

§ 865.102

(i) Title 10 U.S.C., chapter 47, Uniform Code of Military Justice.

(j) *Wood v. Secretary of Defense*, Civ. No. 77-0684 (D.D.C.) (Order, December 3, 1981).

(k) *Urban Law Institute of Antioch College, Inc. v. Secretary of Defense*, Civ. No. 76-0530, (D.D.C.) (Stipulation of Dismissal, January 31, 1977) (Order and Settlement Agreement, July 30, 1982).

(l) Air Force Regulation 35-41, Vol III, Separation Procedures for USAFR Members, dated October 30, 1975.

(m) Air Force Regulation 36-2, Officer Personnel, Administrative Discharge Procedures, August 2, 1976.

(n) Air Force Regulation 36-3, Officer Personnel, Administrative Discharge Procedures, August 2, 1976.

(o) Air Force Regulation 36-12, Officer Personnel, Administrative Separation of Commissioned Officers and Warrant Officers, July 15, 1977.

(p) Air Force Regulation 39-10, Separation Upon Expiration of Term of Service, for Convenience of Government, Minority, Dependency and Hardship, January 3, 1977.

(q) Air Force Manual 39-12, Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program, September 1, 1966.

(r) Air National Guard Regulation 39-10, Enlisted Personnel-Separation, December 30, 1971.

§ 865.102 Statutory authority.

The Air Force Discharge Review Board (DRB) was established within the Department of the Air Force under section 301 of the Serviceman's Readjustment Act of 1944, as amended (now 10 U.S.C. 1553) and further amended by Pub. L. 95-126 dated October 8, 1977.

§ 865.103 Definition of terms.

(a) *Applicant*. A former member of the Armed Forces who has been dismissed or discharged administratively in accordance with Military Department regulations or by sentence of a court-martial (other than a general court-martial) and under statutory regulatory provisions whose application is accepted by the DRB concerned or whose case is heard on the DRB's own

32 CFR Ch. VII (7-1-05 Edition)

motion. If the former member is deceased or incompetent, the term "applicant" includes the surviving spouse, next-of-kin, or legal representative who is acting on behalf of the former member. When the term "applicant" is used in this subpart, it includes the applicant's counsel or representative, except that the counsel or representative may not submit an application for review, waive the applicant's right to be present at a hearing, or terminate a review without providing the DRB an appropriate power of attorney or other written consent of the former member.

(b) *Complainant*. A former member of the Armed Forces (or the former member's counsel) who submits a complaint in accordance with § 865.121 of this subpart with respect to the decisional document issued in the former member's own case; or a former member of the Armed Forces (or the former member's counsel) who submits a complaint stating that correction of the decisional document will assist the former member in preparing for an administrative or judicial proceeding in which the former member's own discharge will be at issue.

(c) *Counsel or representative*. An individual or agency designated by the applicant who agrees to represent the applicant in a case before the DRB. It includes, but is not limited to: a lawyer who is a member of the bar of a federal court or of the highest court of a state; an accredited representative designated by an organization recognized by the Administrator of Veterans Affairs; a representative from a state agency concerned with veterans affairs; and representatives from private organizations or local government agencies.

(d) *Discharge*. A general term used in this subpart that includes dismissal and separation or release from active or inactive military status, and actions that accomplish a complete severance of all military status. This term also includes the assignment of a reason for such discharge and characterization of service.

(e) *Discharge review*. The process by which the reason for separation, the procedures followed in accomplishing separation, and characterization of