

§ 724.205

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§ 724.205 Authority for review of naval discharges; jurisdictional limitations.

(a) The Board shall have no authority to:

- (1) Review a discharge or dismissal resulting from a general court-martial;
- (2) Alter the judgment of a court-martial, except the discharge or dismissal awarded may be changed for purposes of clemency;
- (3) Revoke any discharge or dismissal;
- (4) Reinstate a person in the naval service;
- (5) Recall a former member to active duty;
- (6) Change a reenlistment code;
- (7) Make recommendations for reenlistment to permit entry in the naval service or any other branch of the Armed Forces;
- (8) Cancel or void enlistment contracts; or
- (9) Change the reason for discharge from or to a physical disability

(b) Review of naval discharges shall not be undertaken in instances where the elapsed time between the date of discharge and the date of receipt of application for review exceeds fifteen years.

§ 724.206 Jurisdictional determinations.

The determination as to whether the NDRB has jurisdiction in any case shall be predicated on the policy stated in § 724.205. Decisions shall be made by administrative action without referral to the NDRB. Normally, they shall be made by the Executive Secretary of the NDRB, or they may be referred to the President, NDRB.

§ 724.207 Disposition of applications for discharge review.

One of three dispositions will be made of an application for review of a discharge:

- (a) The application may be rejected for reason of:
- (1) Absence of jurisdiction;
 - (2) Previous review on the same evidence; or
- (b) The application may be withdrawn by the applicant; or

(c) The application may be accepted and the discharge reviewed by the NDRB, resulting in,

- (1) Change to the discharge, or
- (2) No change.

§ 724.208 Implementation of NDRB decisions.

The Commandant of the Marine Corps and the Chief of Naval Operations are responsible for implementing Naval Discharge Review Board decisions within their respective services. The Commandant of the Marine Corps shall be notified of decisions in each discharge review case and shall implement the decisions within the Marine Corps. The Commander, Naval Military Personnel Command, acting for the Chief of Naval Operations and Chief of Naval Personnel, shall be notified of decisions in each discharge review case and shall implement the decisions within the Navy.

§ 724.209 Evidence supporting applications.

In the absence of law, evidence or policy to the contrary, naval discharges shall be considered just, equitable and proper as issued. When hearings are scheduled, applicants must be prepared to present their case at the scheduled time. In the absence of any other evidence, naval discharge review shall be undertaken by examination of available service and health records of the applicant. Normally, the responsibility for presenting evidence from outside available service and health records shall rest with the applicant. Applications in which elements of relevant information are obviously omitted will be returned for completion and resubmission.

§ 724.210 Review action in instances of unavailable records.

(a) In the event that Department of the Navy personnel or health records associated with a requested review of discharge are not located at the custodial activity, the following action shall be taken by the NDRB prior to consideration of the request for discharge review.

- (1) A certification that the records are unavailable shall be obtained from the custodial activity.