

§ 51.6

33 CFR Ch. I (7-1-05 Edition)

§ 51.6 Propriety standard of review.

A discharge is deemed to be proper except that:

(a) A discharge may be improper if an error of fact, law, procedure, or discretion was associated with the discharge at the time of issuance which prejudiced the rights of the applicant.

(b) A discharge may be improper if there has been a change in policy by the Coast Guard made expressly retroactive to the type of discharge under consideration.

§ 51.7 Equity standard of review.

(a) A discharge is presumed to be equitable and will not be changed under this section unless the applicant submits evidence sufficient to establish, to the satisfaction of the DRB that:

(1) The policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of that type, provided that current policies or procedures represent a substantial enhancement of the rights afforded a party in such proceedings, and there is substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration; or

(2) At the time of issuance, the discharge was inconsistent with standards of discipline in the Coast Guard; or

(3) The applicant's military record and other evidence presented to the DRB, viewed in conjunction with the factors listed in § 51.8 and the regulations under which the applicant was discharged, do not fairly justify the type of discharge received.

(b) If the applicant was discharged with a characterized discharge before June 15, 1983, a change from the characterized discharge to an uncharacterized discharge will not be considered under the provisions of (a)(1) of this section unless specifically requested by the applicant. A determination that a discharge is inequitable according to the provisions of (a)(2) or (a)(3) of this section shall entitle the applicant to a discharge of a type to which the applicant was enti-

tled at the time the original discharge was issued.

§ 51.8 Relevant considerations.

In determining the equity and propriety of a former member's discharge, the DRB shall consider all relevant evidence presented by the applicant. The DRB review will include, but is not limited to, consideration of the following factors:

(a) The quality of the applicant's service. In determining the quality of the applicant's service, the DRB may consider the applicant's dates and periods of service; rate or rank achieved; marks and evaluations received; awards, decorations and letters of commendation; acts of merit; combat service and wounds received; promotions and demotions; prior military service and type of discharge; records of unauthorized absence; records of non-judicial punishment; convictions by court-martial; records of conviction by civil authorities while a member of the Coast Guard; and any other relevant information respecting the applicant which is brought to the board's attention.

(b) The applicant's capability to serve. In determining the applicant's capability to serve, the DRB considers such factors as the applicant's age and education; qualification for reenlistment; capability to adjust to military service; and family or personal problems.

(c) Any evidence of arbitrary, capricious or discriminatory actions by individuals in authority over the applicant.

(d) Any other information respecting the applicant considered by the DRB to be relevant and material to the review of the applicant's discharge.

§ 51.9 Discharge review procedures.

(a) *Preliminary.* Prior to a review, applicants or their representatives may obtain copies of military records by submitting a Standard Form 180, Request Pertaining to Military Records, to the National Personnel Records Center (NPRC), 9799 Page Boulevard, St. Louis, MO. 72132. The request to the NPRC should be submitted prior to submitting the application for review, so that relevant information from the