



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

December 16, 2009

Mr. John A. Scocos
President
National Association of State Directors of Veterans Affairs (NASDVA)
20 W. Muffin Street
Madison, WI 53703

Dear Mr. Scocos,

The purpose of this letter is to ensure you and your membership are aware that the Department of Defense (DoD) Physical Disability Board of Review (PDBR) is currently adjudicating the cases of eligible veterans, many of whom are members of your organization and would like to appeal the decisions of their Physical Evaluation Board.

On 28 January 2008, President Bush signed the 2008 National Defense Authorization Act, directing the DoD to stand up the PDBR. DoD Instruction (DoDI) 6040.44 further designated the Air Force as the Lead Component to establish, operate and manage the PDBR.

The Office of the Secretary of Defense is committed to ensuring the PDBR is properly staffed and resourced to thoroughly review the cases of those wounded warriors/deserving ill or injured service members ensuring they are treated fairly and equitably, and that they receive due process and justice.

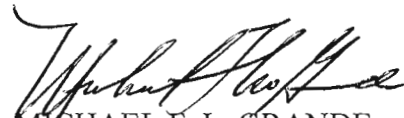
The PDBR will reassess the accuracy and fairness of the combined disability ratings assigned service members who were discharged as unfit for continued military service by the Military Departments with a combined disability rating of 20% or less and were not found to be eligible for retirement. When appropriate, the PDBR will recommend that Military Departments correct discrepancies and errors in such ratings. The PDBR can not lower the original PEB rating, it can recommend that it remain the same or be increased as appropriate.

The House and Senate Armed Services Committees have closely tracked and continue to track the progress and processes of the PDBR. We have reported back to each committee to assure them we are compliant with the Congressional intent of Section 1554(a). The Senate Armed Services Committee staffers are particularly concerned over the historical inconsistent application of rating disabilities between services. There is a definite Congressional push, from both sides of the Hill, for the Department of Defense to work more closely with the Department of Veterans Affairs to care for those men and women who suffered injuries during service to our country. Consistent with this notion, the recently amended DoDI 6040.44 authorizes the PDBR to re-adjudicate the decisions of the services Physical Evaluation Boards using only the Veterans Affairs Schedule for Rating Disabilities (VASRD).

RECEIVED JAN 19 2010 *RLC*

The PDDBR is committed to adjudicating cases in a manner that provides for a fair and comprehensive review of the case files of our wounded warriors who incurred their disabilities in their service to our great, and grateful, nation. I appreciate your commitment to our veterans and trust you will share this information with your membership.

Thank you in advance for your help in publicizing our board to your constituency.

A handwritten signature in black ink, appearing to read "Michael F. LoGrande".

MICHAEL F. LoGRANDE

President

DoD Physical Disability Board of Review

Attachments:

Frequently Asked Questions

FREQUENTLY ASKED QUESTIONS

What is a PDBR review?

The FY 2008 NDAA requires the military services, upon request, to review certain separations for medical conditions where the rating was 20 percent or less and the member did not otherwise retire. The review will evaluate whether, under the applicable guidance in effect at the time, the rating awarded was fair and accurate.

Whose ratings can be reviewed?

The rating of members, to include members of the United States Coast Guard, as described above who were separated from between September 11, 2001 and December 31, 2009 can request this review.

Who can request this review?

The former service member, their surviving spouse, next of kin or legal representative may request this review.

How long do I have to apply?

At the present time, no time limit or cutoff date has been established for this review.

How do I request this review?

Applications should be submitted to the Central Intake and Tracking Unit (CITU) located at Randolph AFB, TX on a form, DD Form 294, *Application for Review of Physical Disability Separation from the Armed Forces of the United States*, or computer-generated equivalent. This form is available at the DOD form site <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm> (under "DoD Forms Inventory 0001-0499"). The applications may be mailed to the following address: SAF/MRBR, 550-C Street West, Suite 41 Randolph AFB, TX 78150-4743. Due to the need for an original signature, applications may not, as of this date, be submitted electronically.

When will applications be accepted?

The CITU began accepting application for review on January 12, 2009. **I was not in the Air Force; why am I mailing my application to Randolph AFB?**

The Department of Defense (DoD) has designated the Air Force as lead component for implementing the PDBR process. As such, the AF has overall responsibility for case tracking and reporting, although the actual case evaluation and adjudication is done in a joint adjudication unit with all Services (and components) represented. The Under Secretary of Defense for Personnel and Readiness retains overall responsibility for program implementation.

What should I include with my application?

An applicant may submit statements, briefs, medical records, or affidavits in support of their application. Unless requested by the intake unit, the applicant does not need to send medical records that are already included among his or her service medical documents or the medical separation paperwork

(informal board, formal board and appeal files and results).

Is there another way this review occurs?

Under special circumstances, the PDBR can initiate a review but if this occurs, the PDBR will contact the former member, explain why the board believes a review is appropriate and ask for his/her consent. If consent is not given, there will be no review.

What if I do not consent to a board initiated review and then later change my mind?

You may subsequently request a board review.

What is the difference between a Board for Correction of Military (or Naval) Records (BCMR/BCNR) review and a PDBR review?

This is a very important point and you should understand there are several differences between the scope and the consequences of the two reviews. To help you compare you may wish to refer to this comparison chart. Note: a version of this chart is on the DD 294.

COMPARISON – BCMR/BCNR VERSUS PDBR REVIEW OF RATING

CHARACTERISTIC	BCMR	PDBR
Panel Composition	3 civilians in grade of GS-15 and above	3 military officers in grade of 05/06 (or civilian equivalents); Board president 06 or civilian equivalent only
Review Authority	May apply for review of military record, within three years of error/injustice, (may be waived in the interest of justice)	Medical separation 20% or less where member did not retire finalized between 11 September 2001 and 31 December 2009
Review Process	Application submitted, medical, personnel or legal advisories prepared and served on applicant with chance to comment before panel review and vote	Application submitted, then case summarized by PDBR medical member (or other experts) for presentation to PDBR before vote. Applicant can submit records from non DOD sources
Panel Outcome	Recommendation or Decision	Recommendation only

The government will not pay for an attorney to advise you in this matter.

Can my service disability rating be lowered?

No. The PDBR cannot lower a service disability rating.

Can I appear in person?

The PDBR is a document review only. There is no provision for a personal appearance.

How long will this review take?

Since this is an entirely new process, it is not possible to come up with an estimate at this time.

Why does this group need my VA records?

Part of the PDBR review process is to consider the rating(s) previously awarded to an applicant by the VA for his or her unfitting medical condition(s), but particularly those awarded with an effective date within 12 months of the applicant's date of separation. Access to applicable VA medical documents and disability rating rationale(s) are necessary for this review.

Will my privacy be respected?

Yes. Only individuals with a need to know will have access to information from the applicant's service and medical records.

What if I do not consent to release of my VA records?

If the applicant does not consent to a release of DVA records, the service disability rating will be reviewed for fairness and accuracy but the comparison to the DVA rating will not be accomplished.

What if my VA disability determination is pending?

If the applicant's VA determination is pending, the applicant must decide whether they want the PDBR review without this information. The PDBR will take the VA determination (for the unfitting condition(s) only) into account as one factor. Although the objective is to compare the ratings, the significance of a higher VA rating may vary, but cannot serve as an automatic validation that an error has taken place. Therefore, it is difficult to set forth a general rule as to whether an applicant should wait for a VA determination letter before submitting an application for PDBR review, but an applicant should be aware the PDBR will not adjudicate the rating twice.

Where does this review take place?

The case evaluation and consideration (so-called adjudication) will take place in a joint (all services and components represented) central adjudication unit in Crystal City, VA created especially to perform this mission.

Who makes the final decision?

By law, the PDBR makes a recommendation to the applicant's Service Secretary who makes the final decision. This responsibility may be delegated to, but to no lower than, the Directors of the Review Boards Agencies (Army and Air Force) and for the Navy, the Assistant Secretary of the Navy

(Manpower and Reserve Affairs) or the Associate Counsel. These individuals are career members of the senior executive service (civilian general officer equivalents). As of 13 Jan 09, the Coast Guard was evaluating who would make the decision for their members.

How will I be notified?

The Secretary of the Military Department concerned, or the designated decision authority, will notify the applicant of the final decision and the consequences if the rating is changed including the effect upon benefits. The applicant's Service BCMR/BCNR, the VA, and Defense Finance and Accounting Servicer (DFAS) will be responsible for correcting the military and finance records or adjustment of other benefits where appropriate.

Will the decision be explained to me?

The final letter to the applicant will provide a rationale for the decision.

When will the correction be effective?

The military records will be corrected effective the date of execution of the Physical Evaluation Board's separation action. This is the same rule for BCMR/BCNR corrections.

Can I appeal the decision?

By law, the decision of the Secretary (or designee) is final. There are no provisions for appeal or reconsideration by the PDBR. On the other hand, previously denied BCMR/BCNR appeals may be reconsidered when relevant newly discovered evidence (not previously available) is presented.

Where can I find more specific guidance on the processing and criteria for the PDBR process?

The governing instruction for the PDBR process is DODI 6040.44 available at <http://www.dtic.mil/whs/directives/corres/pdf/604044p.pdf>.

Whom can I contact at the PDBR for additional questions not included on this list?

You may submit a question about processing procedures in writing to the intake unit at the following address: SAF/MRBR, 550-C Street West, Suite 41, Randolph AFB, TX 78150-4743. Please keep in mind, however, that this office will not offer advice or discuss the merits of your application.