

## SUBCHAPTER G—ORGANIZATION AND MISSION—GENERAL

### PART 865—PERSONNEL REVIEW BOARDS

### Subpart A—Air Force Board for Correction of Military Records

#### Subpart A—Air Force Board for Correction of Military Records

SOURCE: 61 FR 16047, Apr. 11, 1996, unless otherwise noted.

AUTHORITY: 10 U.S.C. 1034, 1552.

Sec.

- 865.0 Purpose.
- 865.1 Setup of the Board.
- 865.2 Board responsibilities.
- 865.3 Application procedures.
- 865.4 Board actions.
- 865.5 Decision of the Secretary of the Air Force.
- 865.6 Reconsideration of applications.
- 865.7 Action after final decision.
- 865.8 Miscellaneous provisions.

#### Subpart B—Air Force Discharge Review Board

- 865.100 Purpose.
- 865.101 References.
- 865.102 Statutory authority.
- 865.103 Definition of terms.
- 865.104 Secretarial responsibilities.
- 865.105 Jurisdiction and authority.
- 865.106 Application for review.
- 865.107 DRB composition and meeting location.
- 865.108 Availability of records and documents.
- 865.109 Procedures for hearings.
- 865.110 Decision process.
- 865.111 Response to items submitted as issues by the applicant.
- 865.112 Decisional issues.
- 865.113 Recommendations by the Director of the Personnel Council and Secretarial Review Authority.
- 865.114 Decisional document.
- 865.115 Issuance of decisions following discharge review.
- 865.116 Records of DRB proceeding.
- 865.117 Final disposition of the record of proceedings.
- 865.118 Availability of Discharge Review Board documents for public inspection and copying.
- 865.119 Privacy Act information.
- 865.120 Discharge review standards.
- 865.121 Complaints concerning decisional documents and index entries.
- 865.122 Summary of statistics for Discharge Review Board.
- 865.123 Approval of exceptions to directive.
- 865.124 Procedures for regional hearings.
- 865.125 Report requirement.
- 865.126 Sample report format.

#### § 865.0 Purpose.

This subpart sets up procedures for correction of military records to remedy error or injustice. It tells how to apply for correction of military records and how the Air Force Board for Correction of Military Records (AFBCMR, or the Board) considers applications. It defines the Board's authority to act on applications. It directs collecting and maintaining information subject to the Privacy Act of 1974 authorized by 10 U.S.C. 1034 and 1552. System of Records notice F035 SAFCB A, Military Records Processed by the Air Force Correction Board, applies.

#### § 865.1 Setup of the Board.

The AFBCMR operates within the Office of the Secretary of the Air Force according to 10 U.S.C. 1552. The Board consists of civilians in the executive part of the Department of the Air Force who are appointed and serve at the pleasure of the Secretary of the Air Force. Three members constitute a quorum of the Board.

#### § 865.2 Board responsibilities.

(a) *Considering applications.* The Board considers all individual applications properly brought before it. In appropriate cases, it directs correction of military records to remove an error or injustice, or recommends such correction.

(b) *Recommending action.* When an applicant alleges reprisal under the Military Whistleblowers Protection Act, 10 U.S.C. 1034, the Board may recommend to the Secretary of the Air Force that disciplinary or administrative action be taken against those responsible for the reprisal.

(c) *Deciding cases.* The Board normally decides cases on the evidence of the record. It is not an investigative body. However, the Board may, in its

discretion, hold a hearing or call for additional evidence or opinions in any case.

### § 865.3 Application procedures.

(a) *Who may apply.* (1) In most cases, the applicant is a member or former member of the Air Force, since the request is personal to the applicant and relates to his or her military records.

(2) An applicant with a proper interest may request correction of another person's military records when that person is incapable of acting on his or her own behalf, is missing, or is deceased. Depending on the circumstances, a child, spouse, parent or other close relative, an heir, or a legal representative (such as a guardian or executor) of the member or former member may be able to show a proper interest. Applicants will send proof of proper interest with the application when requesting correction of another person's military records.

(b) *Getting forms.* Applicants may get a DD Form 149, "Application for Correction of Military Record Under the Provisions of Title 10, U.S.C., Section 1552," and Air Force Pamphlet 36-2607, "Applicants' Guide to the Air Force Board for Correction of Military Records (AFBCMR)," from:

(1) Any Air Force Military Personnel Flight (MPF) or publications distribution office.

(2) Most veterans' service organizations.

(3) The Air Force Review Boards Office, SAF/MIBR, 550 C Street West, Suite 40, Randolph AFB TX 78150-4742.

(4) The AFBCMR, 1535 Command Drive, EE Wing 3rd Floor, Andrews AFB MD 20331-7002.

(c) *Preparation.* Before applying, applicants should:

(1) Review Air Force Pamphlet 36-2607.

(2) Discuss their concerns with MPF, finance office, or other appropriate officials. Errors can often be corrected administratively without resort to the Board.

(3) Exhaust other available administrative remedies (otherwise the Board may return the request without considering it).

(d) *Submitting the application.* Applicants should complete all applicable

sections of the DD Form 149, including at least:

(1) The name under which the member served.

(2) The member's social security number or Air Force service number.

(3) The applicant's current mailing address.

(4) The specific records correction being requested.

(5) Proof of proper interest if requesting correction of another person's records.

(6) The applicant's signature.

(e) Applicants should mail the original signed DD Form 149 and any supporting documents to the Air Force address on the back of the form.

(f) *Meeting time limits.* Ordinarily, applicants must file an application within three years after the error or injustice was discovered, or, with due diligence, should have been discovered. An application filed later is untimely and may be denied by the Board on that basis.

(1) The Board may excuse untimely filing in the interest of justice.

(2) If the application is filed late, applicants should explain why it would be in the interest of justice for the Board to waive the time limits.

(g) *Stay of other proceedings.* Applying to the AFBCMR does not stay other proceedings.

(h) *Counsel representation.* Applicants may be represented by counsel, at their own expense.

(1) The term "counsel" includes members in good standing of the bar of any state, accredited representatives of veterans' organizations recognized under 38 U.S.C. 3402, and other persons determined by the Executive Director of the Board to be competent to represent the interests of the applicant.

(2) See Department of Defense Directive (DoDD) 7050.6, Whistleblower Protection Act, 3 September 1992,<sup>1</sup> for special provisions for counsel in cases processed under 10 U.S.C. 1034.

(i) *Page limitations on briefs.* Briefs in support of applications:

(1) May not exceed twenty-five double-spaced typewritten pages.

<sup>1</sup>Copies of the publication are available, at cost, from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.