

§ 724.202

the Navy (Manpower and Reserve Affairs) is authorized and directed to act for the Secretary of the Navy within his/her assigned area of responsibility and exercises oversight over the Secretary of the Naval Council of Review Boards. SECNAVINST 5420.135 series states the organization, mission, duties and responsibilities of the Secretary of the Naval Council of Review Boards to include the Naval Discharge Review Board. The Chief of Naval Operations established the Office of Naval Disability Evaluation and the Navy Council of Personnel Boards on 1 October 1976 (OPNAVNOTE 5450 Ser 09b26/535376 of 9 Sep 1976 (Canc frp: Apr 77)). The Chief of Naval Operations approved the change in name of the Office of Naval Disability Evaluation and Navy Council of Personnel Boards to Naval Council of Personnel Boards on 1 February 1977 (OPNAVNOTE 5450 Ser 09b26/32648 of 24 Jan 1977 (Canc frp: Jul 77)) with the following mission Statement:

To administer and supervise assigned boards and councils.

[75 FR 747, Jan. 6, 2010]

§ 724.202 Statutory/Directive Authority.

The NDRB, in its conduct of discharge review, shall be guided by the applicable statutes, regulations, and manuals and directives of the Department of the Navy, and other written public expressions of policy by competent authority:

(a) 10 U.S.C. 1553, Review of discharge or dismissal:

(1) "The Secretary concerned shall, after consulting the Administrator of Veterans' Affairs, establish a board of review, consisting of five members, to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under the jurisdiction of his/her department upon its own motion or upon the request of the former member or, if he/she is dead, his/her surviving spouse, next of kin, or legal representative. A motion or request for review must be made within 15 years after the date of the discharge or dismissal."

(2) A board established under this section may, subject to review by the Secretary concerned, change a dis-

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charge or dismissal, or issue a new discharge, to reflect its findings.

(3) A review by the board established under this section shall be based on the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative or an organization recognized by the Administrator of Veterans' Affairs under title 38 U.S.C. 3401 *et seq.*."

(b) *Pub. L. 95-126*. See appendix D.

(c) *32 CFR part 70*. This provides for uniform standards and procedures for review of discharges from the military services of the Department of Defense. The provisions of *32 CFR part 70* are incorporated in this Manual.

(d) *The Secretary of Defense memorandum dated August 13, 1971 and April 28, 1972 (NOTAL)*. These directed a review for recharacterization of (1) administrative discharges under other than honorable conditions issued solely on the basis of personal use of drugs or possession of drugs for the purpose of such use, and (2) punitive discharges and dismissals issued solely for conviction of personal use of drugs and possession for the purpose of such use for those discharges executed as a result of a case completed or in process on or before July 7, 1971. (See appendix B).

(e) *32 CFR part 41*. This prescribes policy, standards and procedures which govern the administrative separation of enlisted persons from the Armed Forces.

§ 724.203 Broad objectives of naval discharge review.

Naval discharge review shall have as its broad objectives:

(a) The furtherance of good order and discipline.

(b) The correction of injustice or inequity in the discharge issued.

(c) The correction of administrative or clerical errors.

§ 724.204 Eligibility for naval discharge review.

Any former member of the Naval Service, eligible for review under reference (a) or surviving spouse, next of