

## 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**

<b>CHARACTERISTIC</b>	<b>BCMR</b>	<b>PDBR</b>
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

Burden of Proof	Member has the burden of proof to establish error or injustice. There is a presumption of regularity	Member need not allege anything, review accomplished upon request
Effective Date of Correction and Benefits Computation	Benefits retroactive to date of separation	Benefits retroactive to date of Physical Evaluation Board separation action
Standards	Will correct errors in records and/or remove an injustice	Rating reviewed for fairness and accuracy
Impact of Subsequent VA Rating	Within discretion of the Board	Will compare VA rating with particular attention to one with an effective date within 12 months of separation

### **Can I file with both the PDBR and BCMR /BCNR?**

If you file with the PDBR, you cannot ask your service BCMR/BCNR to review the issue of whether you should have received a higher rating for the same medical condition(s) that resulted in separation. However, you can ask your service BCMR/BCNR to review other issues such as whether you should have been rated for additional medical conditions. If you do not go to the PDBR, you can ask the BCMR/BCNR to consider all of the issues relevant to your separation, including the rating awarded for your unfit condition. Thus, the PDBR is a much more limited review than a BCMR/BCNR review.

**Example:** You were found unfit for a back problem and separated at 10 percent for this condition. You also had asthma problems but they were not found to be unfitting and thus were not part of your disability rating. You may only ask the PDBR to re-evaluate your back injury rating. In contrast, you could ask a BCMR/BCNR to change your record to show you were found unfit for both conditions. If you do not go to the PDBR, you could ask the BCMR/BCNR to do both; if you have been to the PDBR, the BCMR/BCNR will not review the rating for the back, but will consider whether you should have been found unfit (and received an additional rating) for the asthma or any other medical condition.

### **Which one should I choose?**

There is no easy or clear-cut answer. The choice is important and highly dependent upon the facts and circumstances of your case. The applicant should weigh all of the factors and make a choice only after careful consideration.

### **Is there someone who can help me make the choice?**

You should contact your local veterans' service organizations, several of which provide excellent advice and service on these issues.

### **Will the government pay for an attorney?**

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.