

ENCLOSURE 4: PHYSICAL EVALUATION BOARD PROCEDURES

PART 1 - PHYSICAL EVALUATION BOARD POLICY

4101 The President, Physical Evaluation Board

a. Reports to the DIRNCPB and performs duties assigned by the DIRNCPB and this instruction.

b. President, PEB shall:

(1) oversee the daily workings and administration of the Informal PEB, Formal PEB, counseling offices, and DES staff;

(2) refer to an appropriate board the cases of active duty personnel, personnel on the TDRL, inactive-duty reservists, and others referred for consideration as the result of:

(a) reports of medical boards;

(b) periodic physical examinations of TDRL members; and

(c) requests from SECNAV, CHNAVPERS, CMC (M&RA), COMNAVRESFOR, the DIRNCPB, and CHBUMED;

(3) establish and maintain for the DIRNCPB a record in each case;

(4) dispose of case files in accordance with SECNAVINST 5212.5D;

(5) protect the privacy of individuals whose records are reviewed by the PEB in accordance with SECNAVINST 5211.5D

(6) perform such other specific duties and exercise such other authority as set forth elsewhere in this instruction.

4102 Legal Review

Prior to issuing a Findings Letter, the President, PEB will ensure that the following cases are reviewed for legal sufficiency:

a. by NCPB legal counsel in cases designated in writing by the DIRNCPB;

b. by the OJAG for those cases specified in paragraph 4(d)(4) of the basic instruction.

c. all other cases will receive a quality assurance review and may be referred for NCPB legal counsel review when directed by President, PEB.

4103 Error On Legal Review

a. If the President, PEB concurs with the determination of the legal reviewer that there is an error, PPEB may direct or take corrective action, to include complete reconsideration (with recorded votes) by either an Informal or Formal PEB.

b. If the President, PEB does not concur with the legal reviewer, refer the case to the DIRNCPB for action consistent with paragraph 4c of the basic instruction.

4104 Cancellation And Correction Of Findings Letters And Notification Of Decision Letters

a. The President, PEB may modify or cancel Findings Letters and Notification of Decision Letters, and direct appropriate substitute disposition in those cases in which:

(1) there is determined to have occurred an administrative, clerical, legal, or mathematical error in the record of proceedings, and the correction does not affect the disposition of the individual or change the computation of disability compensation on the basis of percentage of disability;

(2) the member has been discharged under other provisions of law;

(3) the member has been rehospitalized or is pending surgery, provided retirement or separation has not occurred;

(4) a member has demanded a hearing after having previously accepted findings following an Informal PEB; or

(5) such action is directed by the SECNAV or the DIRNCPB.

b. If the correction of an error would affect the disposition or adversely change the computation of disability retirement pay, the President, PEB may modify or cancel Findings Letters and Notification of Decision Letters. The member shall be notified and given 15 days from receipt of such notice in which to submit a PFR before such correction is made.

4105 Processing Final PEB Findings from A Formal PEB

Following a Formal PEB and subject to legal and quality assurance review requirements discussed in this instruction, the President, PEB will issue the PEB findings as follows:

a. In cases where there are no legal, medical, or quality assurance errors, the President, PEB shall issue the findings of the Formal PEB as the PEB findings.

b. In cases where an error is identified on legal review, the President, PEB shall handle the case in accordance with paragraph 4103 of this instruction.

c. Formal PEB findings will undergo a quality assurance review by QA personnel and a medical review by the Medical Advisor to the President, PEB (as needed) prior to

issuance. If during this process the President, PEB determines that a change in findings from that recommended by the Formal PEB is warranted, and this change is adverse to the member (a finding of Fit to continue naval service is not adverse), the President, PEB shall request, after consultation with the PEB Legal Advisor, the DIRNCPB to invalidate the initial Formal proceedings and order a second Formal hearing. In those cases where, after the quality assurance review and after consultation with the Medical Advisor and PEB Legal Advisor, the President, PEB determines that a change in findings is warranted, and this change is not adverse to the member, the President, PEB without a second Formal hearing, may issue new findings.

4106 Processing Special Interest Cases

See paragraph 3105, Special Interest Cases, or paragraph 3704, Flag and Medical Corps Officers.

4107 Processing TDRL Cases

See enclosure (3), part 6 of this instruction.

4108 Processing Requests For Permanent Limited Duty (PLD) Status

See enclosure (6) of this instruction.

4109 Processing Fit To Continue Naval Service Cases When Member Requests A Formal Hearing

a. A member who has been found Fit to continue naval service or Physically Qualified for continued naval service from the review of the Informal PEB has no right to a Formal PEB hearing or a Petition for Relief by DIRNCPB.

b. The President, PEB, may grant a request for a hearing before a Formal PEB or recommend to the DIRNCPB, that the request be denied. The DIRNCPB, upon review of the case may grant the request for a hearing or deny it. The decision of the Director in any case will not be subject to appeal.

4110 Processing Cases Containing A Condition Not Constituting A Physical Disability (See paragraph 2016)

a. If a medical board reports only a condition or defect not constituting a disability, the case shall be rejected and referred by the President, PEB, back to the submitting MTF.

b. If a medical board reports conditions that include both physical disabilities and conditions not constituting physical disabilities, only the former shall be considered in determining the member's fitness to continue naval service. If the member is Fit to continue naval service, but may be unsuitable for continued military service due to a condition not constituting a physical disability, the case will be forwarded to the appropriate service headquarters for action as described in (a) above, unless the member is accorded a Formal PEB. If, still found Fit at the Formal PEB, the case will then be forwarded to the service headquarters.

4111 Categorization Of Findings

All PEB findings should be arranged into four categories for members found Unfit to continue naval service :

- a. Category I: All Unfitting Conditions
- b. Category II: Those Conditions That Are Contributing to the Unfitting Condition.
- c. Category III: Those Conditions That Are Not Separately Unfitting, And Do Not Contribute To The Unfitting Condition.
- d. Category IV: Conditions, Which Do Not Constitute A Physical Disability .

Note: Only Category I and Category II conditions will be rated by the PEB.

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