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serve as the Board for each case requiring consideration by a Board. The Board consists of three members, and two members present constitute a quorum of the Board.

(c) The Deputy Chairman of the Board exercises the functions prescribed by these regulations and such other duties as may be assigned by the Chairman.

§ 52.12 Function.

The function of the Board is to consider all applications properly before it, together with all pertinent military records to determine:

(a) Whether an error has been made in the applicant's Coast Guard military record, whether the applicant has suffered an error or injustice as the result of an omission or commission in his or her record, or whether the applicant has suffered some manifest injustice in the treatment accorded him or her; and

(b) Whether the Board finds it necessary to change a military record to correct an error or remove an injustice.

§ 52.13 Jurisdiction.

(a) The Board has jurisdiction to review and determine all matters properly brought before it, consistent with existing law and such directives as may be issued by the Secretary.

(b) No application shall be considered by the Board until the applicant has exhausted all effective administrative remedies afforded under existing law or regulations, and such legal remedies as the Board may determine are practical, appropriate, and available to the applicant.

Subpart C—General Provisions Regarding Applications

§ 52.21 General requirements.

(a) An application for correction of a Coast Guard record shall be submitted on DD Form 149 (Application for Correction of Military or Naval Record) or an exact copy thereof, and shall be addressed to: Chairman, Board for Correction of Military Records of the Coast Guard (C-60), United States Department of Transportation, Washington, DC 20590. Forms and explanatory material may be obtained from the Chairman of the Board.

(b) The application shall be signed by the person alleging error or injustice in his or her military record, except that an application may be signed by a family member or legal representative with respect to the record of a deceased, incapacitated, or missing person.

(c) No application shall be processed until it is complete. An application for relief is complete when all of the following have been received by the Board:

(1) A signed DD Form 149, providing all necessary responses, including a specific allegation of error or injustice, accompanied by substantial proof in support of such allegation;

(2) The military records of the applicant; and

(3) Any applicable Department of Veterans Affairs medical records.

§ 52.22 Time limit for filing application.

An application for correction of a record must be filed within three years after the applicant discovered or reasonably should have discovered the alleged error or injustice. If an application is untimely, the applicant shall set forth reasons in the application why its acceptance is in the interest of justice. An untimely application shall be denied unless the Board finds that sufficient evidence has been presented to warrant a finding that it would be in the interest of justice to excuse the failure to file timely.

§ 52.23 Counsel.

As used in this part, the term "counsel" includes attorneys who are members in good standing of any bar; accredited representatives of veterans' organizations recognized by the Secretary of Veterans Affairs pursuant to 38 U.S.C. 3402; and other persons who, in the opinion of the Board, are competent to represent the applicant for correction. Whenever the term "applicant" is used in these rules, except in § 52.21, the term shall mean an applicant or his or her counsel.

§ 52.24 Evidence.

It is the responsibility of the applicant to procure such evidence, including official records, as the applicant

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desires to present in support of his case.

§ 52.25 Access to official records.

The applicant shall have access to official records or to any information pertaining to the applicant which is in the custody of the Coast Guard, as provided in 49 CFR part 10. The applicant shall also have access to other Coast Guard records as provided in 49 CFR part 7.

§ 52.26 Withdrawal.

The board may, in its discretion, permit the applicant to withdraw his or her application at any time before a final determination by the Secretary. Any further consideration by the Board of the issues raised in the withdrawn application shall occur only upon the filing of a new application.

Subpart D—Consideration of Application, Denial of Relief, and Stay of Proceedings

§ 52.31 Consideration of application.

Each application shall be reviewed by the Chairman to determine whether it meets the requirements of § 52.21(c). The Chairman shall decide in appropriate cases whether to grant a hearing or to recommend disposition on the merits without a hearing.

§ 52.32 Denial of relief.

(a) The Chairman may, notwithstanding § 52.64, and without written findings and conclusions, deny in writing all requested relief to an applicant at any time prior to consideration of the applicant's case by a Board if:

(1) The information or evidence submitted by the applicant is insufficient to demonstrate probable substantial error or injustice;

(2) Effective relief cannot be granted by the Board;

(3) The Board does not have jurisdiction to determine the issues presented; or

(4) The application has not been timely filed under § 52.22 and the interest of justice does not require its acceptance.

(b) Denial of relief pursuant to this section is without prejudice to further

consideration by the Board if the applicant requests further consideration and submits evidence in addition to that contained in his or her complete application. A request for further consideration shall be regarded as a new application for purpose of § 52.68.

(c) If relief is denied under this section, the applicant shall be advised of the right to further proceedings.

§ 52.33 Stay of proceedings.

An application to the Board for correction of a military record does not operate as a stay of any proceeding or administrative action taken with respect to or affecting the applicant.

Subpart E—Hearings

§ 52.41 General provision.

In each case in which the Chairman determines that a hearing is warranted, the applicant will be entitled to be heard orally in person, by counsel, or in person with counsel.

§ 52.42 Notice of hearing.

(a) If the Chairman determines that a hearing is warranted, the Chairman shall notify the applicant that a hearing has been granted.

(b) The date of hearing shall be not less than 21 days from the date of this notification. Written notice stating the date, time and place of the hearing shall be given to the applicant and the Coast Guard.

§ 52.43 Witnesses.

(a) In any case in which the Chairman has granted a hearing, the applicant shall have the right to present witnesses.

(b) It is the responsibility of the applicant to notify witnesses and to ensure their appearance at the date, time and place set for the hearing.

§ 52.44 Expenses.

No expenses of any nature whatsoever incurred by an applicant, his or her counsel, witnesses, or others acting on behalf of the applicant shall be paid by the Government.