

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

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Personnel

**PHYSICAL DISABILITY BOARD OF
REVIEW**



COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This publication implements Air Force Policy Directive (AFPD) 36-30, *Military Entitlements*, and Department of Defense Instruction (DoDI) 6040.44, *Physical Disability Board of Review (PDBR)*. It establishes procedures for reviewing, in accordance with the guidance found at DoDI 6040.44, Enclosure 3, the disability rating(s) and/or finding(s) of fitness awarded to a military member separated between September 11, 2001 and December 31, 2009, but found not eligible for retirement. It applies to all former Military Department Service members, whether regular, Reserve, or Guard, per DoDI 6040.44, with proper interest in the correction of a Service member record.

In collaboration with the Chief of Air Force Reserve (HQ USAF/RE) and the Director of the Air National Guard (NGB/CF), the Deputy Chief of Staff for Manpower, Personnel, and Services (HQ USAF/A1) develops personnel policy for Physical Disability Board of Review (PDBR). This Air Force publication may be supplemented at the MAJCOM-level. Supplements must be approved by the Human Resource Management Strategic Board prior to certification and approval. The authorities to waive wing/unit level requirements in this publication are identified with a Tier ("T-0, T-1, T-2, T-3") number following the compliance statement. See AFI 33-360, *Publications and Forms Management*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication Office of Primary Responsibility for non-tiered compliance items. Refer recommended changes and questions about this publication to the Office of Primary Responsibility using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847s from the field through the appropriate functional chain of command.

SUMMARY OF CHANGES

This publication has been revised in accordance with the Secretary of the Air Force's Publication Reduction Initiative. The most significant changes made to the revised publication were to spell out all the acronyms, and remove reference to the Director Joint Central Adjudication Unit since those responsibilities now come under the Director of Operations.

This Instruction requires collecting and maintaining information protected by the Privacy Act of 1974 authorized by 10. U.S.C 1554(a); E. O. 9397. The applicable System of Records Notice F036 SAFCB A, *Air Force Correction Board Records* is available at: <http://dpclo.defense.gov/Privacy/SORNs.aspx>. Ensure all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule located in the Air Force Records Information Management System.

1. The Physical Disability Board of Review (PDBR). The PDBR is a Congressionally-mandated Board which reassesses the accuracy and fairness of combined disability ratings assigned to former service members separated during the period beginning on September 11, 2001, and ending on December 31, 2009. This separation must be due to unfitness for continued military service with medical conditions where the rating was 20% or less and the member did not otherwise retire. The Under Secretary of Defense for Personnel and Readiness retains overall responsibility for the board, but has designated the Air Force as lead agent for the establishment, operation, and management of the PDBR for the Department of Defense (DoD).

2. Roles and Responsibilities.

2.1. Secretary of the Air Force. The responsibilities of the Secretary of the Air Force are delineated in DoDI 6040.44, Enclosure 2, paragraph 5.

2.2. President, PDBR. DoDI 6040.44, Enclosure 2 sets forth the qualifications for the President.

2.2.1. Ensures PDBR operations complies with DoDI 6040.44, and this instruction, and conducted in a manner consistent with policy guidance and direction provided by the Under Secretary of Defense for Personnel and Readiness. **(T-0)**

2.2.2. Ensures PDBR members and staff are properly trained.

2.2.3. Ensures PDBR operations are conducted in an effective and efficient manner with transparency and accountability.

2.2.4. Ensures case reviews are scheduled to give equitable consideration to requests regardless of status, service or component affiliation.

2.2.5. Establishes and maintains a working relationship with those offices in the Army, Navy, Coast Guard and Air Force that implement disability processing.

2.2.6. Establishes and maintains a working relationship with the Department of Veterans Affairs.

2.2.7. Maintain access to, or awareness of, Army, Navy, Coast Guard and Air Force policies governing the Medical Evaluation Board and Physical Evaluation Board.

2.2.8. Manages timeliness and tracking performance on meeting the various time guidelines in accordance with DoDI 6040.44, Enclosure 3, paragraph 5. **(T-0)**

2.2.9. Supports the Disability Evaluation System Quality Assurance Process consistent with DoD Instruction 1332.18, *Disability Evaluation System (DES)*, August 5, 2014, and DoD Manual 1332.18, Volume 3, *Disability Evaluation System (DES) Manual: Quality Assurance Program*, November 21, 2014. **(T-0)**

2.3. **Director of Operations.** The Director of Operations supports and otherwise performs responsibilities as assigned by the President of the PDBR.

3. Application Procedures.

3.1. **Who May Apply for a Review of a Physical Disability Rating.** A covered individual, or his or her surviving spouse, next of kin, or legal representative on his or her behalf, may apply for a review of the individual's disability rating by following the procedures in this section.

3.2. **Obtaining Information and Forms.** Information on the PDBR process with frequently asked questions and links to the application (DD Form 294, *Application for Review of Physical Disability Separation from the Armed Forces of the United States*) can be found at the following web site: <http://www.health.mil/pdbr>.

3.3. **Submitting the Application.** Applicants shall complete all applicable sections of the DD Form 294.

3.3.1. Applicants shall mail the original signed DD Form 294 and any supporting documents to the address on the back of the form. (SAF/MRBD, 3351 Celmers Lane, Joint Base Andrews MD 20762).

3.4. **Information Accompanying an Application.** An applicant may submit statements, briefs, medical records, documentary evidence outside Department of Defense possession, or affidavits in support of his/her application.

3.5. **Counsel Representation.** Applicants may be represented by counsel, at their own expense. Personal appearance, with or without private counsel, is not allowed. The term "counsel" includes members in good standing of the bar of any state and accredited representatives of veterans organizations recognized under 38 United States Code § 5902.

4. Case Processing.

4.1. Upon receipt of an application, the Central Intake Unit will open a case in the current case management database and ensure that the DD Form 294 is signed, submitted by a proper applicant, and has all required information, acknowledgements and releases. Applications not signed will be rejected and returned to the applicant for proper signature.

4.2. **Deficient Applications.** If the application is deficient, the Central Intake Unit will notify the applicant by email or in writing providing a detailed explanation of the application's deficiencies. The applicant will be advised that they will have 60 days to remedy the deficiency; and that if the application is not remedied, or no answer is received within that time frame, the case will be closed without prejudice. Completed applications will be rejected if the Director of Operations determines from its face that it does not meet the criteria for review, (for example the separation date was prior to September 11, 2001).

The applicant will be notified in writing or email of the rationale for the rejection and of the option to appeal to the appropriate Board for Correction of Military/Naval Records.

4.2.1. If the application is accepted, the Central Intake Unit will acknowledge and provide the applicant with the case tracking identification number for future reference. This receipt notice will also inform the applicant that they may provide additional documentary evidence outside Department of Defense possession.

4.2.2. If the applicant has indicated in the application that a Department of Veterans Affairs disability rating has been awarded, the Central Intake Unit will ensure the applicant has provided a copy of the VA Form 3288 or signed the Veterans Affairs consent portion of the DD Form 294. The failure to provide consent election will not render an application deficient.

4.2.3. If the applicant refuses to consent to Veterans Affairs record access, the disability rating assigned by the Physical Evaluation Board will be evaluated for fairness and accuracy with the information available, but the comparison to the subsequent Veterans Affairs rating discussed in DoDI 6040.44, Enclosure 3, Paragraph 4 a.(5)(a), (b) will not be performed. Note: This consequence of non-consent (or lack of access) to Veterans Affairs records is explained in the instructions to the DD Form 294.

4.2.4. Once an application is determined to be complete and within the adjudicative guidelines of DoDI 6040.44, the Central Intake Unit will obtain: 1) Physical and Medical Evaluation Board records from the appropriate Service Physical Evaluation Board organization; 2) Department of Veterans Affairs rating decisions and associated examination results; and 3) service treatment records from the Veterans Affairs Regional Offices or other applicable Veterans Affairs functions. These record elements constitute a complete case-file that will enable the PDBR to fairly reassess an applicant's current Department of Defense disability rating. Once scanned, the DD Form 294 and any attachments will be maintained on file until adjudication has been completed and the case has been closed, then destroyed.

4.3. Missing Records - Adjudication Not Impacted: Normally only complete case files will be adjudicated. If the Central Intake Unit has been unsuccessful in obtaining copies of required documents (even after requesting the applicant's assistance) or anticipates an excessive delay in obtaining such documents and believes the case can be adjudicated without the records; it should contact the Director of Operations for guidance and/or permission to forward an incomplete case file. If permission is granted, the Central Intake Unit will notify the applicant of the transmittal and the determination that the case will be adjudicated without the records.

4.4. Missing Records - Adjudication Impacted: If records cannot be located, and, in the judgment of the Director of Operations the adjudication is likely to be impacted, the applicant will be notified and asked if they have copies of such records and/or information as to where they may be located. The applicant will also be advised: 1) that the Board will perform the required review without the records; 2) that the applicant may submit a statement(s) or other evidence about the content of the missing records; and 3) that the applicant can request withdrawal or suspension of the application at this time without prejudice to a subsequent request to review. If the applicant identifies where the records might be found, the Central Intake Unit will attempt to locate and include the records. If the

records cannot be located, or additional attempts to find them are unsuccessful, the Central Intake Unit will place the correspondence and any response statements submitted by the applicant in the case file and forward it to the Director of Operations.

4.5. Withdrawal and Suspension of Application Processing. An applicant may withdraw an application, without prejudice, any time prior to final determination. An applicant need not justify or explain a request for withdrawal. Upon receiving a request for case withdrawal the Central Intake Unit will acknowledge receipt and update the case status in the case management database. An applicant may resubmit a previously withdrawn case. The Central Intake Unit will also accept requests for resumption of processing of cases previously withdrawn. The amount of time an application is considered to be in a “withdrawn status” will not be included in computing case processing statistics.

4.6. Reconsideration. In accordance with DoDI 6040.44, Enclosure 2, Paragraph 4d.(2), the decision of the Secretary concerned or Designated Decision Authority is final. The PDBR will deny requests for reconsideration of a final decision.

4.7. Election of Forum. In accordance with 10 USC § 1554a(c)(4) and DoDI 6040.44, Enclosure 2, para 4.d.(1), members who file with the PDBR waive their right to petition their Service Board for Correction of Military/Naval Records concerning the issues being reviewed by the PDBR. To ensure proper implementation of this limitation, the Central Intake Unit will provide the names of PDBR applicants to the Service Boards for Correction of Military/Naval Records.

5. Case Adjudication Procedures. Guidelines and parameters on case adjudication are at DoDI 6040.44, Enclosure 3.

5.1. Board Member Responsibilities.

5.1.1. Board members will review the synopsis of the case and the case file as necessary to be familiar with the facts and circumstances of the injury or disease and the processing history of the disability rating.

5.1.2. Board members will recuse themselves if they previously participated in the applicant’s disability evaluation process, or if they determine they have a personal interest in the case.

5.1.3. Board members will avoid favoring or disfavoring any applicant based upon the board member’s or applicant’s grade/rank, branch of service, or component.

5.1.4. Board members will vote solely on the merits of the case without consideration of extraneous matters, such as the amount of money involved, or potential embarrassment to personnel involved in the original rating determination.

5.1.5. Board members will not attempt to use grade, rank or position of authority to persuade or influence the vote of any board member.

5.1.6. Board recommendations will be in accordance with DoDI 6040.44, Enclosure 3, para 3.f. In the instance where all three panel members do not agree and there is no majority recommendation, all three members will prepare a written minority opinion. The PDBR President will review all three recommendations and will determine which recommendation will be the recommendation of the PDBR. **(T-0)**

6. Board Deliberations.

6.1. The role of the Presiding Officer is to serve as lead during the panel's executive session. The Presiding Officer is responsible for ensuring all the covered individual's contentions and all conditions within the scope of the PDBR are addressed and for ensuring the Record of Proceedings adequately reflects the recommendation of the panel.

6.2. Normally only members of the board will be present during deliberations. The Presiding Officer may permit observers for training purposes or otherwise in furtherance of the functions of the board.

6.3. Deliberations may be conducted in person, via telephone, VTC, or other electronic means. In accordance with the guidance of DoDI 6040.44, the majority vote of the board is the recommendation of the board. **(T-0)**

6.4. Post-Board Processing.

6.4.1. The President will review the Record of Proceedings and ensure each PDBR review addresses the full range of medical issues and concerns raised by the applicant, based on the pertinent medical conditions and interpretation of laws, medical standards, and policies defining a physical disability.

6.4.2. The President will return case files found to be inadequate or incomplete to the Presiding Officer for the case with an explanation of concerns or deficiency, and with direction for additional documentation, consideration or analysis as appropriate.

6.4.3. The President will approve and sign each Record of Proceedings and transmit the case file, Record of Proceedings and the board majority's recommendation (if applicable) to each of the Military Department Secretary's Designated Decision Authority. If the President does not concur with the recommendation of the board, the President may forward a separate recommendation to the Designated Decision Authority, but will fully explain the rationale for that recommendation.

7. Quality Assurance Program. The PDBR will administer Disability Evaluation System quality assurance consistency reviews in accordance with section 4 of Enclosure 3 of DoD Instruction 1332.18.

8. Statistics, Performance Management and Reports. The President will ensure: that the performance of the PDBR process is tracked using modern performance management tracking tools; that all statistical analyses are accomplished, and that all required reports are prepared in a timely manner.

SHON J. MANASCO
Assistant Secretary of the Air Force
Manpower and Reserve Affairs

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

10 U.S. Code § 1554, Review of Retirement or Separation

38 U.S. Code § 5902, Recognition of Representatives of Organizations

AFI 33-360, Publications and Forms Management, May 18, 2006AFPD 36-30, *Military Entitlements*, April 28, 2015

AFMAN 33-363, *Management of Records*, March 1, 2008

DoDI 6040.44, *Physical Disability Board of Review (PDBR)*, July 2, 2015

DoDI 1332.18, *Disability Evaluation System (DES)*, August 5, 2014

DoD Manual 1332.18, Volume 3, *Disability Evaluation System (DES) Manual: Quality Assurance Program, (QAP)* November 21, 2014

Adopted Forms

DD Form 294, ***Application for a Review by the Physical Disability Board of Review (PDBR) of the Rating Awarded Accompanying a Medical Separation from the Armed Forces of the United States***

Abbreviations and Acronyms

AFMAN—Air Force Manual

AFPD—Air Force Policy Directive

DD—Department of Defense (as used on forms)

DoD—Department of Defense

DoDI—Department of Defense Instruction

PDBR—Physical Disability Board of Review

SAF—Secretary of the Air Force

USC—United States Code

VA—Department of Veterans Affairs

Terms

Covered Individuals—individuals who meet the criteria in DoDI 6040.44 paragraph 3a.

Proper interest—those seeking to apply for correction of another eligible former service member's record, including surviving spouse, next of kin, or legal representatives.