

DEPARTMENT OF THE NAVY  
BUREAU OF NAVAL PERSONNEL  
WASHINGTON, D.C. 20370-5000

IN REPLY REFER TO

BUPERSINST 5420.21  
Pers-00XCB  
APR 18 1997

BUPERS INSTRUCTION 5420.21

From: Chief of Naval Personnel

Subj: ADMINISTRATION OF BOARD FOR CORRECTION OF NAVAL RECORDS  
(BCNR) APPLICATIONS WITHIN THE BUREAU OF NAVAL PERSONNEL  
(BUPERS)

Ref: (a) Title 10 U.S. Code, Section 1552  
(b) SECNAVINST 5216.5D, "Department of the Navy  
Correspondence Manual"

Encl: (1) Procedures for Preparation of Advisory Opinions  
(2) Sample of "Memorandum For" Format

1. Purpose. To establish the policy and procedures for the administration and processing of BCNR applications within BUPERS and outline the support responsibility of BUPERS to assist the BCNR in the performance of its function.

2. Background. Reference (a) is the statutory basis for correction of military records and authorizes Service Secretaries, acting through their civilian boards, to correct errors and remove injustices from the service record. The function of the BCNR is to determine the existence of errors or injustices in the service record and to make appropriate recommendations for correction to the Assistant Secretary of the Navy (M&RA). BUPERS assists the BCNR by providing advisory opinions and implementing the approved corrections. While not binding, advisory opinions provide valuable expertise and technical assistance which the BCNR considers in determining whether to grant or deny the requested relief.

3. Applicability. This instruction applies to:

a. All assistant chiefs of BUPERS, heads of departments, and Echelon 3, and 4 activities under the command of the CHNAVPERS.

b. Active duty, inactive duty and reserve commissioned and non-commissioned officers of the Navy, their heirs, and legal representatives as defined by NAVSO P-473 (codified as 32 CFR 723).

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4. Responsibility of the BUPERS/BCNR Coordinator. Under this instruction, the BUPERS/BCNR Coordinator manages the administration of all BCNR applications assigned to BUPERS by the BCNR for advisory opinions.

5. Procedures. Guidelines and procedures established for the administration of BCNR applications are outlined in enclosure (1). Because of the complex and sensitive nature of BCNR applications, these procedures must be followed to the letter.

6. Action. Commanding officers and officers in charge must ensure that all members under their cognizance, including civilian action officers, are briefed on the contents of this instruction. It is vital that the information contained in this instruction become part of all Chief of Naval Personnel sponsored orientation programs.

LEE F. GUNN  
Rear Admiral, U.S. Navy  
Chief of Naval Personnel  
Acting

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**PROCEDURES FOR PREPARATION OF ADVISORY OPINIONS**

1. Review and Assignment of BCNR Applications. The BUPERS/BCNR Coordinator reviews each application received from BCNR prior to assigning it to BUPERS for an advisory opinion. The purpose of this review is to determine the existence of the following conditions:

a. The alleged error or injustice is valid and correctable under reference (a);

b. Material evidence that accompanies the application is creditable;

c. The application is signed by the petitioner, or an appropriate representative;

d. The error or injustice is a matter of record; has not been administratively altered prior to receipt of the application, and can not be corrected administratively;

e. That no disciplinary or judicial actions are pending under the Uniform Code of Military Justice.

2. Writing Advisory Opinions. The advisory opinion discloses facts considered essential to a complete and impartial review of the issues presented in the application. It represents the advising office's position on the petition and the underlying policy issues raised. The advisory opinion becomes a part of the Record of Proceedings presented to the Assistant Secretary of the Navy (M&RA) for final action.

a. The action officer should explicitly reference all policies, regulations, and other guidance relevant to the issues addressed in the written document, bearing in mind that the Chief of Naval Personnel will be committed to the judgement stated in the advisory opinion rendered.

b. The written advisory should be prepared in the "Memorandum For" format prescribed in reference (b) and enclosure (2) of this instruction.

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c. Review and research of the allegations, arguments, defenses, and supporting evidence should be carried out from the standpoint that the petitioner is correct until proven otherwise. The claim should be assessed in accordance with Navy Regulations, policy, and other governing laws and procedures. The facts, issues, and circumstances relevant to a fair and equitable resolution should be summarized, and a course of action recommended to the BCNR. Enclosure (2) is provided as an example of a "Memorandum For" format and guide to formulating an advisory opinion.

d. Incomplete Cases. If the application and its accompanying evidence is too limited for substantive analysis, or is insufficient to demonstrate the existence of probable material error or injustice, the action officer may prepare a brief summary explaining the need for additional evidence in order to prepare an advisory opinion.

e. Administrative Corrections. Errors that may be resolved administratively will be corrected under the scope of authority of the CHNAVPERS. Where governing regulations permit, and further BCNR intervention is not required, the advising office may initiate the administrative correction and return the case file along with an advisory document to the BUPERS/BCNR Coordinator. Issues considered outside of the scope of authority of the CHNAVPERS will be returned to the BCNR via the BUPERS/BCNR Coordinator with a statement "for information purposes only." In cases where administrative correction is required prior to return to the BCNR, the BUPERS/BCNR Coordinator will initiate a request for the correction from the Systems Operations Branch, Pers-313, who will implement the administrative correction accordingly.

f. Improper Counselling. Many petitions, particularly those involving compensation, e.g., travel claims, Montgomery GI Bill (MGIB), Selective Reenlistment Bonus (SRB), Survivor Benefit Program (SBP), Special Duty Assignment Pay (SDAP), etc., result from improper counselling, the petitioner's failure to understand the benefits of the program they have entered, or other incorrect information offered to a petitioner who may or may not be qualified. When answering such requests, it is important to go beyond governing regulations and consider what would have happened had the member received correct and timely advice.

g. Statute of Limitations. The fact that the petition is filed more than 3 years after an error or injustice has been determined does not preclude BCNR or the Navy from changing the records if in fact an error or injustice is found to exist. The determination of whether a petition is barred by the statute of limitations is a matter for the BCNR's discretion. An office providing an advisory opinion may note that the limitation period has expired but must still provide an opinion on the issues presented.

h. Conflicting Advisory Opinions. Advisory opinions that are inconsistent with navy regulations and policies, lack continuity or are otherwise inappropriate for a BCNR review and SecNav decision, are resolved by the BUPERS/BCNR Coordinator and the office that rendered the opinion.

3. Timeliness. Responses to BCNR applications are required 30 days from the date of the request.

a. Urgent responses may be dictated by the needs of the application; giving priority to pre-scheduled events that may not be altered for BCNR purposes, e.g., administrative boards, statutory boards, involuntary separations and Projected Rotation Dates (PRD).

b. Petitions that involve issues that are in litigation, pending federal/civil court decisions, or constitute a change to established regulations and policies are time-sensitive, and require expeditious and special handling. Response dates will be assigned on a case-by-case basis.

c. Lack of essential information from which to formulate advisory opinions prohibits timely and comprehensive reviews; thus creating unnecessary delays. If the information necessary for input is unavailable, return the case to the BUPERS/BCNR Coordinator immediately, with a brief explanation of the circumstances.

4. Tracking BCNR Cases. The BUPERS/BCNR Coordinator ensures that BCNR cases entering BUPERS for advisory opinions are entered into the BUPERS Tracking System and monitored until the case is completed and returned to the BCNR.

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a. BCNR applications are received with control (docket) numbers assigned. The docket number indicates the number of the case and the year of receipt. Processing petitions within BUPERS requires the following steps.

- (1) Incoming Cases: The BUPERS/BCNR Coordinator will:
  - (a) enter cases into tracking system by date of receipt;
  - (b) assign case to cognizant office for advisory opinions;
  - (c) request memorandum with due date prepared; 30-day response period unless otherwise specified.

- (2) Completed Cases:
  - (a) review advisory opinion for correctness/continuity;
  - (b) determine the need for additional input;
  - (c) ensure the BUPERS input addresses all issues.

(3) Delayed/Overdue Cases: (Extension Requests) Overdue cases are any cases held by the cognizant official beyond the period authorized for a response, or without an extension having been requested or authorized from the BUPERS/BCNR Coordinator.

b. Applications that require input from offices physically outside of BUPERS, e.g., field commands, other branches of the armed services, or civilian organizations, are tasked according to the needs of the issues presented and suspended appropriately.

5. Accountability/Responsibility. All BCNR applications assigned by the BUPERS/BCNR Coordinator to BUPERS for advisory opinions must be returned, upon completion of input, to the BUPERS/BCNR Coordinator. BCNR cases should not be returned directly to the BCNR without being cleared by the BUPERS/BCNR Coordinator.

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**SAMPLE "MEMORANDUM FOR" FORMAT**

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS (BCNR)

Via: BUPERS/BCNR COORDINATOR, PERS-00XCB

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF  
CAPTAIN I. M. HIPPI, SR., USN, 123-34-4567/0000

Ref: (a) Explicitly reference all policies, regulations, and  
other guidance relevant to the issues addressed in  
this memorandum

Encl: (1) BCNR File #  
(2) Petitioner's Service Record

1. This document is designed to assist the BUPERS official who must render an advisory opinion to the BCNR. The "MEMORANDUM FOR" format is preferred when writing to senior officials; in this instance, the Executive Director, Board for Correction of Naval Records and the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN(M&RA)). The "LETTERHEAD MEMORANDUM" format may also be used.

2. The following steps may assist in formulating responses to the BCNR:

a. Review the petitioner's allegations of error or injustice and the contents of the BCNR application thoroughly.

b. Research the material evidences presented, e.g., testimonies, declarations, and other corroborating evidence, from the standpoint that the petitioner is correct until proven otherwise.

c. Analyze the claim to determine if it complies with appropriate Navy regulations, policies, and procedures.

d. Summarize all relevant facts, issues, and circumstances of the case, and present your advisory opinion in the manner prescribed.

e. Comply to the maximum extent possible with suspense dates. Extensions may be requested from the BUPERS/BCNR Coordinator if necessary, to accommodate unexpected delays.

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3. Advisory opinions which may set a precedent, legal or otherwise, or which may constitute a change to established regulations or policy, should be cleared through the Office of Legal Counsel, Pers-06, prior to returning it to the BUPERS/BCNR Coordinator.

4. Prospective petitioners are obligated to establish a requisite degree of belief concerning allegations of error or injustice, by presenting creditable evidence.

5. Prospective petitioners are encouraged to exhaust all administrative remedies available and prescribed by Navy Regulations prior to petitioning the Board for Correction of Naval Records.

B. A. COOK  
By direction