

Op-16-B-7-CP
A18-2/Public Law 351
Serial 01861716

CONFIDENTIAL

MEMORANDUM for Captain Atkins:

Subject: Administration of authority granted the Secretary of the Navy by the Act of Dec. 17, 1941 (Public Law No. 351, 77th Congress, 1st Session) and by Defense Communications Board Order No. 3 of March 25, 1942; review of proposed directive.

Enclosure: (A) Proposed directive covering subject matter.

②
Op-16-B-1
1. Subject matter has been reviewed as requested and, after careful consideration, it is suggested that additional language be added to subparagraph (a) of paragraph 6, which will thereafter read as follows:

Op-16-B-7

6. Procedure for Voluntary Hearing of Person Named in Order.

Op-16-B-7-CP

(a) District Qualification Boards of Examination for Commercial Radiocommunications Personnel. The Commandant of each Naval District is directed to appoint one such Board. Each Board will be composed of not less than three line officers, one of whom will not be below the rank of Commander and the remainder will not be below the rank of Lieutenant. Such Boards will be authorized to administer oaths. Naval Intelligence officers shall be disqualified from serving on this Board. This disqualification arises from the fact that it is the duty of Naval Intelligence officers to procure and evaluate, followed by submission through the Chief of Naval Operations, the information upon which the original action was taken, and it is contrary to the precepts of fair practice to permit an officer to be in a position where he might be considered both prosecutor and judge.

When the Departmental Qualification Board was organized last December, a Lieutenant Commander from the Domestic Intelligence Branch of the Office of Naval Intelligence was ordered to be an alternate member and the recorder of this Board, but was later removed from these duties by an order of the Secretary of the Navy because of his being placed in the position of procuring and evaluating the evidence presented relative to suspected subversives and then in the situation where he was required to sit in judgment which he had himself prepared and presented.

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Authority	R.G.38
By	NARA. Date 1/29/82

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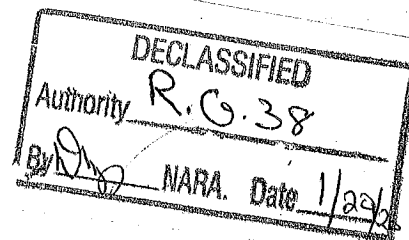
2. It is further suggested that subparagraph (b) of paragraph 6 be changed to read as follows:

(b) Application for Hearing. Any person deprived of employment by an order authorized in paragraph 4 desiring a hearing, must apply in writing to the Commandant of a Naval District. Upon receipt of an application for hearing, the Commandant shall submit such application to the District Qualification Board of Examination for Commercial Radiocommunications Personnel and furnish the Secretary of the Navy with a copy thereof.

As this paragraph reads without the proposed change, it states that a person deprived of employment must apply for a hearing, regardless of whether the person disqualified wishes to make such an appeal to the Commandant of a Naval District. The change suggested, permitting an applicant to apply to the Commandant of any Naval District for a hearing, is to enable the applicant to make an appeal in the Naval District where he can best present his evidence.

3. It is further suggested that subparagraph (c) of paragraph 6 be changed to read as follows:

(c) Procedure for Hearing. The Board will request the District Intelligence Officer to obtain from the Office of Naval Intelligence the information provided to the Secretary of the Navy upon which the original disqualification order was based, and such additional evidence or information received subsequently to the time of the original order, for consideration by the District Qualification Board. At the hearing before the District Qualification Board, the applicant will be informed in writing as fully as possible, consistent with the reasons and the source of information against him, of the reasons for his having been found unfit to serve as a radio operator on board vessels of United States registry, and/or denied employment in, or access to, the operating premises of commercial radiocommunications companies as indicated to the Board by the Office of Naval Intelligence or the District Intelligence Officer. The applicant will be permitted to be present during the hearing, to be represented by counsel, to present evidence, and to make an oral, or to submit a written, statement. The Board is authorized to request collaboration by representatives of the United States Maritime Commission, the Federal Communications Commission, or of any other agency, governmental or non-governmental.



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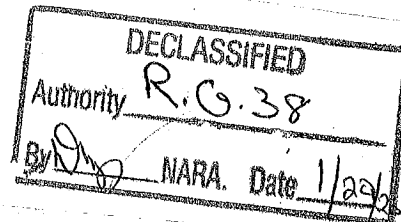
4. The first change is suggested in subparagraph (c) of paragraph 6 because of several reasons; first, the District Commandant probably would not have available any more than very meager information within the files of his District Intelligence Office relative to the applicant; and, second, that all District Intelligence Officers are held responsible by the Navy Department for the security of the information within their files, and, under these circumstances, must have complete control over the dissemination of such information. Therefore, without the proposed change being made in this subparagraph, this responsibility would be nullified as the Board could demand of the District Intelligence Officer that all information relative to any case be delivered to the Board.

5. The second change suggested of the wording in this same paragraph is the elimination of the last sentence: "Copies of these charges shall be handed to him by the Board", and the addition of the words "in writing" after "the applicant will be informed" in line 10. By this action all need for this sentence is done away with and, as the procedure described in the proposed directive is relative to a hearing and not a trial, the elimination of the word "charges" seems appropriate.

It is further suggested that subparagraph (c) of paragraph 6 be changed to read:

J. B. W. Waller,
Captain, U.S. Navy.

ReDictated August 17, 1942
Redictated by Lieut. Comdr. Caskey
Typed by M. Clarke.



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~~3~~ It is further suggested that subparagraph (c) of paragraph 6 be changed to read as follows:

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Authority R.G. 38
By <i>[Signature]</i> NARA Date 1/29/82

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statement. The Board is authorized to request collaboration by representatives of the United States Maritime Commission, the Federal Communications Commission, or of any other agency, governmental or non-governmental.

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J. B. W. Waller,
Captain, U.S. Navy.

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By	NARA. Date 1/29/62

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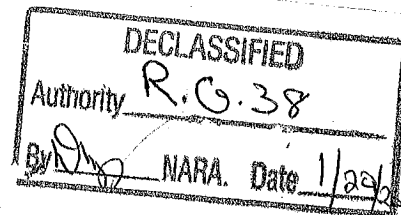
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4. The second change suggested of the wording in this same paragraph is the elimination of the last sentence: "Copies of these charges shall be handed to him by the Board", and the addition of the words "in writing" after "the applicant will be informed" in line 10. By this action all need for this sentence is done away with and, as the procedure described in the proposed directive is relative to a hearing and not a trial, the elimination of the word "charges" seems appropriate.

J. B. W. Waller,
Captain, U.S. Navy.

Dictated August 13, 1942

Dictated by Lieut. Comdr. Caskey

Typed by M. Clarke.

