

application for relief is complete when all of the following have been received by the Board:

(1) A signed DD Form 149, providing all necessary responses, including a specific allegation of error or injustice, accompanied by substantial evidence or information in support of such allegation;

(2) The military records of the applicant; and

(3) Any applicable military and Department of Veterans Affairs medical records.

(d) It is the applicant's responsibility to include his or her correct mailing address on the DD Form 149 and to inform the Chair in writing of any subsequent change of address until the Board or the Secretary takes final action on the application.

(e) Briefs in support of applications must be assembled in a manner that permits easy reproduction and may not exceed twenty-five double-spaced typewritten pages in a type size with no more than twelve characters per inch. This limitation does not apply to supporting documentary evidence. In complex cases, the Chair may waive this limitation.

§ 52.22 Time limit for filing application.

An application for correction of a record must be filed within three years after the applicant discovered or reasonably should have discovered the alleged error or injustice. If an application is untimely, the applicant shall set forth reasons in the application why it is in the interest of justice for the Board to consider the application. An untimely application shall be denied unless the Board finds that sufficient evidence has been presented to warrant a finding that it would be in the interest of justice to excuse the failure to file timely.

§ 52.23 Counsel.

(a) Applicants may be represented by counsel at their own expense. Applicants whose cases are processed under the Whistleblower Protection Act and who are granted a hearing by the Board may be entitled to representation by a Coast Guard law specialist. 10 U.S.C. 1034(f)(3)(A).

(b) As used in this part, the term "counsel" includes attorneys who are members in good standing of any bar; accredited representatives of veterans' organizations recognized by the Secretary of Veterans Affairs pursuant to 38 U.S.C. 5902; and other persons who, in the opinion of the Chair, are competent to represent the applicant for correction. Whenever the term "applicant" is used in these rules,

except in § 52.21(c), the term shall mean an applicant or his or her counsel.

§ 52.24 Evidence and burden of proof.

(a) It is the responsibility of the applicant to procure and submit with his or her application such evidence, including official records, as the applicant desires to present in support of his or her case. All such evidence should be submitted with the applicant's DD Form 149 in accordance with § 52.21(c)(1). Evidence submitted by an applicant after an application has been filed and docketed shall be considered late and its acceptance is subject to the provisions in § 52.26(a)(4) and (c).

(b) The Board begins its consideration of each case presuming administrative regularity on the part of Coast Guard and other Government officials. The applicant has the burden of proving the existence of an error or injustice by the preponderance of the evidence.

§ 52.25 Access to official records.

The applicant shall have such access to official records or to any information pertaining to the applicant which is in the custody of the Coast Guard as is provided in 49 CFR parts 7 and 10.

§ 52.26 Right to timely decision; effect of requests for extensions, changes in requests for relief, and late submissions of evidence.

(a) Each applicant has a right to have final action taken on his or her application within 10 months after all the elements of a complete application, as defined in § 52.21(c), have been received by the Board, unless the applicant:

(1) Submits a written request, which is granted by the Chair, for an extension of a specific duration to seek counsel or additional evidence;

(2) Submits a written request, which is granted by the Chair, for an extension of the time provided for responding to the views of the Coast Guard in accordance with § 52.42(d);

(3) Submits a signed statement that is determined by the Chair to significantly amend the applicant's request for relief after the application has been docketed;

(4) Submits significant new evidence, as determined by the Chair, after the application has been docketed; or

(5) Is found by the Chair to have unreasonably delayed responding to a request for further information or evidence.

(b) If the applicant requests an extension in accordance with paragraphs (a)(1) or (a)(2) of this section or unreasonably delays responding to a request for further information or evidence in accordance with paragraph

(a)(5) of this section, he or she shall have a right to have final action taken on the application for correction within 10 months of the application's completion plus all periods of extension granted to the applicant by the Chair and all periods of unreasonable delay.

(c) If the applicant significantly amends his or her request for relief or submits significant new evidence after the application has been docketed, in accordance with paragraphs (a)(3) or (a)(4) of this section, the application shall be considered newly complete as of the date the amended request for relief or new evidence is received, in which case the applicant shall have a right to have final action taken on the application within 10 months of the date the Board receives the amended request for relief or significant new evidence.

§ 52.27 Withdrawal of application.

The Chair may, at his or her discretion, permit the applicant to withdraw his or her application at any time before final action is taken under § 52.64. Any further consideration by the Board of the issues raised in the withdrawn application shall occur only upon the filing of a new application.

§ 52.28 Stay of proceedings.

An application to the Board for correction of a military record does not operate as a stay of any proceeding or administrative action taken with respect to or affecting the applicant.

Subpart D—Consideration of Application and Administrative Closure

§ 52.31 Consideration of application.

Each application shall be reviewed by the Chair to determine whether it meets the requirements of § 52.21 before it is docketed. The Chair shall decide in appropriate cases whether to grant a hearing or to recommend disposition on the merits without a hearing.

§ 52.32 Administrative closure.

(a) The Chair may administratively close a case after it has been docketed and at any time prior to its consideration by the Board if the Chair determines that:

(1) The application was erroneously docketed because the application did not meet the criteria under § 52.21;

(2) Effective relief cannot be granted by the Board;

(3) The Board does not have jurisdiction to determine the issues presented or the applicant has not exhausted an available administrative remedy, as required under § 52.13(b); or