

**PART 6 - POLICY GOVERNING THE TEMPORARY DISABILITY RETIRED LIST (TDRL )**

**3601 Applicability**

Place service members on the TDRL when they would be qualified for permanent disability retirement but for the fact that the member's disability is not determined to be of a permanent nature and stable.

- a. A disability shall be considered unstable when the preponderance of medical evidence establishes that accepted medical principles indicates the severity of the condition will change within the next 5 years so as to result in an increase or decrease of the disability rating percentage or a finding of Fit.
- b. Except for cases processed under imminent death procedures, permanently retire those members with unstable conditions rated at a minimum of 80 percent and which are not expected to improve to less than an 80 percent rating. When a member is placed on the TDRL in accordance with this instruction the provisions of this part apply.

**3602 Administration**

CHNAVPERs and CMC (M&RA) are responsible for administering the TDRL for their services, in keeping with the following guidelines:

- a. maintain an accurate account of authorized members;
- b. designate medical facilities and direct members to undergo periodic physical examinations in accordance with the requirements of this chapter;
- c. arrange and coordinate with the President, PEB, alternate means of examination when members are unable to undergo periodic physical examinations by reason of circumstances beyond their control;
- d. order additional medical information when requested by the PEB;
- e. monitor failures to report for periodic physical examinations and take appropriate action in such cases as specified in paragraphs 3609, 3610, 3611 and 3612;
- f. implement disposition of members whose cases are finalized by the PEB as appropriate.

**3603 Administrative Finality**

During TDRL reevaluation, previous determinations concerning application of any presumption established by this instruction, line of duty, misconduct, proximate result, and whether a medical impairment was service incurred or preexisting and aggravated shall be considered administratively final for those conditions for which the member was placed on

the TDRL unless there is evidence of fraud; a change of diagnosis that warrants the application of accepted medical principles for a preexisting condition; or correction of error in favor of the member.

**3604 Member's Responsibility to Maintain Current Mailing Address With Service**

All members on the TDRL shall keep CHNAVPERs, CMC (MMSR-4), and the Defense Finance and Accounting Service (DFAS) Cleveland Center apprised of their current address. Failure to respond to correspondence or orders issued to the address on file with the appropriate finance center either willfully, or through negligence in keeping that address current, may result in the suspension of disability retired pay and will be considered as showing intent on the member's part to abandon benefits. Additionally, all active duty members being placed on TDRL and those TDRL members going before a Formal PEB must fill out an Address Information Form. PEBLOs will submit this form with the members Election of Options (for active duty personnel) and the Formal PEB Administrator will ensure that all TDRL members reporting for a hearing complete the form and include it in the PEB case file.

**3605 Time Limit For Pay Purposes**

10 U.S.C. 1210 provides that the maximum time that a member's name can be carried on the TDRL in a pay status is 5 years.

**3606 Orders For Periodic Physical Examination**

a. General. The law requires that members on the TDRL shall be given physical examinations at least once every 18 months. This includes members who have waived retired pay, in order to receive compensation from the VA, as they are still members of the naval service .

b. Issuance. CHNAVPERs or CMC (M&RA) shall issue orders (copy to PEB) to members on the TDRL to proceed and report for periodic physical examinations normally via the commanding officer of the designated examining activity. The examining facility will endorse the orders and specify the date, place, and time (giving the member a minimum of 30 days) at which the member is to report. The examination shall be conducted during the month specified in the orders or during the preceding or following month. The commanding officer of the medical facility shall notify CHNAVPERs or CMC (M&RA), as appropriate, and CHBUMED of failure to complete the examination within this time frame and the reason therefore.

**3607 Priority**

TDRL examinations, including hospitalization in connection with the conduct of the examination, shall be furnished on the same priority as given to active duty members.

**3608 Member Medical Records**

The service member shall provide to the examining physician, for submission to the PEB, copies of all medical records (civilian, VA, and all military medical records) documenting treatment since the last TDRL reevaluation.

### **3609 Refusal Or Failure To Report For Periodic Physical**

As provided under chapter 61 of reference (a), when a service member on the TDRL refuses or fails to report for a required periodic physical examination, or to provide medical records in accordance with his or her disability, retired pay may be suspended. If the member later reports for the physical examination, retired pay will be resumed retroactively, to the date the examination actually was performed. If the service member subsequently shows just cause for failure to report, disability retired pay may be paid retroactively for not more than 1 year. If the member does not undergo a periodic physical examination after disability retired pay has been terminated, he or she will be administratively removed from the TDRL on the fifth anniversary of placement on the list and separated without entitlement to any of the benefits under reference chapter 61 of 10 U.S.C. (reference (a)).

### **3610 Reports From Non-MTFs**

MTF's designated to conduct TDRL periodic physical examinations may use reports of medical examinations from medical facilities of another service, the DVA, other government agencies, and authorized civilian medical facilities and physicians to complete the examination. The designated MTF remains responsible for the adequacy of the examination and the completeness of the report. The report must include the information specified in paragraph 3616, if applicable.

### **3611 Incarcerated Members**

A report of medical examination shall be requested from the appropriate authorities in the case of a service member imprisoned by civil authorities. In the event no report or an inadequate report is received, make documented efforts to obtain an acceptable report. If an examination is not received, disposition of the case shall be in accordance with paragraph 3609 above. Advise the member of the disposition, and that remedy rests with the Board for Correction of Naval Records.

### **3612 Action Required By Examining Medical Facility When Member Fails To Report For Periodic Physical Examination**

Send notice of appointments for periodic physical examinations by certified mail (or by an equivalent form of notice if such service by U.S. Mail is not available for delivery at an address outside the United States) to the member's address of record. If the member fails to appear for the scheduled appointment without contacting the medical facility for rescheduling, and the member either signed for or failed to claim the certified notice of appointment, the medical facility shall forward a copy of the certified mail receipt to the member's records, and a signed statement documenting the member's failure to appear for the periodic physical examination to CHNAVPERs or CMC (MMSR) and President, PEB. If the certified notice of appointment is returned due to the member not being at that address, contact CHNAVPERs or CMC (MMSR) for a new address. If none exists, return all records to CHNAVPERs/CMC (MMSR).

### **3613 Admission For Inpatient Observation**

Whenever inpatient observation is desirable or necessary for a proper evaluation, admission and retention as an inpatient for a period of as much as 10 days are authorized. This length of inpatient observation may be extended upon authorization of CHNAVPERs

or CMC (MMSR), as appropriate. It is particularly important that admission as an inpatient be considered for proper evaluation of psychiatric (neuropsychiatry) cases.

**3614 Report Of Periodic Physical Examination**

a. Format. The report may be prepared in medical board report, letter or narrative format.

b. Content. The report shall contain:

(1) the current address and contact telephone number of the member;

(2) an interval history since the last examination with particular reference to the member's employment and time lost (there from) due to the disability for which retired;

(3) a comprehensive physical examination, reporting all physical impairments, degree of impairment, and the examiner's findings associated with each impairment. Included will be any impairment from which the member has recovered and new ones acquired while on the TDRL. Advice of consultants should be obtained if the examining physician(s) are in doubt as to an actual physical condition or diagnosis;

(4) all clinical evaluations and laboratory studies necessary to document the member's physical condition;

(5) information regarding the member's current condition and prognosis including current stability and the likelihood of significant change within the remaining statutory time the member might remain on the TDRL and a comparative estimate of changes relative to the member's previous condition;

(6) in the case of psychiatric disabilities, a statement(s) as to the current degree of impairment of industrial adaptability and social adaptability. Also see paragraph 3616 and 3619; and

(7) a statement as to whether disclosure to the member of information relative to his or her physical or mental condition, or a personal appearance before the PEB would be detrimental to the member's physical or mental health.

(8) All members who served in Southwest Asia Theater of Operations (SWATO ) must have either a CCEP evaluation or a waiver if the medical diagnosis included in the MEB report are assessed to be related to illnesses that are directly or causally related to service in this theater. If this was not done before the original MEB, it must be included with the periodic examination.

**3615 TDRL Periodic Examinations**

In addition to the requirements specified above, TDRL periodic examinations shall address:

- a. An estimate of change since the previous examination.
- b. All medical impairments diagnosed since the member was placed on the TDRL , to include:
  - (1) Whether the new diagnosis was caused either by the condition for which the member was placed on the TDRL or the treatment received for such a condition.
  - (2) If not caused by the condition for which the member was placed on the TDRL, whether the member's medical records document incurrence or aggravation of the condition while the member was in a military duty status; and if so, whether the condition was cause for referral into the DES at the time the member was placed on the TDRL.
- c. The stability of the condition. If the condition remains unstable, the report of examination shall address the progress of the disability and a suggested period (not to exceed 18 months) for the next examination.
- d. A detailed occupational history and an indication of pertinent social and recreational activities, and activities of daily living.

### **3616 Competency**

TDRL periodic examinations shall include the results of a competency board when the member has a functional or organic disorder that makes questionable the member's ability to handle personal affairs and to understand and cooperate in MEB and PEB proceedings.

### **3617 New Diagnoses**

A fitness and compensable determination shall be made on all diagnoses present during the period of TDRL evaluation. When a member is determined Fit for the condition for which he or she was placed on the TDRL, but Unfit for a noncompensable condition incurred while on the TDRL, separate the member from the TDRL without entitlement to disability benefits.

### **3618 TDRL Reevaluation With Regard To Compensability Of New Diagnoses/Re-evaluation Of Category III Conditions**

a. Conditions newly diagnosed during TDRL periodic physical examinations shall be compensable upon finalization when:

- (1) the condition is unfitting; and
- (2) the condition was caused by the condition for which the member was placed on the TDRL, or directly related to its treatment; or
- (3) the evidence of record establishes that the condition either was incurred while the member was entitled to basic pay, or as the proximate result of performing duty, whichever is applicable, and was an unfitting disability at the time the member was placed

on the TDRL . Otherwise, such conditions shall be deemed unfitting due to the natural progression of the condition and noncompensable under chapter 61 of 10 U.S.C. (reference (a)), although the member may be eligible for benefits for these conditions under the DVA.

b. During the review of individual TDRL cases, the Informal and Formal PEBs will not consider those diagnoses previously categorized as Condition III. A final determination regarding a member's fitness for duty or recommended placement on the PDRL will be made based upon review of evidence pertaining to previously designated Category I or II conditions, or for conditions meeting the criteria of "new" diagnosis.

**3619 Periodic Physical Examination Reports In Cases In Which Mental Competency Was Or Is An Issue**

a. In addition to the paragraph 3614 requirements above, whenever a member on the TDRL was earlier found mentally incompetent or incapable of managing his or her affairs, the report shall contain either a statement that the member continues to be incompetent, or a finding of restoration of competency .

b. If a member was not earlier declared incompetent and his or her mental condition has deteriorated such that mental competency is an issue, a competency board shall be convened in accordance with paragraph 3905 of enclosure (3) of this instruction.

**3620 Disposition Of The Report Of Periodic Physical Examination By The Examining Facility**

a. Copy of Report To Member. Unless disclosure of the information contained therein would adversely affect his or her physical or mental health, provide the member a copy of the report by mail with instructions to send any comments directly to the President, Physical Evaluation Board, 720 Kennon Street SE Suite 309, Washington Navy Yard, Washington DC 20374-5023. If the member is incompetent, provide the report to the guardian .

b. Forwarding To President, PEB. The commanding officer shall forward the report, together with the medical records within 30 days following completion of the examination to the President, Physical Evaluation Board (TDRL ), 720 Kennon Street SE Suite 309, Washington Navy Yard, Washington DC 20374-5023.

c. Copy to CHNAVPERS/CMC (MMSR-4). The commanding officer shall forward a copy of the report to CHNAVPERS/CMC (MMSR-4) for historical record.

**3621 Travel Expenses**

a. General. A member on the TDRL is entitled to travel and transportation allowances authorized for members in his or her retired grade traveling in connection with temporary duty while on active duty, by the Joint Federal Travel Regulations (JFTR) for periodic physical, examinations and any appearances before the PEB. (10 U.S.C. 1210(g)).

b. Escorts/Attendants. The discussion in paragraph 3111e concerning an accompanying attendant is applicable to TDRL personnel.

c. Reimbursement. To obtain reimbursement, a travel claim and properly endorsed orders showing travel actually performed are required. Submit claims in accordance with the instructions/addresses included with the orders.

**3622 Action On Cases By The Physical Evaluation Board Following Periodic Physical Examination**

Upon acceptance of a report of a periodic physical examination or a report of other current medical examination, the PEB shall evaluate such report and take one of the following actions:

a. For Conditions Not Stabilized And Not Near 5 Years On The TDRL :

(1) Members on the TDRL for less than 5 years whose conditions have not stabilized will be retained on the TDRL.

(2) A member's disability rating will not be changed during the period a member is assigned to the TDRL.

(3) A member who is continued on the TDRL does not have the right to demand a formal hearing.

b. For Conditions Which Have Stabilized Or Are Near 5 Years On The TDRL :

(1) Members on the TDRL for 5 years or whose conditions have stabilized or become permanent at the time of the periodic physical evaluation will be processed as follows:

(a) Fit

(b) Unfit, separate with benefits

(c) Unfit, retired to the PDRL

(2) Rate members on the TDRL under the VASRD criteria in effect at the time of their final reevaluation. VASRD rating policies for military members are authorized/implemented pursuant to 10 U.S.C. Section 1210c.

**3623 Removal From The TDRL**

Remove a member's name from the TDRL when:

a. The PEB determines that:

(1) The member is Fit to continue naval service. TDRL members determined Fit to continue naval service shall be entitled to a Formal PEB since removal from the TDRL represents a change in military status; or

(2) The member is Unfit to continue naval service. TDRL members determined Unfit to continue naval service and who have achieved maximum improvement or whose disability is permanent should have their case finalized by the fifth anniversary of placement on the TDRL. In the event that a member desires to contest the Unfit finding or the disability rating, the member shall be entitled to a Formal PEB.

b. The member is administratively removed by CHNAVPERS/CMC (M&RA) on the fifth anniversary of placement on the TDRL for failure to report for periodic examination and separated without entitlement to any benefits under Chapter 61 of 10 U. S. C. (reference (a)). See paragraph 3609.

**3624 Disposition After Processing By The Physical Evaluation Board**

a. Retention On The TDRL . The member maintains the status on the TDRL until evaluation by the PEB following the next periodic physical examination, or until administratively removed.

b. Removal From The TDRL

(1) Administrative Removal. See paragraph 3609.

(2) Fit to continue naval service . See paragraphs 3623 and 3625.

(3) Separation. See paragraph 3627.

(4) Retirement. See paragraph 3628.

**3625 Fit To Continue Naval Service Following Evaluation Of Periodic Physical Examination - Reenlistment Or Reappointment**

Assignment to the TDRL and disability retirement payments will terminate upon a determination by the PEB that a member is Fit to perform military duties. The member will be afforded the opportunity to re-enter military service if the member seeks reentry:

a. Members Of Regular Components

(1) Enlisted Members. An enlisted member of a regular component may be allowed to reenlist in his or her regular component provided he or she otherwise is qualified for reenlistment. An enlisted member of a regular component shall have either his or her status on the TDRL and disability retired pay terminated on the date preceding reenlistment in the regular component of which he or she was a member before being placed on the TDRL. Any such reappointment or reenlistment shall be in a rank, grade, or rating not lower than the rank, grade, or rating permanently held by the member at the time his or her name was placed on the TDRL, and may be in the rank, grade, or rating immediately above the rank, grade or rating permanently held. For the purpose of being placed on a lineal list, promotion list, etc., the member will be given such seniority in rank, grade, or rating, or will be credited with such years of service as the SECNAV may authorize. In this connection,



consider the probable opportunities for advancement and promotion to which the member might reasonably have been entitled had it not been for the placement of his or her name on the TDRL.

(2) Officers. With his consent, an officer of a regular component shall be recalled to active duty and, as soon as practicable, be reappointed to the active list of a regular component, even if this means that there will be a temporary increase in the number of officers authorized for his grade. Any such reappointment shall be in a rank or grade not lower than the rank or grade permanently held by the member at the time his or her name was placed on the TDRL, and may be in the rank or grade immediately above the rank or grade permanently held. For the purpose of being placed on a lineal list, promotion list, etc., the member will be given such seniority in rank or grade, or will be credited with such years of service as SECNAV may authorize. In this connection, consideration will be given to the probable opportunities for advancement and promotion to which the member might reasonably have been entitled had it not been for the placement of his or her name on the TDRL. An officer in a regular component shall have disability retired pay terminated on the date preceding recall to active duty.

b. Members Of Reserve Components. A member of a reserve component may be reappointed or reenlisted as the case may be, in the reserve component. A member of a reserve component, whether officer or enlisted, shall have his or her status on the TDRL and disability retired pay terminated on the date preceding reappointment or reenlistment in a reserve component.

c. Members Of The Fleet Reserve Or Fleet Marine Corps Reserve. A member of the Fleet Reserve or Fleet Marine Corps Reserve, found Fit to continue naval service with less than 30 years in service, shall resume his or her status in the Fleet Reserve or Fleet Marine Corps Reserve in the grade held when placed on the TDRL, or the next higher grade if considered qualified therefore in view of 10 U.S.C. 1210. Members of the Fleet Reserve or the Fleet Marine Corps Reserve found Fit to continue naval service who have 30 or more years in service will be permanently retired.

### **3626 Current Periodic Examination**

Service members on the TDRL shall not be entitled to permanent retirement or separation with disability severance pay without a current TDRL or DVA periodic examination acceptable to the service Secretary .

### **3627 Disability Less Than 30 Percent Following Evaluation Of Periodic Physical Examination**

a. Separation. A member on the TDRL who has less than 20 years of active service computed under 10 U.S.C. 1208 and a physical disability ratable at less than 30 percent disability (but continues to render him or her Unfit to continue naval service ) under the VASRD in use at the time of determination shall be removed from the TDRL and may be separated under 10 U.S.C. 1203 or 1206, whichever applies in accordance with 10 U.S.C. 1210(e).

b. Severance Pay. If the disability is ratable at less than 30 percent but continues to render the member Unfit to continue naval service, and if the member has served at least six months, but less than 20 years of active duty (and will not be entitled to retired pay or retainer pay by other provisions of law), he or she will be discharged with severance pay computed in accordance with 10 U.S.C. 1212.

c. Exceptions To Separation With Severance Pay

(1) Reversion To Former Status - Members Of The Fleet Reserve Or Fleet Marine Corps Reserve. A member of the Fleet Reserve or Fleet Marine Corps Reserve on the TDRL who has 20 years service computed under 10 U.S.C. 1208 and who, as a result of a periodic physical examination, will become entitled to severance pay under 10 U.S.C., Chapter 61, shall be given an opportunity to request that his or her name be removed from the TDRL and that his or her status in the Fleet Reserve or Fleet Marine Corps Reserve be resumed.

(2) Transfer To Fleet Reserve Or Fleet Marine Corps Reserve. Members having completed 20 years or more of active service under 10 U.S.C. 6330. A member on the TDRL who has 20 years service computed under 10 U.S.C. 1208 and who, as a result of a periodic physical examination, will become entitled to severance pay under 10 U.S.C., Chapter 61, shall be given the opportunity to request transfer to the Fleet Reserve or Fleet Marine Corps Reserve if the member is eligible for transfer under 10 U.S.C. 6330.

(3) Transfer To Inactive Status List. Officers and enlisted members of the Naval and Marine Corps Reserve on the TDRL who have at least 20 years of service computed under 10 U.S.C. 127321 and who, as a result of a periodic physical examination, are determined to be entitled to severance pay under 10 U.S.C., Chapter 61, shall be given an election, instead of being separated, to request transfer to the inactive status list under 10 U.S.C. 1209 and 1335, to receive retired pay at age 60.

**3628 Permanent Retirement**

a. Members With 20 Years Or More Of Service Computed Under 10 U.S.C. 1208. If, as a result of a periodic examination or upon final determination, it is determined that a member's physical disability is of a permanent nature, and if he or she has at least 20 years of service computed under 10 U.S.C. 1208, remove the member's name from the TDRL and retire him or her under 10 U.S.C. 1201 or 1204, whichever applies, with retired pay computed under 10 U.S.C. 1401.

b. Members With Less Than 20 Years Of Service Computed Under 10 U.S.C. 1208. If, as a result of a periodic examination, or upon final determination, it is determined that the member's physical disability is of a permanent nature, and is at least 30 percent under the VASRD (as modified by this instruction) in use at the time of the determination, remove the member's name from the TDRL and retire him or her under 10 U.S.C. 1201 or 1204 whichever applies.

**3629 – 3699 Reserved**