

§ 724.811

detailed as to reveal the nature of the withheld material.

(d) NDRB documents made available for public inspection and copying shall be located in the Armed Forces Discharge Review/Correction Board Reading Room. The documents shall be indexed in a usable and concise form so as to enable the public, and those who represent applicants before the NDRB, to isolate from all these decisions that are indexed, those cases that may be similar to an applicant's case and that indicate the circumstances under or reasons for (or both) which the NDRB or the Secretary concerned granted or denied relief.

(1) The reading file index shall include, in addition to any other item determined by the NDRB, the case number, the date, character of, reason and authority for the discharge. It shall also include the decisions of the NDRB and reviewing authority, if any, and the issues addressed in the statement of findings, conclusions, and reasons.

(2) The index shall be maintained at selected permanent locations throughout the United States. This ensures reasonable availability to applicants at least 30 days before a traveling panel review. A list of these locations shall be published in the *FEDERAL REGISTER* by the Department of the Army. The index shall also be made available at sites selected for traveling panels or hearing examinations for such periods as the NDRB is present and in operation. An applicant who has requested a traveling panel review shall be advised, in the notice of such review, of the permanent index locations.

(3) The Armed Forces Discharge Review/Corrections Board Reading Room shall publish indexes quarterly for all DRBs. The NDRB shall be responsible for timely submission to the Reading Room of individual case information required for update of the indexes. In addition, the NDRB shall be responsible for submission of new index categories based upon published changes in policy, procedures, or standards. These indexes shall be available for public inspection or purchase (or both) at the Reading Room. When the NDRB has accepted an application, information concerning the availability of the

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index shall be provided in the NDRB's response to the application.

§ 724.811 Privacy Act information.

Information protected under the Privacy Act is involved in the discharge review functions. The provisions of SECNAVINST 5211.5C shall be observed throughout the processing of a request for review of discharge or dismissal.

§ 724.812 Responsibilities of the Reading Room.

(a) Copies of decisional documents will be provided to individuals or organizations outside the NCR in response to written requests for such documents. Although the Reading Room shall try to make timely responses to such requests, certain factors such as the length of a request, the volume of other pending requests, and the impact of other responsibilities of the staff assigned to such duties may cause some delays. A fee may be charged for such documents under appropriate DOD and Department of the Army directives and regulations. The manual that accompanies the index of decisions shall notify the public that if an applicant indicates that a review is scheduled for a specific date, an effort will be made to provide requested decisional documents before that date. The individual or organization will be advised if that cannot be accomplished.

(b) Correspondence relating to matters under the cognizance of the Reading Room (including requests for purchase of indexes) shall be addressed to:

DA Military Review Board Agency, Attention: SFBA (Reading Room), Room 1E520, The Pentagon, Washington, DC 20310.

§ 724.813 The recommendation of the NDRB president.

(a) *General.* The president of the NDRB may forward cases for consideration by the Secretarial Review Authority (SRA). There is no requirement that the president submit a recommendation when a case is forwarded to the SRA. If the president makes a recommendation with respect to the character of or reason for discharge, however, the recommendation shall be prepared under the guidance in § 724.813b.

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(b) *Format for recommendation.* If a recommendation is provided, it shall contain the president's view whether there should be a change in the character of or reason for discharge (or both). If the president recommends such a change, the particular change to be made shall be specified. The recommendation shall set forth the president's position on decisional issues and issues submitted by the applicant under the following guidance:

(1) *Adoption of the NDRB's decisional document.* The recommendation may state that the president has adopted the decisional document prepared by the majority. The president shall ensure that the decisional document meets the requirements of this enclosure.

(2) *Adoption of the specific statements from the majority.* If the President adopts the views of the majority only in part, the recommendation shall cite the specific matter adopted from the majority. If the president modifies a statement submitted by the majority, the recommendation shall set forth the modification.

(3) *Response to issues not included in matter adopted from the majority.* The recommendation shall set forth the following if not adopted in whole or in part from the majority:

(i) The issues on which the president's recommendation is based. Each such decisional issue shall be addressed by the president.

(ii) The president's response to items submitted as issues by the applicant.

(iii) Reasons for rejecting the conclusion of the majority with respect to the decisional document which, if resolved in the applicant's favor, would have resulted in greater relief for the applicant than that afforded by the president's recommendation. Such issues shall be addressed under the principles in § 724.806.

§ 724.814 Secretarial Review Authority (SRA).

(a) *Review by the SRA.* The Secretarial Review Authority (SRA) is the Secretary concerned or the official to whom Secretary's discharge review authority has been delegated.

(1) The SRA may review the following types of cases before issuance of the final notification of a decision:

(i) Any specific case in which the SRA has an interest.

(ii) Any specific case that the president of the NDRB believes is of significant interest to the SRA.

(2) Cases reviewed by the SRA shall be considered under the standards set forth in this part.

(b) *Processing the decisional document.*

(1) The decisional document shall be transmitted by the NDRB president under § 724.813.

(2) The following guidance applies to cases that have been forwarded to the SRA except for cases reviewed on the NDRB's own motion, without the participation of the applicant or the applicant's counsel:

(i) The applicant and counsel or representative, if any, shall be provided with a copy of the proposed decisional document, including the NDRB president's recommendation to the SRA, if any. Classified information shall be summarized.

(ii) The applicant shall be provided with a reasonable period of time, but not less than 25 days, to submit a rebuttal to the SRA. Any issue in rebuttal consists of a clear and specific statement by the applicant in support of or in opposition to the statements of the NDRB or NDRB president on decisional issues and other clear and specific issues that were submitted by the applicant. The rebuttal shall be based solely on matters in the record before the NDRB closed the case for deliberation or in the president's recommendation.

(c) *Review of the decisional document.* If corrections in the decisional document are required, the decisional document shall be returned to the NDRB for corrective action. The corrected decisional document shall be sent to the applicant (and counsel, if any), but a further opportunity for rebuttal is not required unless the correction produces a different result or includes a substantial change in the decision by the NDRB (or NDRB president) of the issues raised by the majority or the applicant.

(d) *The addendum of the SRA.* The decision of the SRA shall be in writing