

Department of the Navy, DoD

§ 723.11

§ 723.10 Settlement of claims.

(a) *Authority.* (1) The Department of the Navy is authorized under 10 U.S.C. 1552 to pay claims for amounts due to applicants as a result of corrections to their naval records.

(2) The Department of the Navy is not authorized to pay any claim heretofore compensated by Congress through enactment of a private law, or to pay any amount as compensation for any benefit to which the claimant might subsequently become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

(b) *Application for settlement.* (1) Settlement and payment of claims shall be made only upon a claim of the person whose record has been corrected or legal representative, heirs at law, or beneficiaries. Such claim for settlement and payment may be filed as a separate part of the application for correction of the record.

(2) When the person whose record has been corrected is deceased, and where no demand is presented by a duly appointed legal representative of the estate, payments otherwise due shall be made to the surviving spouse, heir or beneficiaries, in the order prescribed by the law applicable to that kind of payment, or if there is no such law covering order of payment, in the order set forth in 10 U.S.C. 2771; or as otherwise prescribed by the law applicable to that kind of payment.

(3) Upon request, the applicant or applicants shall be required to furnish requisite information to determine their status as proper parties to the claim for purposes of payment under applicable provisions of law.

(c) *Settlement.* (1) Settlement of claims shall be upon the basis of the decision and recommendation of the Board, as approved by the Secretary or his designee. Computation of the amounts due shall be made by the appropriate disbursing activity. In no case will the amount found due exceed the amount which would otherwise have been paid or have become due under applicable laws had no error or injustice occurred. Earnings received from civilian employment, self employment or any income protection plan for such employment during any period for

which active duty pay and allowances are payable will be deducted from the settlement. To the extent authorized by law and regulation, amounts found due may be reduced by the amount of any existing indebtedness to the Government arising from military service.

(2) Prior to or at the time of payment, the person or persons to whom payments are to be made shall be advised by the disbursing activity of the nature and amount of the various benefits represented by the total settlement and shall be advised further that acceptance of such settlement shall constitute a complete release by the claimants involved of any claim against the United States on account of the correction of the record.

(d) *Report of settlement.* In every case where payment is made, the amount of such payment and the names of the payee or payees shall be reported to the Executive Director.

§ 723.11 Miscellaneous provisions.

(a) *Expenses.* No expenses of any nature whatsoever voluntarily incurred by the applicant, counsel, witnesses, or by any other person in the applicant's behalf, will be paid by the Government.

(b) *Indexing of decisions.* (1) Documents sent to each applicant and counsel in accordance with § 723.3(e)(5) and § 723.8(a)(4), together with the record of the votes of Board members and all other statements of findings, conclusions and recommendations made on final determination of an application by the Board or the Secretary will be indexed and promptly made available for public inspection and copying at the Armed Forces Discharge Review/Correction Boards Reading Room located on the Concourse of the Pentagon Building in Room 2E123, Washington, DC.

(2) All documents made available for public inspection and copying shall be indexed in a usable and concise form so as to enable the public to identify those cases similar in issue together with the circumstances under and/or reasons for which the Board and/or Secretary have granted or denied relief. The index shall be published quarterly and shall be available for public inspection and distribution by sale at the