Subpart F—Naval Discharge Review Board Mission and Functions

§ 724.601 General.

The NDRB is a component of the Secretary of the Navy Council of Review Boards and has its offices located in the NCR. The NDRB conducts documentary reviews and personal appearance reviews in the NCR and, on a traveling basis, at selected sites within the 48 contiguous states. Regional site selection is predicated on the number of pending applications accumulated from a given geographical area and the resources available to support distant personal appearance reviews. The NDRB does not maintain facilities other than at its NCR offices. The primary sites of NCR are: Chicago, IL; Dallas, TX; and San Francisco, CA.

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