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 shall give full, fair, and impartial consideration to all applicable factors prior to reaching a decision. An applicant may not receive a less favorable discharge than that issued at the time of separation. This does not preclude correction of clerical errors.

(b) Propriety. A discharge shall be deemed to be proper unless in the course of discharge review, it is determined that:
(1) There exists an error of fact, law, procedures, or discretion associated with the discharge at the time of issuance; and that the rights of the applicant were prejudiced thereby (such error shall constitute prejudicial error, if there is substantial doubt that the discharge would have remained the same if the error had not been made); or
(2) A change in policy by the Air Force made expressly retroactive to the type of discharge under consideration, requires a change in the discharge.

(c) When a record associated with the discharge at the time of issuance involves a matter in which the primary responsibility for corrective action rests with another organization (for example, another Board, agency, or court), the DRB will recognize an error only to the extent that the error has been corrected by the organization with primary responsibility for correcting the record.

(d) The primary function of the DRB is to exercise its discretion on issues of equity by reviewing the individual merits of each application on a case-by-case basis. Prior decisions in which the DRB exercised its discretion to change a discharge based on issues of equity (including the factors cited in such decisions or the weight given to factors in such decisions) do not blind the DRB in its review of subsequent cases because no two cases present the same issues of equity.

(e) The following applies to applicants who received less than fully honorable administrative discharges because of their civilian misconduct while in an inactive reserve component and who were discharged or had their discharge reviewed on or after April 20, 1971: the DRB shall either recharacterize the discharge to honorable without any additional proceedings or additional proceedings shall be conducted in accordance with the Court’s Order of December 3, 1981, in Wood v. Secretary of Defense to determine whether proper grounds exist for the issuance of a less
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than honorable discharge, taking into
account that:
(1) An Under Other Than Honorable
(formerly Undesirable) Discharge for
an inactive reservist can only be based
upon civilian misconduct found to have
affected directly the performance of
military duties;
(2) A General Discharge for an inac-
tive reservist can only be based upon
civilian misconduct found to have had
an adverse impact on the overall effec-
tiveness of the military, including
military morale and efficiency.
(f) The following applies to appli-
cants who received less than fully hon-
orable administrative discharges (be-
tween June 21, 1971 and March 2, 1982)
because evidence developed by or as a
direct result of compulsory urinalysis
testing was introduced in the discharge
proceedings. Applicants who believe
they are members of the above cat-
genry will so indicate this by writing
“CATEGORY W” in block 7 of their DD
Form 293. AFMPC/MPCDO1 will expe-
dite processing these applications to
the designated “CATEGORY W” re-
viewer. For class members the des-
ignated reviewer shall either recharac-
terize the discharge to honorable with-
out any additional proceedings or com-
plete a review to determine whether
proper ground exists for the issuance of
a less than honorable discharge. If the
applicant is determined not to be a
class member, the application is re-
turned to normal review procedure
channels. If new administrative pro-
cedings are initiated, the former serv-
ice member must be notified of:
(1) The basis of separation other than
drug abuse or use or possession of drugs
based upon compelled urinalysis testing that
was specified in the commander’s re-
port and upon which the Air Force now
seeks to base a less than honorable dis-
charge.
(2) The full complement of procedural
protections that are required by cur-
rent regulations.
(3) Name, address and telephone num-
ber of an Area Defense Counsel with
whom the former service member has a
right to consult, and
(4) The right to participate in the
new proceedings to be conducted at the
Air Force base nearest the former serv-
ice member’s current address, or to
elect to maintain his or her present
character of discharge.
(g) Equity. A discharge shall be
deemed to be equitable unless:
(1) In the course of a discharge re-
view, it is determined that the policies
and procedures under which the appli-
cant was discharged differ in material
respects from policies and procedures
currently applicable on a service-wide
basis to discharges of the type under
consideration provided that:
(i) Current policies or procedures rep-
resent a substantial enhancement of
the rights afforded an applicant in such
proceedings; and
(ii) There is substantial doubt that
the applicant would have received the
same discharge if relevant current poli-
cies and procedures had been available
to the applicant at the time of the dis-
charge proceedings under consider-
ation.
(2) At the time of issuance, the dis-
charge was inconsistent with standards
of discipline in the Air Force; or
(3) In the course of a discharge re-
view, it is determined that a change is
warranted based upon consideration of
the applicant’s military record and
other evidence presented to the DRB
viewed in conjunction with the factors
listed in this section and the regula-
tions under which the applicant was
discharged, even though the discharge
was determined to have been otherwise
equitable and proper at the time of
issuance. Areas of consideration in-
clude, but are not limited to:
(i) Quality of Service, as evidenced
by factors such as:
(A) Service History, including date of
enlistment, period of enlistment, high-
est rank achieved, conduct or effi-
ciency ratings (numerical or nar-
rative).
(B) Awards and decorations.
(C) Letters of commendation or rep-
rimand.
(D) Combat service.
(E) Wounds received in action.
(F) Record of promotions and demo-
tions.
(G) Level of responsibility at which
the applicant served.
(H) Other acts of merit that may not
have resulted in a formal recognition
through an award or commendation.
(I) Length of service during the period which is the subject of the discharge review.

(J) Prior military service and type of discharge received or outstanding post-service conduct to the extent that such matters provide a basis for a more thorough understanding of the performance of the applicant during the period of service which is the subject of the discharge review.

(K) Convictions by court-martial.

(L) Record of non-judicial punishment.

(M) Convictions by civil authorities while a member of the Air Force, reflected in the discharge proceedings or otherwise noted in military records.

(N) Record of periods of unauthorized absence.

(O) Records relating to a discharge in lieu of court-martial.

(ii) Capability to Serve, as evidenced by factors such as:

(A) Total Capabilities. This includes an evaluation of matters such as age, educational level, and aptitude scores. Consideration may also be given to whether the individual met normal military standards of acceptability for military service and similar indicators of an individual’s ability to serve satisfactorily, as well as ability to adjust to the military service.

(B) Family/Personal Problems. This includes matters in extenuation or mitigation of the reason for discharge that may have affected the applicant’s ability to serve satisfactorily.

(C) Arbitrary or Capricious Actions. This includes actions by individuals in authority which constitute a clear abuse of such authority and which, although not amounting to prejudicial error, may have contributed to the decision to discharge or to the characterization of service.

(D) Discrimination. This includes unauthorized acts as documented by records or other evidence.

§ 865.121 Complaints concerning decisional documents and index entries.

Former members of the Air Force or their counsel or representative may submit complaints with respect to the decisional document issued in the former member’s case.

(a) All complaints should be processed in accordance with 32 CFR part 70 and should be forwarded to:

Assistant Secretary of Defense, Manpower, Reserve Affairs and Logistics, The Pentagon, Washington, DC 20331

(b) The Air Force Discharge Review Board will respond to all complaints in accordance with 32 CFR part 70.

§ 865.122 Summary of statistics for Discharge Review Board.

The Air Force Discharge Review Board shall prepare and provide to the Deputy Assistant Secretary of Defense (Military Personnel and Force Management) DASD(MP&FM), Office of the ASD(MRA&L), a semiannual report of discharge review actions in accordance with §865.125.

§ 865.123 Approval of exceptions to directive.

Only the Secretary of the Air Force may authorize or approve a waiver of, or exception to, any part of this subpart.

§ 865.124 Procedures for regional hearings.

Composition of the board for these hearings consists of three members from Washington with augmentation by two members from nearby local Air Force resources. The nearest Air Force installation or Air Force Reserve Unit is tasked to provide two officers to serve as members of the DRB. Active duty members will serve on the board as an additional duty. Reserve members will be on a temporary tour of active duty (TTAD) for the duration of the hearings. Detailed information must be provided to the individuals selected to serve before each hearing date. The administrative staff in Washington processes all cases for regional hearings, establishes hearing dates, and returns the records to the Manpower and Personnel Center at Randolph AFB, Texas, when the case is finalized.

§ 865.125 Report requirement.

Semi-annual reports will be submitted by the 20th day of April and October for the preceding 6-month reporting period (1 October through 31 March...