

Department of the Air Force, DoD

§ 865.118

(11) The recommendation of the Director when required by §865.113.

(12) Any addendum of the SRA when required by §865.113.

(13) Advisory opinions, including those containing factual information, when such opinions have been relied upon for final decision or have been accepted as a basis for rejecting any of the applicant's issues. Such advisory opinions or relevant portions thereof that are not fully set forth in the discussion of decisional issues or otherwise in response to items submitted as issues by the application shall be incorporated by reference. A copy of the opinions incorporated by reference shall be appended to the decision and included in the record of proceedings.

(14) A record of the DRB member's names and votes.

(15) Index entries for each decisional issue under appropriate categories listed in the Subject/Category listing.

(16) An authentication of the document by an appropriate official.

§ 865.115 Issuance of decisions following discharge review.

(a) The applicant and counsel or representative, if any, shall be provided with a copy of the decisional document and of any further action in review. The applicant (and counsel, if any) shall be notified of the availability of the complaint process in accordance with §865.121 of this subpart and of the right to appeal to the Board for the Correction of Military Records. Final notification of decisions shall be issued to the applicant with a copy to the counsel or representative, if any.

(b) Notification to applicants with copies to counsel or representatives, shall normally be made through the U.S. Postal Service. Such notification shall consist of a notification of the decision, together with a copy of the decisional document.

(c) Notification of HQ AFMPC/MPCDOAI shall be for the purpose of appropriate action and inclusion of review matter in the military records. Such notification shall bear appropriate certification of completeness and accuracy.

(d) Actions on review by Secretarial Reviewing Authority, when occurring, shall be provided to the applicant and

counsel or representative in the same manner as the notification of the review decision.

§ 865.116 Records of DRB proceeding.

(a) When the proceedings in any review have been concluded, a record thereof will be prepared. Records may include written records, electromagnetic records, or a combination thereof.

(b) At a minimum, the record will include the following:

(1) The application for review (DD Form 293).

(2) A record of the testimony in verbatim, summarized, or recorded form at the option of the DRB.

(3) Documentary evidence or copies thereof considered by the DRB other than the military record.

(4) Brief/arguments submitted by or on behalf of the applicant.

(5) Advisory opinions considered by the DRB, if any.

(6) The findings, conclusions, and reasons developed by the DRB.

(7) Notification of the DRB's decision to the cognizant custodian of the applicant's records, or reference to the notification document.

(8) Minority reports, if any.

(9) A copy of the decisional document.

§ 865.117 Final disposition of the record of proceedings.

The original record of proceedings and all appendices thereto shall in all cases be incorporated in the military record of the applicant and returned to the custody of the National Personnel Records Center (NPRC), St. Louis, Missouri. If a portion of the original record cannot be stored with the service record, the service record shall contain a notation as to the place where the record is stored.

§ 865.118 Availability of Discharge Review Board documents for public inspection and copying.

(a) A copy of the decisional document prepared in accordance with §865.114 of this subpart, shall be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant.

(b) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers must be deleted. Written justification shall be made for all other deletions and shall be available for public inspection.

(c) The DRB shall ensure that there is a means for relating a decisional document number to the name of the applicant to permit retrieval of the applicant's records when required in processing a complaint in accordance with § 865.121 of this subpart.

(d) Any other privileged or classified material contained in or appended to any documents required to be furnished the applicant and counsel/representative or made available for public inspection and copying may be deleted therefrom only if a written statement of the basis for the deletions is provided the applicant and counsel/representative and made available for public inspection. It is not intended that the statement be so detailed as to reveal the nature of the withheld material.

(e) DRB documents made available for public inspection and copying shall be located in the Armed Forces Discharge Review/Correction Boards Reading Room. The documents shall be indexed in usable and concise form so as to enable the public and those who represent applicants before the DRB 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 and/or reasons for which the DRB or the Secretary of the Air Force granted or denied relief.

(1) The reading file index shall include, in addition to any other items determined by the DRB, the case number, the date, character of, reason for, and authority for the discharge. It shall further include the decisions of the DRB 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 regional board review. The index shall also be made available at sites selected for regional Boards for such periods as the DRB is present and in operation. An applicant who has requested a regional board review shall be advised in the notice of scheduled hearings.

(3) The Armed Forces Discharge Review/Correction Board Reading Room shall publish indexes quarterly for the DRB. The DRB shall be responsible for timely submission to the Reading Room of individual case information required for update of indexes. These indexes shall be available for public inspection or purchase (or both) at the Reading Room. This information will be provided to applicants in the notice of acceptance of the application.

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

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

§ 865.119 Privacy Act information.

Information protected under the Privacy Act is involved in discharge review functions. The provisions of 32 CFR part 286a will be observed throughout the processing of a request for review of discharge or dismissal.

§ 865.120 Discharge review standards.

(a) *Objective of review.* The objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes, if necessary. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established which require automatic change or denial of a change in a discharge. Neither the DRB nor the Secretary of the Air Force shall be bound by any methodology of weighing of the factors in reaching a determination. In each case, the DRB or Secretary of the Air Force