EXHIBIT 7

PPG-TAB A: AMPLIFICATION OF THE MINIMAL STANDARDS OF FITNESS FOR DEPLOYMENT TO THE CENTCOM AOR; TO ACCOMPANY MOD THIRTEEN TO USCENTCOM INDIVIDUAL PROTECTION AND INDIVIDUAL/UNIT DEPLOYMENT POLICY

1. General. This PPG-TAB A accompanies MOD THIRTEEN, Section 15.C. and provides amplification of the minimal standards of fitness for deployment to the CENTCOM area of responsibility (AOR). Individuals possessing a disqualifying medical condition must obtain an exception to policy in the form of a medical waiver prior to being medically cleared for deployment. The list of deployment-limiting conditions is not comprehensive; there are many other conditions that may result in denial of medical clearance for deployment based upon the totality of individual medical conditions and the medical capabilities present at that individual's deployed location. "Medical conditions" as used here also include those health conditions usually referred to as dental, psychological, and/or emotional.

A. Uniformed Service Members must meet Service standards of fitness according to Service regulations and policies, in addition to the guidance in the parent MOD 13. See MOD THIRTEEN REF E, F, G, H, I, P, and KK.

B. DoD civilian personnel with disqualifying medical conditions could still possibly deploy based upon an individualized medical assessment and approved medical waiver from the appropriate CENTCOM waiver authority (which shall be consistent with subparagraph 4.g.(3)(c) of DoDD 1404.10 and The Rehabilitation Act of 1973, as amended).

C. DoD Contract personnel will be evaluated for fitness according to DoDI 3020.41 (REF J).

D. Regardless of underlying diagnosis, waivers for disqualifying medical conditions will be considered only if all the following general conditions are met:

1. The condition is not of such a nature or duration that an unexpected worsening or physical trauma is likely to have a grave medical outcome or negative impact on mission execution.

2. The condition is stable and reasonably anticipated not to worsen during the deployment in light of the physical, physiological, psychological, and nutritional effects of assigned duties and location.

3. The condition does not require frequent clinical visits (more than quarterly), ancillary tests, or significant physical limitations, and does not constitute an increased risk of illness, injury, or infection.

4. There is no anticipated need for routine evacuation out of theater for continuing diagnostics or evaluations.

5. Any required, ongoing health care or medications anticipated to be needed for the duration of the deployment are available to the applicant in theater within the Military Health System or equivalent. Medication must have no special handling, storage, or other requirements (e.g., refrigeration, cold chain, or electrical power requirements). Medication must be well tolerated within harsh environmental conditions (e.g. heat or cold stress, sunlight) and should not cause significant side effects in the setting of moderate dehydration.

6. Individuals must be able to perform all essential functions of the position in the deployed environment, with or without reasonable accommodation, without causing undue hardship. In evaluating undue hardship, the nature of the accommodation and the location of the deployment must be considered. Further, the member's medical condition must not pose a significant risk of substantial harm to the member or others taking into account the condition of the relevant deployed environment, with particular consideration of areas of armed conflict in the AOR. See REF I.

7. The medical condition does not prevent the wear of personal protective equipment, including protective mask, ballistic helmet, body armor, and chemical/biological protective garments.

8. The medical condition does not prohibit required theater immunizations or medications.

9. The medical condition is not anticipated to significantly impair one's duty performance during the duration of the deployment.

2. Evaluating providers must consider that in addition to the individual's assigned duties, severe environmental conditions, extremes of temperature, high physiologic demands (water, mineral, salt, and heat management), poor air quality (especially particulates), limited dietary options, sleep deprivation/disruption, and emotional stress may all impact the individual's health. If maintaining an individual's health requires avoidance of these extremes or conditions, they should not deploy.

3. Evaluation of functional capacity to determine fitness in conditions of physiologic demand is encouraged for conditions which may impair normal functionality. This includes such things as a complete cardiac evaluation, to include stress imaging, when there is coronary artery disease or an official functional capacity exam (FCE) for orthopedic issues. The evaluating provider should pay special attention to any conditions which may present a hazard to the individual or others and/or preclude performing functional requirements in the deployed setting. Also, the type, amount, suitability, and availability of medications in the theater environment must be considered as potential limitations. Pre-deployment processing centers may vary in medical examination/screening procedures; individuals should contact their respective mobilization site for availability of a processing checklist.

4. The guidance in this document should not be construed as authorizing use of defense health program or military health system resources for health evaluations unless otherwise authorized. Generally, Defense Health Agency and Military Health System resources are not authorized for the purpose of pre-deployment or travel medicine evaluations for contractor employees IAW REF J. Local command, legal, contracting and resource management authorities should be consulted for questions on this matter.

5. Shipboard operations which are not anticipated to involve operations ashore are exempt from the deployment-limiting medical conditions listed below and will generally follow Service specific guidance. However, sovereign laws of some nations within the CENTCOM AOR may prohibit entry of individuals with certain medical conditions. Contingency plans for emergency evacuation of individuals with diagnoses that could result in or complicate medical care in theater following evacuation should be coordinated with and approved by the CENTCOM Surgeon prior to entering the AOR.

6. The general guidance from MOD THIRTEEN section 15.C applies to:

A. All personnel (uniformed service members, government civilian employees, volunteers, and DoD contractor employees) deploying to theater must be medically, dentally and psychologically

fit for deployment and possess a current Periodic Health Assessment (PHA) or physical. Fitness specifically includes the ability to accomplish tasks and duties unique to a particular operation and the ability to tolerate environmental and operational conditions of the deployed location.

B. The existence of a chronic medical condition may not necessarily require a waiver to deploy. Personnel with existing conditions, **other than those outlined in this document**, may deploy if either:

1. An approved medical waiver, IAW Section 15.C.3, is documented in the medical record.

OR

2. The conditions in Para. 1.D.1-1.D.9 are met. To determine stability and assess need for further care, for most conditions 90 days is considered a reasonable timeframe, subject to the examining provider's judgment. The exception to this is noted in paragraph 7.G. Psychiatric Conditions.

7. Documented medical conditions precluding medical clearance. A list of all possible diagnoses and their severity that may cause an individual to be non-deployable would be too expansive. *The medical evaluator must carefully consider whether the climate, altitude, nature of available food and housing, availability of medical, behavioral health, dental, surgical, and laboratory services, or whether other environmental and operational factors may be hazardous to the deploying person's health.* The following list of conditions should not be considered exhaustive. Other conditions may render an individual medically non-deployable (see paragraph 6). Medical clearance to deploy with any of the following documented medical conditions may be granted, except where otherwise noted, IAW MOD THIRTEEN Section 15.C. If an individual is found deployed with a pre-existing non-deployable condition and without a waiver for that condition, a waiver request to remain deployed should be submitted to the respective Component Surgeon. If the waiver request is denied, the individual will be redeployed out of the CENTCOM AOR. **Individuals with the following conditions will not deploy without an approved waiver:**

A. Specific Medical Conditions / Restrictions:

1. Asthma or other respiratory conditions that have a Forced Expiratory Volume-1 $\leq$ 50% of predicted despite appropriate therapy, that have required hospitalization in the past 12 months, or that requires daily systemic (not inhaled) steroids. Respiratory conditions that have been well controlled for 6 months and are evaluated to pose no risk of deterioration in the deployed environment may be considered for waiver.

2. Seizure disorder, either within the last year or currently on anticonvulsant medication for prior seizure disorder/activity. Persons on a stable anticonvulsant regimen, who have been seizure-free for one year, may be considered for waiver.

3. Diabetes mellitus, type 1 or 2, on pharmacotherapy or with $HgA_1C > 7.0$.

a. Type 1 diabetes or insulin-requiring type 2 diabetes.

b. Type 2 diabetes, on oral agents only, with no change in medication within the last 90 days and HgA1C $\leq$ 7.0 does not require a waiver if a calculated 10-year coronary heart disease risk percentage (see paragraph 7.B.7) is less than 15%. If the calculated 10-year risk is 15% or greater, further evaluation is required prior to waiver submission. See B.8. for more detailed instructions.

c. Newly diagnosed diabetics will require 90 days of stability, either on oral medications or with lifestyle changes, before a waiver will be considered. They

should also have documentation of a complete initial diabetic evaluation (eye exam, foot exam, nutrition counseling, etc.).

4. History of heat stroke. Those with no multiple episodes, persistent sequelae, or organ damage, and no episode within the last 24 months, may be considered for waiver.

5. Meniere's disease or other vertiginous/motion sickness disorder, unless well controlled on medications available in theater.

6. Recurrent syncope for any reason. Waiver request should include the etiology and diagnosis of the condition.

7. Endocrine conditions requiring replacement or adjustment therapies must be stable, require no laboratory monitoring or specialty consultation, and require only routine follow-up which must be available in the deployed location or by specific arrangement. Hormonal preparations must be administered by oral or transdermal routes, be within clinically appropriate dose parameters, have no special storage requirements, and not produce side effects which interfere with the normal performance of duties or require additional medications to manage.

8. Any musculoskeletal condition that significantly impairs performance of duties in a deployed environment. If there are concerns, an official functional capacity exam (FCE) should be performed and results included with the waiver request.

9. Migraine headache, when frequent or severe enough to disrupt normal performance of duties. Waiver submission should note history, frequency, severity, and functional impact of headaches, as well previous and current treatment regimens. Neurology evaluation and endorsement encouraged.

10. Nephrolithiasis, recurrent or currently symptomatic.

11. Pregnancy.

12. Obstructive sleep apnea (OSA). The OSA is diagnosed with an attended, in-laboratory polysomnography (PSG) with a minimum of 2 hours of total sleep time, that yields an apnea-hypopnea index (AHI), and/or respiratory disturbance index (RDI), of greater than 5 / hour. Unattended, home PSG is not acceptable for deployment purposes. For individuals previously diagnosed with OSA, updated or repeat PSG is not required unless clinically indicated (i.e. significant change in body habitus, corrective surgery or return of OSA symptoms). Individuals treated with an oral appliance require PSG documentation that OSA is controlled with its use. Individuals who are treated with automatic positive airway pressure (APAP), continuous positive airway pressure (CPAP) and bi-level positive airway pressure (BPAP) are acceptable as long as the condition being treated is OSA and not a more complex respiratory disorder. Complex OSA, central sleep apnea or OSA that requires advanced modes of ventilation such as adaptive servo-ventilation (ASV) or average volume assured pressure support (AVAPS) is generally non-deployable. Individuals using PAP therapy should deploy with a machine that has rechargeable battery back-up and sufficient supplies (air filters, tubing and interfaces/masks) for the duration of the deployment. Individuals deploying with PAP therapy to a location where the sleep environment has unfiltered air will typically not be granted waivers if a waiver is otherwise required per the guidance below. The following guidelines are designed to ensure that individuals with OSA are adequately treated and that their condition is not of the severity that would pose a safety risk should they be required to go without their PAP therapy for a significant length of time.

a. Symptomatic OSA (i.e. excessive daytime sleepiness) of any severity, with or without any treatment**.**

b. Asymptomatic mild OSA (diagnostic AHI and RDI < 15/hr): Deployable with or without treatment (PAP or otherwise). **No waiver required.**

c. Moderate OSA (diagnostic AHI or RDI ≥15/hr and < 30/hr): **No waiver required** to deploy if successfully treated (CPAP or otherwise), except to Afghanistan, Iraq, or Yemen.

d. Severe OSA (AHI or RDI ≥ 30/hr): Once successfully treated (PAP or otherwise), requires a waiver for deployment to any location in the AOR.

e. For moderate and severe OSA, adherence to positive airway pressure (PAP) therapy must be documented prior to deployment. Adherence is defined as PAP machine data download (i.e. compliance report) that reveals the machine is being used for at least 4 hours per night for greater than 70% of nights over the previous 30-day period.

13. History of clinically diagnosed traumatic brain injury (mTBI/TBI) of any severity, including mild. Waiver may not be required, but pre-deployment evaluation, which may include both neurological and psychological components, is needed per ref HH.

a. Individuals who have a history of a single mild Traumatic Brain Injury may deploy once released by a medical provider after 24-hours symptom free.

b. Individuals who have sustained a second mTBI within a 12-month period, may deploy after seven days symptom free and release by a medical provider.

c. Individuals who have had three clinically diagnosed TBIs (of any severity, including mild) since their last full neurological and psychological evaluation are required to have such an evaluation completed prior to deployability determination.

14. BMI > 35 with or without any significant comorbidity. Military personnel in compliance with Service body fat guidelines do not require a waiver. Morbid obesity (BMI > 40 or weight greater than 300 pounds) can generally not be supported. Civilians and contractors should submit a body fat worksheet with the waiver request. A BMI calculator is located at http://www.nhlbi.nih.gov/guidelines/obesity/BMI/bmicalc.htm

15. Any medical conditions (except OSA-see 10 above) that require certain durable medical equipment or appliances (e.g., nebulizers, catheters, spinal cord stimulators) or that requires periodic evaluation/treatment by medical specialists not readily available in theater.

B. Cardiovascular Conditions:

1. Symptomatic coronary artery disease. Also, see B.8.

2. Myocardial infarction within one year of deployment. Also, see B.8.

3. Coronary artery bypass graft, coronary artery angioplasty, carotid endarterectomy, other arterial stenting, or aneurysm repair within one year of deployment. Also, see B.8.

4. Cardiac dysrhythmias or arrhythmias, either symptomatic or requiring medication, electro-physiologic control, or automatic implantable cardiac defibrillator or other implantable cardiac devices**.**

5. Hypertension if controlled with a medication or lifestyle regimen that has been stable for 90 days and requires no changes does not require a waiver. Single episode hypertension found on predeployment physical should be accompanied by serial blood pressure checks (3 day BP checks) to ensure hypertension is not persistent.

6. Heart failure or history of heart failure.

7. Civilian personnel who are 40 years of age or older must have a 10-year CHD risk percentage calculated (online calculator is available at http://tools.acc.org/ASCVD-Risk-Estimator/). If the individual's calculated 10-year CHD risk is 15% or greater, the individual should be referred for further cardiology work-up and evaluation, to include at

least one of the following: graded exercise stress test with a myocardial perfusion scintigraphy (SPECT scan) or stress echocardiography as determined by the evaluating cardiologist. Results of the evaluation (physical exam, Framingham results, etc.) and testing, along with the evaluating cardiologist's recommendation regarding suitability for deployment, should be included in a waiver request to deploy.

8. Uncontrolled hyperlipidemia. Lipid screening should be accomplished IAW Service specific guidelines for lipid assessment. All others (e.g. civilians, contractors) ≥35 years old should have a lipid screening profile performed prior to deployment. While hyperlipidemia should be addressed IAW clinical treatment guidelines, hyperlipidemia values that are outside any of the following (Total Cholesterol > 260, LDL > 190, Triglycerides > 500), either treated or untreated, requires a waiver to be submitted.

C. Infectious Disease:

1. Blood-borne diseases (Hepatitis B, Hepatitis C, HTLV) that may be transmitted to others in a deployed environment. Waiver requests for persons testing positive for a blood borne disease should include a full test panel for the disease, including all antigens, antibodies, viral load, and appropriate tests for affected organ systems**.**

2. Confirmed HIV infection is disqualifying for deployment, IAW References I and T, service specific policies, and agreements with host nations. Note that some nations within the CENTCOM AOR have legal prohibitions against entering their country(ies) with this diagnosis.

3. Latent tuberculosis (LTBI). Individuals who are newly diagnosed with LTBI by either TST or IGRA testing will be evaluated for TB disease with at least a symptom screen and chest x-ray, and will have documented LTBI evaluation and counseling for consideration of treatment. Those with untreated or incompletely treated LTBI, including those with newly diagnosed LTBI, previously diagnosed LTBI, and those currently under treatment for LTBI will be provided information regarding the risks and benefits of LTBI treatment during deployment (see paragraph 15.G.6.C). Individuals meeting the above criteria **do not require a waiver** for deployment. Active duty TST convertors who have documented completion of public health nursing evaluation for TB disease and counseling for LTBI treatment described above **may deploy without a waiver** as long as all Service specific requirements are met.

4. History of active tuberculosis (TB). Must have documented completion of full treatment course prior to deployment. Those currently on treatment for TB disease may not deploy.

5. A CENTCOM waiver cannot override host or transit nation infectious disease or immunization restrictions. Active duty must comply with status of forces agreements; civilian deployers should contact the nation's embassy for up-to-date information.

D. Eye, Ear, Nose, Throat, Dental Conditions:

1. Vision loss. Best corrected visual acuity which does not meet minimum occupational requirements to safely perform duties. Bilateral blindness or visual acuity that is unsafe for the combat environment per the examining provider.

2. Refractive eye surgery. Personnel who have had laser refractive surgery must have a satisfactory period for post-surgical recovery before deployment. There is a large degree of patient variability which prevents establishing a set timeframe for full recovery. The attending ophthalmologist or optometrist will determine when recovery is complete.

a. Personnel are non-deployable while still using ophthalmic steroid drops post-

procedure.

b. Personnel are non-deployable for three months following uncomplicated photorefractive keratectomy (PRK) or laser epithelial keratomileusis (LASEK), or one month for laser-assisted in situ keratomileusis (LASIK) unless a waiver is granted.

c. Waiver request should include clearance from treating ophthalmologist or optometrist.

3. Hearing loss. Service members must meet all Service-specific requirements. Individuals must have sufficient unaided hearing to perform duties safely, hear and wake up to emergency alarms unaided, and hear instructions in the absence of visual cues such as lip reading. If there is any safety question, Speech Recognition In Noise Test (SPRINT) or equivalent is a recommended adjunct.

4. Tracheostomy or aphonia.

5. Patients without a dental exam within 12 months of deployment, or those who are likely to require evaluation or treatment during the period of deployment for oral conditions that are likely to result in a dental emergency.

a. Individuals being evaluated by a non-DoD civilian dentist should use a DD Form 2813, or equivalent, as proof of dental examination.

b. Individuals with orthodontic equipment require a waiver to deploy. Waiver requests to deploy should include a current evaluation by their treating orthodontic provider and include a statement that wires with neutral force are in place.

E. Cancer:

1. Cancer for which the individual is receiving continuing treatment or which requires frequent subspecialist examination and/or laboratory testing during the anticipated duration of the deployment.

2. Precancerous lesions that have not been treated and/or evaluated and that require treatment/evaluation during the anticipated duration of the deployment.

3. All cancers should be in complete remission for at least a year before a waiver is submitted.

F. Surgery:

1. Any medical condition that requires surgery (e.g., unrepaired hernia) or for which surgery has been performed and the patient requires ongoing treatment, rehabilitation or additional surgery to remove devices (e.g., external fixator placement).

2. Individuals who have had surgery requiring follow up during the deployment period or who have not been cleared/released by their surgeon (excludes minor procedures).

3. Individuals who have had surgery (open or laparoscopic) within 6 weeks of deployment.

4. Cosmetic, bariatric, or gender reassignment procedures are disqualifying until fully recovered with all follow-up and revisions complete, to include adjuvant counselling, medical treatment, and Service requirements. Special dietary and hygienic requirements cannot be reliably accommodated and may be independently disqualifying.

G. Psychiatric Conditions: Diagnostic criteria and treatment plans should adhere to Diagnostic and Statistical Manual of Mental Disorders, Fourth or Fifth edition (DSM-

IV/5) and current professional standards of care. Waiver submission should include information on applicant condition, including history and baseline symptoms of known disorders, severity of symptoms with and without treatment, and likelihood to recur or deteriorate in theater if exposed to operational activity. See reference KK. Waiver required for all conditions listed below (list is not inclusive).

1. Psychotic and bipolar-spectrum disorders are strictly disqualifying.
2. Any DSM IV/5-diagnosed psychiatric disorder with residual symptoms, or medication side effects, which impair social and/or occupational performance.
3. Any behavioral health condition that poses a substantial risk for deterioration and/or recurrence of impairing symptoms in the deployed environment.
4. Any behavioral health condition which requires periodic (beyond quarterly) counselling or therapy.
5. Chronic insomnia that requires regular or long-term use of sedative hypnotics / amnestics, benzodiazepines, and/or antipsychotics.
6. Anxiety disorders requiring use of benzodiazepines for management, or featuring symptoms of panic or phobia.
7. Post-Traumatic Stress Disorder, when not completely treated or when therapy includes use of benzodiazepines without additional anxiety diagnosis. Waiver submission should note if condition is combat-related, and, if so, comment on impact that return to theater could have on applicant well-being and performance.
8. Gender dysphoria, while not intrinsically disqualifying, does require underlying psychiatric, endocrine, and/or surgical issues (as applicable) to be stable and resolved, and all Service requirements must be met. Due to complex needs, those actively undergoing gender transition are generally disqualified until the process, including all necessary follow-up and stabilization, is completed.
9. Bulimia and anorexia nervosa.
10. Attention Deficit Disorder(ADD)/Attention Deficit Hyperactivity Disorder (ADHD). Evaluation and diagnosis should be appropriate per DSM IV/5 criteria, particularly if Class II stimulants are used for treatment. Specific clinical features or objective testing results should be included in waiver application for stimulant use. Dosages for medications should likewise be appropriate and justified by clinical presentation.
11. Psychiatric hospitalization within the last 12 months.
12. Suicidal Ideation or Suicide Attempt with the last 12 months.
13. Enrollment in a substance abuse program (inpatient, service specific substance abuse program or outpatient) within the last 12 months measured from time of discharge / completion of the program.
    a. A post-treatment period of demonstrated stability is required, the length of which will depend on individual patient factors.
    b. Substance abuse disorders (not in remission), actively enrolled in Service Specific substance abuse programs are not eligible for waiver.
14. Use of antipsychotics or anticonvulsants for stabilization of DSM IV or DSM-5 diagnoses.
15. Use of 3 or more psychotropics (e.g. antidepressants, anticonvulsants, antipsychotics, benzodiazepines) for stabilization, particularly if used to offset side-effects of other BH therapy.
16. Psychiatric disorders with fewer than three months of demonstrated stability from the last change in treatment regimen, including discontinuation.

17. Psychiatric disorders newly diagnosed during deployment do not immediately require a waiver or redeployment. Disorders that are deemed treatable, stable, and having no impairment of performance or safety by a credentialed mental health provider do not require a waiver to remain in theater.

a. Exceptions include diagnoses featuring bipolar, psychotic, or suicidal features. These individuals should be redeployed at soonest opportunity via medical evacuation with appropriate escorts and per TRANSCOM guidelines.

b. Diagnoses requiring the prescription of CSA-scheduled controlled substances will require an approved waiver to obtain routine refills of medication.

H. Medications – although not exhaustive, use of any of the following medications (specific medication or class of medication) is disqualifying for deployment, unless a waiver is granted:

1. Any medication which, if lost, misplaced, stolen, or destroyed, would result in significant worsening or grave outcome for the affected individual before the medication could be reasonably replaced.

2. Any medication which requires periodic laboratory monitoring, titrated dosing, or special handling/storage requirements, or which has documented side effects, when used alone or in combination with other required therapy, which are significantly impairing or which impose an undue risk to the individual or operational objectives.

3. Blood modifiers:

a. Therapeutic Anticoagulants: warfarin (Coumadin), rivaroxaban (Xarelto).

b. Platelet Aggregation Inhibitors or Reducing Agents: clopidogrel (Plavix), anagrelide (Agrylin), Dabigatran (Pradaxa), Aggrenox, Ticlid (Ticlopidine), Prasugrel (Effient), Pentoxifylline (Trental), Cilostazol (Pletal). Note: Aspirin use in theater is to be limited to individuals who have been advised to continue use by their healthcare provider for medical reasons; such use must be documented in the medical record.

c. Hematopoietics: filgrastim (Neupogen), sargramostim (Leukine), erythropoietin (Epogen, Procrit).

d. Antihemophilics: Factor VIII, Factor IX.

4. Antineoplastics (oncologic or non-oncologic use): e.g., antimetabolites (methotrexate, hydroxyurea, mercaptopurine, etc.), alkylators (cyclophosphamide, melphalan, chlorambucil, etc.), antiestrogens (tamoxifen, etc.), aromatase inhibitors (anastrozole, examestane, etc.), medroxyprogesterone (except use for contraception), interferons, etoposide, bicalutamide, bexarotene, oral tretinoin (Vesanoid).

5. Immunosuppressants: e.g., chronic systemic steroids.

6. Biologic Response Modifiers (immunomodulators): e.g., abatacept (Orencia), adalimumab (Humira), anakinra (Kineret), etanercept (Enbrel), infliximab (Remicade), leflunomide (Arava), etc.

7. Antiretrovirals used for Pre-Exposure Prophylaxis (PrEP): e.g. tenofovir disoproxil fumarate/emtricitabine (Truvada), tenofovir alafenamide (Vemlidy)

8. Any CSA Schedule I-V controlled substance, including but not limited to the following:

a. Benzodiazepines: lorazepam (Ativan), alprazolam (Xanax), diazepam (Valium), flurazepam (Dalmane), clonazepam (Klonopin), etc.

b. Stimulants: methylphenidate (Ritalin, Concerta), amphetamine/dextroamphetamine (Adderall), dextroamphetamine (Dexedrine),

dexmethylphenidate (Focalin XR), lisdexamfetamine (Vyvanse), modafinil (Provigil), armodafinil (Nuvigil), etc.

c. Sedative Hypnotics/Amnestics: zolpidem (Ambien, Ambien CR), eszopiclone (Lunesta), zaleplon (Sonata), estazolam (Prosom), triazolam (Halcion), temazepam (Restoril), etc. Note: single pill-count issuances for operational transition do not generally require a waiver.

d. Narcotics/narcotic combinations: oxycodone (Oxycontin, Percocet, Roxicet), hydrocodone (Lortab, Norco, Vicodin), hydromorphone (Dilaudid), meperidine (Demerol), tramadol (Ultram), etc.

e. Cannabinoids: marijuana, tetrahydrocannabinol (THC), dronabinol (Marinol), etc. Note that possession or use may be a criminal offense in the CENTCOM AOR.

f. Anorexiants: phendimetrazine (Adipost), phentermine (Zantryl), etc.

g. Androgens and Anabolic Steroids: testosterone (Axiron, AndroGel, Fortesta, Testim), oxymetholone (Anadrol-50), methyltestosterone (Methitest), etc. Preparations used in accordance with standards outlined in 7.A.7 above do not require separate waiver. All injected preparations require waiver.

9. Antipsychotics, including atypical antipsychotics: haloperidol (Haldol), fluphenazine (Prolixin), quetiapine (Seroquel), aripiprazole (Abilify), etc.

10. Antimanic (bipolar) agents: e.g., lithium**.**

11. Anticonvulsants, used for seizure control or psychiatric diagnoses.

a. Anticonvulsants (except those listed below) which are used for *non-psychiatric* diagnoses, such as migraine, chronic pain, neuropathic pain, and post-herpetic neuralgia, are not intrinsically deployment-limiting as long as treated conditions meet the criteria set forth in this document and accompanying MOD THIRTEEN. No waiver required. Exceptions include:

b. Valproic acid (Depakote, Depakote ER, Depacon, divalproex, etc.).

c. Carbamazepine (Tegretol, Tegretol XR, etc.).

d. Lamotrigine (Lamictal)

12. Varenicline (Chantix).

13. Botulinum toxin (Botox): Current or recent use to control severe pain.

14. Insulin and exenatide (Byetta).

15. Injectable medications of any type, excluding epinephrine (Epipen), though underlying allergy may require separate waiver.

EXHIBIT 8

Department of Defense
INSTRUCTION

NUMBER 1332.18
August 5, 2014

USD(P&R)

SUBJECT: Disability Evaluation System (DES)

References: See Enclosure 1

1. PURPOSE. This instruction:

a. Reissues DoD Directive (DoDD) 1332.18 (Reference (a)) as a DoD instruction (DoDI) in accordance with the authority in DoDD 5124.02 (Reference (b)).

b. Establishes policy, assigns responsibilities, and provides procedures for referral, evaluation, return to duty, separation, or retirement of Service members for disability in accordance with Title 10, United States Code (U.S.C.) (Reference (c)); and related determinations pursuant to sections 3501, 6303, 8332, and 8411 of Title 5, U.S.C. (Reference (d)); section 104 of Title 26, U.S.C. (Reference (e)); and section 2082 of Title 50, U.S.C. (Reference (f)).

c. Incorporates and cancels DoDI 1332.38 (Reference (g)) and the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) Memorandums (References (h) through (o)).

2. APPLICABILITY. This instruction applies to the OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

3. POLICY. It is DoD policy that:

a. The DES will be the mechanism for determining return to duty, separation, or retirement of Service members because of disability in accordance with Reference (c).

b. Service members will proceed through one of three DES processes: the Legacy Disability Evaluation System (LDES), the Integrated Disability Evaluation System (IDES), or the Expedited Disability Evaluation System (EDES). DoD's objective in all DES processes is to collaborate with the Department of Veterans Affairs (VA) to ensure continuity of care, timely

processing, and seamless transition of the Service member from DoD to VA in cases of disability separation or retirement.

c. The standards for all determinations related to disability evaluation will be consistently and equitably applied, in accordance with Reference (c), to all Service members, and be uniform within the components of the Military Departments.

d. Reserve Component (RC) Service members who are not on a call to active duty of more than 30 days and who are pending separation for non-duty related medical conditions may enter the DES for a determination of fitness and whether the condition is duty related.

e. In determining a Service member's disability rating, the Military Department will consider all medical conditions, whether individually or collectively, that render the Service member unfit to perform the duties of the member's office, grade, rank, or rating.

f. Service members who are pending permanent or temporary disability retirement and who are eligible for a length of service retirement at the time of their disability evaluation may elect to be retired for disability or for length of service. However, when retirement for length of service is elected, the member's retirement date must occur within the time frame that a disability retirement is expected to occur.

g. A Service member may not be discharged or released from active duty because of a disability until he or she has made a claim for compensation, pension, or hospitalization with the VA or has signed a statement that his or her right to make such a claim has been explained, or has refused to sign such a statement. The Secretaries of the Military Departments may not deny a Service member who refuses to sign such a claim any privileges within DES policy as noted in this instruction.

h. RC Service members on active duty orders specifying a period of more than 30 days will, with their consent, be kept on active duty for disability evaluation processing until final disposition by the Secretary of the Military Department concerned.

i. The Secretaries of the Military Departments may authorize separation on the basis of congenital or developmental defects not being compensable under the Veterans Affairs Schedule for Rating Disabilities (VASRD) if defects, circumstances or conditions interfere with assignment to or performance of duty. These Service members will not be referred to the DES.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3 of this instruction. Additional procedural guidance for the LDES is included in DoD Manual (DoDM) 1332.18, Volume 1 (Reference (p)). Additional procedural guidance for the IDES is included in DoDM 1332.18, Volume 2 (Reference (q)). Procedural guidance for EDES will be published in a separate DoD issuance.

6. INFORMATION COLLECTION REQUIREMENTS

a. The DES Annual Report, referred to in paragraphs 1d(6)(a), 1d(6)(b), and 1e(4) of Enclosure 2 of this instruction, has been assigned report control symbol DD-HA(A,Q)2547 in accordance with the procedures in Volume 1 of DoD Manual 8910.01 (Reference (r)).

b. The DES quarterly data submission, referred to in paragraphs 1d(6)(b) and 1d(4) of Enclosure 2 of this instruction, has been assigned report control symbol DD-HA(A,Q)2547 in accordance with the procedures in Reference (r).

7. RELEASABILITY. **Cleared for public release**. This instruction is available on the Internet from the DoD Issuances Website at http://www/dtic/mil/whs/directives.

8. EFFECTIVE DATE. This instruction:

a. Is effective August 5, 2014.

b. Will expire effective August 5, 2024 if it hasn't been reissued or cancelled before this date in accordance with DoDI 5025.01 (Reference (s)).

Jessica L. Wright
Under Secretary of Defense for
Personnel and Readiness

Enclosures
1. References
2. Responsibilities
3. Operational Standards for the DES

Glossary

TABLE OF CONTENTS

ENCLOSURE 1

REFERENCES

(a) DoD Directive 1332.18, "Separation or Retirement for Physical Disability," November 4, 1996 (hereby cancelled)
(b) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
(c) Title 10, United States Code
(d) Title 5, United States Code
(e) Section 104 of Title 26, United States Code
(f) Section 2082 of Title 50, United States Code
(g) DoD Instruction 1332.38, "Physical Disability Evaluation," November 14, 1996, as amended (hereby cancelled)
(h) Under Secretary of Defense for Personnel and Readiness Memorandum, "Policy Guidance for the Disability Evaluation System and Establishment of Recurring Directive-Type Memoranda," May 3, 2007 (hereby cancelled)
(i) Under Secretary of Defense for Personnel and Readiness Memorandum, "Directive-Type Memoranda (DTM) on Standards for Determining Unfitness Due to Medical Impairment (Deployability)," December 19, 2007 (hereby cancelled)
(j) Under Secretary of Defense for Personnel and Readiness Memorandum, "Directive-Type Memorandum (DTM) on Implementing Disability-Related Provisions of the National Defense Authorization Act of 2008 (Pub. L. 110-181)," March 13, 2008 (hereby cancelled)
(k) Under Secretary of Defense for Personnel and Readiness Memorandum, "Policy Memorandum on Implementing Disability-Related Provisions of the National Defense Authorization Act of 2008 (Pub. L. 110-181)," October 14, 2008 (hereby cancelled)
(l) Under Secretary of Defense for Personnel and Readiness Memorandum, "Policy and Procedural Memorandum for the DES Pilot Program," November 21, 2007 (hereby cancelled)
(m) Under Secretary of Defense for Personnel and Readiness Memorandum "Policy and Procedural Update for the Disability Evaluation System (DES) Pilot Program," December 11, 2008 (hereby cancelled)
(n) Under Secretary of Defense for Personnel and Readiness Memorandum "Cross Service Support and Service Organization Role at Disability Evaluation System (DES) Pilot Locations," March 29, 2010 (hereby cancelled)
(o) Under Secretary of Defense for Personnel and Readiness Memorandum, "Directive-Type Memorandum – Integrated Disability Evaluation System," December 19, 2011 (hereby cancelled)
(p) DoD Manual 1332.18, Volume 1, "Disability Evaluation System (DES) Manual: General Information and Legacy Disability Evaluation System (LDES) Time Standards," August 5, 2014
(q) DoD Manual 1332.18, Volume 2, "Disability Evaluation System (DES) Manual: Integrated Disability Evaluation System," August 5, 2014
(r) DoD Manual 8910.01, Volume 1, "DoD Information Collections Manual: Procedures for DoD Internal Information Collections," June 30, 2014

(s) DoD Instruction 5025.01, "DoD Issuances Program," June 6, 2014
(t) Title 38, Code of Federal Regulations, Part 4 (part 4 is also known as "the Department of Veterans Affairs Schedule for Rating Disabilities (VASRD)")
(u) Under Secretary of Defense for Personnel and Readiness Memorandum, "Expedited DES Process for Members with Catastrophic Conditions and Combat-Related Causes," January 6, 2009
(v) Memorandum of Agreement Between the Department of Defense and Department of Veterans Affairs, January 16, 2009
(w) Memorandum of Agreement Between the Department of Defense and Department of Veterans Affairs, June 16, 2010
(x) DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007
(y) Section 1612 of Public Law 110-181, "National Defense Authorization Act for Fiscal Year 2008," January 28, 2008
(z) Joint Federal Travel Regulations, Volume 1, "Uniformed Service Members," current edition
(aa) Joint Federal Travel Regulations, Volume 2, "Department of Defense Civilian Personnel," current edition
(ab) DoD Directive 1332.27, "Survivor Annuity Programs for the Uniformed Services," June 26, 2003
(ac) DoD Directive 1332.35, "Transition Assistance for Military Personnel," December 9, 1993
(ad) DoD Instruction 1332.14, "Enlisted Administrative Separations," January 27, 2014
(ae) Section 115 of Title 32, United States Code
(af) Title 37, United States Code
(ag) Title 38, United States Code
(ah) DoD Instruction 1332.30, "Separation of Regular and Reserve Commissioned Officers," November 25, 2013
(ai) Joint Publication 1-02, "Department of Defense Dictionary of Military and Associated Terms," current edition

ENCLOSURE 2

RESPONSIBILITIES

1. ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS (ASD(HA)). Under the authority, direction, and control of the USD(P&R), the ASD(HA):

a. Establishes the Disability Advisory Council (DAC) to advise and recommend improvement of the DES and designates its chair.

b. Monitors the performance of the DES and recommends improvements in DES policy.

c. Reviews DES policies, including those proposed by the Military Departments.

d. Through the Deputy Assistant Secretary of Defense for Warrior Care Policy (DASD)(WCP)):

(1) In coordination with the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)) and the Secretaries of the Military Departments, oversees, assesses, and reports on the performance of the DES and recommends to the ASD(HA) changes in policy, procedure, or resources to improve DES performance.

(2) Monitors changes to military personnel and compensation statutes and DoD policy, and other pertinent authorities, to assess their impact on disability evaluation, RC medical disqualification, and related benefits.

(3) Reviews Military Departments' policies and procedures for disability evaluation that affect the uniformity of standards for separation or retirement for unfitness because of disability, or separation of RC members for medical disqualification.

(4) Develops quality assurance procedures to ensure that policies are applied fairly and consistently and reports to ASD(HA) the results of Military Department DES quality control programs.

(5) Develops and executes a strategic communications plan for the DES in coordination with:

(a) Assistant Secretary of Defense for Public Affairs

(b) Secretaries of the Military Departments

(c) Under Secretary for Benefits, Veterans Benefits Administration, VA

(d) Under Secretary for Health, Veterans Health Administration, VA

(6) Establishes reporting requirements necessary to monitor and assess the performance of the DES and compliance of the Military Departments with this instruction.

(a) Not later than July 1 of each year, publishes the information the Military Departments must include in the DES Annual Report.

(b) Analyzes quarterly data submitted by the Military Departments and provides the DES Annual Report to the ASD(HA).

(c) Analyzes monthly DES data to assess trends that might inform policy adjustments.

e. Through the Deputy Assistant Secretary of Defense for Health Services Policy and Oversight:

(1) Reviews Military Departments' policies and procedures for disability evaluation that affect the uniformity of standards for separation or retirement for unfitness because of disability or separation of RC members for medical disqualification.

(2) Monitors changes to the laws, and regulations of the VA to assess their impact on the DoD's application of the VASRD (Reference (t)) to Service members determined unfit because of disability, and recommends timely guidance to the ASD(HA).

(3) Recommends guidance and performance monitoring necessary to implement this instruction, including recommending performance metrics and areas of emphasis.

(4) DASD(WCP) advises on the accurateness and completeness of the DES Annual Report and DES quarterly data submitted by the Military Departments to propose improvements to the DES based upon the submitted performance data.

(5) In conjuction with the Secretaries of the Military Departments and the Director, Defense Health Agency develops program planning, allocation, and use of healthcare resources for activities within the DoD related to the DES.

(6) In coordination with the Military Departments information technology (IT) offices, ensures IT support and access to programs used at the military treatment facilities (MTFs) and other related systems for medical record input and retrieval are available to each Military Department physical evaluation board (PEB).

(7) Provides grade O-6 or civilian equivalent representation with a sufficient understanding of the DES to the DAC.

2. ASD(RA). Under the authority, direction, and control of the USD(P&R), the ASD(RA):

a. In coordination with the ASD(HA) and the Secretaries of the Military Departments, ensures that policies for the DES are applied for RC personnel consistent with those established for Active Component (AC) personnel and reflect the needs of RC members as required by Reference (c).

b. Provides O-6 level or civilian-equivalent representation with sufficient understanding of the DES to the DAC.

c. Reviews annual DES performance and recommends improvements to ASD(HA) to ensure process efficiency and equity for members of the RC.

3. GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (GC DoD). In consultation with the General Counsels and the Judge Advocates General of the Military Departments, the GC DoD provides policy guidance on legal matters relating to DES policy, issuances, proposed exceptions to policy, legislative proposals, and provide legal representation for the DAC as set forth in Enclosure 7 of Reference (p).

4. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

a. Comply with chapter 61 of Reference (c), this instruction, and any implementing guidance.

b. Implement the DES in accordance with this instruction.

c. Manage the temporary disability retired list (TDRL) in accordance with Appendix 4 of Enclosure 3 of this instruction.

d. Staff and provide resources to meet DES performance goals, without reducing Service members' access to due process consistent with Reference (p).

e. Establish procedures to develop and implement standardized training programs, guidelines, and curricula for Military Department personnel who administer DES processes, including physical evaluation board liaison officers (PEBLOs), non-medical case managers, and personnel assigned to the medical evaluation board (MEB), the PEB, and appellate review authorities.

f. Establish and execute agreements to support the disability processing of members who receive medical care from another Military Department.

g. Establish procedures to ensure Service members who are hospitalized or receiving treatment at a VA or a non-governmental facility are referred, processed, and counseled in a manner similar to their peers.

h. In consultation with their respective Judge Advocates General, establish policy, training and procedures for the provision of legal counsel to Service members in the DES.

i. Establish a quality assurance process to:

(1) Ensure policies and procedures established by this instruction are fairly and consistently implemented.

(2) Establish procedures to ensure the accuracy and consistency of MEB and PEB determinations and decisions.

(3) Establish procedures to monitor and sustain proper performance of the duties of MEBs, PEBs, and PEBLOs.

j. Prepare and forward data submissions for the DES Annual Report to the DASD(WCP).

k. Through their respective Inspectors General, review compliance with the requirements contained in Enclosure 3 of this instruction every 3 fiscal years for the preceding 3-fiscal-year period. Forward a copy of their final Inspectors General compliance reports to the USD(P&R).

l. Investigate all matters of potential fraud pertaining to the DES and resolve as appropriate.

m. Provide grade O-6 or civilian-equivalent representation with a sufficient understanding of the DES to the DAC.

n. Comply with USD(P&R) Memorandum (Reference (u)).

o. Comply with the Memorandums of Agreement between the DoD and the VA pertaining to the IDES (References (v) and (w)).

p. Comply with the procedures outlined in DoD 5400.11-R (Reference (x)).

q. Establish procedures to ensure that, with the consent of the Service member, the address and contact information of the Service member are transmitted to the department or agency for other appropriate veterans affairs of the State in which the Service member intends to reside after retirement or separation.

r. Establish procedures to provide, with consent of the Service member, notification of the hospitalization of a Service member under their jurisdiction evacuated from a theater of combat and admitted to an MTF within the United States to the Senators representing the State, and the Member, Delegate or Resident Commissioner of the House of Representatives representing the district, that includes the Service member's home or record or a different location as provided by the Service member.

s. Before demobilizing or separating an RC member who incurred an injury or illness while on active duty, provide to the Service member information on:

(1) The availability of care and administrative processing through military-affiliated or community support services.

(2) The location of the support services, whether military-affiliated or community, located nearest to the permanent place of residence of the Service member.

ENCLOSURE 3

OPERATIONAL STANDARDS FOR THE DES

1. OVERVIEW OF THE DES

a. Under the supervision of the Secretary of the Military Department concerned, the DES consists of:

(1) Medical evaluation to include the MEB, impartial medical reviews, and rebuttal.

(2) Disability evaluation to include the PEB and appellate review, counseling, case management, and final disposition.

b. The Secretaries of the Military Departments:

(1) Will use the LDES process for non-duty-related disability cases and for Service members who entered the DES prior to the IDES being implemented at a given MTF.

(2) Subject to the written approval of the USD(P&R), may also use the LDES process for Service members who are in initial entry training status, including trainees, recruits, cadets, and midshipmen. Secretaries of the Military Departments who enroll initial entry trainees, recruits, cadets, and midshipmen in the LDES must offer to enroll these Service members in the VA Benefits Delivery at Discharge or Quick Start programs.

(3) Will use the EDES process for consenting Service members designated with a catastrophic illness or injury incurred in the line of duty.

(4) May designate a Service member's condition as catastrophic if he or she has a permanent and severely disabling injury or illness that compromises the ability to carry out the activities of daily living. Guidance for procedures unique to the EDES is available in Reference (u).

c. Except for initial entry trainees, Military Academy cadets, and midshipmen entered into the LDES and catastrophically ill or injured Service members entered in the EDES, will use the IDES process for all newly initiated cases referred under the duty-related process (see Glossary). Guidance for procedures unique to the IDES is available in Reference (q).

d. IDES disability examinations will include a general medical examination and any other applicable medical examinations performed to VA compensation and pension standards. Collectively, the examinations will be sufficient to assess the Service member's referred and claimed condition(s), assist VA in ratings determinations and assist Military Departments to determine if the medical conditions, individually or collectively, prevent the Service member from performing the duties of his office, grade, rank, or rating.

2. MEB

a. Purpose. An MEB documents the medical status and duty limitations of Service members who meet referral eligibility criteria in Appendix 1 to this enclosure.

b. Composition. The MEB will be comprised of two or more physicians (civilian employee or military). One of these physicians must have detailed knowledge of the standards pertaining to medical fitness, the disposition of patients, and disability separation processing. Any MEB listing a behavioral health diagnosis must contain a thorough behavioral health evaluation and include the signature of at least one psychiatrist or psychologist with a doctorate in psychology.

c. Resourcing. The Secretary of the Military Department concerned will develop standards on the maximum number of MEB cases that are pending before a MEB at any one time.

d. Referral to PEB. The MEB documents whether the Service member has a medical condition that will prevent them from reasonably performing the duties of their office, grade, rank, or rating. If the Service member cannot perform the duties of his office, grade, rank, or rating the MEB refers the case to the PEB.

e. Service Member Medical Evaluations

(1) Medical Evaluations. An MEB will evaluate the medical status and duty limitations of:

(a) Service members referred into the DES who incurred or aggravated an illness or injury while under order to active duty specifying a period of more than 30 days.

(b) RC members referred for a duty-related determination.

(2) MEB Exemptions. An MEB is not required:

(a) For Service members temporarily retired for disabilities who are due for a periodic physical medical examination.

(b) When an RC member is referred for impairments unrelated to military status and performance of duty (see Glossary for the definition of non-duty-related impairments).

(3) MEB Prerequisites. A Service member will not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury.

(4) Impartial Medical Reviews. Consistent with section 1612 of Public Law 110-181 (Reference (y)), the Secretary of the Military Department concerned will, upon request of the Service member, assign an impartial physician or other appropriate health care professional who is independent of the MEB to:

(a) Serve as an independent source of review of the MEB findings and recommendations.

(b) Advise and counsel the Service member regarding the findings and recommendations of the MEB.

(c) Advise the Service member on whether the MEB findings adequately reflect the complete spectrum of the Service member's injuries and illnesses.

(5) MEB Rebuttal. Service members referred into the DES will upon request be permitted to at least one rebuttal of the MEB findings.

f. Content

(1) Medical information used in the DES must be sufficiently recent to substantiate the existence or severity of potentially unfitting conditions. The Secretaries of the Military Departments will not perform additional medical exams or diagnostic tests if more current information would not substantially affect identification of the existence or severity of potentially unfitting conditions.

(2) MEBs will confirm the medical diagnosis for and document the full clinical information, including history, treatment status, and potential for recovery of the Service member's medical conditions that, individually or collectively, may prevent the Service member from performing the duties of his office, grade, rank, or rating and state whether each condition is cause for referral to a PEB.

g. Competency. When the Service member's ability to handle his or her financial affairs is unclear, the MEB or TDRL packet will include the results of a competency board.

h. Medical Documentation for RC Members with Non-duty Related Conditions. The medical documentation for RC members with non-duty related conditions referred for disability evaluation must provide clear and adequate written description of the medical condition(s) that, individually or collectively, may prevent the RC member from performing the duties of his office, grade, rank, or rating.

i. Non-medical Documentation. The MTF will forward the cases of Service members with a duty-related determination to the PEB with the MEB documentation and:

(1) The line of duty (LOD) determination, when required by section 6 of Appendix 3 of this enclosure.

(2) Except in cases in which the illness or injury is so severe that return to duty is not likely, a statement from the Service member's immediate commanding officer describing the impact of the member's medical condition on the ability to perform his or her normal military duties.

(3) An official document identifying the next of kin, court-appointed guardian, or trustee when a Service member is determined incompetent to manage his or her financial affairs.

3. DISABILITY EVALUATION

a. Purpose. PEBs determine the fitness of Service members with medical conditions to perform their military duties and, for members determined unfit because of duty-related impairments, their eligibility for benefits pursuant to chapter 61 of Reference (c). Service members may appeal the decision of the PEB. The PEB process includes the informal physical evaluation board (IPEB), formal physical evaluation board (FPEB) and appellate review of PEB results.

b. IPEB. The IPEB reviews the case file to make initial findings and recommendations without the Service member present. The Service member may accept the finding, rebut the finding, or request a FPEB. The Secretary of the Military Department concerned will allow the Service member a minimum of 10 calendar days from receipt of the informal findings to rebut the findings of the IPEB or request an FPEB. In addition to this timeline, Military Departments must publish timelines for presentation and consideration of cases.

c. FPEB. In accordance with section 1214 of Reference (c), Service members who are found unfit are entitled to a formal hearing, an FPEB, to contest their IPEB findings. The PEBLO will document the Service member's declination of an FPEB. If the Secretary of the Military Department concerned changes those findings or determinations following a Service member's concurrence, the Service member will be entitled to a formal hearing to contest the changes.

d. Composition

(1) The IPEB will be comprised of at least two military personnel at field grade or civilian equivalent or higher. In cases of a split opinion, a third voting member will be assigned to provide the majority vote.

(2) The FPEB must be comprised of at least three members and may be comprised of military and civilian personnel representatives. A majority of the FPEB members could not have participated in the adjudication process of the same case at the Informal Physical Evaluation Board.

(a) The FPEB will consist of at least a president, who should be a military 0-6, or civilian equivalent; a medical officer; and a line officer (or non-commissioned officer at the E-9 level for enlisted cases) familiar with duty assignments.

(b) The physician cannot be the Service member's physician, cannot have served on the Service member's MEB, and cannot have participated in a TDRL re-examination of the Service member.

(c) In the case of RC members, Secretaries of the Military Departments will ensure RC representation on the PEBs is consistent with section 12643 of Reference (c) and related policies. Secretaries of the Military Departments may adjust member composition of the FPEB to enhance the adjudication process consistent with applicable laws and regulations.

(d) Contract personnel may not serve as PEB adjudicators or PEB appellate review members.

e. Eligibility. Service members determined unfit and TDRL members determined fit may demand, and are entitled to, an FPEB. At its discretion, the Military Department may grant a formal hearing to Service members who are determined fit but are not on the TDRL.

f. Resourcing. The Secretary of the Military Department concerned will direct the allocation of additional personnel to the PEB process if deemed appropriate for proper and expeditious adjudication of case load.

g. Issues. At the FPEB, the Service member will be entitled to address issues pertaining to his or her fitness, the percentage of disability, degree or stability of disability, administrative determinations, or a determination that his or her injury or disease was non-duty related.

h. Hearing Rights. Service members will have, at a minimum, the following rights before the FPEB:

(1) To have their case considered by board members, a majority of whom were not voting members of their IPEB.

(2) To appear personally, through a designated representative, by videoconference, or by any other means determined practical by the Secretary of the Military Department concerned. Unless the Secretary of the Military Department directs the FPEB to fund the personal travel and other expenses, RC members with non-duty related determinations are responsible for their personal travel and other expenses.

(3) To be represented by Government appointed counsel provided by the Military Department. Service members may choose their own civilian counsel at no expense to the Government. The PEB president should notify the Secretary of the Military Department concerned if the lack of Government appointed counsel affects timely PEB caseload adjudication.

(4) To make a sworn or an unsworn statement. A Service member will not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury.

(5) To remain silent. When the Service member exercises this right, the member may not selectively respond, but must remain silent throughout the hearing.

(6) To introduce witnesses, depositions, documents, sworn or unsworn statements, declarations, or other evidence in the Service member's behalf and to question all witnesses who

testify at the hearing. The FPEB president determines whether witnesses are essential. If the FPEB president determines witnesses essential, travel expenses and per diem may be reimbursed or paid in accordance with the Joint Federal Travel Regulation, Volumes 1 and 2 (References (z) and (aa)). Witnesses not deemed essential by the FPEB president may attend formal hearings at no expense to the Government.

(7) To access all records and information received by the PEB before, during, and after the formal hearing.

i. Record of Proceedings. Upon a Service member's written request, the Military Department will provide the Service member a record of the PEB proceedings. The PEB record of proceedings must convey the PEB findings and conclusions in an orderly and itemized fashion, with specific attention to each issue presented by the Service member regarding his or her case, and the basis for applying total or extra-schedular ratings or unemployability determinations, as applicable.

j. Duty-related Determinations. The record of proceedings for active duty Service members and RC members referred for duty-related determinations will document, at a minimum:

(1) The determination of fit or unfit.

(2) The code and percentage rating assigned an unfitting and compensable disability based on the VASRD. The standards for determining compensable disabilities are specified in Appendix 3 of this enclosure.

(3) The reason an unfitting condition is not compensable.

(a) The specific accepted medical principle, as stated in Appendix 3 of this enclosure, for overcoming the presumption of service aggravation for all cases with a finding of preexisting condition without service aggravation.

(b) The accepted medical principle justifying findings that an RC member performing inactive duty training (IDT), active duty training, or on active duty of 30 days or less, has a preexisting disability that was not permanently aggravated by service.

(c) The rationale justifying findings that a disability that was incurred in the LOD prior to September 24, 1996, and that was not permanently service aggravated since September 23, 1996, was not the proximate result of military service.

(4) For Service members being placed on the TDRL or permanently retired, the nature of the disability and the stability and permanency of the disability.

(5) Administrative determinations made consistent with Appendix 5 of this enclosure.

(6) The record of all proceedings for PEB evaluation including the evidence used to overcome a presumption listed in this instruction and changes made as a result of review by

subsequent reviewing authority will include a written explanation in support of each finding and recommendation. If applicable, the basis for applying or not applying total or extra-schedular ratings or unemployability determinations.

k. Non-duty Related Determinations. For RC members referred for non-duty related determinations, the record of proceedings will document only:

(1) The fitness determination.

(2) For RC members determined fit, a determination of whether the member is deployable, if Service regulations require such a determination.

l. Appellate Review. The Military Department will review the findings and recommendations of the FPEB when requested by the Service member or designated representative or as required by the regulations of the Military Department concerned. The Military Department will also provide to the Service member a written response to an FPEB appeal that specifically addresses each issue presented in the appeal.

m. Quality Assurance. Each Military Department will establish and publish quality review procedures particular to the PEB and conduct quality assurance reviews in accordance with the laws, directives, and regulations governing disability evaluation.

4. COUNSELING

a. Purpose. Service members undergoing evaluation by the DES must be advised of the significance and consequences of the determinations being made and their associated rights, benefits, and entitlements. Each Military Department will publish and provide standard information booklets that contain specific information on the MEB and PEB processes. These publications must include the rights and responsibilities of the Service member while navigating through the DES. The information will be made available at the servicing MTFs and PEBs.

b. Topics

(1) PEBLOs will inform Service members of the:

(a) Sequence and nature of the steps in the disability process.

(b) Statutory rights and requirements but will not provide legal advice.

(c) Effect of findings and recommendations.

(d) Process to submit rebuttals.

(e) Probable retired grade.

(f) Estimated timeframe for completing the DES at their installation.

(2) PEBLOs will inform Service members or refer them to the appropriate subject matter experts on:

(a) Potential veterans' benefits.

(b) Post-retirement insurance programs and the Survivor Benefit Plan in accordance with DoDD 1332.27 (Reference (ab)), if appropriate.

(c) Applicable transition benefits, in accordance with DoDD 1332.35 (Reference (ac)).

(d) Applicable standards detailed in the VASRD, which would have to be recognized to increase the percentage of disability, prior to acting on a Service member's request for a formal PEB.

(e) Services provided by military, veteran, or national service organizations.

(f) Electronic resources for ill and injured Service members such as National Resource Directory, eBenefits, etc.

(g) Availability and processes for obtaining legal counsel to assist in rebutting or appealing MEB and PEB findings.

(h) The appropriate Defense Finance and Accounting Service finance representative for payment calculations for severance pay or retirement pay.

c. Incompetent Service Members. When a Service member has been determined incompetent by a competency board, his or her designated representative (e.g., court appointed guardian, trustee, or primary next of kin) will be counseled and afforded the opportunity to assert the rights granted to the Service member, unless prohibited by law.

d. Pre-separation Counseling. Service members on orders to active duty for more than 30 days will not be separated or retired because of disability before completing pre-separation counseling pursuant to Reference (ac).

5. CASE MANAGEMENT

a. Service members undergoing evaluation by the DES must be advised on the status of their case, issues that must be resolved for their case to progress, and expected time frame for completing DES at their installation.

b. PEBLOs will contact Service members undergoing disability evaluation at least monthly and provide any necessary DES assistance.

6. FINAL DISPOSITION. After adjudicating all appeals, the personnel authorities specified in Appendix 6 to this enclosure will:

a. Issue orders and instructions to implement the determination of the respective Service's final reviewing authority.

b. Consider Service member requests to continue on active duty or in the RC in a permanent limited duty status if the member is determined unfit.

7. ADMINISTRATIVE DECISIONS

a. The Secretary of the Military Department concerned may:

(1) Direct the PEB to reevaluate any Service member determined to be unsuitable for continued military service.

(2) Retire or separate for disability any Service member determined upon re-evaluation to be unfit to perform the duties of the member's office, grade, rank, or rating.

b. The Secretary of the Military Department concerned may not:

(1) Authorize the involuntary administrative separation of a member based on a determination that the member is unsuitable for deployment or worldwide assignment after a PEB has found the member fit for the same medical condition; or

(2) Deny the member's request to reenlist based on a determination that the member is unsuitable for deployment or worldwide assignment after a PEB has found the member fit for the same medical condition.

c. Consistent with DoDI 1332.14 (Reference (ad)), any Service member found fit for duty by the PEB but determined unsuitable for continued service by the Secretary of the Military Department concerned for the same medical condition considered by the PEB may appeal to the Secretary of Defense, who is the final authority.

8. TRAINING AND EDUCATION

a. Assignment of Personnel to the DES. The Secretaries of the Military Departments will certify annually that the following personnel assigned to or impacting the DES were formally trained prior to being assigned to performing DES duties.

(1) Medical officers.

(2) PEBLOs.

(3) Patient administration officers.

(4) PEB adjudicators.

(5) PEB appellate review members.

(6) Judge advocates.

(7) Military Department civilian attorneys.

b. Training. Training programs for all personnel assigned to the DES must be formal and documented. At a minimum, training curricula will consist of:

(1) An overview of the statutory and policy requirements of the DES, the electronic and paper recordkeeping policies of the Military Department, customer service philosophies, and VA processes, services and benefits.

(2) Familiarization with medical administration processes.

(3) Knowledge of online and other resources pertaining to the DES and DoD and VA services, the chain of supervision and command, and the Military Department Inspectors General hotlines for resolution of issues.

c. Mentoring. Individuals assigned for duty as PEBLOs must receive at least 1 week of on-the-job training with an experienced PEBLO.

Appendixes

1. DES Referral
2. Standards for Determining Unfitness Due to Disability or Medical Disqualification
3. Standards for Determining Compensable Disabilities
4. TDRL Management
5. Administrative Determinations
6. Final Disposition

APPENDIX 1 TO ENCLOSURE 3

DES REFERRAL

1. GENERAL. The Secretary of the Military Department concerned will refer Service members who meet the criteria for disability evaluation regardless of eligibility for disability compensation.

2. CRITERIA FOR REFERRAL

a. When the course of further recovery is relatively predictable or within 1 year of diagnosis, whichever is sooner, medical authorities will refer eligible Service members into the DES who:

(1) Have one or more medical conditions that may, individually or collectively, prevent the Service member from reasonably performing the duties of their office, grade, rank, or rating including those duties remaining on a Reserve obligation for more than 1 year after diagnosis;

(2) Have a medical condition that represents an obvious medical risk to the health of the member or to the health or safety of other members; or

(3) Have a medical condition that imposes unreasonable requirements on the military to maintain or protect the Service member.

b. In all cases, competent medical authorities will refer into the DES eligible Service members who meet the criteria in paragraph 2a within 1 year of diagnosis.

3. ELIGIBILITY FOR REFERRAL

a. Duty-related Determinations. Except as provided in section 4 of this appendix, the following categories of Service members who meet the criteria in section 2 of this appendix are eligible for referral to the DES for duty-related determinations:

(1) Service members on active duty or in the RC who are on orders to active duty specifying a period of more than 30 days.

(2) RC members who are not on orders to active duty specifying a period of more than 30 days but who incurred or aggravated a medical condition while the member was ordered to active duty for more than 30 days.

(3) Cadets at the United States Military Academy, the United States Air Force Academy, or Midshipmen of the United States Naval Academy.

(4) Service members previously determined unfit, serving in a permanent limited duty status, and for whom the period of continuation has expired.

(5) Other Service members who are on orders to active duty specifying a period of 30 days or less if they have a medical condition that was incurred or aggravated in the LOD while the Service member was:

(a) Performing active duty or IDT.

(b) Traveling directly to or from the place at which such duty is performed.

(c) Remaining overnight immediately before the commencement of IDT or while remaining overnight between successive periods of IDT at or in the vicinity of the site of the IDT.

(d) Serving on funeral honors duty pursuant to section 12503 of Reference (c) or section 115 of Title 32, U.S.C. (Reference (ae)) while the Service member was traveling to or from the place at which the member was to serve; or while the member remained overnight at or in the vicinity of that place immediately before serving.

(6) Service members with duty-related determinations, as described in paragraph 3a of this appendix, will be referred into the DES for a determination of fitness. If found unfit, a determination will be made as to the Service member's entitlement to separation or retirement for disability with benefits pursuant to chapter 61 of Reference (c) and administrative determinations in accordance with Appendix 5 to this enclosure.

(7) A member of a RC who is ordered to active duty for a period of more than 30 days and is released from active duty within 30 days of commencing such period of active duty for failure to meet physical standards for retention due to a pre-existing condition not aggravated during the period of active duty or medical or dental standards for deployment due to a pre-existing condition not aggravated during the period of active duty will be considered to have been serving under an order to active duty for a period of 30 days or less.

b. Non-duty Related Determinations. Members of the RC with non-duty related determinations, who are otherwise eligible as described in section 2 of this appendix, will be referred solely for a fitness for duty determination when one of the following exist:

(1) The RC member does not qualify under paragraph 3a of this appendix.

(2) The RC member requests referral for a fitness determination upon being notified that they do not meet medical retention standards.

(3) Service regulations direct the RC member be referred to the DES for a determination of fitness before being separated by the Reserve for not meeting medical retention standards.

4. INELIGIBILITY FOR REFERRAL

a. Service members are ineligible for referral to the disability evaluation process when:

(1) The Service member has a condition, circumstance, or defect of a developmental nature, not constituting a physical disability, as described in paragraph 3i above the signature of this instruction, that interferes with assignment to or performance of duty and that was not service aggravated.

(2) The Service member is pending an approved, unsuspended punitive discharge or dismissal, except as provided by Service regulations.

(3) The Service member is pending separation under provisions that authorize a characterization of service of under other than honorable conditions, except as provided by Service regulations. This restriction is based on the provisions upon which the member is being separated and not on the actual characterization the member receives.

(4) The Service member is not physically present or accounted for.

(5) Disability results from intentional misconduct or willful neglect or was incurred during a period of unauthorized absence or excess leave.

b. However, the Secretaries of the Military Departments should normally evaluate for disability those Service members who would be ineligible for referral to the DES due to paragraphs 4a(2) and 4a(3) of this appendix when the medical impairment or disability evaluation is warranted as a matter of equity or good conscience.

5. SERVICE MEMBERS WITH MEDICAL WAIVERS

a. Provided no permanent aggravation has occurred, Service members who enter the military with a medical waiver may be separated without disability evaluation when the responsible medical authority designated by Service regulations determines within 6 months of the member's entry into active service that the waivered condition represents a risk to the member or prejudices the best interests of the Government.

b. Once 6 months have elapsed the Secretary of the Military Department concerned will refer the Service member for disability evaluation when the Service member meets the criteria in section 2 of this appendix and is eligible for referral in accordance with section 3 of this appendix.

c. Members who entered the Service with a medical waiver for a pre-existing condition and who are subsequently determined unfit for the condition will not be entitled to disability separation or retired pay unless military service permanently aggravated the condition. Members granted medical waivers will be advised of this provision at the time of waiver application and when it is granted.

6. WAIVER OF PEB EVALUATION. Except as prohibited by section 7 of this appendix, Service members may waive referral to the PEB with the approval of the Secretary of the Military Department concerned.

a. The Service member must be counseled on the DES process, the right to a PEB, and the potential benefits of remaining in an active duty or active reserve status to complete evaluation by the DES.

b. The Service member must request a waiver in writing and such request or an affidavit must attest that the member has received the counseling described and declines referral to the PEB.

7. PROHIBITION FROM WAIVING DISABILITY EVALUATION. A Service member approved for voluntary early separation from active duty who incurs a Reserve obligation and who has conditions that are cause for referral into the DES cannot waive disability evaluation.

8. REFERRAL IMPLICATIONS. Neither referral into the DES nor a finding of unfitness constitutes entitlement to disability benefits.

APPENDIX 2 TO ENCLOSURE 3

STANDARDS FOR DETERMINING UNFITNESS DUE TO DISABILITY OR MEDICAL DISQUALIFICATION

1. UNIFORMITY OF STANDARDS. The standards listed in this instruction for determining unfitness due to disability will be followed unless the USD(P&R) approves exceptions on the basis of the unique needs of the respective Military Department.

2. GENERAL CRITERIA FOR MAKING UNFITNESS DETERMINATIONS

a. A Service member will be considered unfit when the evidence establishes that the member, due to disability, is unable to reasonably perform duties of his or her office, grade, rank, or rating, including those during a remaining period of Reserve obligation.

b. A Service member may also be considered unfit when the evidence establishes that:

(1) The Service member's disability represents a decided medical risk to the health of the member or to the welfare or safety of other members; or

(2) The Service member's disability imposes unreasonable requirements on the military to maintain or protect the Service member.

3. RELEVANT EVIDENCE. The Secretaries of the Military Departments will consider all relevant evidence in assessing Service member fitness, including the circumstances of referral. To reach a finding of unfit, the PEB must be satisfied that the evidence supports that finding.

a. Referral Following Illness or Injury. When referral for disability evaluation immediately follows acute, grave illness or injury, the medical evaluation may stand alone, particularly if medical evidence establishes that continued service would be harmful to the member's health or is not in the best interest of the respective Service.

b. Referral for Chronic Impairment. When a Service member is referred for disability evaluation under circumstances other than as described in paragraph 3a of this appendix, an evaluation of the Service member's performance of duty by supervisors may more accurately reflect the capacity to perform. Supervisors may include letters, efficiency reports, credential reports, status of physician medical privileges, or personal testimony of the Service member's performance of duty to provide evidence of the Service member's ability to perform his or her duties.

c. Cause-and-effect Relationship. Regardless of the presence of illness or injury, inadequate performance of duty, by itself, will not be considered evidence of unfitness due to disability, unless a cause-and-effect relationship is established between the two factors.

4. REASONABLE PERFORMANCE OF DUTIES

a. Considerations. Determining whether a Service member can reasonably perform his or her duties includes consideration of:

(1) Common Military Tasks. Whether the Service member can perform the common military tasks required for the Service member's office, grade, rank, or rating including those during a remaining period of Reserve obligation. Examples include routinely firing a weapon, performing field duty, or wearing load-bearing equipment or protective gear.

(2) Physical Fitness Test. Whether the Service member is medically prohibited from taking the respective Service's required physical fitness test. When an individual has been found fit by a PEB for a condition that prevents the member from taking the Service physical fitness test, the inability to take the physical fitness test will not form the basis for an adverse personnel action against the member.

(3) Deployability. Whether the Service member is deployable individually or as part of a unit, with or without prior notification, to any vessel or location specified by the Military Department. When deployability is used by a Service as a consideration in determining fitness, the standard must be applied uniformly to both the AC and RC of that Service.

(4) Special Qualifications. For Service members whose medical condition disqualifies them for specialized duties, whether the specialized duties constitute the member's current duty assignment; the member has an alternate branch or specialty; or reclassification or reassignment is feasible.

b. General, Flag, and Medical Officers. An officer in pay grade O-7 or higher, or a medical officer in any grade, being processed for retirement by reason of age or length of service, will not be determined unfit unless the determination of the Secretary of the Military Department concerned with respect to unfitness is approved by the USD(P&R) on the recommendation of the ASD(HA).

c. Service Members on Permanent Limited Duty. A Service member previously determined unfit and continued in a permanent limited duty status or otherwise continued on active duty will normally be found unfit at the expiration of his or her period of continuation. However, the Service member may be determined fit when the condition has healed or improved such that the Service member would be capable of performing his or her duties in other than a limited-duty status.

d. Combined Effect. A Service member may be determined unfit as a result of the combined effect of two or more impairments even though each of them, standing alone, would not cause the Service member to be referred into the DES or be found unfit because of disability.

5. PRESUMPTION OF FITNESS

a. Application. The DES compensates disabilities when they cause or contribute to career termination. Service members who are pending retirement at the time they are referred for disability evaluation are presumed fit for military service.

(1) Service members may overcome this presumption by presenting a preponderance of evidence that he or she is unfit for military service. The presumption of fitness may be overcome when:

(a) An illness or injury occurs within the presumptive period that would prevent the Service member from performing further duty if they were not retiring.

(b) A serious deterioration of a previously diagnosed condition, including a chronic one, occurs within the presumptive period, and the deterioration would preclude further duty if the Service member were not retiring.

(c) The condition for which the Service member is referred is a chronic condition and a preponderance of evidence establishes that the Service member was not performing duties befitting either his or her experience in the office, grade, rank, or rating before entering the presumptive period because of the condition.

(2) Service members are not presumed fit for military service in these instances of a pending retirement:

(a) The disability is one for which a Service member was previously determined unfit and continued in a permanent limited duty status. The presumption of fitness will be applied to other medical impairments unless the medical evidence establishes they were impacted by the original unfitting disabilities.

(b) Selected Reserve members who are eligible to qualify for non-regular retirement pursuant to the provisions of section 12731b of Reference (c).

(c) RC members referred for non-duty-related determinations.

b. Presumptive Period. The Secretaries of the Military Departments will presume Service members are pending retirement when the preparation of the Service member's MEB narrative summary occurs after any of these circumstances:

(1) A Service member's request for voluntary retirement has been approved. Revocation of voluntary retirement orders for purposes of referral into the DES does not negate application of the presumption.

(2) An officer has been approved for selective early retirement or is within 12 months of mandatory retirement due to age or length of service.

(3) An enlisted member is within 12 months of his or her retention control point or expiration of active obligated service, but will be eligible for retirement at his or her retention control point or expiration of active obligated service.

(4) An RC member is within 12 months of mandatory retirement or removal date and qualifies for a 20-year letter at the time of referral for disability evaluation.

(5) A retiree is recalled, to include those who transferred to the Retired Reserve, with eligibility to draw retired pay upon reaching the age prescribed by statute unless the recalled retiree incurred or aggravated the medical condition while on their current active duty orders and overcomes the presumption of fitness.

6. EVIDENTIARY STANDARDS FOR DETERMINING UNFITNESS BECAUSE OF DISABILITY

a. Objective Evidence

(1) The Secretary of the Military Department concerned must cite objective evidence in the record, as distinguished from personal opinion, speculation, or conjecture, to determine a Service member is unfit because of disability.

(2) Doubt that cannot be resolved with evidence will be resolved in favor of the Service member's fitness through the presumption that the Service member desires to be found fit for duty.

b. Preponderance of Evidence. With the exception of presumption of fitness cases, the Secretary of the Military Department concerned will determine fitness or unfitness for military service on the basis of the preponderance of the objective evidence in the record.

APPENDIX 3 TO ENCLOSURE 3

STANDARDS FOR DETERMINING COMPENSABLE DISABILITIES

1. OVERVIEW OF DISABILITY COMPENSATION CRITERIA. Service members who are determined unfit to perform the duties of the member's office, grade, rank, or rating because of disability in accordance with Appendix 2 of this enclosure may be eligible for disability benefits when:

a. The disability is not the result of the member's intentional misconduct or willful neglect and was not incurred during unauthorized absence or excess leave.

b. The Service member incurred or aggravated the disability while he or she was:

(1) A member of a regular component of the Military Services entitled to basic pay;

(2) A member of the Military Services entitled to basic pay, called or ordered to active duty (other than for training pursuant to section 10148 of Reference (c)) for a period of more than 30 days;

(3) A member of the Military Services on active duty for a period greater than 30 days but not entitled to basic pay pursuant to section 502(b) of Title 37, U.S.C. (Reference (af)) due to authorized absence to participate in an educational program or for an emergency purpose, as determined by the Secretary of the Military Department concerned;

(4) A cadet at the United States Military Academy or the United States Air Force Academy or a midshipman of the United States Naval Academy after October 28, 2004; or

(5) A member of the Military Services called or ordered to active duty for a period of 30 days or less, performing IDT or traveling directly to or from the place of IDT, to funeral honors duty, or for training pursuant to section 10148 of Reference (c).

2. DISABILITY RETIREMENT CRITERIA FOR REGULAR COMPONENT MEMBERS AND MEMBERS ON ACTIVE DUTY FOR MORE THAN 30 DAYS. Service members described in paragraphs 1a and 1b(1) through 1b(4) of this appendix will be retired with disability benefits when:

a. The disability is permanent and stable.

b. The member has:

(1) At least 20 years of service computed in accordance with section 1208 of Reference (c); or

(2) A disability of at least 30 percent, pursuant to Reference (t), and that disability:

(a) Was not noted at the time of the member's entrance on active duty unless the Secretary of the Military Department concerned demonstrates with clear and unmistakable evidence that the disability existed before the member's entrance on active duty and was not aggravated by active military service;

(b) Is the proximate result of performing active duty;

(c) Was incurred in the LOD in time of war or national emergency; or

(d) Was incurred in the LOD after September 14, 1978.

3. DISABILITY RETIREMENT CRITERIA FOR MEMBERS ON ACTIVE DUTY FOR 30 DAYS OR LESS, ON IDT, FUNERAL HONORS DUTY, OR TRAINING PURSUANT TO SECTION 10148 OF REFERENCE (C). Service members described in paragraphs 1a and 1b(5) of this appendix will be retired with disability benefits when:

a. The disability is permanent and stable.

b. The Service member has:

(1) At least 20 years of service computed in accordance with section 1208 of Reference (c); or

(2) A disability of at least 30 percent, pursuant to Reference (t), and that disability meets at least one of the following criteria:

(a) The disability was incurred or aggravated before September 24, 1996, as the proximate result of:

1. Performing active duty or IDT;

2. Traveling directly to or from the place of active duty or IDT; or

3. An injury, illness, or disease incurred or aggravated immediately before the commencement of IDT or while remaining overnight, between successive periods of IDT, at or in the vicinity of the site of the IDT, if the site of the IDT is outside reasonable commuting distance of the Service member's residence.

(b) The disability is a result of injury, illness, or disease that was incurred or aggravated in the LOD after September 23, 1996:

1. While performing active duty or IDT;

2. While traveling directly to or from the place of active duty or IDT;

3. While remaining overnight immediately before the commencement of IDT; or

4. While remaining overnight between successive periods of IDT at or in the vicinity of the site of the IDT.

(c) The disability is a result of an injury, illness, or disease incurred or aggravated in the LOD:

1. While serving on funeral honors duty pursuant to section 12503 of Reference (c) or section 115 of Reference (ae);

2. While the Service member was traveling to or from the place at which the member was to serve; or

3. While the Service member remained overnight at or in the vicinity of that place immediately before serving, if it is outside reasonable commuting distance from the member's residence.

4. DISABILITY SEPARATION CRITERIA FOR REGULAR COMPONENT MEMBERS AND MEMBERS ON ACTIVE DUTY FOR MORE THAN 30 DAYS. Service members described in paragraphs 1a and 1b(1) through 1b(4) of this appendix will be separated with disability benefits when:

a. The Service member has less than 20 years of service.

b. The disability meets one of the following criteria:

(1) Is or may be permanent and less than 30 percent, pursuant to Reference (t), and:

(a) Is the proximate result of performing active duty;

(b) Was incurred in the LOD in time of war or national emergency; or

(c) Was incurred in the LOD after September 14, 1978.

(2) Is less than 30 percent, pursuant to Reference (t), at the time of the determination and was not noted at the time of the Service member's entrance on active duty (unless clear and unmistakable evidence demonstrates the disability existed before the Service member's entrance on active duty and was not aggravated by active military service).

(3) Is at least 30 percent, pursuant to Reference (t), and at the time of the determination, the disability was neither:

(a) The proximate result of performing active duty;

(b) Incurred in the LOD in time of war or national emergency; nor

(c) Incurred in the LOD after September 14, 1978, and the Service member had less than 8 years of service computed pursuant to section 1208 of Reference (c) on the date when he or she:

1. Would otherwise be retired pursuant to section 1201 of Reference (c); or

2. Was placed on the TDRL pursuant to section 1202 of Reference (c).

5. DISABILITY SEPARATION CRITERIA FOR MEMBERS ON ACTIVE DUTY FOR 30 DAYS OR LESS, ON IDT, FUNERAL HONORS DUTY, OR TRAINING PURSUANT TO SECTION 10148 OF REFERENCE (C)

a. Service members described in paragraphs 1a and 1b(5) of this appendix will be separated with disability benefits when:

(1) The Service member has less than 20 years of service.

(2) The disability meets one of the following criteria:

(a) Is or may be permanent.

(b) Is the result of an injury, illness, or disease incurred or aggravated in line of duty while:

1. Performing active duty or IDT;

2. Traveling directly to or from the place of active duty;

3. Remaining overnight immediately before the commencement of IDT, between successive periods of IDT, at or in the vicinity of the site of the IDT if the site is outside reasonable commuting distance of the Service member's residence; or

4. Serving on funeral honors duty pursuant to section 12503 of Reference (c) or section 115 of Reference (ae) while the Service member was traveling to or from the place at which he or she was to serve; or while the Service member remained overnight at or in the vicinity of that place immediately before serving.

(c) Is less than 30 percent under the VASRD at the time of the determination and, in the case of a disability incurred before October 5, 1999, was the proximate result of performing active duty or IDT or of traveling directly to or from the place at which such duty is performed.

b. If the Service member is eligible for transfer to the inactive status list pursuant to section 1209 of Reference (c) and chooses to, he or she may be transferred to that list instead of being separated.

6. LOD REQUIREMENTS. In the DES, LOD determinations assist the PEB and appellate review authority in meeting the statutory requirements under chapter 61 of Reference (c) for separation or retirement for disability.

a. Relationship of LOD Findings to DES Determinations

(1) LOD determinations will be made in accordance with the regulations of the respective Military Department. When an LOD determination is required, the DES will consider the finding made for those issues mutually applicable to LOD and DES determinations. These issues include whether a condition is pre-existing and whether it is aggravated by military service and any issues of misconduct or negligence.

(2) When the PEB has reasonable cause to believe an LOD finding appears to be contrary to the evidence, disability evaluation will be suspended for a review of the LOD determination in accordance with Service regulations. The PEB will forward the case to the final LOD reviewing authority designated by the Secretary of the Military Department concerned with a memorandum documenting the reasons for questioning the LOD finding.

b. Referral Requirement. When an LOD determination is required, it will be done before sending a Service member's case to the PEB.

c. Presumptive Determinations. The determination is presumed to be in the LOD without an investigation in the case of:

(1) Disease, except as described in paragraphs 6e(1) to 6e(6) of this appendix.

(2) Injuries clearly incurred as a result of enemy action or attack by terrorists.

(3) Injuries while a passenger in a common commercial or military carrier.

d. Required Determinations. At a minimum, LOD determinations will be required in these circumstances.

(1) Injury, disease, or medical condition that may be due to the Service member's intentional misconduct or willful negligence, such as a motor vehicle accident.

(2) Injury involving the abuse of alcohol or other drugs.

(3) Self-inflicted injury.

(4) Injury or disease possibly incurred during a period of unauthorized absence.

(5) Injury or disease apparently incurred during a course of conduct for which charges have been preferred.

(6) Injury, illness, or disease of RC members on orders specifying a period of active duty of 30 days or less while:

(a) Performing active duty or IDT;

(b) Traveling directly to or from the place of active duty;

(c) Remaining overnight immediately before the commencement of IDT, between successive periods of IDT, at or in the vicinity of the site of the IDT if the site is outside reasonable commuting distance of the Service member's residence; or

(d) Serving on funeral honors duty pursuant to section 12503 of Reference (c) or section 115 of Reference (ae) while the Service member was traveling to or from the place at which he or she was to serve; or while the Service member remained overnight at or in the vicinity of that place immediately before serving.

7. EVIDENTIARY STANDARDS FOR DETERMINING COMPENSABILITY OF UNFITTING CONDITIONS

a. Misconduct and Negligence. LOD determinations concerning intentional misconduct and willful negligence will be judged by the evidentiary standards established by the Secretary of the Military Department concerned.

b. Presumption of Sound Condition for Members on Continuous Orders to Active Duty Specifying a Period of More Than 30 Days

(1) The Secretaries of the Military Departments will presume Service members, including RC members and recalled retirees, on continuous orders to active duty specifying a period of more than 30 days entered their current period of military service in sound condition when the disability was not noted at the time of the Service member's entrance to the current period of active duty.

(2) The Secretaries of the Military Departments may overcome this presumption if clear and unmistakable evidence demonstrates that the disability existed before the Service member's entrance on their current period of active duty and was not aggravated by their current period of military service. Absent such clear and unmistakable evidence, the Secretary of the Military Department concerned will conclude that the disability was incurred or aggravated during their current period of military service.

(3) The Secretary of the Military Department concerned must base a finding that the Service member's condition was not incurred in or aggravated by their current period of military

service on objective evidence in the record, as distinguished from personal opinion, speculation, or conjecture. When the evidence is unclear concerning whether the condition existed prior to their current period of military service or if the evidence is equivocal, the presumption of sound condition at entry to the current period of military service has not been rebutted and the Secretary of the Military Department concerned will find the Service member's condition was incurred in or aggravated by military service.

(4) Any hereditary or genetic disease will be evaluated to determine whether clear and unmistakable evidence demonstrates the disability existed before the Service member's entrance on active duty and was not aggravated by their current period of military service. However, even if the disability is determined to have been incurred prior to entry on their current period of active duty, any aggravation of that disease, incurred during the Service member's current period of active duty, beyond that determined to be due to natural progression will be determined to be service-aggravated.

(5) There is no presumption of sound condition for RC members serving on orders of 30 days or less.

c. Presumption of Incurrence or Aggravation in the LOD for Members on Continuous Orders to Active Duty Specifying a Period of More Than 30 Days

(1) The Secretaries of the Military Departments will presume that diseases or injuries incurred by Service members on continuous orders to active duty specifying a period of more than 30 days were incurred or aggravated in the LOD unless the disease or injury was noted at time of entry into service. The Secretaries of the Military Departments may overcome the presumption that a disease or injury was incurred or aggravated in the LOD only when clear and unmistakable evidence indicates the disease or injury existed prior to their current period of military service and was not aggravated by their current period of military service.

(2) There is no presumption of incurrence or aggravation in the LOD for RC members serving on orders of 30 days or less.

(3) Pursuant to the provisions of sections 1206(a) and 1207(a) of Reference (c), a preexisting condition is deemed to have been incurred while entitled to basic pay and will be considered for purposes of determining whether the disability was incurred in the LOD when:

(a) The Service member was ordered to active duty for more than 30 days (other than for training pursuant to section 10148(a) of Reference (c)) when the disease or injury was determined to be unfitting as subsequently determined by the PEB.

(b) The Service member was not a member of the RC released within 30 days of his or her orders to active duty in accordance with section 1206a of Reference (c) due to the identification of a preexisting condition not aggravated by the current call to duty.

(c) The Service member will have a career total of at least 8 years of active service at the time of separation.

(d) The disability was not the result of intentional misconduct or willful neglect or was incurred during a period of unauthorized absence.

d. RC Members Serving on Orders of 30 Days or Less. The Secretary of the Military Department concerned will determine if injuries and diseases to RC members serving on orders of 30 days or less were incurred or aggravated in the LOD as described in section 4 of this appendix. For RC members being examined in accordance with section 3 of this appendix, aggravation must constitute the worsening of a preexisting medical condition as a direct result of military duty and over and above the natural progression of the condition.

e. Prior Service Impairment. Any medical condition incurred or aggravated during one period of active service or authorized training in any of the Military Services that recurs, is aggravated, or otherwise causes the member to be unfit, should be considered incurred in the LOD, provided the origin of such impairment or its current state is not due to the Service member's misconduct or willful negligence, or progressed to unfitness as the result of intervening events when the Service member was not in a duty status.

f. Medical Waivers

(1) Service members who entered the Military Service with a medical waiver for a preexisting condition and are subsequently determined unfit for the condition will not be entitled to disability separation or retired pay unless:

(a) Military service permanently aggravated the condition or hastened the condition's rate of natural progression; or

(b) The member will have 8 years of active service at the time of separation.

(2) Service members granted medical waivers will be advised of the waiver application process when applying for a waiver and when it is granted.

g. Treatment of Pre-existing Conditions. Generally recognized risks associated with treating preexisting conditions will not be considered service aggravation. Unexpected adverse events, over and above known hazards, directly attributable to treatment, anesthetic, or operation performed or administered for a medical condition existing before entry on active duty, may be considered service aggravation.

h. Elective Surgery or Treatment. A Service member choosing to have elective surgery or treatment done at his or her own expense will not be eligible for compensation in accordance with the provisions of this instruction for any adverse residual effect resulting from the elected treatment, unless it can be shown that such election was reasonable or resulted from a significant impairment of judgment that is the product of a ratable medical condition.

i. Rating Disabilities. When a disability is established as compensable, it will be rated in accordance with Reference (t). When after careful consideration of all procurable and assembled

data, a reasonable doubt arises regarding the degree of disability, such doubt will be resolved in favor of the Service member.

APPENDIX 4 TO ENCLOSURE 3

TDRL MANAGEMENT

1. INITIAL PLACEMENT ON THE TDRL

a. A Service member will be placed on the TDRL when the member meets the requirements for permanent disability retirement except that the disability is not determined to be stable but may be permanent. A disability will be determined stable when the preponderance of medical evidence indicates the severity of the condition will probably not change enough within the next 5 years to increase or decrease the disability rating percentage.

b. Service members with unstable conditions rated at a minimum of 80 percent that are not expected to improve to less than an 80 percent rating will be permanently retired.

2. TDRL RE-EVALUATION. The TDRL will be managed to meet the requirements for periodic disability examination, suspension of retired pay, and prompt removal from the TDRL pursuant to chapter 61 of Reference (c), including the reexamination of temporary retirees at least once every 18 months to determine whether there has been a change in the disability for which the member was temporarily retired.

a. Initiating the TDRL Re-evaluation Process. No later than 16 months after temporarily retiring a Service member for disability or after his or her previous re-evaluation, the Military Department will obtain and review available DoD medical treatment documentation and VA or veteran-provided medical treatment, or disability examination that occurred within 16 months of being placed on the TDRL, and rating documentation. If the documents reviewed are deemed sufficient and consistent with the requirements of chapter 61, of Reference (c), the Military Department may rely on that documentation to determine whether there has been a change in disability for which the Service member was temporarily retired. The PEB will review the available evidence to determine if the documentation is sufficient to:

(1) Fully describe each disability that the Secretary of the Military Department concerned determined was unfitting and may be permanent but was unstable at the time the Service member was placed on the TDRL, the current status of such disabilities, the progress of the disability and a suggested time frame (not to exceed 18 months) for the next examination.

(2) Fully describe, including treatment and etiology, any new disability that was caused by or directly related to the treatment of a disability for which the Service member was previously placed on the TDRL.

b. Conduct of Disability Re-examinations. If the Military Department determines the available medical records and examination reports, including those available from VA, do not meet the requirements in paragraphs 2a(1) and 2a(2) of this appendix, the Military Department will comply with their responsibilities in chapter 61 of Reference (c) regarding the TDRL, to

include performing TDRL examinations that meet the requirements of paragraph 2a(1) and 2a(2) of this appendix.

c. PEB Re-adjudication. The Military Department will request that VA provide their most current rating and medical evidence upon which the most current rating was based for the condition for which the veteran was placed on the TDRL. The PEB may use the future examination requirements set by the disability rating activity site (D-RAS) as an indicator of stability when making the recommendations of stability determinations and case disposition to the Secretary of the Military Department. If the PEB decides to continue a Service member on temporary retirement for disability for which the D-RAS has not scheduled a future examination, the Military Department will execute required TDRL examinations and ratings in accordance with chapter 61 of Reference (c).

d. PEB Disposition

(1) If the PEB finds the veteran fit for duty for the condition(s) for which he or she was placed on the TDRL; that the condition(s) is now stable; and the veteran wishes to return to active duty, the Military Department will administer any additional examinations required to evaluate whether the veteran is otherwise fit for duty in accordance with the Military Department's regulations and the guidance in this instruction. The Military Department will administer other dispositions in accordance with the guidance in this instruction.

(2) If upon re-evaluation while on the TDRL, the Service member is still found unfit for the unstable condition for which he or she was placed on the TDRL, evaluation of other conditions is not required. If the Service member is no longer found unfit for the unstable condition for which he or she was placed on the TDRL, an assessment will be made as to whether any other condition exists that would prevent a return to duty. If other conditions exist that render the Service member unfit, a determination will be made that the condition is unfitting but not compensable in the DES.

e. Cases on VA Appeal. When a Service member who was temporarily retired for disability has appealed a VA decision and the appeal resides with the Board of Veterans Appeals or Court of Appeals for Veterans' Claims, the Military Department will obtain from the VA a copy of the most current rating and medical evidence available.

(1) The Military Department will obtain and review the available DoD and the VA medical treatment and disability examination documentation available for the condition for which the Service member was placed on the TDRL.

(2) The Military Department will review the available medical evidence to determine if the documentation is sufficient to conduct the TDRL re-evaluation process without a disability examination of the Service member.

(3) If the PEB determines that the Service member requires an additional disability examination, the PEB will coordinate the actions needed to meet the statutory, 18-month

examination requirement in chapter 61 of Reference (c). Upon receipt of all necessary medical evidence, the PEB will adjudicate the case.

f. Administrative Finality. During TDRL re-evaluation, as described in paragraph 2a of this appendix, previous determinations concerning application of any presumption established by this instruction, LOD, misconduct, and whether a medical impairment was permanent, service-incurred, or preexisting and aggravated will be considered administratively final for conditions for which the Service member was placed on the TDRL unless there is:

(1) Evidence of fraud.

(2) A change of diagnosis that warrants the application of accepted medical principles for a preexisting condition.

(3) A correction of error in favor of the Service member.

g. Required Determinations. The Secretary of the Military Department concerned will determine whether the conditions for which the Service member was placed on the TDRL are unfitting and compensable. When, upon re-evaluation, a temporarily retired veteran is determined fit for the conditions for which he or she was placed on the TDRL and has no other DoD compensable disabilities, the veteran will be separated from the TDRL without entitlement to DoD disability benefits.

h. Service Member Medical Records. The Service member will provide to the examining physician, for submission to the PEB, copies of all his or her medical records (e.g., civilian, VA, and military) documenting treatment since the last TDRL re-evaluation.

i. Compensability of New Diagnoses. Conditions newly diagnosed during temporary retirement will be compensable when:

(1) The condition is unfitting and;

(2) The condition was caused by or directly related to the treatment of a condition for which the Service member was previously placed on the TDRL.

(3) To correct an error in favor of the Service member, the Secretary of the Military Department concerned determines the condition was unfitting and compensable at the time the member was placed on the TDRL.

j. Current Physical Examination. Service members on the TDRL are not entitled to permanent retirement or separation with disability severance pay without a current periodic physical examination acceptable to the Secretary of the Military Department concerned as required by chapter 61 of Reference (c).

k. Refusal or Failure to Report. In accordance with chapter 61 of Reference (c), when a Service member on the TDRL refuses or fails to report for a required periodic physical

examination or provide his or her medical records in accordance with paragraph 2h of this appendix, disability retired pay will be suspended.

(1) If the Service member later reports for the physical examination, retired pay will be resumed effective on the date the examination was actually performed.

(2) If the Service member subsequently shows just cause for failure to report, disability retired pay may be paid retroactively for a period not to exceed 1 year prior to the actual performance of the physical examination.

(3) If the Service member does not undergo a periodic physical examination after disability retired pay has been suspended, he or she will be administratively removed from the TDRL on the fifth anniversary of the original placement on the list.

l. Priority. TDRL examinations, including hospitalization in connection with the conduct of the examination, will be furnished with the same priority given to active duty members.

m. Reports From Non-MTFs. MTFs designated to conduct TDRL periodic physical examinations may use disability examination reports from any medical facility or physician. The designated MTF remains responsible for the adequacy of the examination and the completeness of the report. The report must include the competency information specified in paragraph 2e of this appendix.

n. Incarcerated Members. A report of disability examination will 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, documented efforts will be made to obtain an acceptable report. If an examination is not received, disposition of the case will be in accordance with paragraph 2k of this appendix. The Service member will be advised of the disposition and that remedy rests with the respective Military Department Board for Correction of Military Records.

APPENDIX 5 TO ENCLOSURE 3

ADMINISTRATIVE DETERMINATIONS

1. ADMINISTRATIVE DETERMINATIONS FOR PURPOSES OF EMPLOYMENT UNDER FEDERAL CIVIL SERVICE

a. The PEB renders a final decision on whether an injury or disease that makes the Service member unfit or that contributes to unfitness was incurred in combat with an enemy of the United States, was the result of armed conflict, or was caused by an instrumentality of war during war.

b. These determinations pertain to whether a military retiree later employed in federal civil service is entitled to credit of military service toward a federal civil service retirement in accordance with sections 8332 and 8411 of Reference (d); in accordance with section 2082 of Reference (f); retention preference in accordance with section 3501 of Reference (d); credit of military service for civil service annual leave accrual in accordance with section 6303 of Reference (d); and exclusion of federal income taxation in accordance with section 104 of Reference (e).

(1) Incurred in Combat with an Enemy of the United States. The disease or injury was incurred in the LOD in combat with an enemy of the United States.

(2) Armed Conflict. The disease or injury was incurred in the LOD as a direct result of armed conflict (see Glossary) in accordance with sections 3501 and 6303 of Reference (d). The fact that a Service member may have incurred a disability during a period of war, in an area of armed conflict, or while participating in combat operations is not sufficient to support this finding. There must be a definite causal relationship between the armed conflict and the resulting unfitting disability.

(3) Instrumentality of War During a Period of War. The injury or disease was caused by an instrumentality of war, incurred in the LOD during a period of war as defined in sections 101 and 302 of Title 38, U.S.C. (Reference (ag)), and makes the Service member unfit in accordance with sections 3501 and 6303 of Reference (d). Applicable periods are:

(a) World War II. The period beginning December 7, 1941, and ending December 31, 1946; and any period of continuous service performed after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

(b) Korean Conflict. The period beginning June 27, 1950, and ending January 31, 1955.

(c) Vietnam Era. The period beginning August 5, 1964, and ending May 7, 1975.

(d) Persian Gulf. The period beginning August 2, 1990, through date to be prescribed by Presidential proclamation or law.

2. DETERMINATIONS FOR FEDERAL TAX BENEFITS. Disability evaluation includes a determination and supporting documentation on whether the Service member's disability compensation is excluded from federal gross income in accordance with Reference (e). For compensation to be excluded, the Service member must meet the criteria in either paragraph 2a or 2b of this appendix.

a. Status. On September 24, 1975, the individual was a military Service member, including the RC, or was under binding written agreement to become a Service member.

(1) A Service member who was a member of an armed force of another country on that date is entitled to the exclusion.

(2) A Service member who was a contracted cadet of the Reserve Officers Training Corps on that date is entitled to the exclusion.

(3) A Service member who separates from the Military Service after that date and incurs a disability during a subsequent enlistment is entitled to the exclusion.

b. Combat Related. This standard covers injuries and diseases attributable to the special dangers associated with armed conflict or the preparation or training for armed conflict. A disability is considered combat-related if it makes the Service member unfit or contributes to unfitness and the preponderance of evidence shows it was incurred under any of the following circumstances.

(1) As a Direct Result of Armed Conflict. The criteria are the same as those in paragraph 1b of this appendix.

(2) While Engaged in Hazardous Service. Such service includes, but is not limited to, aerial flight duty, parachute duty, demolition duty, experimental stress duty, and diving duty.

(3) Under Conditions Simulating War. In general, this covers disabilities resulting from military training, such as war games, practice alerts, tactical exercises, airborne operations, and leadership reaction courses; grenade and live fire weapons practice; bayonet training; hand-to-hand combat training; rappelling; and negotiation of combat confidence and obstacle courses. It does not include physical training activities, such as calisthenics and jogging or formation running and supervised sports.

(4) Caused by an Instrumentality of War. Occurrence during a period of war is not a requirement to qualify. If the disability was incurred during any period of service as a result of wounds caused by a military weapon, accidents involving a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or material, the criteria are met. However, there must be a direct causal relationship between the instrumentality

of war and the disability. For example, an injury resulting from a Service member falling on the deck of a ship while participating in a sports activity would not normally be considered an injury caused by an instrumentality of war (the ship) since the sports activity and not the ship caused the fall. The exception occurs if the operation of the ship caused the fall.

3. RECOUPMENT OF BENEFITS. In accordance with sections 303a and 373 of Reference (af), when a Service member is retired, separated or dies as a result of a combat-related disability and has received a bonus, incentive pay, or similar benefit, the Secretary of the Military Department concerned:

a. Will not require repayment by the Service member or his or her family of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the Service member.

b. Will require the payment to the Service member or his or her family of the remainder of any bonus, incentive pay, or similar benefit that was not yet paid to the member, but to which he or she was entitled immediately before the death, retirement, or separation.

c. Will not apply paragraphs 3a and 3b of this appendix if the death or disability was the result of the Service member's misconduct.

4. DETERMINATION FOR RC MEMBERS WHO ARE TECHNICIANS AND DETERMINED UNFIT BY THE DES. In accordance with section 10216(g) of Reference (c), the record of proceedings for RC members who are technicians and determined unfit by the DES must include whether the member was determined unfit due to a combat-related event.

APPENDIX 6 TO ENCLOSURE 3

FINAL DISPOSITION

1. FINAL DECISION AUTHORITY

a. Secretary of Defense. The Secretary of Defense, after considering the recommendation of the USD(P&R), approves or disapproves the appeal of any Service member found fit for duty by the PEB but determined unsuitable for continued service by the Secretary of the Military Department concerned for the same medical condition considered by the PEB.

b. USD(P&R). The USD(P&R), after considering the recommendation of the ASD(HA), approves or disapproves the disability retirement of any general or flag officer or medical officer being processed for, scheduled for, or receiving non-disability retirement for age or length of service.

c. Secretaries of the Military Departments. Except as stated in paragraphs 1a and b of this appendix, the Secretary of the Military Department concerned has the authority to make all determinations in accordance with this instruction regarding unfitness, disability percentage, and entitlement to disability severance and retired pay.

2. GENERAL RULES REGARDING DISPOSITION

a. Retirement

(1) Except for Service members approved for permanent limited duty consistent with section 3 of this appendix, any Service member on active duty or in the RC who is found to be unfit will be retired, if eligible, or separated. This general rule does not prevent disciplinary or other administrative separations from the Military Services.

(2) Selected Reserve members with at least 15 but no more than 20 years of qualifying service pursuant to section 12732 of Reference (c) who are to be separated, may elect either separation for disability or early qualification for retired pay at age 60 pursuant to sections 12731 and 12731(b) of Reference (c). However, the separation or retirement for disability cannot be due to the member's intentional misconduct, willful failure to comply with standards and qualifications for retention, or willful neglect, and cannot have been incurred during a period of unauthorized absence or excess leave.

b. Removal From the TDRL. Service members determined fit as a result of TDRL re-evaluation will be processed as:

(1) Appointment and/or Enlistment. Upon the Service member's request, and provided he or she is otherwise eligible, the Secretary of the Military Department concerned will appoint

or enlist the Service member in the applicable grade and component as outlined in section 1211 of Reference (c).

(2) Recall to Active Duty

(a) Regular Officers and Enlisted Members. Subject to their consent, regular officers and enlisted members will be recalled to duty, if they are otherwise eligible and were not separated in accordance with law or regulation at the time they were placed on the TDRL. They will be deemed medically qualified for those conditions on which a finding of fit was determined. Any new condition arising between DES evaluation and recall must meet the respective Military Service's medical standards for retention.

(b) RC. Subject to their consent, RC officers, warrant officers, and enlisted members will be reappointed or reenlisted as a Reserve for service in their respective RC in accordance with section 1211 of Reference (c). RC members determined fit by TDRL re-evaluation will not be involuntarily assigned to the Individual Ready Reserve.

(3) Separation. In accordance with section 1210(f) of Reference (c), Service members required to be separated or retired for non-disability reasons at the time they were referred for disability evaluation and placed on the TDRL, if determined fit, will be separated or retired, as applicable.

(4) Termination of TDRL Status. TDRL status and retired pay will terminate upon discharge, recall, reappointment, or reenlistment, as outlined in section 1211 of Reference (c).

(5) Right to Apply for VA Benefits. A Service member may not be discharged or released from active duty due to a disability until he or she has been counseled on their right to make a claim for compensation, pension, or hospitalization with the VA.

3. CONTINUANCE OF UNFIT SERVICE MEMBERS ON ACTIVE DUTY OR IN THE RESERVES. Upon the request of the Service member or upon the exercise of discretion based on the needs of the Military Departments, the Secretary of the Military Department concerned may allow unfit Service members to continue in a permanent limited-duty status, either active or reserve duty in the same or different rating or occupational specialty. Such continuation may be justified by the Service member's service obligation or special skill and experience. The Secretaries of the Military Department concerned may also consider transfer to another Military Service.

4. TRANSITION BENEFITS. AC and RC members on active duty are entitled to the transition benefits established by Reference (ac) when being separated or retired for disability unless waived by the DoD or prohibited by federal law.

5. DISPOSITIONS FOR UNFIT SERVICE MEMBERS

a. Permanent Disability Retirement. If the Service member is unfit, retirement for a permanent and stable compensable disability is directed pursuant to section 1201 or 1204 of Reference (c) either:

(1) When the total disability rating is at least 30 percent in accordance with the VASRD and the Service member has less than 20 years of service computed pursuant to section 1208 of Reference (c); or

(2) When the Service member has at least 20 years of service computed pursuant to section 1208 of Reference (c) and the disability is rated at less than 30 percent.

b. Placement on the TDRL. Retirement is directed pursuant to section 1202 or 1205 of Reference (c) when the requirements for permanent disability retirement are met, except the disability is not stable and may be permanent.

c. Separation With Disability Severance Pay

(1) Criteria. Separation is directed pursuant to section 1203 or 1206 of Reference (c) when the member is unfit for a compensable disability determined in accordance with the standards of this instruction, and the following requirements are met. Stability is not a factor for this disposition.

(a) The Service member has less than 20 years of service computed pursuant to section 1208 of Reference (c).

(b) The disability is rated at less than 30 percent.

(2) Service Credit

(a) Pursuant to section 1212 of Reference (c), a part of a year of active service that is 6 months or more is counted as a whole year, and a part of a year that is less than 6 months is disregarded.

(b) The Secretary of the Military Department concerned will credit members separated from the Military Services for a disability with a minimum of 3 years of service.

(c) The Secretary of the Military Department concerned will credit members separated from the Military Services for a disability incurred in the LOD in a designated combat zone tax exclusion area or incurred during the performance of duty in combat-related operations consistent with the criteria in paragraph 2b of Appendix 5 to this enclosure with a minimum of 6 years of service.

(d) For the purposes of calculating active service for disability severance pay, the Secretary of the Military Department concerned will consider disabilities to be incurred in

combat-related operations when they are consistent with the criteria in paragraph 2b of Appendix 5 to this enclosure.

(3) Transfer to Retired Reserve

(a) Pursuant to section 1209 of Reference (c), RC members who have completed at least 20 qualifying years of Reserve service and who would otherwise be qualified for retirement may forfeit disability severance pay and request transfer to an inactive status list for the purpose of receiving non-disability retired pay at age 60. The Secretary of the Military Department concerned may offer the member the option to transfer to the Retired Reserve.

(b) When disability severance pay is accepted, the Service member forfeits all rights to receive retired pay pursuant to chapter 1223 of Reference (c) at age 60. There are no provisions pursuant to Reference (c) to repay disability severance pay to then receive retired pay.

(4) Selected Reserve Early Qualification for Retired Pay. Pursuant to section 12731 of Reference (c), RC members with at least 15 and less than 20 years of qualifying service who would otherwise be qualified for nonregular retirement may waive disability disposition and request early qualification for retired pay in accordance with 12731(b) of Reference (c).

d. Separation Without Entitlement to Benefits. Discharge is directed in accordance with section 1207 of Reference (c) when the Service member is unfit for a disability incurred as a result of intentional misconduct or willful neglect or during a period of unauthorized absence.

e. Discharge Pursuant to Other Than Chapter 61 of Reference (c). An unfit Service member is directed for discharge in accordance with other provisions of Reference (c) and Reference (ad) and DoDI 1332.30 (Reference (ah)) when he or she is not entitled to disability compensation due to the circumstances when either:

(1) The Service member is not entitled to disability compensation, but may be entitled to benefits under section 1174 of Reference (c).

(2) The medical impairment of an RC member is non-duty related and it disqualifies the member for retention in the RC.

f. Revert with Disability Benefits. Revert with disability benefits is used to return a retiree recalled to active duty who was:

(1) Previously retired for disability.

(2) Determined unfit during the period of recall. For Service members previously retired for age or years of service, the compensable percentage of disability must be 30 percent or more to receive disability benefits.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AC	Active Component
ASD(HA)	Assistant Secretary of Defense for Health Affairs
ASD(RA)	Assistant Secretary of Defense for Reserve Affairs
DAC	Disability Advisory Council
DASD(WCP)	Deputy Assistant Secretary of Defense for Warrior Care Policy
DES	disability evaluation system
DoDD	DoD Directive
DoDI	DoD Instruction
D-RAS	disability rating activity site
EDES	Expedited Disability Evaluation System
FPEB	formal physical evaluation board
GC DoD	General Counsel of the Department of Defense
IDES	Integrated Disability Evaluation System
IDT	inactive duty training
IPEB	informal physical evaluation board
IT	information technology
LDES	Legacy Disability Evaluation System
LOD	line of duty
MEB	medical evaluation board
MTF	military treatment facility
PEB	physical evaluation board
PEBLO	physical evaluation board liaison officer
RC	Reserve Component

TDRL	temporary disability retired list
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness
VA	Department of Veterans Affairs
VASRD	Department of Veterans Affairs Schedule for Rating Disabilities

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this instruction.

accepted medical principles. Fundamental deductions, consistent with medical facts, that are so reasonable and logical as to create a virtual certainty that they are correct.

active duty. Defined in Joint Publication 1-02 (Reference (ai)).

acute. Characterized by sharpness or severity.

armed conflict. A war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerilla action, riot, or any other action in which Service members are engaged with a hostile or belligerent nation, faction, force, or terrorist. Armed conflict may also include such situations as incidents involving a member while interned as a prisoner of war or while detained against his or her will in the custody of a hostile or belligerent force or while escaping or attempting to escape from such confinement, prisoner-of-war, or detained status.

catastrophic injury or illness. A permanent, severely disabling injury, disorder, or disease incurred or aggravated in the LOD that compromises the ability to carry out the activities of daily living to such a degree that a Service member requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others.

clear and unmistakable evidence. Undebatable information that the condition existed prior to military service or if increased in service was not aggravated by military service. In other words, reasonable minds could only conclude that the condition existed prior to military service from a review of all of the evidence in the record.

compensable disability. A medical condition that is determined to be unfitting due to disability and that meets the statutory criteria of chapter 61 of Reference (c) for entitlement to disability retired or severance pay.

competency board. A board consisting of at least three medical officers or physicians (including one psychiatrist) convened to determine whether a member is competent (capable of making a rational decision regarding his or her personal and financial affairs).

DAC. A DoD-only group that evaluates DES functions, identifies best practices, addresses inconsistencies in policy, discusses inconsistencies in law, addresses problems and issues in the administration of the DES, and provides a forum to develop and plan improvements.

DES. The DoD mechanism for determining return to duty, separation, or retirement of Service members because of disability in accordance with chapter 61 of Reference (c).

disability. Any impairment due to disease or injury, regardless of degree, that reduces or prevents an individual's actual or presumed ability to engage in gainful employment or normal activity. The term "disability" or "physical disability" includes mental disease, but not such inherent defects as developmental or behavioral disorders. A medical impairment, mental disease, or physical defect standing alone does not constitute a disability. To constitute a disability, the medical impairment, mental disease, or physical defect must be severe enough to interfere with the Service member's ability to adequately perform his or her duties.

EDES. A voluntary expedited process to authorize benefits, compensation, and specialty care to Service members who sustain catastrophic injuries or illnesses.

elective surgery. Surgery that is not essential, especially surgery to correct a condition that is not life-threatening; surgery that is not required for survival.

final reviewing authority. The final approving authority for the findings and recommendations of the PEB.

grave. Very serious: dangerous to life-used of an illness or its prospects.

IDES. The joint DoD -VA process by which DoD determines whether ill or injured Service members are fit for continued military service and DoD and VA determine appropriate benefits for Service members who are separated or retired for disability.

instrumentality of war. A vehicle, vessel, or device designed primarily for military service and intended for use in such service at the time of the occurrence or injury.

LDES. A DES process by which DoD determines whether eligible wounded, ill, or injured Service members are fit for continued military service and determines appropriate benefits for Service members who are separated or retired for disability. Service members processed through the LDES may also apply for veterans' disability benefits through the VA pre-discharge Benefits Delivery at Discharge or Quick Start programs, or upon attaining veteran status.

LOD determination. An inquiry to determine whether an injury or illness was incurred when the Service member was in a military duty status. If the Service member was not in a military duty

status, whether it was aggravated by military duty; or whether it was incurred or aggravated due to the Service member's intentional misconduct or willful negligence.

MEB convening authority. A senior medical officer, appointed by the MTF commander, who has detailed knowledge of standards of medical fitness and disposition of patients and disability separation processing and who is familiar with the VASRD.

MEB process. For Service members entering the DES, the MEB conducts the medical evaluation on conditions that potentially affect the Service member's fitness for duty. The MEB documents the Service member's medical condition(s) and history with an MEB narrative summary as part of an MEB packet.

medical impairment. Any disease or residual of an injury that results in a lessening or weakening of the capacity of the body or its parts to perform normally, according to accepted medical principles.

non-duty-related medical conditions. Impairments that were neither incurred nor aggravated while the member was performing duty.

office, grade, rank, or rating

office. A position of duty, trust, and authority to which an individual is appointed.

grade. A step or degree in a graduated scale of office or military rank that is established and designated as a grade by law or regulation.

rank. The order of precedence among members of the Military Services.

rating. The name (such as "Boatswain's Mate") prescribed for Service members of a Military Service in an occupational field.

PEBLO. The non-medical case manager who provides information, assistance, and case status updates to the affected Service member throughout the DES process.

permanent limited duty. The continuation on active duty or in the Ready Reserve in a limited-duty capacity of a Service member determined unfit because of disability evaluation or medical disqualification.

presumption. An inference of the truth of a proposition or fact reached through a process of reasoning and based on the existence of other facts. Matters that are presumed need no proof to support them, but may be rebutted by evidence to the contrary.

proximate result. A permanent disability the result of, arising from, or connected with active duty, annual training, active duty for training, or IDT, to include travel to and from such duty or remaining overnight between successive periods of IDT. Proximate result is a statutory criterion for entitlement to disability compensation under chapter 61 of Reference (c) applicable to RC

members who incur or aggravate a disability while performing an ordered period of military duty of 30 days or less.

retention standards. Guidelines that establish medical conditions or physical defects that could render a Service member unfit for further military service and may be cause for referral of the Service member into the DES.

service aggravation. The permanent worsening of a pre-Service medical condition over and above the natural progression of the condition.

service treatment record. A chronological record documenting the medical care, dental care and treatment received primarily outside of a hospital (outpatient), but may contain a synopsis of any inpatient hospital care and behavioral health treatment.

EXHIBIT 9

BY ORDER OF THE SECRETARY OF THE AIR FORCE

AIR FORCE INSTRUCTION 44-178

4 MARCH 2014
Certified Current 28 June 2016
Medical

HUMAN IMMUNODEFICIENCY VIRUS PROGRAM

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

ACCESSIBILITY: Publications and forms are available on the e-Publishing website at **www.e-Publishing.af.mil** for downloading or ordering.

RELEASABILITY: There are no releasability restrictions on this publication.

OPR: AFMOA/SGHM

Certified by: HQ USAF/SG3
(Brig Gen Charles E. Potter)

Pages: 44

Supersedes: AFI48-135, 7 August 2006

This instruction implements AFPD 44-1, *Medical Operations,* and Department of Defense (DoD) Instruction 6485.01, *Human Immunodeficiency Virus*, June 7, 2013. It outlines the Air Force Human Immunodeficiency Virus (HIV) Program including responsibilities and procedures for identification, surveillance, and administration of Active Duty Air Force personnel. The Air National Guard (ANG) and Headquarters Air Force Reserve Command (HQ AFRC) utilize this instruction along with supplements to provide specific guidelines for the administration of Air Reserve Component (ARC) personnel infected with HIV. Headquarters Air Reserve Personnel Center (HQ ARPC) utilizes AFI 44-175 as guidance for Individual Mobilization Augmentees (IMAs), with local MTFs as the notifying agent. This instruction requires collecting and maintaining information protected by the Privacy Act of 1974. This is authorized by 10 U.S.C., Chapter 55, *Medical and Dental Care*, 10 U.S.C., Sec. 8013, *Power and Duties of the Secretary of the Air Force,* and Executive Order 9397 (SSN) as amended by Executive Order 13478, Amendments to Executive Order 9397 Relating to Federal Agency Use of Social Security Numbers, November 18, 2008. Systems Record Notices F044 AF SG E, *Electronic Medical Records System*, and R, *Reporting of Medical Conditions of Public Health and Military Significance*, apply. Ensure that all records created as a result of processes prescribed in this publication are maintained IAW Air Force Manual (AFMAN) 33-363, Management of Records, and disposed of IAW Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS).

Send comments and suggested improvements on AF Form 847, **Recommendation for Change of Publication**, through channels, to AFMSA/SG3PM. See **Attachment 1** for a glossary of

references, abbreviations, acronyms, and terms. This publication may be supplemented at any level, but all direct Supplements must be routed to the OPR of this publication for coordination 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 OPR for non-tiered compliance items.

SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. Major changes include condensed sections describing the requirements for a positive HIV test and algorithms for determining HIV infection which reference current guidelines by the American Public Health Laboratories (APHL) and Centers for Disease Control (CDC). The location of the USAF HIV Medical Evaluation Unit was updated to San Antonio Military Medical Center (SAMMC) and the location of HIV laboratory testing was updated to the USAF School of Aerospace Medicine (USAFSAM) HIV Testing Services, Wright-Patterson Air Force Base. The clinical evaluation visit structure was modified, with HIV evaluations performed at SAMMC for initial visits, followed by a second visit in 6 months, then yearly thereafter while the patient remains on active duty (AD) status. Interim clinical visits will be performed as necessary in the local area based on recommendations from the USAF HIV Medical Evaluation Unit. The sections detailing the components of HIV clinical evaluations have been condensed with all elements of HIV clinical evaluations to be performed according to current clinical guidelines.

Chapter 1

ROLES AND RESPONSIBILITIES

1.1. HQ USAF/SG. Provides facilities, manpower, and funds to collect HIV testing specimens of Air Force (AF) personnel, to medically evaluate all HIV positive AD members including IMAs, and to ensure spouses and contacts of HIV infected AD members are notified, counseled, and tested appropriately.

1.2. HQ AFRC/SG. Ensures reserve personnel are HIV tested and spouses and contacts of HIV infected reserve personnel are notified appropriately.

1.3. HQ ANG/SG. Ensures ANG personnel are HIV tested and spouses and contacts of HIV infected ANG personnel are notified appropriately.

1.4. HQ AFMC/SG. Provides facilities, funds, and manpower to the USAFSAM HIV Testing Services to perform HIV testing and epidemiological analysis of all HIV tests performed on ADAF personnel and their dependents. Provides support to the DoD Serum Repository.

1.5. HQ AETC/SG. Provides facilities, funds, and manpower to medically evaluate all HIV positive ADAF members.

1.6. USAF HIV MEDICAL EVALUATION UNIT. Located in the Joint Infectious Disease Service at SAMMC, medically evaluates all ADAF HIV positive members initially, at 6 months, and then every 12 months thereafter while on active duty. (T-1)

Chapter 2

HIV PROGRAM

2.1. General. The AF tests all members for human immunodeficiency virus, medically evaluates all AD infected members, and educates members on means of prevention.

2.2. Populations Tested.

2.2.1. Accessions. All applicants for enlistment or appointment to the ADAF or ARC are screened for evidence of HIV infection (**Attachment 3**). Applicants infected with HIV are ineligible for enlistment or appointment to the ADAF and the ARC. Waiver for HIV infection is not authorized.

2.2.2. ADAF personnel. All ADAF personnel are screened for serological evidence of HIV infection every two years, preferably as part of their Preventive Health Assessment (PHA). They are also tested for clinically indicated reasons, when newly diagnosed with active tuberculosis, during pregnancy, when diagnosed with a sexually transmitted infection (STI), upon entry to drug or alcohol treatment programs, or prior to incarceration. HIV testing is conducted IAW **Attachment 3**. (T-1)

2.2.3. ARC personnel. Air Force Reserve personnel are screened for serological evidence of HIV infection every two years, preferably during their PHA (Preventive Health Assessment). ARC members will have a current HIV test within two years of the date on which they are called to active duty for 30 days or more.HIV testing is conducted IAW **Attachment 3**. (T-1)

2.2.4. DoD Civilians. DoD Civilian employees are tested for serological evidence of HIV to comply with host nation requirements for screening of DoD employees (**Attachment 6**) and after occupationally related exposures. (T-1)

2.3. Initial Procedures for Positive Tests. All ADAF personnel testing positive are counseled by a physician regarding the significance of a positive test. They are given information on modes of transmission, appropriate precautions to mitigate transmission, and prognosis. ADAF members are administered an order to follow preventive medicine requirements as described in **Attachment** 7. ARC members will also be administered this order. The preventive medicine requirements/order will not be delayed pending any administrative action. All eligible beneficiaries are offered counseling. Contacts of HIV-infected members are notified of potential exposure to HIV infection according to state or local law. (T-0)

2.4. Clinical Evaluation, to Include Evaluation for Continued Military Service. All ADAF members, as well as ARC members on extended active duty, who test positive for HIV are referred to SAMMC for medical evaluation. Per AFI 48-123 and AFI 41-210, HIV-positive personnel must undergo medical evaluation for the purpose of determining status for continued military service. ARC members who are not on extended active duty or who are not on full-time National Guard duty, and who show serologic evidence of HIV infection, will be referred for a medical evaluation of fitness for continued service in the same manner as service members with other chronic or progressive illnesses in accordance with DoDI 1332.38. In the case of an ANG member, it is only required if the state identifies a nonmobility, nondeployable position in which the member can be retained. All ADAF members will have an initial evaluation at SAMMC, followed by a visit at 6 months, then yearly thereafter while remaining on AD status. ARC and

ANG members whose condition is determined to meet Line of Duty requirements may have initial and/or annual HIV evaluations performed at regional military facilities. ARC and ANG members not meeting Line of Duty requirements will have an initial evaluation by a civilian HIV specialist. The medical evaluation follows the standard clinical protocol outlined in **Attachment 8** and utilizes procedures for evaluating T-helper cell counts described in **Attachment 12**. ARC members not on extended active duty must obtain a medical evaluation that meets the requirements of **Attachment 8** from their civilian healthcare provider (in the case of the ANG, only if the state identifies a nonmobility, nondeployable position in which the member can be retained). An epidemiological assessment (including sexual contacts and history of blood transfusions or donations) is conducted to determine potential risk of HIV transmission (see **Attachment 11**). (T-1)

2.4.1. Outcome of Evaluation for Continued Military Service. HIV seropositivity alone is not grounds for medical separation or retirement for ADAF members. Members shall be retained or separated as outlined in **Attachment 9**. (T-1)

2.4.2. Periodic Re-evaluation. HIV infected ADAF members retained on active duty and ARC members retained in the Selected Reserve must be medically evaluated annually at SAMMC. Such personnel must be assigned within the continental United States (CONUS). Alaska, Hawaii, and Puerto Rico are also acceptable. ARC HIV infected members may not be deployed outside of CONUS (except for Alaska, Hawaii, and Puerto Rico). HIV-infected members shall not be assigned to OCONUS mobility positions, and those on flying status must be placed on Duty Not Including Flying (DNIF) status pending medical evaluation/waiver determination. Waivers are considered using normal procedures established for chronic diseases. Aeromedical waivers are considered according to the Aerospace Medicine Waiver Guide. Members on the Personnel Reliability Program (PRP) or other security sensitive positions shall evaluated for suspension or temporary decertification during medical evaluation, as determined by their Certifying Official/Unit Commander on the advice of a Competent Medical Authority. The Secretary of the Air Force may, on a case-by-case basis, further limit duties and assignment of members to protect the health and safety of the HIV-infected member or other members. Submit such requests to Office of the Secretary of the Air Force, Air Force Pentagon,Washington, DC 20330-1670. (T-1)

2.5. Limitations of Use of Information. Commanders and other personnel comply with limitations on the use of information obtained during the epidemiological assessment of HIV-infected members as outlined in **Attachment 10**. (T-1)

2.6. Public Health. Provides HIV education to all ADAF members, offers education to other eligible beneficiaries, maintains a list of HIV positive personnel to be gained, reports to gaining bases departing HIV positive personnel, and educates HIV positive members and their dependents. (T-1)

2.7. USAFSAM. USAFSAM performs HIV testing (PHE) of submitted specimens and conducts epidemiological surveillance (PHR) of HIV infection in Air Force members and dependents. (T-1)

2.8. AF Blood Centers. AF Blood Centers follow policies of the Armed Services Blood Program Office, Food and Drug Administration (FDA), and the accreditation requirements of the American Association of Blood Banks (AABB). (T-0)

2.9. Combat Zone Procedures. Routine HIV testing is suspended in declared combat zones, defined as those areas where hostile pay is authorized.

2.10. Work Restrictions. Force-wide, HIV-infected employees are allowed to continue working as long as they are able to maintain acceptable performance and do not pose a safety or health threat to themselves or others in the workplace. If performance or safety problems arise, managers and supervisors address such problems using existing personnel policies and instructions. HIV-infected healthcare workers, however, should be relieved from patient care responsibilities until an expert review panel has met to advise the healthcare worker on work restrictions. Recommendations to the panel will be made by HIV treatment experts during the individual's initial HIV evaluation at SAMMC in accordance with the most recent guidelines from the Centers for Disease Control and Society for Health Care Epidemiology of America. The panel should be encouraged to contact SAMMC for advice (via telephone conference call) to ensure organizational consistency. (T-1)

Chapter 3

HIV TESTING MEASUREMENT

3.1. HIV Testing Measurement. The AF's goal is to reduce the incidence of HIV infection in its personnel. USAFSAM tracks trends of HIV incidence in AF members. AF labs that do their own HIV testing must communicate test results and ship corresponding serum specimens to USAFSAM so they may ship samples to the DoD serum repository, and track trends. (T-1)

Chapter 4

FORMS

4.1. Forms. AF Form 1762, *HIV Log/Specimen Transmittal*, will be used for requesting HIV testing and specimen transmittal for those sites that do not have CHCS access (see **Attachment 4**). AF Form 3844, *HIV Testing Notification Form*, will be used to notify personnel of required HIV testing. AF Form 3845, *Preventive Medicine Counseling Record*, will be used to record counseling provided for HIV positive individuals. AF Form 74, *Communication Status Notice/Request*, is sent to MTF/CCs and Reserve Medical Unit (RMU)/CCs along with a copy of the patient's positive HIV testing screen and confirmation testing results. The MTF/CC and RMU/CC will document on AF Form 74 that the patient has been notified of the positive HIV results, then return the form to USAFSAM. Positive HIV results will not be finalized until USAFSAM/PHE receives the AF Form 74. (T-1)

THOMAS W. TRAVIS
Lieutenant General, USAF, MC, CFS
Surgeon General

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References.

Title 29, United States Code, Section 794, *Non-Discrimination Under Federal Grants and Programs,* current edition

DoD Directive 1332.18, *Separation or Retirement for Physical Disability*, 4 November 1996

DoD Instruction 1332.38, *Physical Disability Evaluation, CH 2*, 10 April 2013

DoD Instruction 6485.01, *Human Immunodeficiency Virus,* 7 June 2012

DoD Regulation 5210.42, *Nuclear Weapons Personnel Reliability Program,* 16 July 2012.

AFPD 48-1, *Aerospace Medicinel Enterprise,* 23 August 2011.

AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation, IC 2,* 27 November 2009 AFI 48-123, *Medical Examination and Standards*, *GM1*, 31 January 2011

AFI-41-210, *Tricare Operations and Patient Administration Functions,* 6 June 2012

AFI 44-108, *Infection Control Program,* 1 March 2012

CDC. HIV Prevention through Early Detection and Treatment of Other Sexually Transmitted Diseases--United States Recommendation of the Advisory Committee for HIV and STD Prevention. *MMWR.* 1998;47(RR12):1-24.

CDC. Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures. *MMWR.* 1991;40(RR08).

CDC. Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. *MMWR.* 2006;55(RR14):1-17.

CDC. Sexually Transmitted Diseases Treatment Guidelines, 2010. *MMWR.* 2010;59(RR12):1-116.

Updated US Public Health Service Guidelines for the Management of Occupational Exposures to Human Immunodeficiency Virus and Recommendations for Postexposure Prophylaxis, 2013. Infect Control Hosp Epidemiol. 2013;34(9):875-92.

Panel on Antiretroviral Guidelines for Adults and Adolescents. Guidelines for the use of antiretroviral agents in HIV-1 infected adults and adolescents. Department of Health and Human Services. January 10, 2011;1-66. Available at **http://www.aidsinfo.nih.gov/ContentFiles/** AdultandAdolescentGL.pdf. Accessed May 27, 2011.

SHEA. Guideline for Management of Healthcare Workers Who Are Infected with Hepatitis B Virus, Hepatitis C Virus,and/or Human Immunodeficiency Virus Infection Control and Hospital Epidemiology 2010;. 31, no. 3.

APHL. HIV Testing Algorithms A Status Report: aPublication from the Association of Public Health Laboratories and the Centers for Disease Control & Prevention. April 2009 with update January 2011.

Adopted Forms.

AF Form 1762, HIV Log/Specimen Transmittal

AF Form 3844, HIV Testing Notification Form

AF Form 3845, Preventive Medicine Counseling Record

AF Form 74, Communication Status Notice/Request

Abbreviations and Acronyms.

AABB—American Association of Blood Banks

ADAF—Active Duty Air Force

AETC—Air Education and Training Command

AFMC—Air Force Materiel Command

AFMOA—Air Force Medical Operations Agency

AFMOA/SGOC—Air Force Medical Operations Agency, Surgeon General's Office of Consultants

AFPC—Air Force Personnel Center

AFPC/DPANM—Air Force Personnel Center/Medical Retention Standards Branch

AFPD—Air Force Policy Directive

AFRC—Air Force Reserve Command

AIDS—Acquired Immunodeficiency Syndrome

ANGB—Air National Guard Bureau

APHL—American Public Health Laboratories

ARC—Air Reserve Component (Air Force Reserve and Air National Guard)

ASD—Assistant Secretary of Defense

CDC—Centers for Disease Control and Prevention

CHCS—Composite Healthcare System

CHN—Community Health Nurse

CONUS—Continental United States

COT—Consecutive Overseas Tour

CPO—Civilian Personnel Office

DAF—Department of the Air Force

DBMS—Director, Base Medical Services

DoD—Department of Defense

DoDSR—Department of Defense Serum Repository

DNIF—Duty Not Including Flying

DSN—Defense Switched Network

FDA—Food and Drug Administration

FM—Flight Medicine

FM & P—Force Management and Personnel

FMP—Family Member Prefix

HBV—Hepatitis B virus

HIV—Human Immunodeficiency Virus (the virus that causes AIDS)

HQ AETC—Headquarters Air Education and Training Command

HQ AFRC/SG—Headquarters Air Force Reserve Command Surgeon

HQ ANG/SG—Headquarters Air National Guard Command Surgeon

HQ USAF—Headquarters US Air Force

ICD-9—International Classification of Diseases, Revision 9

IMA—Individual Mobilization Augmentee

I-RILO—Initial Review in Lieu of Medical Board

MAJCOM—Major Command

MEB—Medical Evaluation Board

MTF/CC—Medical Treatment Facility Commander

MPF—Military Personnel Flight

MTF—Medical Treatment Facility

NGB—National Guard Bureau

OB—Obstetrics

OI—Opportunistic Infection

OS—Overseas

OSHA—Occupational Safety and Health Association

OTS—Officer Training School

PCS—Permanent Change of Station

PE—Physical Examination

PES—Physical Examination Section

PH—Public Health

PQAM—Program Quality Assurance Monitor

PRP—Personnel Reliability Program

ROTC—Reserve Officer Training Corps

SAF—Secretary of the Air Force

SAMMC—San Antonio Military Medical Center

SF—Standard Form

SG—Surgeon General

SHEA—Society for Healthcare Epidemiology of America

SSN—Social Security Number

STI—Sexually Transmitted Infection

TDY—Temporary Duty

USA—United States Army

USCG—United States Coast Guard

USMC—United States Marine Corps

USN—United States Navy

UCMJ—Uniform Code of Military Justice

USAFSAM—United States Air Force School of Aerospace Medicine

USUHS—Uniformed Services University of the Health Sciences

Terms.

Air Reserve Component—Air Force Reserve and Air National Guard components of the Air Force

Department of Defense Civilian Employees—Current and prospective DoD US civilian employees. Does not include members of the family of DoD civilian employees, employees of, or applicants for, positions with contractors performing work for DoD, or their families.

Enzyme Linked Immunosorbent Assay—A screening test read as 'reactive' if the results are above a calculated cutoff.

Epidemiological Assessment—The process by which personal and confidential information on the possible modes of transmission of HIV are obtained from an HIV-infected person. This information is used to determine if previous, present, or future contacts of the infected individual are at risk for infection with HIV and to prevent further transmission of HIV.

Host Nation—A foreign nation to which DoD US civilian employees are assigned to perform their official duties.

Human Immunodeficiency Virus—The virus that causes AIDS.

Positive—A true positive test is an indicator of a condition being present

Reactive—Reacts with the reagent antibody test to produce a visible result

Serologic Evidence of HIV Infection—A reactive result given by a FDA approved serologic test for HIV detection, such as an enzyme-linked immunosorbent assay (ELISA) or

Chemiluminescent Immunoassay (ChLIA) that is confirmed in by additional testing in a validated testing algorithm, for example by a diagnostic HIV Western Blot immunoelectrophoresis. For Western Blot tests with indeterminate results, an alternative FDA approved test can be used to resolve indeterminates such as a viral load-based assay (APTIMA).

Western Blot Test—A qualitative assay for the detection and identification of antibodies of HIV-1 contained in human serum. It is intended for use with persons of unknown risk as an additional more specific test on human serum specimens found to be repeatedly reactive using a screening procedure such as ELISA.

Attachment 2

PROCEDURES FOR SCREENING APPLICANTS

A2.1. Screen applicants to the USAF or ARC for serologic evidence of HIV infection. Test and interpret results, using the procedures in **Attachment 3**. Counsel applicants on the significance of test results and the need to seek treatment from a civilian physician. (T-1)

A2.2. Screen applicants for enlisted service at the Military Entrance Processing Stations (MEPS) or the initial point of entry to military service. Applicants who enlist under a delayed enlistment program who exhibit serologic evidence of HIV infection before entry on active duty may be discharged due to erroneous enlistment. (T-1)

A2.3. Screen applicants accepted for the Air Force Academy as part of the processing for entry into the Academy and again as part of their medical screening prior to appointment as officers. Screen other officer candidates during their preappointment or precontracting physical examination. (T-1)

A2.4. Screen applicants for ARC during the normal entry physical examinations or in the preappointment programs established for officers. Those individuals with serologic evidence of HIV infection, who must meet accession medical fitness standards to enlist or be appointed, are not eligible for service with the ARC. (T-1)

A2.5. Take the following actions on officer applicants who are ineligible for appointment due to serologic evidence of HIV infection:

A2.5.1. Disenroll enlisted members who are candidates for appointment through Officer Training School (OTS) programs immediately from the program. If OTS is the individual's initial entry training, discharge the individual. If the sole basis for discharge is serologic evidence of HIV infection, issue an honorable or entry-level discharge, as appropriate. A candidate who has completed initial entry training during the current period of service before entry into candidate status shall be administered in accordance with Service directives for enlisted personnel. (T-1)

A2.5.2. Disenroll individuals in preappointment programs, such as Reserve Officer Training Corps (ROTC) and Health Professions Scholarship Program (HPSP) participants. The head of the Military Service concerned, or the designated representative, may delay disenrollment until the end of the academic term in which serologic evidence of HIV infection is confirmed. Disenrolled participants retain any financial support through the end of the academic term in which the disenrollment takes place. Financial assistance received in these programs is not subject to recoupment, if the sole basis for dis-enrollment is serologic evidence of HIV infection. (T-1)

A2.5.3. Separate Air Force Academy cadets and personnel attending the Uniformed Services University of the Health Sciences (USUHS) from the Academy or USUHS and discharge them. The superintendent of the Academy may delay separation to the end of the current academic year. A cadet granted such a delay in the final academic year, who is otherwise qualified, may graduate without commission and then is discharged. If the sole basis for discharge is serologic evidence of HIV infection, issue an honorable discharge. (T-1)

A2.5.4. Disenroll commissioned officers in DoD-sponsored professional education programs leading to appointment in a professional military specialty (including medical, dental, chaplain, and legal or judge advocate) from the program at the end of the academic term in which serologic evidence of HIV infection is confirmed. Except when laws specifically prohibit it, waive any additional service obligation incurred by participation in such programs; do not recoup any financial assistance received in these programs. Apply the time spent by the officers in these programs towards satisfaction of any preexisting service obligation. (T-1)

A2.5.5. Counsel people disenrolled from officer programs who are to be separated; include preventive medicine counseling and advise the individual to seek treatment from a civilian physician. (T-1)

Attachment 3

AIR FORCE HIV TESTING PROCEDURES

A3.1. Responsibilities:

A3.1.1. Medical Treatment Facility Commander (MTF/CC). Is responsible for the HIV testing program. Appoints an HIV designated physician (and one or more alternates, if alternates are desired); ensures HIV positive individuals are notified and counseled as soon as possible following receipt of the positive test result; and ensures AD members are referred to SAMMC within 60 days of receipt of the HIV positive results notification from the USAFSAM HIV Testing Services to the base. Reserve medical unit commanders will immediately notify wing/unit commanders of any positive HIV test results. (T-1)

A3.1.2. Clinical Laboratory Manager**.** Draws, processes, and ships specimens for HIV testing. All specimens for HIV testing should be sent to USAFSAM HIV Testing Services, Epidemiology Laboratory Service, USAFSAM/PHE, 2510 Fifth Street, Bldg 20840, Wright-Patterson, OH 45433-7951 (DSN 798-4140). If, because of time considerations, local contract HIV testing is done for needlestick exposure, the laboratory manager must also ship a corresponding serum specimen, with HIV test request, to USAFSAM HIV Testing Services. If testing is done by an approved USAF laboratory, the laboratory manager must also ship corresponding serum specimen and results to USAFSAM HIV Testing Services. Upon completion of testing, USAFSAM HIV Testing Service will ship AD, Guard and Reserve samples to the Department of Defense Serum Repository (DoDSR). (T-1)

A3.1.3. Primary Care Management Team**.** Ensures HIV testing is accomplished in conjunction with appropriate Preventive Health Assessment or physical examinations (as described in paragraph **A3.2**). (T-1)

A3.1.4. Public Health (PH). Coordinates with MTF/CC's designee to ensure proper notification of the individual member. Is responsible for monitoring HIV positive ADAF members. Receives and reports to gaining public health personnel when HIV positive personnel are transferred. Informs the requesting laboratory of positive results so they can close out the test status in the computer system. The SAMMC HIV community liaison nurse performs additional case contact interviews, epidemiological follow-ups, and disease reporting procedures during SAMMC HIV evaluation visits. (T-1)

A3.1.5. HIV Testing Point of Contact. MTF shipping and receiving technician is responsible for shipping specimens; identifying supply deficiencies; maintaining results; and acting as the liaison with USAFSAM HIV Testing Services. (T-1)

A3.1.6. Civilian Personnel Office (CPO). Notifies by letter the clinical laboratory manager of any Department of the Air Force civilian employee requiring HIV testing. (T-1)

A3.1.7. Major Commands (MAJCOM). Deputy Command Surgeon (MAJCOM/SGP) or designee acts as liaison between USAFSAM HIV Testing Services and MTFs within the command.

A3.1.8. **USAFSAM**. Monitors and ensures that all active duty, guard and reserve positive HIV tests, as well as positive tests on dependants in the San Antonio area are reported to the HIV Program at SAMMC. Ensures that DoD mandated epidemiological studies are

accomplished on a periodic basis. The USAF HIV Medical Evaluation Unit Director or designee ensures that referred personnel on active orders are scheduled for evaluation within 30 days after being contacted by the referring base. (T-1)

A3.1.9. Reserve Medical Unit**.** Contacts the epidemiology lab to confirm positive test results before release of information, conducting counseling, or determining need for spousal or contact notification. (T-1)

A3.2. Preventive Health Assessment (PHA): Primary Care Manager ensures HIV testing is accomplished per the clinical testing requirements in the PHA for AD members or ARC members. (T-1)

A3.3. Sexually Transmitted Infection (STI) Clinic Testing:

A3.3.1. Providers counsel all STI patients regarding the need for HIV testing. Immediate HIV testing and follow-up testing IAW the most recent CDC recommendations. Informed consent laws are followed for dependents and civilians. (T-1)

A3.3.2. Providers refer all STI patients to PH for case contact interviews as soon as identified. (T-1)

A3.3.3. Test specimens IAW **A3.1.2** (T-1)

A3.3.4. MTF/CC or designee ensures all HIV positive individuals are properly notified and counseled, and all ADAF members are referred to the HIV Medical Evaluation Unit at SAMMC for medical evaluation. RMU/CC or designee ensures all HIV positive Reservists are properly notified and counseled, and all Reservists eligible for evaluation at the HIV Medical Evaluation Unit at SAMMC for medical evaluation are referred to the Unit for evaluation. (T-1)

A3.4. Drug and/or Alcohol Treatment Testing:

A3.4.1. The Alcohol and Drug Abuse Prevention and Treatment (ADAPT) Program Manager or designee notifies all AD members entering treatment programs of required HIV testing and provides the member with AF Form 3844. Local and state laws dictate availability of testing for family members and use of informed consent. Their testing is not mandatory. Individuals who are not DoD military health care beneficiaries (for example, civilian employees) are not HIV tested. (T-1)

A3.4.2. The treatment entrant reports to the MTF laboratory with AF Form 3844.

A3.4.3. Laboratory personnel obtain an HIV specimen and complete Part 2 of AF Form 3844.

A3.4.4. Accomplish the HIV testing IAW **A3.1.2** (T-1)

A3.4.5. The clinical laboratory manager forwards the completed AF Form 3844 to the ADAPT Program Manager or designee who ensures all AD members entering treatment have been HIV tested.

A3.4.6. MTF/CC or designee ensures all HIV positive individuals are properly notified and counseled, and all AD members are referred to the HIV Medical Evaluation Unit at SAMMC for medical evaluation. (T-1)

A3.5. Clinical Testing:

A3.5.1. All health care providers order HIV testing for those patients with clinical indications of HIV related diseases (e.g. active tuberculosis, incident HBV and HCV cases) and for patients with potential exposure to the virus. A confirmed positive result on a urinalysis drug test is a clinical indication for HIV testing. Providers inform patients of HIV testing for clinical indications. Local state informed consent laws are followed for family members and other beneficiaries (for example, retirees). Informed consent is not required for AD members. (T-0)

A3.5.2. Providers ordering HIV testing ensure test results are reviewed, HIV positive patients are counseled, and HIV positive AD members are referred to the HIV Medical Evaluation Unit at SAMMC for medical evaluation. Normally, the HIV designated physician in conjunction with public health personnel, provide counseling and referral services. (T-1)

A3.5.3. Providers will not routinely order HIV testing on all patients. (T-1)

A3.5.4. Clinical testing is accomplished IAW **A3.1.2** (T-1)

A3.6. Occupational Exposure Testing.

A3.6.1. Employees report to PH for occupational exposure testing and follow up IAW OSHA Blood-borne Pathogen Final Rule as implemented in the facility Infection Control Program/Employee Health Program. (T-0)

A3.6.2. Follow the latest CDC guidelines for blood and body fluid exposures to bloodborne pathogens as stated in the facility Infection Control Program/ Employee Health Program/Bloodborne Pathogen Program. Refer to AFI 44-108, *Infection Control Program*. (T-0)

A3.6.3. Personnel who perform exposure-prone procedures (to include, but not limited to, surgeons, pathologists, dentists, dental technicians, phlebotomists, emergency medical technicians, and physicians, nurses and technicians working in the emergency room, intensive care, surgery, and labor/ delivery) should know their HIV antibody status.

A3.6.4. Follow local state laws on HIV testing and informed consent for non-active duty individuals, including employees and patients. Informed consent is not required for active duty personnel. (T-0)

A3.6.5. Personnel testing is accomplished IAW **A3.1.2** (T-1)

A3.7. Prenatal Testing:

A3.7.1. Screen all AD obstetrics (OB) patients for evidence of HIV infection regardless of previous testing. (T-1)

A3.7.2. Encourage nonactive duty OB patients to be tested. Follow local state laws on informed consent for nonactive duty patients.

A3.7.3. Submit additional specimens as clinical specimens, not as OB specimens.

A3.7.4. Accomplish testing IAW **A4.1.2** (T-1)

A3.8. Results Reporting:

A3.8.1. Active Duty. The USAFSAM HIV Testing Services reports negative test results usually electronically to the submitting MTF within three workdays. First time positive notification letters are sent via FedEx Priority Overnight or by encrypted e-mail to the MTF/CC and base PH. Enclosed in each notification letter is an AF Form 74. The MTF/CC and PH officer write on their respective cards the date results were received, complete blocks (phone number, date and sign/organization/installation), document notification of the patient, and return to USAFSAM HIV Testing Services either by mail or by encrypted e-mail. Once the signed AF Form 74 is returned to the USAFSAM HIV Testing Service, the result will be certified in CHCS. Known positive patient's results are made available within 7 working days. (T-1)

A3.8.2. Air National Guard and Air Force Reserve. USAFSAM HIV Testing Services results for Air National Guard and Air Force Reserve units are reported the same as for Active Duty except that units not attached to an MTF with CHCS lab interoperability must log into the Wright-Patterson CHCS platform remotely to retrieve their results. (T-1)

A3.8.3. Clinical and Civilian Employee Samples. The USAFSAM HIV Testing Services report negative test results to the submitting MTF Laboratory Services within 3 working days. If positive, a notification letter is sent via FedEx Priority Overnight within seven workdays to PH. The letter has an AF Form 74 enclosed. The PH officer will write on AF Form 74 the date results were received, complete blocks (phone number, date and sign/organization/installation), document notification of the patient, and return to USAFSAM HIV Testing Services. (T-1)

A3.8.4. Results of HIV Testing Performed at DoD Labs Other Than Air Force**.** Occasionally, HIV testing will be done at Army or Navy laboratories on active duty Air Force personnel. When USAFSAM HIV Testing Services obtain first time positive results from other services, notification on AF members, USAFSAM HIV Testing Service will contact the submitting MTF's PH to ensure that notification has been performed. If notification has not been accomplished, USAFSAM HIV Testing Service will initiate notification as outlined in **A3.9.1**. (T-1)

A3.9. Blood Bank Testing. If a military member is identified as HIV positive through blood donation or other blood bank or outside laboratory testing, a specimen must be sent to USAFSAM HIV Testing Services for confirmation. (T-1)

A3.9.1. All military members with a positive HIV screening test should be referred to public health for appropriate counseling and follow-up instructions regarding further testing. (T-0)

A3.10. Problem Resolution:

A3.10.1. Inform USAFSAM HIV Testing Services of difficulties obtaining supplies or test results.

A3.10.2. The USAFSAM HIV Testing Services handles all test inquiries.

NOTE: Assess HIV risk at every preventive health assessment (PHA) and screen for serologic evidence of HIV infection during their PHA as required (minimum testing every 2 years). ARC personnel are screened during their periodic long flying physical every three years or nonflying physical every five years or as per the PHA clinical testing requirements. DoD mandated testing continues to include sexually transmitted disease (STI) clinic patients, drug and alcohol treatment entrants, prior to PCS OS assignments, prenatal patients, and host country requirements before deployment. (T-1)

Attachment 4

COMPLETION OF FORMS FOR REQUESTING HIV TESTING AND SPECIMEN TRANSMITTAL

A4.1. Composite Healthcare System.

A4.1.1. Submitting labs with Composite Healthcare System (CHCS) have the capability to create and send a list of specimens which can be sent to the receiving lab.

A4.1.1.1. Create a shipping/transmittal list in Composite Healthcare System (CHCS).

A4.1.1.2. Include a copy of the shipping/transmittal list in each specimen package sent to the receiving lab.

A4.1.1.3. Send the shipping/transmittal list electronically (if applicable) to the receiving lab through CHCS.

A4.2. AF FORM 1762 Completion (to be used ONLY by sites without CHCS access):

A4.2.1. AF Form 1762 is used to request HIV Screen Testing when CHCS is not available. The following information is mandatory: the facility/organization and address at the top of each form submitted. If not, specimens will be processed as NBI (no base identification) which will delay results until submitting activity can be ascertained. (T-1)

A4.2.2. For each request**,** the Full Name (last name, first name, middle initial) not nick-names, Full SSN (not last 4) with an FMP, Date of Birth (dates are to be entered as DD-MMM-YY, e.g., October 19, 1948 = 19 Oct 48), Duty Code (see **A5.3**) and Source Code (see **A5.4**). [Force Testing no longer exists. All periodic testing is done in conjunction with **"**P" (physicals) unless meeting one of the other source codes. See **A5.4** Source Codes.] (T-1)

A4.2.3. Testing will not proceed until all information is provided. Additionally, the individual being tested will not receive a test date in the master AFPC records if the name, FMP/SSN, or date of birth, do not match. (T-1)

A4.2.4. Fill out forms LEGIBLY. If entered by hand, the individual responsible for verifying the identity of personnel being screened, not the person being drawn, will print the information. Typewritten or computer generated forms are preferred. If you have computer support, call USAFSAM HIV Testing Services for available software programs to help produce a computer generated AF Form 1762. The AF Form 1762 is available through e-Publishing (**http://www.e-publishing.af.mil/shared/media/epubs/af1762.xfd**).

A4.2.5. At the bottom of the form, fill in date shipped, name of shipping person, or someone USAFSAM HIV Testing Services can contact if there are problems, and a DSN phone number or commercial number only if DSN is unavailable.

A4.2.6. MTF's that use the Composite Healthcare System (CHCS), refer to ADHOC A98 1011, Automated HIV Shipping Form, which can be downloaded from the Brooks web site: **http://www.tmssc.brooks.af.mil**.

A4.2.7. Guard and Reserve bases not utilizing CHCS can use developed software from US AFI HIV Testing Service (phone number DSN 240-8934). Guard and Reserve sites that access the Wright-Patterson CHCS remotely will use the CHCS ad hoc "ASL" (USAFSAM (Epi) Lab Referral Shipping List) function to generate their shipping list(s). This ad hoc

function is given to all Guard and Reserve users who request CHCS access through the Epidemiology Laboratory Information Systems Department.

A4.2.8. Common Errors in filing out AF Form 1762:

A4.2.8.1. Not putting Base ID/Submitting Activity at the top of each form

A4.2.8.2. Name - incomplete or not legible. Has name recently changed or is there a suffix (e.g. "Jr." or "III") after the name?

A4.2.8.3. SSN - more or less than 9 digits; not legible. Failure to include FMP with SSN.

A4.2.8.4. No Duty Code, no Source Code, or entry of unauthorized code.

A4.2.8.5. No Date or Shipping official to contact in case of problems.

A4.2.8.6. No DSN phone or commercial number if DSN unavailable.

A4.2.8.7. Failure to retain copy of AF Form 1762. A4.2.9. Forward the first two copies of the AF Form 1762 to USAFSAM HIV Testing Services along with the specimens. Keep the third copy in the laboratory for MTF record keeping purposes to track timely return of results. If test results have not been received within three days, contact USAFSAM HIV Testing Services for assistance.

A4.2.8.8. The MTF/CC reviews the reports and provides copies of positive results to the physician designated to advise and counsel HIV antibody positive individuals. (T-1)

A4.2.8.9. DoD laboratories authorized to perform HIV antibody clinical screening in-house use AF Form 1762 as a log for all HIV antibody ELISA screenings performed. All five items of information are to be completed. By the fifth working day of the month, forward all results from the previous month electronically or by floppy disc to USAFSAM HIV Testing Services. Forward specimens tested negative to USAFSAM HIV Testing Services marked "DoDSR" for placement in the DoDSR. Forward a specimen from each individual who screens positive for HIV in local testing to USAFSAM HIV Testing Services for confirmatory testing. (T-1)

A4.3. AF Form 4 is used only to request Western Blot Confirmation Testing. Do not use this form for HIV screening requests; use an AF Form 1762 as required in section **A5.1.1** For bases who perform local clinical testing and MTF Blood Banks that screen donors, all specimens that screen positive must be sent to the HIV Testing Services for FDA confirmation algorithm testing. Complete the form as follows: Fill out the top of the form with **all** required information. Blocks 13 and 14 must be completed with Duty Code and Source Code or testing will delayed until information is obtained.

A4.4. Duty Codes: To obtain the most accurate information possible, submitting laboratories must use the patient category code (pat cat code) from CHCS for duty codes on the AF Form 1762 to identify the status of the individual being tested. This is an Alpha, two numeric code which is a mandatory field when registering members into CHCS. Therefore, this information should be available to download to an ADHOC report when computer generating the CHCS AF Form 1762. These codes closely emulate the DEERS codes for status of individual member being tested. For submitting activities not on CHCS, use the Pat Cat that closely defines the status of the individual. The following are the most commonly used:

PAT CATs DEFINITION.

A11 Army, Active Duty A12 Army, Reserve A13 Army, Recruits A14 Army, Academy Cadet A15 Army, National Guard

PAT CATs DEFINITION.

A21 Army, ROTC A23 Army National Guard A26 Army, Applicants-Enlistment's A31 Army, Retired A41 Army, Dependent of Active Duty A43 Army, Dependent of Retiree A45 Army, Dependent of Deceased Active Duty A47 Army, Dependent of Deceased Retiree A48 Army, Unmarried former Spouse

F11 Air Force, Active Duty F12 Air Force, Reserve F13 Air Force, Recruits F14 Air Force, Academy Cadet F15 Air Force, National Guard F21 Air Force, ROTC F23 Air Force National Guard F26 Air Force, Applicants-Enlistment's F31 Air Force, Retired F41 Air Force, Dependent of Active Duty F43 Air Force, Dependent of Retiree F45 Air Force, Dependent of Deceased Active Duty F47 Air Force, Dependent of Deceased Retiree F48 Air Force, Unmarried former Spouse M11 Marine Corps, Active Duty M12 Marine Corps, Reserve M13 Marine Corps, Recruits M14 Marine Corps, Academy-midshipmen M21 Marine Corps, ROTC M26 Marine Corps, Applicants-Enlistment's M31 Marine Corps, Retired M41 Marine Corps, Dependent of Active Duty M43 Marine Corps, Dependent of Retiree M45 Marine Corps, Dependent of Deceased Active Duty M47 Marine Corps, Dependent of Deceased Retiree M48 Marine Corps, Unmarried former Spouse

N11 Navy, Active Duty N12 Navy, Reserve N13 Navy, Recruits N14 Navy, Academy-Midshipmen N21 Navy, ROTC N26 Navy, Applicants-Enlistment's N31 Navy, Retired N41 Navy, Dependent of Active Duty N43 Navy, Dependent of Retiree N45 Navy, Dependent of Deceased Active Duty N47 Navy, Dependent of Deceased Retiree N48 Navy, Unmarried former Spouse

C11 Coast Guard, Active Duty C12 Coast Guard, Reserve

PAT CATs DEFINITION

C31 Coast Guard, Retired C41 Coast Guard, Dependent of Active Duty C43 Coast Guard, Dependent of Retiree

P11 Public Health Svs, Active Duty P12 Public Health Svs, Reserve P31 Public Health Svs, Retired P41 Public Health Svs, Dependent of Active Duty P43 Public Health Svs, Dependent of Retiree

K53 Civil Service Employee/Other Federal Agencies K57 Civilian Employee, Occupational

Health K59 Federal Government Employees, Overseas K61 VA Sharing Agreement/VA beneficiary K64 Other Federal Agency (DAF employee) K66 Federal Prisoners

Table A4.1. PAT CATs Definition.

A11	Army, Active Duty
A12	Army, Reserve
A13	Army, Recruits
A14	Army, Academy Cadet
A15	Army, National Guard
A21	Army, ROTC
A23	Army National Guard
A26	Army, Applicants-Enlistment's
A31	Army, Retired
A41	Army, Dependent of Active Duty
A43	Army, Dependent of Retiree
A45	Army, Dependent of Deceased Active Duty
A47	Army, Dependent of Deceased Retiree
A48	Army, Unmarried former Spouse

F11	Air Force, Active Duty
F12	Air Force, Reserve
F13	Air Force, Recruits
F14	Air Force, Academy Cadet
F15	Air Force, National Guard
F21	Air Force, ROTC
F23	Air Force National Guard
F26	Air Force, Applicants-Enlistment's
F31	Air Force, Retired
F41	Air Force, Dependent of Active Duty
F43	Air Force, Dependent of Retiree
F45	Air Force, Dependent of Deceased Active Duty
F47	Air Force, Dependent of Deceased Retiree
F48	Air Force, Unmarried former Spouse

M11	Marine Corps, Active Duty
M12	Marine Corps, Reserve
M13	Marine Corps, Recruits
M14	Marine Corps, Academy -midshipmen
M15	Marine Corps, National Guard
M21	Marine Corps, ROTC
M23	Marine Corps National Guard
M26	Marine Corps, Applicants-Enlistment's
M31	Marine Corps, Retired
M41	Marine Corps, Dependent of Active Duty
M43	Marine Corps, Dependent of Retiree
M45	Marine Corps, Dependent of Deceased Active Duty
M47	Marine Corps, Dependent of Deceased Retiree
M48	Marine Corps, Unmarried former Spouse

N11	Navy, Active Duty
N12	Navy, Reserve
N13	Navy, Recruits
N14	Navy, Academy Cadet
N15	Navy, National Guard
N21	Navy, ROTC
N23	Navy National Guard
N26	Navy, Applicants-Enlistment's
N31	Navy, Retired
N41	Navy, Dependent of Active Duty
N43	Navy, Dependent of Retiree
N45	Navy, Dependent of Deceased Active Duty
N47	Navy, Dependent of Deceased Retiree
N48	Navy, Unmarried former Spouse

C11	Coast Guard, Active Duty
C12	Coast Guard, Reserve
C31	Coast Guard, Retired
C41	Coast Guard, Dependent of Active Duty
C43	Coast Guard, Dependent of Retiree

P11	Public Health Svs, Active Duty
P12	Public Health Svs, Reserve
P31	Public Health Svs, Retired

K53	Civil Service Employee/Other Federal Agencies
K57	Civilian Employee, Occupational Health
K59	Federal Government Employees, Overseas
K61	VA Sharing Agreement/VA beneficiary
K64	Other Federal Agency (DAF employee)
K66	Federal Prisoners

P41	Public Health Svs, Dependent of Active Duty
P43	Public Health Svs, Dependent of Retiree

A4.5. Source Code. The only authorized codes used in the appropriate block on the AF Form 1762 are listed below. These codes identify the reason that the individual is being screened. They were adopted for use throughout DoD by the Reportable Disease Data Base (RDDB) Working Group. A single code is entered on the AF Form 1762. Multiple codes for an individual are not authorized:

Table A4.2. Source Codes.

A	Alcohol and Drug Treatment
B	Blood Donor (Authorized for use on specimens or confirmation specimens)
C	Contact Testing (Referral)
F	Force Screening (routine screening of personnel)
I	Indicated for Clinical Reasons
J	Prisoners or Detained Persons
M	Medical Admissions (Including Psychiatric)
N	Pre-deployment
O	OB Clinic/Pregnancy Related
P	Physical Examinations
R	Requested by Individual
S	Surgical Admission (Including Invasive Procedures and ER)
T	Post-deployment
V	STI Clinic Visit
X	Any Other Source (used only in extremely rare cases)

A4.6. Shipment of Specimen Requirements.

A4.6.1. Ship specimens using instructions provided by USAFSAM HIV Testing Services. It is very important that the MTFs follow these instructions. Deviation could cause rejection of a shipment and necessitate redrawing each individual.

A4.6.2. USAFSAM HIV Testing Services will only accept 12x75 mm polypropylene tubes. If the whole shipment arrives in anything other than these type tubes, the shipment will be returned to the submitting MTF at their expense to process in the correct tubes. Single specimens will have to be redrawn. Tubes and caps can be ordered from most laboratory supply catalogues (see below) or can be obtained by completing a supply order form and submitting to our Customer Service Team via email at **usafsam.phe.cst@wpafb.af.mil.** This order form can be found on our website at **https://kx.afms.mil/epi.calling** the Epidemiology Laboratory Services at DSN 240-8751 or 8378. If the submitting MTF's stock runs out, it will have to hold specimens until a supply of the correct tubes are received.

Test Tubes, 12x75 mm, polypropylene, round bottom

FSN 6640-01-264-2362

Curtin-Matheseon Scientific (CMS) #289-657

S/P-Baxter T-1226-12

Plug Cap for 12x75 test tubes

FSN 6640-01-2222963

CMS #148-346

S/P-Baxter T1226-32

Tubes and caps in one order

S/P-Baxter T1226-42

Double sided Plastic Bags

Fisher Cat #01-824 Lab Safety Supply Cat #TL-23805

VWR Cat #11216-783

A4.6.3. Label tubes with a CHCS generated label. If CHCS is unavailable, write FULL NAME (Last name, first name, middle initial), and the FULL SSN with FMP, and collection date on label, then place label long-wise without covering the bottom of tube. (Pre/Post deployment specimens need draw date). Secure with a plastic plug cap. DO NOT USE PARAFILM.

A4.6.4. Place patient samples in a foam tube rack in the order listed on the shipping/transmittal list or AF Form 1762. Wrap foam tube rack containing specimens in absorbent material and place in a large plastic shipping bag. Place patient samples (amount for 1 AF Form 1762/no more than 22) with absorbent material in large portion of plastic shipping bag. Place one copy of the shipping/transmittal list or one copy and original of AF Form 1762. Place original and one copy of AF Form 1762 inside the outer pouch of the shipping bag corresponding to samples and tear off plastic strip covering the adhesive and to SEAL THE BAG. If foam tube racks are not available, place no more than 10 specimens in a small plastic shipping bag containing absorbent material. Place one copy of the shipping/transmittal list or one copy and original of AF Form 1762 in the outer pouch of the shipping bag and SEAL THE BAG. Repeat for each batch of 10 specimens. In shipping

HIVs specimens with other EPI specimens, place HIV specimens in a separate ziplock plastic shipping bag marked: "HIV"

A4.6.5. The following common errors could be avoided if a quality control program exists.

A4.6.6. Common errors in Specimen Preparation:

A4.6.6.1. Not spinning specimen down causing hemolyzed specimens

A4.6.6.2. Putting specimens in the wrong tubes; only polypropylene 12x75 mm will be accepted.

A4.6.6.3. Over-filling tubes, causing tube cap to come off when the specimen is frozen.

A4.6.6.4. Not putting tube caps on tightly.

A4.6.6.5. Tape or parafilm around the cap of the tube.

A4.6.6.6. Omitting the individual's full name/full SSN on tube

A4.6.6.7. Only last four of SSN on the transport tube.

A4.6.6.8. Name on tube does not match name on shipping/paperwork transmittal list or AF Form 1762.

A4.6.6.9. No shipping/transmittal list or AF Form 1762 accompanying the specimen tube.

A4.6.7. Common Errors in Specimen Packaging:

A4.6.7.1. Not wrapping tubes with absorbent paper material.

A4.6.7.2. Not maintaining a cold environment (use ice, cold packs, or dry ice as appropriate).

A4.6.7.3. Not separating shipping/transmittal lists or AF Forms 1762 from specimens, causing forms to get wet if leakage occurs.

A4.6.7.4. Not sealing the shipping bag completely causing specimens to be lost in transit.

A4.6.7.5. Not packing specimens in foam shipping rack or separating them into batches of ten.

Attachment 5

HIV TESTING AND INTERPRETATION OF RESULTS

A5.1. Laboratories:

A5.1.1. Use only approved MTF laboratories or the USAFSAM HIV Testing Services to perform the initial screening test on specimens collected from Service members. (T-1)

A5.1.2. All approved Air Force MTF laboratories that perform in-house HIV testing must send a serum sample for testing to USAFSAM HIV Testing Services IAW **A3.1.2** This sample will be forwarded to the DoD serum repository after testing by the USAF HIV Testing Service. (T-1)

A5.1.3. The USAFSAM HIV Testing Services, USAFSAM, Wright-Patterson Air Force Base, maintains specimens for seven days after testing then discarded. Specimens from Reserve and Guard units are sent to the DoD serum repository. (T-1)

A5.2. Specimen Collection and Handling:

A5.2.1. Collect blood samples with appropriate vacutainer tubes.

A5.2.2. Label tubes with a CHCS generated label. As a minimum, each sample is labeled with three unique patient identifiers such as; the individual's full name, FMP/SSN, date of birth or a laboratory assigned number. Also include the date and time of collection.

A5.2.3. Samples are centrifuged and serum separated within six hours of collection.

A5.2.4. Specimens should be refrigerated before the initial test. If the initial test is cannot be conducted within seven days, or the date at which the sample was collected is unknown, the specimen must be frozen ($\leq$ -20°C).

A5.2.5. Use cold packs to keep specimens at refrigerated temperatures (2 – 8°C) or shipped on dry ice if the samples are frozen ($\leq$ -20°C) during transit between laboratories.

A5.2.6. Ship specimens according to US (or foreign) biological agent shipping requirements.

A5.3. Initial Test:

A5.3.1. Conduct the initial test using a FDA-approved screening test. Interpret results according to the manufacturer's package insert.

A5.3.2. The laboratory establishes an internal quality control program.

A5.3.3. All controls will be 100 percent correct before the entire batch results are considered acceptable.

A5.4. Supplemental/Confirmatory Tests:

A5.4.1. All HIV testing will follow an APHL/CDC-approved algorithm. (T-0)

A5.4.2. Perform a FDA-approved confirmatory test, such as a Western Blot (WB) test. For Western Blot tests with indeterminate results, an alternative FDA approved test can be used to resolve indeterminates such as a viral load-based assay (APTIMA) or other FDA approved testing platform. (T-0)

A5.4.3. The laboratory validates its procedure using a protocol that establishes accuracy, precision, and reproducibility.

Attachment 6

HIV TESTING OF DOD CIVILIAN EMPLOYEES

A6.1. Direct requests for authority to screen DoD civilian employees for HIV to the Assistant Secretary of Defense (ASD)/Force Management and Personnel (FM&P). Only requests that are based on a host nation HIV screening requirement are accepted. Requests based on other concerns, such as sensitive foreign policy or medical health care issues, are not considered under this instruction. Approvals are provided in writing by the ASD/FM&P and apply to all the DoD Components that may have activities located in the host nation. (T-0)

A6.2. Specific HIV screening requirements may apply to DoD civilian employees currently assigned to positions in the host nation and to prospective employees. When applied to prospective employees, HIV screening is considered a requirement imposed by another nation, that must be met before the final decision to select the individual for a position, or before approving temporary duty or detail to the host nation. Individuals who refuse to cooperate with HIV screening requirements or those who cooperate and are diagnosed as HIV seropositive, may not be considered further for employment in host nations with HIV screening requirements. (T-0)

A6.3. DoD civilian employees who refuse to cooperate with the screening requirements are treated, as follows:

A6.3.1. Those who volunteered for the assignment, whether permanent or temporary, are retained in their official position without further action and without prejudice to employee benefits, career progression opportunities, or other personnel actions to which those employees are entitled under applicable law or instruction.

A6.3.2. Those who are obligated to accept assignment to the host nation under the terms of an employment agreement, regularly scheduled tour of duty, or similar and/or prior obligation may be subjected to an appropriate adverse personnel action under the specific terms of the employment agreement or other authorities that may apply.

A6.3.3. Host nation screening requirements, which apply to DoD civilian employees currently located in that country, must be observed. Appropriate personnel actions may be taken, without prejudice to employee rights and privileges to comply with the requirements. (T-0)

A6.4. Individuals who are not employed in the host nation, who accept the screening, and who are evaluated as HIV seropositive shall be denied the assignment on the basis that evidence of seronegativity is required by the host nation. If denied the assignment, such DoD employees shall be retained in their current positions without prejudice. Appropriate personnel actions may be taken, without prejudice to employee rights and privileges, on DoD civilian employees currently located in the host nation. In all cases, employees shall be given proper counseling and shall retain all the rights and benefits to which they are entitled, including accommodations for the handicapped as in the applicable ASD/FM&P Memorandum, and for employees in the United States (29 U.S.C. 794). Non-DoD employees are referred to appropriate support service organizations. (T-0)

A6.5. Some host nations may not bar entry to HIV seropositive DoD civilian employees, but may require reporting of such individuals to host nation authorities. In such cases, DoD civilian employees who are evaluated as HIV seropositive shall be informed of the reporting

requirements. They shall be counseled and given the option of declining the assignment and retaining their official positions without prejudice or notification to the host nation. If assignment is accepted, the requesting authority shall release the HIV seropositive result, as required. Employees currently located in the host nation may also decline to have seropositive results released. In such cases, they may request and shall be granted early return at government expense or other appropriate personnel action without prejudice to employee rights and privileges. (T-0)

A6.6. A positive HIV screening test must be confirmed by an FDA approved confirmatory test according to an APHL/CDC approved algorithm. A civilian employee may not be identified as HIV antibody positive, unless the confirmatory test is positive. The clinical standards in this instruction shall be observed during initial and confirmatory testing. (T-0)

A6.7. Provide tests at no cost to the DoD civilian employees, including applicants. (T-0)

A6.8. Counsel DoD civilian employees infected with HIV. (T-0)

Attachment 7

GUIDELINES FOR ADMINISTERING THE ORDER TO FOLLOW PREVENTIVE MEDICINE REQUIREMENTS TO INDIVIDUALS INFECTED WITH HIV

A7.1. After the member is notified by a health care provider that he or she has tested positive for HIV infection, and the significance of such a test, the MTF/CC expeditiously notifies the member's unit commander of the positive test results. For active duty members, the member's unit commander issues an order to follow preventive medicine requirements. For unit assigned reservists, this order is issued only after their immediate commander determines the member will be retained in the Selected Reserve. When the order is given, a credentialed provider is present to answer any medical concerns of the member. Use the order at **Attachment 13**. It is signed and dated by the commander and member. If the member refuses to sign, the commander notes that the member refused to sign in the acknowledgment section. The order is securely stored to protect the member's privacy and confidentiality. A copy of the order is provided to the member. Upon the individual's reassignment, the unit commander forwards the order in a sealed envelope to the gaining commander. The envelope is marked "To Be Opened By Addressee Only." Upon the individual's separation from the Air Force, the order is destroyed. (T-1)

A7.2. AD members testing positive for HIV infection undergo a complete medical evaluation at SAMMC. Upon arrival, all HIV positive members are counseled by a health care provider or by the HIV Community Health Nurse (CHN) assigned to the HIV Medical Evaluation Unit at SAMMC. Use AF Form 3845, **Preventive Medicine Counseling Record,** or similar form. The CHN signs the form. The member signs the counseling record acknowledging receipt of the counseling. One copy of the record is given the member and one copy filed in the records of the HIV CHN. (T-1)

A7.3. If the member is returned to duty from the HIV Medical Evaluation Unit to a different unit from which he or she came, the gaining unit commander issues an additional order to follow preventive medicine requirements to the member. A copy of this order is given to the member. Use the order at **Attachment 13**. The commander may request the MTF/CC or other health care provider is present when the order is administered to answer any medical concerns of the member. The commander and member sign and date the order. If the member refuses to sign, the commander notes the member refused to sign in the acknowledgment section. Securely store the order to protect the member's privacy and confidentiality. (T-1)

A7.4. It is unnecessary to recall members issued orders under former procedures. HIV seropositive members, who have not been previously issued preventive medicine requirement orders, must be counseled by a health care provider assigned to the local medical facility on AF Form 3845 and issued an order (**Attachment 13**) by his or her unit commander. (T-1)

NOTE: DoD requested the Military Departments standardize the administration of the order to follow preventive medicine requirements to individuals infected with HIV. The guidelines above standardize and simplify procedures.

Attachment 8

STANDARD CLINICAL PROTOCOL

A8.1. Medical Evaluation:

A8.1.1. Accomplish a complete medical evaluation of AF personnel with HIV infection with an initial visit, a second visit at 6 months, and subsequent visits every 12 months at SAMMC as long as the member is retained on active duty. HIV disease will be staged according to current CDC guidelines for every clinical visit. Interim medical visits will be performed as necessary in the member's local area in accordance with current DHHS Guidelines for Management of Adult HIV Infections. For unit assigned reservists not on extended active duty, this evaluation is not accomplished until after the commander's decision to retain the member. If the member is retained, the evaluation must be accomplished and documented IAW AFI 48-123, AFI 41-210, and AFRC medical guidance on nonduty related medical conditions. (T-1)

A8.1.2. Maintain a frozen serum specimen on all HIV positive individuals at a central serum bank for at least three years at -70 degrees Celsius. (T-1)

A8.1.3. Seek psychiatric consultation if there are concerns about fitness for duty or if the screening evaluation suggests more detailed psychiatric evaluation is needed. If the patient has persistent evidence of diminished intellectual skills, personality changes, and motor impairment, more specialized studies (neurologic studies, computed tomography or magnetic resonance imaging, lumbar puncture, psychiatric examination, and neuropsychiatric testing) may be required to evaluate the possible presence of a HIV-related mental or neurological syndrome. (T-1)

A8.1.4. Perform additional testing in both initial and follow-up epidemiologic/clinical assessments as indicated to maintain compliance with changes in accepted standards of care for management of HIV infection. (T-1)

A8.2. Medical Record Coding of HIV-1 Infections. Follow current ICD CM coding guidelines for medical record coding of HIV infection.

A8.3. Disposition of Members Infected:

A8.3.1. DoD Directive 1332.18, Separation From the Military Service by Reason of Physical Disability, November 4, 1996, and AFI 41-210, Medical Evaluations Boards (MEB) and Continued Military Service, provides guidelines for fitness for duty determinations. However, MEB pre-screening will occur with an Initial Review in Lieu of an MEB (I-RILO) under the guidelines of AFI 41-210, chapter 4, section 4k. This guidance provides I-RILO screening procedures for both ADAF members Air Reserve Component members. (T-0)

A8.3.2. Refer AD members infected with HIV for I-RILO in accordance with AFI 41-210, immediately following the initial evaluation. However, while I-RILOs usually require a letter from the member's Commander indicating the impact of a member's condition upon his/her duty performance, such a letter is not required in the case of HIV seropositive members because of the risk of Privacy Act violations while routing such letters through the Commander's support staff. I-RILOs will only be submitted from the HIV Medical

Evaluation Unit at SAMMC and individual home bases are not to submit I-RILOs or annual ALC-C RILOs for HIV infection. (T-1)

Attachment 9

RETENTION AND SEPARATION

A9.1. Retention:

A9.1.1. Members with laboratory evidence of HIV infection who are able to perform the duties of their office, grade, rank and/or rating, may not be separated solely on the basis of laboratory evidence of HIV infection. (T-0)

A9.1.2. HIV-infected members who have been evaluated for continued military service and are retained will receive an Assignment Limitation Code (ALC-C). Please refer to AFI 41-210 for ALC-C stratifications and for a list of waiver authorities for OCONUS TDY and/or assignment. (T-1)

A9.2. Separation:

A9.2.1. AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation,* provides guidance for separation or retirement of AD members who are determined to be unfit for further duty.

A9.2.2. AD and Reserve members with laboratory evidence of HIV infection found not to have complied with lawfully ordered preventive medicine procedures are subject to administrative and disciplinary action, which may include separation.

A9.2.3. Separation of AD members with laboratory evidence of HIV infection under the plenary authority of the Secretary of the Air Force, if requested by the member, is permitted.

A9.2.4. The immediate commander of ARC members not on extended active duty who show serologic evidence of HIV infection will determine if the member can be utilized in the Selected Reserve. If the member cannot be utilized, he/she may be transferred involuntarily to the Standby Reserve or separated. If separated, the characterization of service shall never be less than that warranted by the member's service record. (T-1)

A9.2.5. Air Force members determined to have been infected with HIV at the time of enlistment or appointment are subject to discharge for erroneous enlistment or appointment. (T-1)

Attachment 10

LIMITATIONS ON THE USE OF INFORMATION FROM EPIDEMIOLOGICAL ASSESSMENTS

A10.1. Limitations of Results:

A10.1.1. Laboratory tests results performed under this instruction may not be used as the sole basis for separation of a member. The results may be used to support a separation based on physical disability or as specifically authorized by any section in this instruction. This instruction shall not preclude use of laboratory test results in any other manner consistent with law or instruction. (T-1)

A10.1.2. Laboratory test results confirming evidence of HIV infection may not be used as an independent basis for any adverse administrative action or any disciplinary action, including punitive actions under the Uniform Code of Military Justice (UCMJ) (10 U.S.C. 47, reference [j]). (T-1) However, such results may be used for other purposes including, but not limited to, the following:

A10.1.2.1. Separation under the accession testing program.

A10.1.2.2. Voluntary separation for the convenience of the Government.

A10.1.2.3. Other administrative separation action authorized by Air Force policy.

A10.1.2.4. In conducting authorized Armed Services Blood Program Look Back activities.

A10.1.2.5. Other purposes (such as rebuttal or impeachment) consistent with law or instruction (e.g., the Federal or Military Rules of Evidence or the Rules of Evidence of a State), including to establish the HIV seropositivity of a member when the member disregards the preventive medicine counseling or the preventive medicine order or both in an administrative or disciplinary action based on such disregard or disobedience.

A10.1.3. HIV infection is an element in any permissible administrative or disciplinary action, including any criminal prosecution (e.g., as an element of proof of an offense charged under the UCMJ or under the code of a State or the United States).

A10.1.4. HIV infection is a proper ancillary matter in an administrative or disciplinary action, including any criminal prosecution (e.g., as a matter in aggravation in a court-martial in which the HIV positive member is convicted of an act of rape committed after being informed that he or she is HIV positive).

A10.2. Limitations on the Use of Information Obtained in the Epidemiological Assessment Interview:

A10.2.1. Information obtained from a member during, or as a result of, an epidemiological assessment interview may not be used against the member in the following situations:

A10.2.1.1. A court-martial.

A10.2.1.2. Line of duty determination.

A10.2.1.3. Nonjudicial punishment.

A10.2.1.4. Involuntary separation (other than for medical reasons).

A10.2.1.5. Administrative or punitive reduction-in-grade.

A10.2.1.6. Denial of promotion.

A10.2.1.7. An unfavorable entry in a personnel record.

A10.2.1.8. A denial to reenlistment.

A10.2.1.9. Any other action considered by the Secretary of the Air Force concerned to be an adverse personnel action.

A10.2.2. The limitations in paragraph **A10.2.1** do not apply to the introduction of evidence for appropriate impeachment or rebuttal purposes in any proceeding, such as one in which the evidence of drug abuse or relevant sexual activity (or lack thereof) has been first introduced by the member or to disciplinary or other action based on independently derived evidence.

A10.2.3. The limitations in paragraph **A10.2.1** do not apply to nonadverse personnel actions on a case-by-case basis, such as: A10.2.3.1. Reassignment. A10.2.3.2. Disqualification (temporary or permanent) from a personnel reliability program. A10.2.3.3. Denial, suspension, or revocation of a security clearance. A10.2.3.4. Suspension or termination of access to classified information.

A10.2.4. Removal (temporary or permanent) from flight status or other duties requiring a high degree of stability or alertness, including explosive ordnance disposal or deep-sea diving.

A10.3. Entries in Personnel Records: Except as authorized by this instruction, if any such personnel actions are taken because of, or are supported by, serologic evidence of HIV infection or information described in paragraph **A10.1.2**, no unfavorable entry may be placed in a personnel record for such actions. Recording a personnel action is not an unfavorable entry in a personnel record. Additionally, information reflecting an individual's serologic or other evidence of infection with HIV is not grounds for an unfavorable entry in a personnel record.

Attachment 11

PERSONNEL NOTIFICATION, MEDICAL EVALUATION, AND EPIDEMIOLOGICAL INVESTIGATION

A11.1. Personnel Notification:

A11.1.1. Once a health care authority has been notified of an individual with serologic or other laboratory/clinical evidence of HIV infection, public health and or the HIV designated physician shall undertake preventive medicine intervention. The CHN and physician staff at the SAMMC HIV Medical Evaluation Unit will assist military and civilian blood bank organizations and preventive medicine authorities with blood donor look back tracing and referral and refer case-contact information to the appropriate military or civilian health authority. (T-0)

A11.1.2. All individuals with serologic evidence of HIV infection who are military healthcare beneficiaries shall be counseled by a physician or a designated healthcare provider on the significance of a positive antibody test. They shall be advised as to the mode of transmission, the appropriate precautions and personal hygiene measures required to minimize transmission through sexual activities and/ or intimate contact with blood or blood products, and of the need to advise any past or future sexual partners of their infection. Women shall be advised of the risk of perinatal transmission during past, current, and future pregnancies. The individuals shall be informed that they are ineligible to donate blood, sperm, organs or tissues and shall be placed on a permanent donor deferral list. (T-0)

A11.1.3. Service members identified to be at risk shall be counseled and tested for serologic evidence of HIV infection. Other DoD beneficiaries, such as retirees and family members, identified to be at risk, shall be informed of their risk and offered serologic testing, clinical evaluation, and counseling. The names of individuals identified to be at risk who are not eligible for military healthcare shall be referred to civilian health authorities in the local area where the index case is identified, unless prohibited by the appropriate State or host-nation civilian authority. Anonymity of the HIV index case shall be maintained, unless reporting is required by civil authorities. (T-0)

A11.1.4. Blood donors who demonstrate repeatedly reactive screening tests for HIV, but for whom confirmatory test(s) are negative or indeterminate are not eligible for blood donor pool, shall be appropriately counseled. (T-0)

A11.2. Medical Evaluation:

A11.2.1. Active duty personnel and ARC members on extended active duty who have tested positive for HIV shall be sent to the HIV Medical Evaluation Unit at SAMMC for medical evaluation. All DoD directed evaluations will be completed as an outpatient, coordinated by the HIV Evaluation Unit staff. All Active Duty HIV patients undertaking their initial evaluation will undergo mental health status screening by a SAMMC mental health provider. (T-1)

A11.2.2. Physically or mentally unstable HIV patients should have their conditions addressed and stabilized sufficiently for outpatient management prior to transport. Upon arrival, those patients exhibiting an active process requiring physician attention during non-duty hours will be admitted to the appropriate inpatient service. (T-1)

A11.2.3. SAMMC HIV Medical Evaluation Unit staff will conduct a confidential patient epidemiologic interview, repeat the contact notification process, and verify blood donation "lookback" process. The HIV Evaluation Unit CHN or designee will provide the disease education and risk reduction counseling during the patient interview, and complete two copies of the standardized medical counseling form ("Prevention Medicine Counseling Record"). One copy is given to the patient, and the other copy maintained in the HIV CHN's confidential patient files. If the patient refuses to sign, SAMMC Directorate of Medical Law will be notified. The "Order to Follow Preventive Medicine Requirements" is issued by the unit commander of an HIV infected person prior to the patient's initial evaluation by the HIV unit. (T-1)

A11.2.4. All HIV infected active duty and TDRL personnel arriving at SAMMC will receive medical evaluation and staging of their HIV disease by an assigned HIV unit staff physician. The physician will also provide disease specific patient education and appropriate treatment recommendations, and serve as liaison with consulting or inpatient services when necessary. The HIV unit physician will be available to the patient's primary care provider for ongoing patient management and any issues concerning scheduled reevaluations. (T-1)

A11.3. Epidemiological Investigation:

A11.3.1. Epidemiological investigation shall attempt to determine potential contacts of patients who have serologic or other laboratory or clinical evidence of HIV infection. The patient shall be informed of the importance of case-contact notification to interrupt disease transmission and shall be informed that contacts shall be advised of their potential exposure to HIV. Individuals at risk of infection include sexual contacts (male or female); children born to infected mothers; recipients of blood, blood products, organs, tissues, or sperm; and users of contaminated intravenous drug paraphernalia. At risk individuals who are eligible for healthcare in the military medical system shall be notified. The Secretaries of the Military Departments shall designate all spouses (regardless of the Service affiliation of the HIV infected Reservist) who are notified under this provision to receive serologic testing and counseling on a voluntary basis from MTFs under the Secretaries' of the Military Departments jurisdiction. (T-0)

A11.3.2. Communicable disease reporting procedures shall be followed consistent with this Directive through liaison between the public health authorities and the appropriate local, State, Territorial, Federal, or host-nation health jurisdiction. (T-0)

Attachment 12

PROCEDURE FOR EVALUATING T-HELPER CELL COUNT

A12.1. Analytical Procedure:

A12.1.1. Determine the percentage of CD4+ and CD3+ positive lymphocytes by immunophenotyping blood cells using flow-cytometry instrumentation per applicable CDC guidelines. Each laboratory performing T-helper cell counts maintains a current and complete standard operating procedure manual. The absolute T-helper cell count is a product of the percentage of T-helper cells (defined as CD4+ and CD3+ positive lymphocytes) and the absolute lymphocyte level.

A12.2. Internal Quality Control Program:

A12.2.1. Each laboratory maintains a comprehensive internal quality control program. Minimally, on each day of operation monitor the following flow-cytometry procedures or reagents:

A12.2.1.1. Optical focusing and alignment of all lenses and light paths for forward-angle light scatter, right-angle light scatter, red fluorescence, and green fluorescence if these functions are adjustable on the instrument.

A12.2.1.2. Standardize fluorescent intensity beads, particles, or cells with fluorescence in the range of biological samples.

A12.2.1.3. Verify fluorescent compensation beads, particles, or cells with fluorescence in the range of biological samples.

A12.2.1.4. A human blood control sample or equivalent.

A12.2.2. Each laboratory establishes tolerance limits for each of the procedures or reagents in paragraph **A12.1** Take corrective action and document when any quality control reagent exceeds established tolerance limits. Accomplish routine maintenance and function verification checks. The laboratory director regularly reviews corrective and quality control records.

A12.3. External Quality Control Program: The Army establishes and operates an external quality control program to evaluate the results reported by the flow-cytometry laboratories. The external quality control program includes a hematology survey to monitor the performance of the absolute lymphocyte count and a flow-cytometry survey to monitor the performance of each immunophenotyping procedure.

A12.4. Recording and Reporting Data: The laboratory director reviews and verifies the reported results. The laboratory report contains data from which absolute and relative values may be calculated for each lymphocyte subpopulation along with locally derived normal ranges inclusive of the fifth and ninety-fifth percentiles. The laboratory maintains permanent files of patient reports, internal and external quality control records, and instrument maintenance and performance verification checks.

A12.5. Personnel Qualifications:

A12.5.1. Properly train all personnel involved with the flow-cytometry instrumentation.

A12.5.2. Director of the flow-cytometry laboratory holds a doctoral degree in a biologic science or is a physician and possesses experience in immunology or cell biology.

A12.5.3. Technical supervisor holds a bachelor's degree in a biological science and has at least two years of experience in flow-cytometry.

A12.6. Safety: All laboratories comply with the CDC biosafety level 2 standards. All procedures having the potential to create infectious aerosols shall be conducted within the confines of a Class II biological safety cabinet. Although certain specimen processing procedures may inactivate infectious agents, all material is treated as infectious throughout all procedures. Decontaminate all material generated in the processing and evaluation of blood specimens and dispose of using established hazardous waste disposal policies.

Attachment 13

ORDER TO FOLLOW PREVENTIVE MEDICINE REQUIREMENTS

Because of the necessity to safeguard the overall health, welfare, safety, and reputation of this command and to ensure unit readiness and the ability of the unit to accomplish its mission, certain behavior and unsafe health procedures must be proscribed for members who are diagnosed as positive for HIV infection.

As a military member who has been diagnosed as positive for HIV infection, you are hereby ordered:

(1) to verbally inform sexual partners that you are HIV positive prior to engaging in sexual relations. This order extends to sexual relations with other military members, military dependents, civilian employees of DoD components or any other persons;

(2) to use proper methods to prevent the transfer of body fluids during sexual relations, including the use of condoms providing an adequate barrier for HIV (e.g. latex);

(3) in the event that you require emergency care, to inform personnel responding to your emergency that you are HIV positive as soon as you are physically able to do so.

(4) when seeking medical care, you may wish to inform the provider that you have HIV so that the provider can use that information to optimize your evaluation and treatment;

(5) not to donate blood, sperm, tissues, or other organs.

Violating the terms of this order may result in adverse administrative action or punishment under the Uniform Code of Military Justice for violation of a lawful order.

_____

Signature of Commander and Date

ACKNOWLEDGMENT

I have read and understand the terms of this order and acknowledge that I have a duty to obey this order. I understand that I must inform sexual partners, including other military members, military dependents, civilian employees of DoD components, or any other persons, that I am HIV positive prior to sexual relations; that I must use proper methods to prevent the transfer of body fluids while engaging in sexual relations, including the use of condoms providing an adequate barrier for HIV; that if I need emergency care I will inform personnel responding to my emergency that I am HIV positive as soon as I am physically able to do so; that when I seek medical or dental care I may wish to inform the provider that I have HIV in order to optimize my evaluation and treatment; and that I must not donate blood, sperm, tissues, or other organs. I understand that violations of this order may result in adverse administrative actions or punishment under the Uniform Code of Military Justice for violation of a lawful order.

_____

Signature of Member and Date

EXHIBIT 10

BY ORDER OF THE SECRETARY OF THE AIR FORCE

AIR FORCE INSTRUCTION 36-3212

2 FEBRUARY 2006

Incorporating Through Change 2, 27 November 2009

Personnel

PHYSICAL EVALUATION FOR RETENTION, RETIREMENT, AND SEPARATION

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

ACCESSIBILITY: This publication is available digitally on the AFDPO WWW site at: **http://www.e-publishing.af.mil.**

RELEASABILITY: There are no releasability restrictions on this publication.

OPR: HQ AFPC/DPSD

Certified by: HQ AFPC/DPP (Col Steven M. Maurmann)

Supersedes: AFI 36-3212, 30 September 1999

Pages: 98

This instruction describes how to retire or discharge Air Force (AF) members who are unfit to do their military duties because of physical disability. It outlines procedures for examining, and discharging or retiring members from the temporary disability retired list (TDRL). It also provides disposition instructions for unfit members who remain on active duty in a limited assignment status (LAS). **Chapter 8** applies to certain Air National Guard (ANG) and United States Air Force Reserve (USAFR) members not on extended active duty (EAD). This instruction carries out the requirements of Title 10, United States Code (U.S.C.), chapter 61, and Department of Defense Directive (DoDD) 1332.18, *Separation or Retirement for Physical Disability*, November 4, 1996, DoD Instructions (DoDI) 1332.38, *Physical Disability Evaluation*, and 1332.39, *Application of the Veterans Administration Schedule for Rating Disabilities*, November 14, 1996, and implements Air Force Policy Directive (AFPD) 36-32, *Military Retirements and Separations*.

This instruction requires collecting and maintaining information protected by the Privacy Act of 1974, under 10 U.S.C., chapter 61, and Executive Order (EO) 9397. The Privacy Act statement required by Air Force Instruction (AFI) 37-132, *Air Force Privacy Act Program*, is in AF Forms 1185, **Statement of Record Data**, and 1186, **Retention Limited Assignment Status**. System of Records Notice F035 AF PC, *Military Personnel Records System*, applies. Submit proposed supplements and operating instructions to AF Personnel Center, Directorate of Personnel Program Management, USAF Physical Disability Division (HQ AFPC/DPPD), for review and approval before publication. Process supplements that affect any military personnel function as shown in AFI 37-160, volume 1, table 3.2, *The Air Force Publications and Forms Management Programs--*

Developing and Processing. Refer to **Attachment 1** for Glossary of References, Abbreviations, Acronyms, Terms and Addresses.

SUMMARY OF CHANGES

This change revises paragraph 2.6 for recalling MEB cases; updates paragraph 2.7 with new procedures for the "Expedited DES Process"; revises paragraph 3.34 to include both fit and unfit findings; updates date of separation computation in paragraph 5.19.3.1; and eliminates the option for airmen over 20 years to remain in a Limited Assignment Status in paragraph 6.3.2. A margin bar (/) indicates newly revised material.

Chapter 1

GENERAL PROVISIONS

1.1. Purpose of the Disability Evaluation System (DES).

1.1.1. To maintain a fit and vital force, disability law allows the Secretary of the Air Force (SAF) to remove from active duty those who can no longer perform the duties of their office, grade, rank or rating and ensure fair compensation to members whose military careers are cut short due to a service-incurred or service-aggravated physical disability.

1.2. Responsibilities.

1.2.1. The SAF prescribes directives to carry out provisions of Title 10, U.S.C. These are used to decide fitness for continued military duty; percentage of disability in unfit cases; suitability for reappointment, enlistment or reentry on active duty; and entitlement to disability retirement or severance pay.

1.2.2. The Secretary of the Air Force Personnel Council (SAFPC) acts on behalf of the SAF.

1.2.3. HQ AFPC/DPPD processes disability cases, establishes Informal and Formal Physical Evaluation Boards and controls the TDRL program.

1.2.4. SAFPC or HQ AFPC/DPPD may make exceptions to this instruction unless specifically prohibited by law or DoD policy.

1.3. Eligibility for Disability Evaluation. HQ AFPC/DPPD determines eligibility for disability processing. The mere presence of a physical defect or condition does not qualify a member for disability retirement or discharge. The physical defect or conditions must render the member unfit for duty. Disability evaluation begins only when examination, treatment, hospitalization, or substandard performance result in referral to a Medical Evaluation Board (MEB). Members not eligible for disability processing are:

1.3.1. Members Under Court-Martial (CM) Charges. Those charged with one or more offenses that could result in dismissal or punitive discharge, and those convicted and sentenced to dismissal or punitive discharge, may not undergo disability evaluation, unless the case fits one of the following exceptions:

1.3.1.1. Question of Mental Capacity or Responsibility. When a medical board questions a member's mental capacity or responsibility, the commander exercising CM jurisdiction decides whether to proceed with CM or dismiss, withdraw, or hold the charges in abeyance until completion of the disability evaluation. The commander sends a copy of the decision to withdraw or dismiss CM to HQ AFPC/DPPD, along with the mental inquiry report and other required records listed in AFI 48-123, *Medical Examination and Medical Standards.*

1.3.1.2. Member Whose Sentence to Dismissal or Punitive Discharge is Suspended. Action to vacate the suspension stops disability evaluation.

1.3.2. Eligibility for Disability Evaluation. USAF Academy (USAFA) Cadets (10 U.S.C. 1217) who incurred a disability on or after 27 October 2004.

1.3.3. Members on Excess Leave. According to the Comptroller General of the United States (decision B-205953, 18 Jun 82), a member in this status is not entitled to basic pay and, therefore, is not entitled to disability benefits under the provisions of 10 U.S.C., chapter 61.

(***EXCEPTION:*** Member is eligible for disability processing if in this status in order to participate in educational program or for an emergency purpose.)

1.4. Processing Special Cases.

1.4.1. CM Sentence Not Involving Dismissal or Punitive Discharge**.** Members who are in military confinement are not eligible for processing until sentence is completed and they are placed in a returned to duty status.

1.4.2. Unauthorized Absence. HQ AFPC/DPPD and the PEBLO stop processing a case when a member is absent without leave (AWOL), in deserter status, or in the hands of civil authorities and do not resume processing until the member returns to military control and HQ AFPC/DPPD determines the member is eligible for disability processing.

1.4.3. Civil Court Action. When civil criminal court action is pending and the member is present for duty, the PEBLO will continue processing after the member's commander clears the member for appearance at the PEB.

1.4.4. Dual Action. Process as dual action, disability cases on members with an unfit finding who are also pending administrative separation (including Second Lieutenants being processed for "not qualified for promotion"), or who apply for nondisability retirement or discharge in lieu of CM action according to AFIs 36-3203, *Service Retirements*, 36-3206, *Administrative Discharge Procedures*, 36-3207, *Separating Commissioned Officers*, 36-3208, *Administrative Separation of Airmen* or 36-3209, *Separation Procedures for Air National Guard and Air Force Reserve Members*. SAFPC makes the final disposition. If SAFPC does not accept the retirement or discharge in lieu of CM action, the CM will proceed. If the sentence does not result in punitive discharge, then the disability case can be processed. ***NOTE*:** Administrative action continues in any disability case that results in a fit determination.

1.5. Delay of Processing. Medical Treatment Facilities (MTFs) will not delay disability processing for nondisabling conditions such as elective surgery. If a member needs emergency surgery, treatment, or hospital care, consider a delay in retirement or discharge only when it could cause a change in the disability disposition or rating.

1.6. Benefits. The Air Force disability system will not retain, retire, or discharge a member for disability solely to increase Air Force retirement or discharge benefits.

1.7. Disability Ratings. The PEB assigns a percentage rating to a medical defect or condition when the member is physically unfit for duty. By law, (10 U.S.C., chapter 61), the Air Force assigns ratings from the Department of Veterans' Affairs (VAs') *Schedule for Rating Disabilities* (VASRD) and implementation guidance contained in DoDI 1332.39. (***EXCEPTION:*** Reserve and ANG fitness/unfitness determinations as described in **Chapter 8**.)

1.8. VASRD Distribution. The VA sends the VASRD to HQ AFPC/DPPD. HQ AFPC/DPPD assigns a control number to each copy and sends a copy to the PEBLOs and to evaluating boards and staff members in the disability system. PEBLOs maintain control of the publication within their respective MTF.

1.9. Air Force and VA Ratings. The VA administers its program under Title 38, U.S.C.; the Air Force under Title 10. Although both use the VASRD in assessing disability ratings, a prime difference between the two systems is that the VA may rate any service-connected condition without regard to fitness, whereas the Air Force may rate only those conditions which make a member unfit for continued military service (see paragraph **A2.21**).

1.10. Medical Hold. The Medical Standards Branch (HQ AFPC/DPAMM) may place a member on medical hold when he or she is within 60 days of the scheduled non-disability separation or retirement date and undergoing disability processing. HQ AFPC Service Retirements, AF/DPOB (for Colonels and Colonel-selects), or the MPF must revoke the non-disability retirement or discharge order before its effective date.

1.11. The Next of Kin (NOK) or Guardian. The NOK (in accordance with 10 U.S.C. 1513 [4] and [5] and 10 U.S.C. 1482[C]) or guardian acts for a member when the member is mentally incompetent or the physician determines that divulging information to the member would be harmful to the member's well being. The NOK or guardian has the same rights, privileges, and counseling benefits and, unless specifically prohibited, follows the same procedures as for the members being evaluated. ***NOTE***: For the sake of brevity, this instruction refers to the member except when the text applies specifically to the NOK or guardian.

1.12. National Emergency, Contingencies of War, Times of War. HQ AFPC/DPPD will establish Physical Evaluation Boards (PEBs) at designated locations in the Continental United States (CONUS) and will announce this action by message (includes minimize).

1.12.1. Medical facilities send their MEBs to the nearest PEB-selected location. The PEB sends its findings and recommended disposition to the evaluee. If the evaluee nonconcurs, he or she may appear before the Formal Physical Evaluation Board (FPEB) represented by counsel or, if the evaluee denies this option, he or she may appeal in writing to the PEB that issued the original findings. The member may appeal the final findings of the PEB by writing to the central review authority of the SAFPC at AFPC. ***EXCEPTION:*** If the Informal Physical Evaluation Board (IPEB) finds a member fit and recommends return to duty, no appeal process is available.

1.12.2. The central review authority is made up of members of the current PEBs and makes the final determination.

1.13. Unlawful Influence. No one may attempt to coerce or, by any unauthorized means, influence a PEB or the outcome of any disability case.

1.14. Approval by Defense Finance and Accounting Service (DFAS). DFAS approved the entitlements portions of this instruction under procedures prescribed by the Secretary of Defense (SecDef) according to Title 37 U.S.C., Section 1001.

1.15. Special Orders. HQ AFPC/DPPD issues special orders effecting temporary and permanent disability retirement (ACD series), travel orders for TDRL members (TDD), and appointment of PEB members (ABD). The Chief, USAF Physical Disability Division, is the authenticating official.

Chapter 2

MEDICAL TREATMENT FACILITY (MTF) PROCESSING RELATED TO DISABILITY EVALUATIONS

2.1. Medical Evaluation Boards (MEB). AFI 48-123, *Medical Examination and Standards*, gives the rules for competency boards and MEBs, their documentation, appropriate recommended actions, and the disposition of evaluees and their records. In addition, the PEB requires specialty evaluations, such as cardiology consultations for heart conditions or psychiatric consultation for mental conditions. Documentation sent to the PEB for adjudication must not be over 90 days old when received at AFPC. When there is a question about the member's ability to act in his or her own behalf, or if there is a change from a prior competency determination, a competency board must be conducted. ***EXCEPTION:*** This 90-day time limit does not apply in cases of members of the Ready Reserve whose non-duty related impairments are being evaluation by the PEB for a determination of fitness only under **Chapter 8**, **Section 8E**.

2.2. Role of the Medical Officers in the MEB Process.

2.2.1. The attending physician at the medical treatment facility (MTF) will:

2.2.1.1. Conduct the examination.

2.2.1.2. Prepare the documents required to identify medical defects or conditions that may disqualify the member for continued active duty (AD).

2.2.1.3. Refer the case to a MEB.

2.2.2. Medical officers on the MEB will:

2.2.2.1. Evaluate the documentation. Recommend the disposition of the MEB case and refer it to the approving authority as outlined in AFI 48-123.

2.3. Role of the Physical Evaluation Board Liaison Officer (PEBLO). The PEBLO will:

2.3.1. Ensure disability cases referred to the PEB are complete, accurate, and fully documented.

2.3.2. Counsel evaluees concerning their rights in the disability process (see **Attachment 2**).

2.3.3. Maintain coordination with the member, medical facility, MPF, and HQ AFPC/DPPD.

2.4. Role of Commander and Supervisor. Except in situations of critical illness or injury in which return to duty is not expected, a written statement from the member's immediate commanding officer or supervisor describing the impact of the member’s medical condition on normal military duties and ability to deploy or mobilize, as applicable, will be submitted with the documentation required by AFI 48-123.

2.5. Hospitalization During or After Disability Evaluation. If disability processing is not completed, the MTF must obtain authorization from HQ AFPC/DPPD before moving the member to a VA hospital for long-term inpatient care. When the evaluee's medical condition requires continued inpatient care after completion of disability processing, hospitalization will be at the referring hospital, another military facility, or a VA or civilian medical facility.

2.6. Recall of Case. If a major change in the diagnosis or in member’s condition is discovered, the referring MTF commander may recall the case for further medical evaluation and new

medical board or addendum, as appropriate. The commander sends a report of circumstances and request for recall to AFPC/DPSD.

2.6.1. **DELETED.**

2.6.2. **DELETED.**

2.7. Expedited DES Process for Members with Catastrophic Conditions and Combat-Related Causes. Military medical authorities, the Federal Recovery Care Coordinator, PEBLOs, treating physicians, medical and non-medical case managers collaborate in identifying members who are qualified for referral to the expedited DES process. The PEBLOs work to obtain a medical declaration of catastrophically ill or injured through the DES.

2.7.1. The PEBLO transmits the following minimum documentation to AFPC/DPSD: a narrative summary of care describing, at minimum, the member's course of medical treatment since injury, current condition, description of the treatment plan and prognosis. Narrative summary must be signed by the senior attending physician. Once the PEB has made the catastrophic determination, processing will continue as outlined in DoDI 1332.38, Enclosure 9, paragraph E9.4.

2.7.2. **DELETED.**

2.8. DELETED.

2.9. Referral for Pre-Separation Counseling. As soon as it is evident that a member will meet an MEB, the PEBLO refers the member to the MPF for pre-separation counseling in accordance with AFI 36-2102, *Base- Level Relocation Procedures.* Although final disposition is unknown at this point, early counseling is necessary to satisfy requirements of 10 U.S.C. 1142.

Chapter 3

THE PHYSICAL EVALUATION BOARD (PEB)

Section 3A—How PEBs are Established

3.1. Purpose of PEBs. A PEB is a fact-finding body that investigates the nature, origin, degree of impairment, and probable permanence of the physical or mental defect or condition of any member whose case it evaluates. The disability system provides for two PEBs: an Informal PEB and a Formal PEB. If either board finds a member unfit, it recommends appropriate disposition based on the degree of impairment caused by the disabling condition, the date incurred, and the member's line of duty status. A PEB is not a statutory board, and there is no statute of limitations in considering evidence.

3.2. Legal Basis for Formal Hearings. The FPEB provides the full and fair hearing required by 10 U.S.C. 1214 for members recommended for a disability discharge or retirement.

3.3. Voting Board. The PEB is a voting board and each member has an equal vote. If disagreement occurs, the majority vote determines the issue. The dissenting member may write a report to assist later reviewers in understanding the issues.

3.4. Training of PEB Members. HQ AFPC/DPPD trains all members before they act and vote on disability cases. Training includes all elements of the disability system, criteria for fitness determinations, and use of the VASRD.

3.5. The Appointing Authority for PEB Members. Permanent and alternate members are appointed on Department of the Air Force (DAF) Special Orders by direction of the SAF.

3.6. Permanent Members of the PEB. The Commander, Air Force Personnel Center (AFPC/CC), or a designee, assigns and appoints PEB permanent members. Appointment orders designate the senior nonmedical voting member as PEB president, other nonmedical voting members as personnel members, and identify Medical Corps and Reserve component members.

3.7. Alternate Members of the PEB. Alternate members serve when permanent members are absent. The PEB president instructs alternate members on their duties and responsibilities. HQ AFPC/DPPD and the FPEB, HQ AFPC/DPPDF, appoint and designate alternate members on orders. AFPC/CC furnishes alternate members to the IPEB. The Commander, Air Force Military Training Center (AFMTC, Lack-land), furnishes alternate presidents and personnel members for the FPEB. The Commander, 59th Medical Wing, Wilford Hall Medical Center (59 Med Wg (WHMC), Lackland), furnishes alternate medical members for the FPEB. The Lackland Staff Judge Advocate (SJA) furnishes the alternate legal counsel for the FPEB. In acting on a PEB request for an alternate member, the commander's decision on the availability of the member is final. Alternate presidents should be lieutenant colonels or above; alternate medical and non-medical members, majors or above; and alternate military legal counsels, captains or above.

3.8. PEB Composition. The PEB must have at least three voting members. When appropriate, the permanent personnel member (if serving in the grade of lieutenant colonel or above) or the senior alternate non-medical member may serve as president. HQ AFPC/DPPD appoints an alternate president if neither is available. (***Exception:*** If SAFPC approves, the informal PEB may consist of two members--a medical and a personnel officer. If the two disagree on the findings, HQ

AFPC/DPPD appoints a third member to get a majority vote.). The president of the PEB assembles the board and ensures:

3.8.1. One of the voting members is a physician.

3.8.2. One of the voting members is in the Regular Air Force, if the evaluee is in the Regular Air Force.

3.8.3. One of the voting members is a Reserve officer (Title 10 U.S.C. 266), if the evaluee is in a Reserve component.

3.9. Restrictions on Membership. Voting members cannot serve on a PEB that evaluates a case they have acted on before except:

3.9.1. When a PEB voting member acting on a TDRL reevaluation case acted on the same case at the initial evaluation or an earlier reevaluation.

3.9.2. When additional documentation has been added to the case.

3.9.3. When a new MEB has recommended that a case again be referred to a PEB.

3.9.4. When a higher review authority has directed further investigation and reconsideration of a case or when authorized by the Chief, USAF Physical Disability Division.

3.10. Self Disqualification. PEB voting members must disqualify themselves if for any reason they believe they would be unable to render a fair and impartial decision.

3.11. PEB Locations. The IPEB is at AFPC, 550 C Street West Ste 6, Randolph AFB TX 78150-4708. The FPEB is at 2320 Carswell Ave Ste 3, Lackland AFB TX 78236-5607.

3.12. PEB Support and Administration. HQ AFPC/DPPD exercises operational, procedural and administrative supervision of the PEBs. However, the PEBs are attached to the base where they are located for logistics and administrative support, and court martial jurisdiction. In addition to providing administrative control of disability case processing, HQ AFPC/DPPD gives administrative and statistical support to the PEB as required.

3.12.1. The Disability Operations Branch (HQ AFPC/DPPDS) processes all disability cases on AD members, ARC members, and TDRL members.

3.12.2. HQ AFPC/JA provides legal support.

3.12.3. To ensure fairness and independent decisions in the disability evaluation system, primary members of the PEBs will not be rated (for officer performance report purposes) by the board president or another member of the board.

Section 3B—PEB Findings and Recommendations

3.13. Cases Unable to be Adjudicated. When the PEB needs more or corrected information to evaluate a case, HQ AFPC/DPPD returns the medical board proceedings and related documents to the referring MTF with a cover memorandum explaining why the case is being returned and what actions to take. When returning the case to HQ AFPC/DPPD, the MTF must include a cover memorandum telling what they did and whether they added or changed any documents. HQ AFPC/DPPD refers a case to a different facility for more medical workup or new MEB if the PEB considers it necessary to ensure a fair and impartial evaluation. HQ AFPC/DPPD returns cases for any of the following reasons:

3.13.1. More detailed or additional documents;

3.13.2. Further information and description of defects;

3.13.3. Further hospitalization, another physical exam, or reconsideration by an MEB;

3.13.4. Correction or explanation of apparent errors, omissions or inconsistencies in the records or supporting documents; or

3.13.5. Noncompliance with governing directives, such as AFIs 48-123 and 36-2910, *Line of Duty and Misconduct Determination*, and this instruction.

3.14. Documenting Findings and Recommendations. The PEBs will document their findings and recommendations on an AF Form 356, **Findings and Recommended Disposition of the USAF Physical Evaluation Board**. ***EXCEPTION***: See paragraph **3.36** for documentation procedures when the IPEB issues a fit finding on an ARC member for a non-duty related condition.

3.15. Documenting Member's Election. Use AF Form 1180, **Action on Physical Evaluation Board Findings and Recommended Disposition,** on the PEB's findings and recommended disposition. The PEB president or board member, HQ AFPC/DPPD staff representative, or the PEBLO may sign in block 2. For TDRL evaluations, HQ AFPC/DPPDS informs the TDRL member of the PEB action by memorandum, and the member documents his or her election by indorsement to the notification memorandum.

3.16. Fitness Determinations. These are the most important findings made by the PEB. The standards and criteria for making this determination are in DoDD 1332.18, paragraph C.

3.17. Presumption of Fitness. The PEBs will presume a member fit if he or she has been able to do his or her duty satisfactorily in the 12 months before a scheduled retirement. Presumption of fitness applies to non-EAD ARC members only when there is a mandatory retirement date. This presumption applies whether the member was referred to a PEB as a result of nondisability retirement or separation processing. The presumption of fitness does not apply to a member on Limited Assignment Status (LAS) under the provisions of **Chapter 6**. The presumption of fitness may be overcome in the following circumstances:

3.17.1. Within the presumptive period an acute, grave illness or injury occurs that would prevent the member from performing further duty if he or she were not retiring; or

3.17.2. Within the presumptive period a serious deterioration of a previously diagnosed condition, to include a chronic condition, occurs and the deterioration would preclude further duty if the member were not retiring; or

3.17.3. The condition for which the member is referred is a chronic condition and a preponderance of the evidence establishes that the member was not performing duties befitting either his or her experience in the office, grade, rank, or rating before entering the presumptive period. When there has been no serious deterioration within the presumptive period, the ability to perform duty in the future shall not be a consideration.

3.18. Ratable Physical Defects and Conditions. Disability evaluation boards assign a disability percentage rating of zero or more to each ratable defect or condition using the VASRD and DoD Instruction 1332.39 as guides. The boards will rate only those conditions which make a member unfit for continued active duty.

3.19. Known Existed Prior to Service (EPTS) Defects or Conditions. See DoD Instruction 1332.38, part 2, paragraph E, for standards, limitations, and presumptions concerning EPTS defects or conditions.

3.20. Line of Duty (LOD) Determinations. Chapter 61, 10 U.S.C., requires a line of duty determination for each unfitting defect or condition. Specifically, for compensability purposes the PEB must know whether or not the member incurred the disability as the result of his or her intentional misconduct or during a period of unauthorized absence.

3.20.1. Evidence in Support of LODs. This evidence may include, but is not limited to, medical documentation, documents verifying a period of unauthorized absence, or an LOD determination made under AFI 36-2910.

3.20.2. PEB Action on LOD Determinations. LOD determinations made under provisions of AFI 36-2910 are material evidence considered by the PEB. The PEB cannot properly adjudicate a case until the completed LOD determination, if required, is in the case file. (***NOTE:*** Entries on AF Form 618 constitute administrative LOD determinations.) The PEB will direct the referring medical facility to begin an LOD determination under AFI 36-2910 before continuing with the evaluation process when:

3.20.3. There is reasonable doubt as to the accuracy of the administrative LOD determination as shown on the AF Form 618; and

3.20.4. There is no existing informal or formal LOD determination in the member's case file; and

3.20.5. There is insufficient evidence from which the PEB may make its own independent LOD determination.

3.20.6. Changes in LOD Determinations. Only SAF or SAF's designated representative has the authority to reverse LOD determinations made under AFI 36-2910. The PEB may not recommend a change to a line of duty determination made under AFI 36-2910 unless there is new and compelling evidence not considered during that process.

3.21. Absence Without Leave (AWOL). A member who incurs an unfitting defect or condition during a period of unauthorized absence or AWOL is not entitled to disability benefits for that defect or condition under 10 U.S.C., chapter 61. In cases involving a member who was AWOL, the record must contain enough evidence to support a finding that the member incurred the disability during a period of unauthorized absence. In addition to pertinent medical records, supporting evidence may include court martial orders, duty status reports, line of duty reports, or other documents that verify the exact period of unauthorized absence.

3.22. Identifying When Ratable Defects or Conditions Were Incurred. In most cases, for each ratable defect or condition, the PEB must find if the member incurred the defect or condition while entitled to basic pay. The date incurred is the date when, according to documented evidence or accepted medical principles, the member incurred the disease, defect, condition, or injury--not the date the member underwent medical evaluation. The following guidelines apply:

3.22.1. Service-Incurred Defects. The PEB presumes members to have been in sound physical and mental condition on entering military service except for defects or conditions noted and recorded at time of entry. They presume any disease or injury discovered after active duty (AD) entry, with the exception of congenital and hereditary conditions, as having been incurred while entitled to receive basic pay. The defect or condition is service incurred unless a preponderance

of evidence shows it existed prior to service, or developed while the member was in an excess leave or TDRL status.

3.22.2. Acute Conditions. The PEB regards as service incurred or service aggravated acute conditions occurring during active service, unless the preponderance of evidence shows there was no new or increased disability resulting from these conditions during active service.

3.22.3. Conditions That Existed Prior to Service (EPTS). Certain abnormalities and residual physical defects or conditions, when found, require the conclusion that they must have existed before entry into military service or during a break in service or during a period of inactive service. For example:

3.22.3.1. Congenital and hereditary conditions.

3.22.3.2. Medical authorities are in consistent and universal agreement to the cause and time of origin.

3.22.3.3. The case involves manifestation of lesions or symptoms of chronic disease existing from the date of entry or so close to the date that the disease could not have originated in so short a period of time.

3.22.3.4. The condition is of infectious origin and is found within less than minimum incubation period.

3.22.3.5. Competent civilian medical or dental sources document physical defects of conditions before entry into service, and the records are available to military medical authorities. The physical defect or condition must be such that, by a preponderance of evidence, it must have existed before entry into the service, or the service entrance examination noted objective evidence of the defect or condition.

3.22.4. Service Aggravation of EPTS Defects or Conditions. When the PEB finds that a physical defect or condition is "EPTS," it then must find whether military service further aggravated the defect or condition. Additionally, PEBs will:

3.22.4.1. Presume service aggravation if there is any permanent increase in severity of the preexisting condition occurring after the member entered into military service. Only specific findings of "natural progression" of the preexisting defect or condition, based on well established medical principles as distinguished from medical opinion alone, will overcome the presumption of service aggravation.

3.22.4.2. Not consider as service aggravation the residual conditions resulting from medical or surgical treatment of EPTS defects or conditions. ***EXAMPLE:*** Post operative scars or absent or poorly functioning parts or organs.

3.22.4.3. Consider the residuals as service aggravation if the residuals are unusual or unanticipated, or if the purpose of the treatment was to relieve a service-aggravated defect or condition.

3.22.5. Conditions Incurred During a Period of Excess Leave. According to the Comptroller General of the United States (decision B-205953, 18 June 1982), a member in this status is not entitled to basic pay and, thus, is not entitled to disability benefits under the provisions of 10 U.S.C., chapter 61. (**exception**: If member is in this status in order to participate in an educational program or for an emergency purpose.)

3.23. Proximate Result. For cases involving ARC members who incurred a disability on or before September 23, l996, the PEB determines whether the disability was the proximate result of performing military duties in cases involving ARC members called to active duty for 30 days or less or performing active or inactive duty training. The PEB bases these findings on the facts and circumstances in each case. There must be some definite causal relationship between the disability and the required military duty. Resolve findings in favor of the member unless the preponderance of the evidence dictates otherwise. This determination is not required for Regular members or ARC members serving on active duty for a period of more than 30 days, or for ARC members called to active duty for 30 days or less or performing active or inactive duty for training after September 23, 1996 if injury was caused in the line of duty.

3.24. Permanence of Impairment. The PEB determines the permanence of the impairment and classifies it as either "Permanent" or "May Be Permanent." (See **Attachment 1**)

3.24.1. Use of the TDRL. When the PEB finds a disability may be permanent in character, but not stable in degree, and the member otherwise qualifies for disability retirement, the Air Force places the member on the TDRL. The TDRL is a way to further observe unfit members whose disability has not stabilized and for whom the PEB cannot accurately assess the degree of severity, percent of disability, or ultimate disposition. The TDRL also serves as a safeguard for both the member and the Air Force by delaying permanent disposition for those members whose conditions could improve or get worse, or where the ultimate disposition could change within a reasonable period of time.

3.25. Percent of Disability and VA Diagnostic Codes. The PEB, on finding a member unfit, assigns a disability percentage to each ratable defect or condition and the VA code that describes the defect or condition. The PEB enters the percent of disability without regard to LAS or the final disposition and uses hyphenated VA codes only when authorized by the VASRD. This provision does not apply to ARC and Air National Guard (ANG) fitness/unfitness determinations for non-duty related conditions.

3.26. Armed Conflict and Instrumentality of War. This determination may entitle the retired member to certain tax and VA benefits, special considerations if later employed by the US government and, if a Regular officer, the exemption from the requirement to forfeit a part of military retired pay. The PEB uses the following criteria in making this determination:

3.26.1. Armed Conflict. The PEB makes this determination only when the member incurred the physical defect or condition in the line of duty as a direct result of armed conflict and that defect or condition, standing alone, makes the member unfit. Mere presence in an area of armed conflict is not sufficient to support this finding. There must be a definite causal relationship between the armed conflict and the resulting unfitting disability. (See **Attachment 1**)

3.26.2. Instrumentality of War. The PEB makes this determination only when the member incurred the physical defect or condition in line of duty as the result of an instrumentality of war during a period of war, and that defect or condition, standing alone, makes the member unfit. Title 38 U.S.C. 101 defines the periods of war.

3.27. Determinations for Tax Benefits. Prior to 25 Sep 75, military disability pay was excluded from gross income for Federal tax purposes. The Tax Reform Act of l976 (26 USC, 104) provides that, effective 25 Sep 75, disability payments are taxable unless one of the following conditions is met:

3.27.1. Service Affiliation. If the evaluee was a member of the Armed Forces (or Reserve component thereof), or under a binding written agreement to become such a member on 24 Sep 75. HQ AFPC/ DPPD determines this from information in the personnel data system or other available personnel records, and documents it in the disposition message and retirement order form.

3.27.2. Direct Result. One of the member's defects or conditions was the direct result of a combat-related injury. The defect or condition, standing alone, must make the member unfit. In all cases, the member must have incurred the disability in the line of duty, under orders (verbal or written) to perform duty, and there must be a definite causal relationship between the required duty and the disability.

3.27.2.1. Combat-related Disabilities. The PEB will make a combat-related disability determination for:

3.27.2.1.1. Armed Conflict. See paragraph **3.26** and **Attachment 1**.

3.27.2.1.2. Extra Hazardous Service. An assignment to a military occupation entitling the member to hazardous duty pay, such as parachute, flight deck, demolition, experimental stress, or leprosarium duty. It includes flight duty only if it involves other than routine training flights, and there is enough evidence of record to show that an extremely hazardous duty factor was present.

3.27.2.1.3. Conditions Simulating War. Includes any disability resulting from military training, such as war games, practice alerts, or riot control training. It does not include activities like calisthenics and supervised sports not essentially military in nature.

3.27.2.1.4. Instrumentality of War. See paragraph **3.26** and **Attachment 1**. In these cases, the law does not require that the disability be incurred during a period of war. Consequently, the PEB may make a favorable determination if the member incurred the disability during any period of service of such diverse causes as wounds caused by a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or material.

3.27.2.2. TDRL Reexamination Cases. The initial combat-related determination is valid until final disposition. When removing a member from the TDRL for permanent disposition, the PEB makes a new determination to ensure that the combat-related defect or condition, standing alone, still makes the member unfit.

3.28. Categorizing Ratable Defects or Conditions. The PEB categorizes each ratable defect or condition as compensable or noncompensable. Eligibility for disability benefits is based only on compensable defects or conditions. (See glossary for definition.) After recording the compensable defects and conditions, the PEB combines the percentage rating of each defect or condition as outlined in table 1 of the VASRD. The PEB reflects any additions to or deductions from this combined rating, such as a bilateral factor or EPTS factor, and converts the final combined compensable rating to the nearest whole number divisible by 10. Any condition or defect that does not affect the member's ability to perform military duty is considered not unfitting, but is noted.

3.29. Recommended Disposition. The PEB recommends one of the following dispositions:

3.29.1. Return to Duty. Applies to all members found physically fit, except TDRL members or previously retired members on active duty.

3.29.2. Permanent Retirement.

3.29.3. Temporary Retirement.

3.29.4. Discharge With Severance Pay.

3.29.5. Discharge Under Other Than 10 U.S.C. Chapter 61. Add "(EPTS)," "(Excess Leave)," or "(Not Proximate Result)," to more fully explain this disposition action.

3.29.6. Discharge Under 10 U.S.C. 1207. Use only when the member is unfit and the disability is due to intentional misconduct, willful neglect, or was incurred during a period of unauthorized absence.

3.29.7. Removal From TDRL (Fit). Use only for TDRL members found fit and being removed from the TDRL.

3.29.8. Retain on TDRL. Use only for unfit TDRL members retained on that list.

3.29.9. Revert With Disability Benefits: Except as shown below, use this recommended disposition for an unfit retired member serving on AD who is reverting to the retired list with disability benefits. Under this category, add "Temporary Retirement" or "Permanent Retirement," as applicable, in item 12 of AF Form 356. Example: "Revert with Disability Benefits (Temporary Retirement)." ***EXCEPTION:*** To receive disability benefits, unfit members previously retired for years of service or age must have a disability of 30 percent or more (10 U.S.C. 1402 (b) and 1402(a)). Otherwise, the member reverts to the retired list without disability benefits.

3.29.10. Revert Without Disability Benefits. Use only for a retired member serving on AD who is reverting to the retired list without disability benefits.

3.30. PEB Summary Statement. The PEB recommends action based on objective findings of record, and uses the "Remarks" section of AF Form 356 to briefly summarize the rationale for its decision. The PEB may express matters of opinion, so long as they clearly identify them as such. Generally, the PEB will make statements concerning the following:

3.30.1. Personal impressions created by the appearance of the member if such impressions are at variance with documentary evidence in the case file.

3.30.2. The percentage rating or recommended disposition varies from that which would appear appropriate.

3.30.3. The member is unfit (excluding EPTS) and scheduled for nondisability retirement within the 12-month period immediately after the MEB evaluation.

3.30.4. The member is unfit because of defects or conditions known before the evaluation or identified during the last periodic physical examination but not previously found disqualifying or unfitting for continued active duty.

3.30.5. One of the member's defects or conditions was the direct result of a combat-related injury, as defined in 26 U.S.C. 104, and that defect, standing alone, makes the member unfit.

3.30.6. Determination that one of the member's defects or conditions was the direct result of armed conflict or caused by an instrumentality of war during a period of war, and that defect or condition, standing alone, makes the member unfit.

3.30.7. Disagreement with a LOD finding under AFI 36-2910.

3.30.8. **(If condition was incurred on or before 23 September l996)** - Determination that the disability of an ARC member on AD 30 days or less is not the proximate result of performing AD or inactive duty training (excluding EPTS).

3.30.9. **(If condition was incurred after 23 September l996)** - Determination that the disability of an ARC member on AD 30 days or less is not in line of duty (excluding EPTS).

3.31. Dissenting Report. Any voting member of a PEB may prepare a signed report for any case in which he or she disagrees with the majority decision. Include in the report the reasons for the disagreement; and identify those matters that are personal opinions. Show in the report the type of hearing, the date, and location of the PEB. Attach a copy to each set of the PEB findings and give to the member before asking him or her to agree or disagree with the PEB action.

3.32. PEB Case File Assembly and Disposition. See **Table 3.3** for instructions on assembling the case, marking exhibits, and disposing of the case file. The completed case file is "For Official Use Only," and AFIs 37-131, *Air Force Freedom of Information Act Program,* and 37-132 apply.

Section 3C—IPEB Procedures

3.33. IPEB Review. The IPEB reviews appropriate medical and personnel records, and related documentation to determine fitness for duty. Neither the member nor counsel may be present at the informal hearing.

3.34. IPEB Findings. AFPC/DPSD sends AF Form 356, along with an AF Form 1180, by electronic means whenever possible to the PEBLO at the referring medical facility.

3.34.1. Action by the PEBLO and the member. Within 1 duty day of receiving the IPEB's findings, the PEBLO locates and counsels the member on the recommended disposition and on his or her rights, available options, and required actions. The member has 10 calendar days to agree or disagree with the IPEB's findings. AFPC/DPSD may approve limited extensions up to 5 calendar days. The PEBLO and others in the disability system may answer questions, but the member alone makes the final decision and documents that decision by marking the appropriate block on AF Form 1180. Prior to acting on a member's request for a FPEB, the PEBLO will review with the member the applicable standard detailed in the VASRD in order for member to understand what his symptoms would have to be to warrant an increase in the percentage of disability. If member disagrees with the recommendation of the IPEB and requests a FPEB hearing, member may submit a brief rebuttal stating reason for disagreement.

3.34.1.1. Signs the counseling portion of AF Form 1180;

3.34.1.2. Informs HQ AFPC/DPPD of the member's decision by electronic means, telephone, or by message if overseas (includes *MINIMIZE*);

3.34.1.3. Gives the member a copy of AF Forms 1180 and 356;

3.34.1.4. Retains a copy of each form in suspense until case completion;

3.34.1.5. Mails or sends by electronic means the signed original AF Form 1180 and the rebuttal, if applicable, to HQ AFPC/DPPD.

3.34.2. Action by HQ AFPC/DPPD. Upon notification of member's decision, HQ AFPC/DPPD will:

3.34.2.1. Continue processing the case as appropriate if the member agrees with the IPEB findings.

3.34.2.2. Request a formal hearing for any member who disagrees with an unfit finding and forward the case file to the FPEB**.**

3.34.2.3. If member disagrees with a fit finding, a rebuttal statement must accompany the AF Form 1180 and the Chief, USAF Physical Disability Division, will determine whether there is sufficient justification for a Formal Board hearing.

3.34.2.3.1. If insufficient justification, member's request for an FPEB will be denied and the PEBLO will be notified. The PEBLO will notify the member and the Military Personnel Section (MPS) that the member has been returned to duty. The MPS will be required to accomplish appropriate personnel actions as outlined in this instruction (Chapter 4)

3.34.2.3.2. If sufficient justification exists, member will be scheduled for a Formal Board hearing.

3.35. NEXT OF KIN (NOK) Counseling. If the member is unable to act on his own behalf because of mental incompetence, is comatose, or it would be dangerous to his or her health, the PEBLO personally counsels the NOK. The NOK signs AF Form 1180 for the member.

3.35.1. When the NOK is not near the referring facility, HQ AFPC/DPPD sends AF Forms 1180 and 356 and other information to another Physical Evaluation Board Referral Hospital (PEBRH) near the NOK, where the PEBLO will counsel the NOK and complete the required actions. If the NOK is not near a PEBRH, HQ AFPC/DPPD sends the necessary forms to the NOK, with a letter of explanation, and requests a reply within a specified time (normally 2 weeks).

3.35.2. If the PEBLO cannot identify or locate the NOK, the PEBLO informs HQ AFPC/DPPD, who then refers the case to the FPEB.

3.35.3. When the IPEB recommends permanent or temporary retirement with maximum benefits (100 percent compensable rating), and time and circumstances do not permit a formal hearing, HQ AFPC/ DPPD processes the case for Secretarial determination without the member's or NOK's agreement. HQ AFPC/DPPD includes a statement of the circumstances in the case file.

3.36. IPEB Fit Findings. The IPEB will stamp the AF Form 618 "Fit - Return to Duty." The stamp will be signed and dated by the IPEB president or board member. (The IPEB will not initially issue an AF Form 356.)

3.36.1. A designated assistant to the Director, SAFPC will review the case. If approved, the assistant will sign and date in the space provided on the stamped AF Form 618, which is then filed in the member's out-patient health record.

3.36.2. Approval by the SAFPC designated assistant completes the disability evaluation process. However, before the records are returned to the PEBLO, HQ AFPC/DPAMM will review them and, if applicable, include a memorandum advising that the member will require an assignment limitation code (ALC) "C." For ARC members not on extended active duty, the records will be returned to the appropriate ARC headquarters for review and action.

3.36.3. Upon receiving the records, the PEBLO will take the following actions:

3.36.3.1. Notify the member of actions taken in the case.

3.36.3.2. Notify the Military Personnel Flight (MPF) that the member has been returned to duty, and ask them to accomplish the required personnel actions in this instruction (**Chapter 4**).

3.36.3.3. Gives the MPF a copy of HQ AFPC/DPAMM's memorandum containing Code "C" instructions, if applicable.

3.37. Special Review by the IPEB.

3.37.1. When a hospital commander discovers any of the circumstances listed below, he or she sends a report of circumstances (with supporting evidence) and requests special review by the IPEB. If the request meets the criteria for special review, HQ AFPC/DPPD refers the case to the IPEB. The special review may be conducted by the same members who previously considered the case, or different members if one or more of the original board members are unavailable. If, after review, the IPEB revises its findings, it prepares a new AF Form 356 and reprocesses the case. If there is no change, HQ AFPC/DPPD notifies the hospital commander to continue processing the original case and adjusts the time limit for response. The following circumstances may merit a special review:

3.37.1.1. Pertinent medical records or evidence were not sent to the informal PEB.

3.37.1.2. A change in diagnosis that does not require another medical workup or new medical board. (If the change is major, see recall guidelines, paragraph **2.6**)

3.37.1.3. Changes in medical status that may change the IPEB's findings and recommended disposition.

3.37.2. If after the IPEB has found a member fit, the hospital commander discovers additional facts or evidence which might meet the criteria for special review by the IPEB, and HQ AFPC/DPPD agrees, HQ AFPC/DPPD will reopen the case. In addition to the report of circumstances and supporting evidence, the PEBLO returns the member's records to HQ AFPC/DPPD.

3.37.2.1. If, upon special review, the IPEB issues an unfit finding and recommends disability separation or retirement, an AF Form 356 will be referred to the evaluee, and the case will proceed in the same manner as other unfit cases.

3.37.2.2. If the IPEB does not change its initial fit finding, they will issue an AF Form 356 and forward it, with the rest of the case file, directly to SAFPC for review.

3.37.2.3. If the SAFPC agrees with the IPEB's fit finding, they will issue a memorandum directing the member's return to duty and return the case file to HQ AFPC/DPPD. The MEB, AF Form 356, and SAFPC memorandum will be placed in the member's out-patient health record.

3.37.2.4. If the SAFPC finds the member unfit, they will issue "revised recommended findings" (RRF) and the case proceeds in the same manner as other unfit cases.

3.37.3. When appropriate, the PEBLO keeps the MPF apprised of the status of any case undergoing special review.

Section 3D—FPEB Procedures

3.38. Purpose of the Formal Hearing. Gives members recommended for discharge or retirement the opportunity to appear in person before the FPEB, to be represented by an appointed military counsel or counsel of their choice, and to present evidence and call witnesses. Hearings are not adversarial; they are administrative in nature.

3.39. Situations That Require a Formal Hearing.

3.39.1. When it is requested by the member after the IPEB has issued an unfit finding.

3.39.2. When the IPEB issues an unfit finding and the member neither agrees nor disagrees with the findings, or submits a conditional concurrence.

3.39.3. When the member is unable to act in his or her own behalf and the NOK is unknown, unavailable, or is unwilling to accept the responsibility.

3.39.4. When the Chief, HQ AFPC/DPPD, or other final reviewing authority decides that a formal hearing is in the best interest of the member and the Air Force. In these cases, the official concerned directs the hearing in writing. The hearing may be held in absentia if the evaluee is a TDRL member (see paragraph **7.19**).

3.40. PEBLO Actions. Prior to the formal hearing the PEBLO:

3.40.1. Issues orders placing member on temporary duty (TDY) to 59 Med Wg (WHMC), Lackland AFB TX 78236-5300, when the member needs military or commercial transportation to the formal board. Shows on the order that the TDY is for the specific purpose of appearing before the FPEB and includes the reporting date and time. Ensures the member arrives at Lackland no more than 24 hours before the scheduled reporting time. The reporting time is when the member is to consult with the appointed military legal counsel and review the case records. The actual hearing takes place after the consultation. If traveling by aeromedical evacuation, shows on the orders that member will travel "Class 4," unless that class is not appropriate due to medical reasons. The referring medical facility funds TDY to the FPEB (For ARC members, refer to paragraph **8.12**). Members normally may not take leave in conjunction with TDY to the FPEB (**Chapter 4**).

3.40.2. Gives the member up-to-date information on Lackland AFB housing, transportation, meals, location of buildings, where to report, how to contact appointed military counsel, and how to get orders indorsed for reimbursement.

3.40.3. Tells the member that active duty and ARC members must wear the service uniform unless they can not wear it for medical reasons. Wear of the military uniform must conform with all requirements of AFI 36-2903, *Dress and Personal Appearance of Air Force Personnel.*

3.41. HQ AFPC/DPPDF Actions. Prior to the hearing HQ AFPC/DPPDF:

3.41.1. Allows the member up to 3 duty days after arrival at the FPEB to review the available records and prepare the case. If the member needs more time, he or she submits a written request to the FPEB president. The member should state the reasons for the requested delay and how much extra time he or she needs. If disapproved, a written notice explains the reason for the disapproval, or if approved, gives a new date and time for the formal hearing.

3.41.2. Informs the member, counsel, and witnesses of the rules outlined in this section.

3.41.3. Ensures that member and counsel have access to this instruction, AFPD 36-32, DoDD 1332.18, DoDI's 1332.38 and 13332.39, AFI 48-123, the VASRD, and any other directives or publications referred to in this instruction that may apply.

3.42. Failure of Member To Appear for a Formal Hearing. With the exception of members who are mentally incompetent, absentia cases, TDRL cases, or when appearance would be harmful to the member's medical condition, if a member fails to appear for a scheduled formal hearing, the FPEB delays the hearing and investigates the absence. The FPEB President decides whether to reschedule the hearing or proceed with it. Include a statement of circumstances in the record. The appointed military counsel must be present at the hearing if neither the member nor another counsel representing the member is present. ***EXCEPTION:*** Return to DPPDS cases on TDRL members found fit and recommended for removal from TDRL (see paragraph 7.25.2).

3.43. Excusal from Hearing. A member may request to be excused from personally appearing at a hearing. This request is not to be confused with the waiver of formal hearing (paragraph **3.44**). The request to be excused may be made either before or after the member travels to the hearing. The FPEB president at his discretion may approve a member's request for excusal. The record of the hearing must clearly show that this was a voluntary act by the member. In such cases, the designated legal counsel represents the member during all open sessions. The member remains in the area until the FPEB completes its action. Excusal does not keep the FPEB from referring the member to 59 Med Wg (WHMC) for medical consultation is needed.

3.44. Waiver of Formal Hearing. Formal hearings are either requested by a member or directed by competent authority. After a hearing has been scheduled as the result of a member's request or direction by competent authority, a member must appear unless a waiver has been requested and approved. A member may request a waiver either before or after arrival at the FPEB. The waiver must include the reasons for the request and indicate concurrence with the IPEB's findings. The FPEB president is the approval authority for waivers, except for directed formal hearings, in which case the directing official is the approval authority. The member also signs a statement of understanding acknowledging no further right to demand a formal hearing without substantial new evidence or unless a subsequent review level changes the findings and recommended disposition of the IPEB. The request for waiver becomes a permanent part of the record.

3.44.1. If the member has arrived at Lackland AFB, the FPEB president may approve such waivers if in the best interest of all concerned. This authority applies only to formal hearings scheduled at the request of the member. Only the directing official may waive directed formal hearings.

3.45. Representation by Counsel. Members have legal representation at the formal hearing, unless they decline in writing. The representative is a PEB-appointed military counsel (a judge advocate), another military counsel of the member's choice, if reasonably available to perform such duties, or civilian counsel of the member's choice, at member's expense. When the member designates other military or civilian counsel, they assume the responsibilities and duties outlined in this chapter for the FPEB military counsel. The designated counsel or member may ask the regularly appointed military counsel to assist in pre-hearing preparation. The FPEB president or the regularly appointed military counsel explains formal hearing procedures to the designated counsel before the PEB convenes.

3.46. Appointed Counsel. The FPEB appoints military counsel to safeguard the legal rights of the member and present his or her case to the board. Appointed counsel attends all open hearing sessions, unless excused in writing by the member. Duties and responsibilities include:

3.46.1. Advising member of rights, options, and formal hearing rules.

3.46.2. Preparing or assisting member in case presentation.

3.46.3. Obtaining sworn statements or other evidence in support of the member's position. If presenting additional medical evidence, label it as "additional medical evidence" rather than as an "addendum" to prior medical records.

3.46.4. Examining and cross-examining witnesses, as appropriate.

3.46.5. Submitting oral or written arguments, as appropriate.

3.46.6. Counseling the member on the PEB's findings and recommended disposition.

3.46.7. Preparing or assisting the member in preparing the rebuttal, when requested.

3.47. Special Cases. When a member is mentally incompetent or the physician determines that knowledge of the condition would harm the member, the appointed legal counsel represents the member if the NOK (or guardian) fails to reply or designate alternate counsel. Include a statement of the circumstances in the record. The appointed military counsel must be present at the hearing if neither the NOK, guardian, nor another designated counsel is present.

3.48. Formal Hearing Instructions. HQ AFPC/DPPD will establish and provide to HQ AFPC/DPPDF the formal hearing format and procedures.

3.49. Actions Following Formal Hearing. HQ AFPC/DPPDF prepares AF Forms 356 and 1180, files the originals in the member's master case file, and gives copies to the referring MTF, HQ AFPC/DPPD, the member, and the counsel.

3.49.1. Time Limits. After receiving AF Form 356, **Findings and Recommended Disposition of USAF Physical Evaluation Board**, and AF IMT 1180, **Action on Physical Evaluation Board Findings and Recommended Disposition**, the evaluee has 1 duty day to either agree or disagree with the FPEB findings. If the evaluee disagrees, he or she may submit a written rebuttal within 10 calendar days. The FPEB president may approve written requests for additional time to allow the member to obtain additional medical documentation or consult with legal counsel.

3.49.2. Contents of Rebuttal:

3.49.2.1. Specific items with which the evaluee disagrees.

3.49.2.2. The reasons for the disagreement.

3.49.2.3. The desired outcome, including disposition and percentage of disability if applicable.

3.49.2.4. Supporting statements or documents. Do not resubmit as part of the rebuttal documents entered as evidence during the formal hearing.

3.49.3. Counseling the Evaluee After the Formal Hearing. The appointed military counsel, PEBLO, or other counsel will counsel the evaluee in person using counseling guidance at **Attachment 2**. If the member is not at Lackland AFB, but is at or near another PEBRH, HQ AFPC/DPPDF asks the PEBLO there to counsel the member. After the counseling, the PEB counsel or PEBLO signs the AF Form 1180 and helps the member complete his or her part.

3.49.3.1. If the member disagrees with the findings, the counsel or PEBLO may help the member prepare the rebuttal or, at the member's request, the counsel submits the rebuttal

for the member. The PEBLO keeps one copy of AF Form 1180, gives the member a copy, and sends the original to HQ AFPC/DPPDF with the rebuttal.

3.49.3.2. If a member is represented by other counsel, HQ AFPC/DPPDF gives AF Forms 356 and 1180 to the counsel and requests that person to:

3.49.3.2.1. Counsel the member on the results of the PEB.

3.49.3.2.2. Give the member a copy of AF Forms 356 and 1180 and the audio cassette (if requested), and advise the member of the available options.

3.49.3.2.3. Return the completed forms with rebuttal, if any, on time.

3.49.3.3. HQ AFPC/DPPDF mails AF Forms 356 and 1180 with a memorandum of instructions to members not near Lackland AFB or a PEBRH. Forms must be completed and returned by a specified date, with the rebuttal (if any). If HQ AFPC/DPPDF does not receive a reply by the specified date, case processing continues without a response. HQ AFPC/DPPDF monitors the case to ensure completion of actions on time.

3.49.3.4. Counseling of NOK or Guardian. The designated counsel counsels the NOK (or guardian) in the same manner prescribed for the member. If the NOK is unknown or unavailable, the FPEB counsel submits a statement of circumstances and points out any information from the case file that is important to the final review and evaluation of the case.

3.49.4. Failure or Refusal to Reply or Make an Election. When the member fails or refuses to make an election, fails to submit a rebuttal within the specified time limit, or submits a conditional concurrence, HQ AFPC/DPPDF sends a written explanation of the circumstances with the case file to HQ AFPC/DPPD for final review and processing.

3.49.5. Record of Formal Hearing. AFPC/DPSDF makes an audio recording of the formal hearing testimony and attaches it to the case file for the benefit of subsequent review levels.

Table 3.1. AF Form 356 Recommended Dispositions for Unfit RegAF Members or ARC Members on EAD or on AD Orders for More Than 30 Days (See note 1).

RULE	A	B	C	D	E	F	G
	If disability was result of intentional mis-conduct willful neglect,or was incurred while AWOL (item 9C)	**If member was entitled to basic pay and disability was incurred while entitled to basic pay (item 9B)**	**and disability was incurred in time of war or national emergency (or after 14 Sep 78) (item 10B)**	**and member has at least 20 Years of Service (YOS) (computed under 10 USC 1208) (item 7)**	**and compensable perentage of disability is (item 11)**	**and disability (item 10E)**	**then PEB recommended disposition is (item 12)**
1	Yes						discharge under 10 U.S.C. 1207.
2	No	No					discharge under other than 10 U.S.C. chapter 61 (see note 2).
3	No	Yes		Yes	0-100	is permanent	permanent retirement.
4	No	Yes		No	30-100		(10 U.S.C.
5	No	Yes		No	30-100		1201).
6	No	Yes	Yes	No	30-100		
7	No	Yes		Yes	0-100	may be permanent	temporary retirement (TDRL).
8	No	Yes		No	30-100		(10 U.S.C
9	No	Yes		No	30-100		1202).
10	No	Yes	Yes	No	30-100		

RULE	A	B	C	D	E	F	G
	If disability was result of intentional mis-conduct willful neglect,or was incurred while AWOL (item 9C)	**If member was entitled to basic pay and disability was incurred while entitled to basic pay (item 9B)**	**and disability was incurred in time of war or national emergency (or after 14 Sep 78) (item 10B)**	**and member has at least 20 Years of Service (YOS) (computed under 10 USC 1208) (item 7)**	**and compensable perentage of disability is (item 11)**	**and disability (item 10E)**	**then PEB recommended disposition is (item 12)**
11	No	Yes		No	0-20	is or may be permanent	discharge with severance pay (10
12	No	Yes	Yes	No	0-20		U.S.C
13	No	Yes		No	0-20		1203).

***NOTES*:**

1. When the rule and column are blank, the item on the AF Form 356 may be "Yes," "No," or "NA." However, where the rule and column are filled in, all items in the rule must match with the items on the AF Form 356.

2. Where the recommended disposition is discharge under other than 10 U.S.C. chapter 61 (without severance pay), the statutory authority for discharge is as follows: 10 U.S.C. 1169 for enlisted personnel; 10 U.S.C. 12681, 12683 for ARC commissioned officers and 10 U.S.C. 630 for probationary RegAF commissioned officers.

Table 3.2. AF Form 356 Recommended Dispositions for Unfit ARC Members Evaluated for Disease or Injury (Chapter 8) (See note 1).

RULE	A	B	C	D	E	F
	If disability was result of intentional misconduct, willful neglect, or incurred while AWOL (item 9C)	**and disability was due to an injury or disease incurred before 23 Sep 96 and was the proximate result of performing duty or was duty related and incurred after 23 Sep 96 (paragraphs 8.2. and 8.3.) (item 9D)**	**and member has at least 20 YOS (computed under 10 U.S.C. 1208) (item 7)**	**and compensable percentage of disability is (item 11)**	**and disability (item 10E)**	**then PEB's recommended disposition is (item 12)**
1	Yes					discharge under 10 U.S.C. 1207.
2	No	No				discharge under other than 10 U.S.C., chapter 61 (see note 2).
3	No	Yes	Yes	0-100	is permanent	permanent retirement (10
4	No	Yes	No	30-100		U.S.C. 1204).
5	No	Yes	Yes	0-100	may be permanent	temporary retirement (TDRL) (10 .
6	No	Yes	No	30-100		U.S.C. 1205).

7	No	Yes	No	0-20	is or may be permanent	discharge with severance pay (10 U.S.C. 1206).

NOTES:

1. Applies only to ARC members performing Inactive Duty Training or on active duty orders for 30 days or less. Where the rule and column are blank, the item on AF Form 356 may be "Yes," "No," or "NA." However, where the rule and column are filled in, all items in the rule must match with the items on the AF Form 356.

2. Where the recommended disposition is discharge under other than 10 U.S.C., chapter 61 (without severance pay), the statutory authority for discharge is as follows: 10 U.S.C. 1169 for enlisted personnel; and 10 U.S.C. 12681, 12683 for ARC commissioned officers.

Table 3.3. Assembly of PEB Case Record (See Note 3).

Note: Exhibits apply only to FPEB

IF IPEB: Top of package

Step	Action
1	- IPEB AF Form 1180 **or** - statement of concurrence/nonconcurrence - documents that pertain to this area such as rebuttals, mail receipts, etc. - pay estimate
2	- IPEB AF Form 356 (**and/or** RRF - with latest date first), **and, if applicable,** - summary statement - dissenting report **(Exhibit B)**
3	- orders appointing board
4	- AF Form 618 w/attachments (including commander's letter) or report of TDRL reexamination **(Exhibit C)**
5	- approved AF Form 348, Line of Duty Determinations, **or** DD Form 261, Report of Investigation Line of Duty and Misconduct Status **(not on TDRL cases)** **(Exhibit D)**
6	- memo for Record of a call **or** orders covering non-EAD service, if applicable **(Exhibit E)**

7	- **If applicable,** - AF Form 1172, Certificate of Medical Officer, **or** - prior medical board report relating to mental competency (AFI 48-123) **(Exhibit F)**
8	**Additional exhibits - start with Exhibit G**
9	**As attachments and not part of proceedings, if applicable:** - historical documents of case - clinical records - AF Form 125, Application for Extended Active Duty With the USAF - statement Relative to Appointment or Enlistment After Removal From TDRL - retention in Limited Assignment Status **Bottom of package**

Continue with assembly and insert additional exhibits at Step 8

IF FPEB: Top of Package

Step	Action
1	- FPEB AF Form 1180 **or** - statement of concurrence/nonconcurrence - documents that pertain to this area, such as rebuttals, mail receipts, etc. - new pay estimate (if different from IPEB pay estimate)
2	- FPEB AF Form 356, **with, if applicable,** summary statement and/or dissenting report attached - audiocassette (see note 1)
3	- orders appointing board (see note 2) **(Exhibit A)**

NOTES:

1. Upon written request, you may furnish the member a copy of audiocassette.

2. Upon written request, furnish member with sanitized copy of appointing order, omitting board members' SSNs.

3. In general, the order of assembly is to place the most current action on top of package.

Chapter 4

PERSONNEL PROCESSING ACTIONS

Section 4A—Administrative Controls

4.1. PEBLO Responsibilities. The PEBLO coordinates processing actions at base and Reserve component levels, and is essential to the prompt, effective processing of disability evaluation cases. The PEBLO contacts the member's commander or servicing MPF for any needed data or documentation. The commander or servicing MPF provides the requested information as quickly as possible so as not to delay processing.

4.2. Ordering the Member to a Medical Facility or to the FPEB. The member's commander promptly moves the member to the proper facility to complete medical examination, treatment, and processing.

4.3. Personnel Data. The PEBLO sends to HQ AFPC/DPPD documents required by AFI 48-123. The MPF provides the PEBLO information required to complete AF Form 1185, **Statement of Record Data**, and supplies other data and documents needed (**Table 4.1**). The PEBLO or MPF advises HQ AFPC/DPPD of any change in the member's status or in the data shown on the AF Form 1185.

4.4. Control of Member During PEB Processing. Disability processing begins when the PEBRH or HQ AFPC/DPAMM refers a medical board case to the PEB. Once in disability channels, the following restrictions apply to ensure the member is available for necessary disability processing actions:

4.4.1. The member may not take leave outside the local area.

4.4.2. The member may not go on TDY.

4.4.3. The MPF will not reassign the member, except for emergency reasons, until receiving notification of the final determination.

4.4.4. The PEBLO notifies the member's commander and servicing MPF, in writing, when the MTF or HQ AFPC/DPAMM refers a case to the PEB, and informs them of the preceding restrictions.

4.4.5. Exceptions to the restrictions on TDY and reassignment are those actions necessary for completion of disability processing, i.e., TDY to the FPEB and TDY or permanent change of station (PCS) in a patient status for required medical evaluation or treatment. HQ AFPC/DPPD authorizes exceptions to the leave restriction outside the local area when warranted by circumstances and when approval of leave will not adversely affect case processing.

4.4.6. Essential administrative controls during disability processing are:

4.4.6.1. Member Evaluated as Outpatient. The PEBLO asks the member's commander or servicing MPF to ensure the member stays available for possible additional disability evaluation processing.

4.4.6.2. Member Evaluated as Inpatient - Not Assigned to Referring Medical Facility. The member remains at the referring facility unless HQ AFPC/DPPD authorizes return to home unit. If there is an unusual delay in completing the processing and the PEBLO, the member's commander, or the servicing MPF believes it to be in the best interest of all, contact HQ AFPC/DPPD and request authority to return the member to the unit of assignment. HQ AFPC/DPPD will normally approve such requests if there is no medical reason for the member to remain at the facility and if adequate disability counseling support is available at the home station.

4.4.6.3. Member Evaluated While Assigned to Referring Medical Facility. The member remains at the facility. HQ AFPC/DPPD makes exceptions when appropriate or when the member requires transfer to a VA medical facility for further hospitalization.

4.5. Control of Member After PEB Action. The MPF must not retire, discharge, nor release a member from active duty before receiving the final decision in the form of retirement orders or instructions from HQ AFPC/DPPD directing disposition. Unless otherwise directed, use the following interim administrative control measures after the PEB completes its action and the member has agreed or submitted a rebuttal, but before the final decision:

4.5.1. Physically Fit. When the PEB finds the member fit, the medical facility commander returns the member to his or her unit of assignment in a duty status. The local MTF takes action to confirm or revise the physical profile series according to AFI 48-123. If the case is under special review (paragraph **3.37**), the medical facility commander advises the member's immediate commander or servicing MPF, in writing, that the PEB findings and recommended disposition are subject to revision, and restrictions in paragraph **4.4** remain in effect.

4.5.2. Physically Unfit. When the PEB determines the member is unfit, he or she will remain under the control of the appropriate commander until final disposition of the case. As in fit cases, restrictions in paragraph **4.4** remain in effect. When assigned to a medical facility in a patient status, the member remains at the facility, unless transferred to another military or VA medical facility for further hospitalization. A member evaluated in an outpatient status or attached to the referring medical facility may return to his or her unit of assignment to await final disposition unless release from the facility is not possible because of the member's medical condition. The following restrictions or instructions apply:

4.5.2.1. A member returned to the unit of assignment may perform military duties within the limitations of his or her physical condition.

4.5.2.2. The referring MTF commander must give the member's immediate commander written notice of the member's medical condition and duty limitations, and the commander will consider these factors in assigning duties.

4.5.2.3. The immediate commander contacts the referring medical facility or the nearest medical facility if any question arises as to the member's ability to perform a specific duty.

4.5.2.4. If the member is rehospitalized, the referring medical facility or PEBLO immediately contacts HQ AFPC/DPPD giving details, and indicating whether reprocessing through the disability evaluation system is needed.

Section 4B—PCS in Awaiting Orders Status

4.6. General PCS "Home" Rules. HQ AFPC/DPPD (or AFGOMO in the case of general officer or general officer selectees) may authorize a member to go "PCS in awaiting orders status" to await final disposition of his or her disability case. Basic trainees are not eligible for this program.

4.7. Application Procedures. Members wishing to go PCS in awaiting orders status apply in writing to HQ AFPC/DPPD through their MPF. General officers and general officer selectees may apply to AFGOMO through their commander. Applicants provide the reasons for the request and verify they meet all requirements reflected in **Section 4B** of this chapter. When a member is a patient at the referring medical facility, the application is first sent through the PEBLO at the facility. Criteria for applying:

4.7.1. Request is for PCS from, and to, locations within continental United States (CONUS). Do not consider Alaska and Hawaii as part of the CONUS.

4.7.2. Member is on extended active duty.

4.7.3. The PEB evaluated the case, with a finding that the member is unfit and recommended disposition is disability retirement, discharge with or without severance pay, or discharge under other than chapter 61, Title 10 U.S.C.

4.7.4. Member has either agreed with the informal PEB findings or has submitted a rebuttal to the formal PEB hearing.

4.7.5. Member did not request retention in limited assignment status and did not submit a rebuttal requesting retention on active duty.

4.7.6. Member is competent or incompetent and the NOK or guardian accepts responsibility.

4.7.7. Member does not need further hospital care at a military, VA, or civilian medical facility.

4.7.8. Member does not have a nondisability retirement or separation action pending.

4.7.9. Local TMO counseled the member on movement of dependents and household goods and member received a copy of **Attachment 3**.

4.7.10. Member knows that, while in a PCS-awaiting-orders status, he or she must return to unit of assignment, referring medical facility, or the PEB if directed to do so by HQ AFPC/DPPD, through the MPF or HQ AFGOMO, as applicable. If SAF approves the PEB's recommendation, the member will not have to return.

4.7.11. Member gives the MPF a nonmilitary address and phone number to write or call, if needed, and advises the MPF of any changes to that address or phone number.

4.7.12. Member acknowledges understanding that the Defense Joint Military Pay System (DJMS) deducts the number of days in PCS-awaiting-orders from the number of days leave accrued as of the date of retirement or discharge.

4.7.13. PEBLO Actions. When attached or assigned to the referring medical facility, the PEBLO endorses the member's application to the MPF and indicates the member was counseled on the findings and recommended disposition of the PEB - 4.7.14. MPF Actions.

The MPF endorses the application to HQ AFPC/DPPD and verifies that the member does not have a nondisability retirement or discharge pending. If AFPC approves the application, the MPF completes the following actions:

4.7.13.1. Verifies whether member has an injured or ill travel or transportation entitlement pending. If so, does not publish special orders until the member exercises those entitlements.

4.7.13.2. Publishes and distributes orders according to AFI 36-2102, *Base Level Relocation Procedures*. Ensures the member has a copy of "PCS In Awaiting Orders Status Instructions" (**Attachment 3**). ***NOTE*:** AFGOMO will publish and distribute orders for general officers and general officer selectees.

4.7.13.3. Completes all required retirement or discharge processing and counseling so the member won't have to return to the unit of assignment at the time of actual retirement or discharge.

4.7.13.4. Refers the member to the local TMO for counseling on movement of dependents and household goods.

4.7.13.5. Obtains an address and phone number where the member can be reached while on awaiting orders status and determines whether address is member's home of record or the place where ordered to AD.

4.7.13.6. Notifies HQ AFPC/DPPD if the member does not go PCS in awaiting orders status or if there is any change in the nonmilitary address or phone number.

4.8. Action by Reviewing Officials. HQ AFPC/DPPD reviews each request for PCS in awaiting orders status and advises the member, through the MPF, when approved or disapproved. The approval notification will include the member's service and entitlements to travel to any designated place in the CONUS, or specify restriction as outlined in paragraph **4.9** AFGOMO will review requests from general officers or general officer selectees and advise them when approved or disapproved. AFGOMO also notifies HQ AFPC/DPPD of the decision.

4.9. Travel. A member may PCS to any designated place in the CONUS if he or she has completed 8 years continuous active duty with no single break of more than 90 days just before PEB evaluation. If the member does not have 8 years continuous active service, he or she may go PCS only to the home of record or the place where ordered to active duty. Travel to the nonmilitary address must meet the rules set forth in the Joint Federal Travel Regulation (JFTR), Volume 1.

Section 4C—-Disability Retirement or Discharge Processing by the Servicing MPF

4.10. MPF Counseling and Processing. The MPF counsels and processes the member after receiving final disposition. Contact other MPFs or PEBLOs to complete the required actions if the member is not available for face-to-face counseling or processing. Counsel the member by mail if there are no other means of contact. The MPF must advise HQ AFPC/DPPD when there is an unusual delay or problem in completing the required counseling or processing.

4.10.1. Member Unable To Act in Own Behalf. When the member is incompetent, or unable to act in his or her own behalf, contact and counsel the NOK, preferably in person. The MPF gets the NOK's signature on applicable forms and documents or includes a

statement indicating the reason why member (or NOK) could not sign. If necessary, contact another MPF near the NOK and request help in counseling and processing.

4.10.2. Other Action Pending. When actions, such as nondisability retirement or discharge and medical hold are pending, the MPF advises the appropriate AFPC office of the retirement or discharge by reason of physical disability and ensures conflicting orders, such as nondisability separation or retirement orders, are revoked.

4.11. Retirement or Discharge Date. HQ AFPC/DPPD sets the scheduled retirement or discharge date. If the MPF can not complete the necessary processing, they must notify HQ AFPC/DPPD before the effective date, explain why they can not complete the processing, and provide compelling justification to support an extension. Extensions for the convenience of the MPF or the member cannot be approved.

4.12. Discharge Orders. After receiving disposition instructions, the MPF publishes orders to discharge the member on the scheduled date. Prepare orders on AF Form 100, **Request and Authorization for Separation**, according to provisions in AFI 36-2102. When necessary, include a statement in the orders concerning termination of appointments. The MPF sends a copy of the orders to HQ AFPC/DPPD (**Table 4.2.**).

4.13. Ceremonies and Presentations of Appropriate Certificates. Commanders will conduct a suitable ceremony before members retire or separate for disability. For an oversea member returning to the CONUS, hold the ceremony at the oversea base. If the oversea separation base does not do this, the MPF at the CONUS separation base arranges an appropriate ceremony before the member leaves that base. Present the retirement or discharge certificate, along with any awards and letters of appreciation at the ceremony. Follow these guidelines:

4.13.1. Retirement. Commanders use AFI 36-3203, *Service Retirement*, as used for members who retire for age or service. When possible, the MPF gets a written statement from members who decline a ceremony.

4.13.2. Discharge. As outlined in AFI 36-3202, *Separation Documents*, the member's immediate commander will make suitable expression of appreciation on behalf of the Air Force for the member's service.

4.13.3. Exceptions. When members can not act for themselves and are in a patient status, or are in a VA hospital, present or mail (with suitable cover letter) the certificate and other documents to the NOK.

4.14. Retirement or Discharge Documents. Order-Physically Unfit. The MPF prepares necessary documents according to **Attachment 4** and enters required data into the PDS and the DJMS to complete the retirement or discharge (**Table 4.2.**). The MPF gives the member the documents, other than the retirement or discharge certificate, before completing final retirement or discharge processing, except when the member:

4.14.1. Is not present on the last day of AD for any reason, such as PCS in awaiting orders status, on leave, or transfer to a VA hospital. Prepare and mail all required documents to the member on the effective date of retirement or discharge.

4.14.2. Is incompetent or unable to act in own behalf for other reasons. Present or mail the required documents to the NOK (or guardian) on the effective date of retirement or discharge.

4.14.3. Is returning to CONUS from overseas. CONUS MPF presents the required documents to the member during final out processing.

4.14.4. Is being placed on the TDRL. MPF prepares and delivers retirement documents the same as for members being permanently retired. Special provisions for DD Form 363 and AF Form 1344JA97 are in **Attachment 4**. When removing the member from the TDRL, HQ AFPC/DPPD prepares and mails the required orders, forms, and other documents.

4.15. Permissive Temporary Duty (PTDY).

4.15.1. Commanders may grant PTDY to members retiring for disability and members separating for disability who are eligible for benefits under the Transition Assistance Management Program (TAMP) for the purpose of aiding job and house search in connection with transition to civilian life (20 days PTDY to members assigned to CONUS; 30 days to members assigned overseas).

4.15.2. AFI 36-3003, *Military Leave Program* and 36-3203, *Service Retirement*, contain specific guidance; however, not all PTDY procedures will apply to disability retirements and separations. For example, members can not take PTDY in increments because they won't know the disposition of their case until approved by SAF. HQ AFPC/DPPD will resolve any questions on PTDY for members separating or retiring for disability.

4.15.3. Once approved, DoD imposes strict time limits in establishing separation or retirement dates (see **Chapter 5**). Generally, members must take PTDY in conjunction with the 20 and 30-day processing times and, when applicable, unused leave days they can not sell back to the government.

4.15.4. Hospitalized or incompetent members are not eligible for PTDY since they are unable to perform the mission of PTDY (job and house search).

4.16. Place of Retirement or Discharge. Members being retired or discharged for disability may, under certain circumstances, choose the place where final retirement or discharge action takes place. This choice may limit future entitlement to movement of the member as well as dependents and household goods. In order to prevent the possible loss of entitlements, the MPF makes members aware of the requirements outlined in AFIs 36-3202, 36-3203, 36-2102, AFR 76-8, *Revenue Traffic Transported On Dept Of Defense Aircraft Other Than Airlift Service, Industrial Fund, Operational Policies,* as well as JFTR and this instruction before they retire, separate, or make any moves. Provide copies of applicable entitlement information sheet found in AFIs 36-3202 or 36-3203 to members separating or retiring from an oversea duty location. The place of retirement or discharge is as follows:

4.16.1. Member Serving in CONUS. Retire or discharge member at the unit of assignment. (Alaska and Hawaii are outside the CONUS.)

4.16.1.1. If the member is in a military or VA medical facility or is in PCS in awaiting orders status, show the member's actual location at the time of retirement or separation on the orders.

4.16.1.2. If the duty base can not process the retirement or discharge, send the member TDY to the nearest Air Force base that has the processing capability.

4.16.2. Member Serving Outside CONUS. The member may select retirement or separation at the oversea duty location or a separation processing base of choice in the CONUS.

4.16.2.1. Additional options may be available for members taking at least 5 days leave or PTDY in conjunction with separation or retirement. Specific guidance concerning the various options is in AFIs 36-3203 and 36-3202.

4.16.2.2. The PEBLO advises HQ AFPC/DPPD of the member's desires.

4.16.2.3. If the member is not retiring or separating overseas, the MPF publishes PCS without Permanent Change of Assignment (PCA) orders. If applicable, include authorization for movement of dependents and household goods in the orders.

4.16.3. US Territorial Residents. A member whose home of record or place from which ordered to AD is a US territory may qualify as a resident of that area. If member is not serving in that US territorial location, he or she may return to the home of record or place from which ordered to AD for retirement or discharge at the discretion of HQ AFPC/DPPD.

4.16.3.1. HQ AFPC/DPPD will approve such movement only if authorized retirement or discharge facilities are available in the overseas area (AFIs 36-3202 and 36-2110, *Assignments*) and there is available transportation to ensure the member arrives at the home location before the scheduled date of retirement or discharge.

4.16.3.2. The MPF tells the member that travel to his or her home location will use home of selection entitlements.

4.16.3.3. If HQ AFPC/DPPD disapproves movement to the oversea home location, retire or discharge the member at the base of assignment, or another suitable location as directed by HQ AFPC/DPPD.

4.16.3.4. If needed, move the member to a VA medical facility in the CONUS pending movement overseas. When bed space becomes available, the VA will move the member to the oversea medical facility.

4.16.4. General Officers. Unless otherwise directed by the AFGOMO, this section also applies to general officers retiring by reason of physical disability.

4.17. Movement and Orders for Members Assigned Overseas. When directing disability retirement for members overseas, HQ AFPC/DPPD will show the oversea MPF on the retirement order. The oversea MPF publishes PCS without PCA orders if the member desires to return to the CONUS, gives the member 25 copies of the retirement order, and distributes other copies as follows:

4.17.1. Retiring at Non-CONUS Base. Send 5 copies to the local accounting and finance office. The MPF retains sufficient copies for such things as the unit personnel records group and relocation folder.

4.17.2. Retiring in CONUS. When the member will return for retirement, the oversea MPF sends copies of the orders to the designated CONUS MPF with an advance notice of the member's arrival date and a copy of the PCS without PCA orders. These orders will direct the member to report to the designated CONUS MPF early enough to

complete retirement processing, but not more than 5 days before the scheduled date of retirement or date terminal leave is to start. If applicable, include authorization for movement of dependents and household goods in the orders.

Table 4.1. Instructions for Preparing AF Form 1185, Statement Of Record Data.

L	**A**	**B**	**C**
I N	**To Complete**		
E	**Sec**	**Item**	**Enter**
1	1	1	Names as shown in official records, including Jr, Sr, 2d, 3d, and so on.
2		2	Grade in which serving on active duty.
3		3	Social Security Number (SSN).
4		4	Component in which serving on active duty (RegAF, USAFR, ANG).
5	II	A	Show any grade held on AD (in service) that is higher than current grade. Also show any ARC component grade that is equal or higher than current AD grade. For enlisted persons only: If an enlisted person has served on AD in a grade higher than current grade, forward a copy of the promotion order, a copy of the document authorizing demotion, and a copy of all performance evaluations rendered while serving in a grade higher than current grade. (Show grade and equivalent pay grade. ***EXAMPLE:*** e.g. Maj 0-4, MSgt E-7, and so on.) (See notes 1 and 2).
6		B	Show beginning date for any grade listed in item IIA.
7		C	Show ending date for any grade listed in item IIA.
8		D	Show branch of service and component. ***EXAMPLE:*** AF-Reg and Army-Reg.
9		E	Show reason for termination.

L	A	B	C
I N	To Complete		
E	Sec	Item	Enter
10	III	5	For enlisted persons only: "Yes" or "No". If answer is "Yes," attach supporting docu- ments to show from and to dates and reason for lost time. Enter "NA" for officers.
11		6	If member is non-CONUS resident (that is, his or her "home of record" is outside the CONUS), show "home" location (territory, oversea state, or country) in "Remarks" sec-tion and state whether member wants to go back to that place for retirement or discharge. Tell member that travel to non-CONUS "home" area will usually use up "home of selection" rights. If member is now in his or her non-CONUS "home" area, check "NA."
12		7	If any type of nondisability separation or retirement action is pending or contemplated (except ETS), including such actions as resignations, civil criminal court action, OSI investigation, international hold, court-martial, and so on; show type of action in "Remarks" section and attach a copy of pending action, if available; otherwise, attach a detailed statement describing the nature of the pending action, current status, anticipated completion date, and so on. Do not delay disability processing if MEB is complete, sufficient documentation is available to clearly indicate status of other action, there are no restrictions to processing (paragraph **1.3.**), member is present for duty, and responsible military authorities clear member's movement.
13		8	If answer is "Yes," indicate in "Remarks" section whether member desires retirement or discharge at CONUS port of entry, or at a selected CONUS Air Force station.
14		9	Mailing address after discharge or retirement (when found unfit).
15		10	List current unit of assignment, if different from information in PDS. Show "NA" if information is the same as PDS.
16		11	Servicing MPF.
17		Rmks	List additional pertinent information, such as leave accrued and leave sold since 10 February 1976. Include statement when member has any additional comments or information for the board to consider.

L	A	B	C
I N	**To Complete**		
E	**Sec**	**Item**	**Enter**
18	IV		Show completion date of AF Form 1185; signature, grade, and title of PEBLO; and signature of member (when physically or mentally unable to sign, so indicate).

NOTES:

1. If a RegAF enlisted person holds a higher ARC appointment but has completed less than 10 years of active service, indicate the highest grade in item IIA. Also include the following statement in "remarks" and have member initial it: "Item IIA. I understand that my discharge by reason of physical disability will result in termination of any ARC appointment that I hold (except retired Reserve). The orders directing my discharge will show the termination of any such appointment."

2. Ensure that member reads the Privacy Act Statement on the AF Form 1185 and acknowledges understanding that furnishing requested information, including signature, is voluntary; however, failure to furnish pertinent information may delay processing of the case.

Table 4.2. MPF Action Upon Receipt Of Disposition Notice.

	If disposition is	1	2	3	4	5	6	7	8
A	return to duty	Yes							
B	discharge with severance pay, 6 months or more service		Yes						
C	discharge with severance pay, less than 6 months active service			Yes					
D	discharge w/o severance pay under other than chapter 61, 10 U.S.C.				Yes				
E	discharge w/o severance pay, 10 U.S.C. 1207					Yes			
F	temporary or permanent retirement						Yes		

	If disposition is	1	2	3	4	5	6	7	8
G	revert with disability benefits (retired members serving on AD)							Yes	
H	revert w/o disability benefits (retired members serving on AD)								Yes
then									
I	advise member and furnish a copy of the disposition notice.	X	X	X	X	X	X	X	X
J	return member to duty status and effect necessary PDS change. ***EXAMPLE:*** Remove AAC 37. Remove member from any medical hold status.	X							
K	request the medical facility profiling officer review member's profile and, if necessary, revise it as prescribed in AFI 48-123 (see note 1).	X							
L	when member serving outside CONUS elects discharge or retirement in CONUS, oversea MPF will assign member PCS without PCA to report in sufficient time to allow 2 days processing before discharge or retirement data.		X	X	X	X	X	X	X
M	process member for discharge or retirement by this instruction and other separation directives (see note 2).		X	X	X	X	X	X	X
N	issue discharge order (see notes 2 and 3)		X	X	X	X			
O	notify HQ AFPC/DPPD by most expeditious means if you can not retire or discharge the member on the effective date specified in the disposition message.		X	X	X	X	X	X	X
P	include HQ AFPC/DPPD, on AF Form 100, item 32, for distribution of one copy of the disability separation order (see note 2).		X	X	X	X			

	If disposition is	1	2	3	4	5	6	7	8
Q	when member has a projected promotion with an effective date after date of OSAF approval cited in the disposition message, take action as follows: Enlisted - Update PES code L effective date of SAF decision according to AFI 36-2502; Officers - Take action according to AFI 36-2501.		X	X	X	X		X	X

NOTES:

1. If member had a temporary "4" profile when the case was referred for disability processing, the profiling officer must revise that profile according to AFI 48-123.

2. These instructions also apply to MPFs servicing members assigned PCS without PCA from non-CONUS areas.

3. As authority in AF Form 100, item 28, enter AFI 36-3212.

Chapter 5

FINAL REVIEW AND DISPOSITION

Section 5A—Secretary of the Air Force Personnel Council (SAFPC)

5.1. SAFPC Review.

5.1.1. DELETED.

5.1.2. DELETED.

5.1.2.1. DELETED

5.1.2.2. DELETED

5.1.2.3. DELETED

5.2. Special Assistants to the Director, SAFPC. The Director, SAFPC, may appoint one or more officers, comparable grade civilians, or senior noncommissioned officers to serve in an additional duty capacity as special assistants to the Director, SAF Personnel Council. SAFPC selects special assistants from among members permanently assigned to HQ AFPC/DPPD. Under strict guidelines, SAFPC authorizes the special assistants to sign for the Director, SAFPC, in certain routine cases, announce the SAF decision, and direct final disposition on behalf of the Secretary.

5.3. When Special Assistants May Act. The Director, SAFPC, authorizes officers designated as special assistants to sign for the Director in the following circumstances:

5.3.1. The member concurs with the PEB findings, and the case does not otherwise require referral to SAFPC.

5.3.2. The Air Force Personnel Board (AFPB) directs a formal PEB (if one hasn't been held previously) and member concurs with the FPEB and case does not meet the criteria of paragraph **5.4**

5.3.3. Member is removed from TDRL for failing to report for examination after 5 years.

5.3.4. The informal PEB recommends removal from TDRL (Fit). Member either fails to reply to correspondence advising of the recommendation, or does not concur and requests a formal PEB but fails to report for the formal hearing.

5.3.5. The member has received the findings of the formal PEB and either fails to acknowledge or respond to them, or the member nonconcurs but fails to submit a rebuttal.

5.4. Cases Which Must Be Forwarded to SAFPC. Forward cases to SAFPC for action:

5.4.1. When the member does not concur and submits a rebuttal to the recommended findings of the PEB.

5.4.2. When the member has more than 8 years of active service and the recommended disposition is separation from active service for physical disability under Title 10 U.S.C., Section 1207 (intentional misconduct, willful neglect, or unauthorized absence), without entitlement to disability benefits.

5.4.3. On general officers (includes fit and unfit recommendations).

5.4.4. When the member has met a PEB, and the Special Assistant, SAFPC, believes the member is not eligible for processing under provisions of this instruction.

5.4.5. When the special assistant, SAFPC, believes the case warrants a decision from SAFPC.

5.4.6. Cases that the PEB questions the appropriateness of a Formal LOD determination made under AFI 36-2910 because of new and compelling evidence not considered during the LOD process.

5.4.7. When processed as dual action with a final recommendation of unfitness and administrative action is pending. This includes involuntary administrative separation, resignation for the good of the service, discharge in lieu of court-martial, drop from the rolls action, or retirement in lieu of such adverse action.

5.4.8. When the PEB determines they can not apply the VA rating, or the rating ordinarily applicable is excessive or inadequate.

5.4.9. Involving members assigned to HQ AFPC/DPPD, the PEBs, and SAFPC. This requirement continues for 2 years after member's reassignment from any of the above-named organizations.

5.4.10. Requiring grade determination under the provisions of 10 U.S.C. 1372 or 10 U.S.C. 1212.

5.4.11. On Medical Corps officers with a final recommendation of unfitness incidental to voluntary or mandatory length of service retirement (not on TDRL members).

5.4.12. When the member was a Prisoner of War (POW) or Missing in Action (MIA)(includes fit and unfit recommendations).

5.4.13. When HQ AFPC/DPPD does not receive a reexamination report on TDRL members imprisoned or confined by civil authorities, or when the report received is inadequate.

5.4.14. Involving airmen in entry level status when the separation authority believes an entry level separation is inappropriate and recommends a characterization of "honorable" based on unusual circumstances of personal conduct and performance of military duty.

5.4.15. With a return to duty recommendation when the PEB held a special review and did not change its findings and recommended disposition.

5.5. When Cases Are Forwarded to SAFPC. The board within SAFPC, the Air Force Personnel Board (AFPB), reviews all disability cases forwarded by HQ AFPC/DPPD under paragraph **5.4**

5.6. Composition of AFPB. There are 5 voting members and normally two will be Medical Corps officers. At least one voting member must be a Medical Corps officer.

5.6.1. DELETED.

5.6.1.1. DELETED.

5.6.1.2. DELETED.

5.6.1.3. DELETED.

5.6.1.4. DELETED.

5.6.1.5. DELETED.

5.6.1.6. DELETED.

5.6.1.7. DELETED.

5.6.1.8. DELETED.

5.6.1.9. DELETED.

5.6.2. DELETED.

5.6.2.1. DELETED.

5.6.2.2. DELETED.

5.6.2.3. DELETED.

5.6.2.4. DELETED.

5.6.2.5. DELETED.

5.6.3. DELETED.

5.7. Changes to PEB Findings. The AFPB may change the findings and recommended disposition of the PEB. When this happens, the AFPB documents and describes the basis for the change. Based on the application of accepted medical principles, the AFPB identifies the principles at issue, and relates the issue to the facts and circumstances established in the record of the proceedings of the PEB. The AFPB recommends the final disposition to SAFPC under the criteria in paragraph **5.9**

5.7.1. DELETED.

5.7.2. DELETED.

5.7.2.1. DELETED.

5.7.3. DELETED.

5.7.3.1. DELETED.

5.7.3.2. DELETED.

5.7.3.3. DELETED.

5.8. Personal Appearance. Neither the member, NOK, nor counsel may appear before the AFPB, except at the specific invitation of AFPC. The board reviews all the records evaluated by the PEB(s), records of the PEB(s) hearings, plus any rebuttal or additional documents submitted by the member or requested by SAFPC.

5.9. SAFPC Action. SAFPC may take one of the following actions in each disability case:

5.9.1. Defer final determination until receipt of additional records or reports deemed essential to final evaluation and disposition of the case.

5.9.2. Return the case with specific directions on what actions they require before HQ AFPC/DPPD resubmits the case to SAFPC. (For example, further medical evaluation to secure additional information concerning fitness for duty or duty status.)

5.9.3. Direct administrative discharge under some other applicable directive or provision of law when SAFPC determines such action is more appropriate than disability retirement or discharge under this instruction.

5.9.4. Direct some other disposition of the case, if not specifically prohibited by law.

5.9.5. Assign one of the following dispositions according to Title 10 U.S.C., chapter 61:

5.9.5.1. Return to Duty. Member is physically fit for continued military service.

5.9.5.2. Permanent Retirement. Member is physically unfit, meets criteria for retirement, and condition is of a permanent nature and stable (10 U.S.C. 1201 or 1204).

5.9.5.3. Temporary Retirement. Member is physically unfit, meets criteria for retirement, and condition may be of a permanent nature but is not stable (10 U.S.C. 1202 or 1205).

5.9.5.4. Discharge With Severance Pay. Member is physically unfit but does not meet the requirements for disability retirement (10 U.S.C. 1203 or 1206).

5.9.5.5. Discharge Under Other Than 10 U.S.C., chapter 61. Member is physically unfit, but is not entitled to disability benefits provided under 10 U.S.C., chapter 61. Discharge members under this provision whose unfitting conditions existed prior to service, or who incurred unfitting conditions while in excess leave status, or while on TDRL (and the condition for which originally placed on the TDRL is no longer unfitting).

5.9.5.6. Discharge Under 10 U.S.C. 1207. Member is physically unfit but is not entitled to disability benefits because disability resulted from the member's own intentional misconduct or willful neglect, or the member incurred the disability during a period of unauthorized absence.

5.9.5.7. Removal From TDRL (Fit). TDRL member is physically fit; remove from the TDRL under 10 U.S.C. 1210(f)(1). If otherwise eligible, member has option to return to duty under 10 U.S.C. 1211.

5.9.5.8. Retain on TDRL. Member is physically unfit and remains qualified for retirement but condition has not stabilized; retain on the TDRL.

5.9.5.9. Revert With Disability Benefits (Temporary Retirement) or (Permanent Retirement). Use this disposition for an unfit retired member serving on active duty who is reverting to the retired list with disability benefits.

5.9.5.10. Revert Without Disability Benefits. Use only for a retired member serving on AD who is reverting to the retired list without disability benefits.

Section 5B—DoD Review and Approval

5.10. Legal Basis. Public law and DoD policy require DoD review and (or) approval in certain disability cases.

5.10.1. Approval. In cases where the general officer or medical corps officer was processing for retirement by reason of age or length of service before an MEB referred his or her case for disability processing, the Secretary of Defense must approve the unfitness determination before the Service Secretary may retire or discharge the officer for disability. This requirement is in 10 U.S.C. 1216(d) and pertains to all military services. In all other cases, SAF retains final approval authority.

5.11. Routing Cases To and From DoD. HQ AFPC/DPPD sends cases to SAFPC that may require DoD approval. If SAFPC finds the officer "unfit" and recommends retirement or discharge by reason of physical disability, SAFPC will refer the case to DoD for review and, if applicable, approval. After DoD action, SAFPC returns the case to HQ AFPC/DPPD for necessary administrative action to carry out the directed disposition.

Section 5C—Final Disposition Processing

5.12. Options. Members whose final disposition of their disability case is separation (active duty or TDRL) or TDRL from active duty, and they have 15 to 20 years active service, will be referred to HQ AFPC/DPPR. Members who meet basic eligibility requirements for Temporary Early Retirement Authority (TERA) may apply and, if approved, be retired under TERA. ARC members found unfit for nonduty related medical conditions, if otherwise eligible, may apply for early retirement pursuant to 10 U.S.C. 12732.

5.13. Service Computation. 10 U.S.C. 1208 outlines creditable service for disability retirement or discharge. HQ AFPC/DPPD verifies and includes the amount of creditable service in the disability retirement order or discharge disposition instructions. For ARC members, HQ AFPC/DPPD obtains a statement of service credit from HQ ARPC.

5.14. Pay Computation. DFAS-CL is responsible for final retired pay computation and for establishing retired pay accounts. They base computations on information in the special orders and data entered into the DJMS by the servicing MPF at time of retirement or discharge. (See **Attachment 2** and AFMAN 36-2622, Volume 5, *Personnel Concept III (Civilian), End Users Manual for additional information*.) The local finance office computes disability severance pay for active duty members, and DFAS-Denver Center for ARC members. See **Attachment 2** and **Table 5.1** and **Table 5.2**

5.14.1. Disability Retired Pay. DFAS-CL/FR may use two different formulas for computing retired pay (**Table 5.1**). They may base computation on years of creditable service or on percentage of disability, whichever is more advantageous to the member. In addition, if entitled to pay computation under some other provision of law that would result in greater retired pay, DFAS-CL/FR makes that computation. DFAS-CL/FR selects the one more favorable, unless the member specifically requests that retired pay be computed at some lower rate authorized by law. According to 10 U.S.C. 1401 and 8991, retired pay may not exceed 75 percent of the retired pay base (current base pay or "high three," as applicable).

5.14.2. Increased Retired Pay for Extraordinary Heroism. Enlisted members retiring for disability who are otherwise eligible to retire for years of service and entitled to a 10 percent increase in pay for certified acts of extraordinary heroism are entitled to an additional computation under the service retirement if they meet the requirements set forth in AFI 36-3203. For a member to be considered, the PEBLO or the member must make a notation on the AF Form 1185 "Remarks" section and attach copies of supporting documents to the AF Form 1185 when sending it to HQ AFPC/DPPD. HQ AFPC/ DPPD accepts late submissions, provided the member qualifies under AFI 36-3203. SAFPC approves these actions but retired pay, including the heroism additive, cannot exceed the 75 percent statutory limit.

5.14.3. Recomputation of Retired Pay for Later AD. DFAS-CL/FR recomputes disability retired pay to reflect active duty performed after retirement, if the member meets all the requirements outlined in 10 U.S.C. 1402.

5.15. Grade on Retirement. Unless entitled to a higher retired grade under some other provision of law, members permanently retired for disability or placed on the TDRL retire in the highest of the following grades (10 U.S.C. 1372):

5.15.1. Grade in Which Serving. The grade in which the member is serving on the date placed on the TDRL or on the date permanently retired for disability.

5.15.2. Higher Reserve Grade. The Reserve grade the member held at time of retirement if it is higher than the grade in which serving on active duty. The Reserve grade must be a valid USAFR or ANG grade that is still in effect at the time of retirement.

5.15.3. Higher Grade. A higher grade in which the member served satisfactorily on active duty, as determined by the SAF (see **Table 4.1**, line 5). Service in a higher grade is usually satisfactory unless the higher grade was terminated for cause (except in cases where the member received an honorable discharge in that higher grade during a previous period of service and had held the grade for a period of 6 months or more); information in the member's service record clearly supports the conclusion that the member would have been discharged or demoted for cause at the time he or she held the higher grade; or member served on active duty in higher commissioned grade for less than 6 months.

5.15.4. Members who are retired on or after 23 Sep 96, may be retired in the regular or reserve grade to which they had been selected and would have been promoted, had it not been for the physical disability for which they were retired. (10 U.S.C. 1372 was amended effective 23 Sep 96.)

5.16. Grade on Discharge. The discharge grade will be the higher of the following:

5.16.1. Grade in Which Serving. The grade in which the member is serving at the time of discharge.

5.16.2. Higher Grade Determined by SAF. A grade in which the member served satisfactorily on active duty, as determined by the SAF, pursuant to 10 U.S.C. 1212 (see **Table 4.1**, line 5).

5.17. Disposition of Officer Appointments Upon Disability Retirement or Discharge.

5.17.1. Discharge of Officers. A discharge terminates all appointments held by the officer.

5.17.2. Retirement of Regular Officers. Retirement does not terminate the appointment of a Regular officer when permanently retired or placed on the TDRL.

5.17.3. Retirement does not terminate the appointment of an ARC officer when permanently retired for disability or when placed in the Retired Reserve.

5.18. Enlisted Status at Time of Retirement or Discharge. A retirement or discharge terminates an enlisted member's status, as well as any appointment held at the time of discharge for disability. ARC enlisted members being retired for disability are transferred to the Retired Reserve (see AFI 36-3203 for rules on transfer or assignment). HQ AFPC/DPPD reflects the transfer action in the retirement order.

5.19. Date of Disability Retirement or Discharge.

5.19.1. HQ AFPC/DPPD determines the retirement or discharge date no later than 10 days from the date of the Secretarial determination of unfitness. Appropriate processing and permissive TDY time will be considered before the effective retirement date is established.

5.19.2. If members have not previously sold 60 days of accrued leave after 10 February 1976, they must sell the leave at separation or retirement. Members retiring or separating for disability may use accrued leave that they can not sell back. If they have sold the maximum leave permitted by law, HQ AFPC/DPPD will add their accrued leave to the 20-day processing time (30 days if overseas) to arrive at the final discharge or retirement date (see AFI 36-3003, paragraph 3.13.1).

5.19.3. HQ AFPC/DPPD will establish disability separation and retirement dates as follows:

5.19.3.1. Date of separation or retirement will be established not to exceed 90 days from date of Secretary of the Air Force (SAF) Memorandum approving the separation or retirement. For the purposes of Benefits Delivery at Discharge, the date will be established as a day during the last week of the month which does not extend the DOS beyond 90 days from SAF Memo. For example: If 90 days would place the DOS at 15 May, the DOS will be 29 April. Any unsellable leave must be taken prior to member's separation or retirement date.

5.19.3.2. Basic Trainees will be separated within 3 duty days of SAF memorandum.

5.19.3.3. **DELETED.**

5.19.4. HQ AFPC/DPPD has authority to make the following exceptions:

5.19.4.1. Early Discharge or Retirement. HQ AFPC/DPPD approves retirement or discharge dates of less than 20 days, at the request of the member or the member's commander, and in the best interest of all concerned--if the MPF can complete final processing by the designated date. The member requests early discharge or retirement in writing; the MPF personnel relocations element endorses the request and forwards it to HQ AFPC/DPPD before HQ AFPC/DPPD issues the disposition instructions or retirement order.

5.19.4.2. Overseas. For members located outside the CONUS who elect to return to the CONUS for final processing, HQ AFPC/DPPD authorizes 30 calendar days processing time.

5.19.4.3. Hardship. HQ AFPC/DPPD may approve limited extensions, normally not to exceed 30 days, in cases where the member is facing an unusual personal hardship over and above that encountered by other members being retired or discharged for disability. Submit requests for extension through MPF personnel relocation channels.

5.19.4.4. Special Cases. Unless HQ AFPC/DPPD approves a later date, the date of discharge for basic trainees at the AFMTC is 3 duty days after the date of the Secretarial determination of unfitness. HQ AFPC/DPPD may designate other disability cases for retirement or discharge to become effective in less than 20 calendar days and will notify all concerned.

5.20. Appeal Procedures. After HQ AFPC/DPPD announces SAF's final action, if the member believes the disposition of his or her case constitutes an error or injustice, he or she may appeal through application to the Air Force Board for Correction of Military Records (AFBCMR) under AFI 36-2603.

Table 5.1. Computation of Disability Retired Pay.

R U L E	**A** **If the member is**	**B** **then take the monthly pay rate (see note 1) of the grade to which member**	**C** **and multiply by 2.5 percent times the years and months of service under 10 U.S.C. 1208 or, the % disability, whichever is higher**
1	permanently retired	is entitled under paragraph **5.14.**	on date retired.
2	placed on TDRL (see note 2)		
3	removed from the TDRL and permanently retired	was entitled on the date member's name was placed on TDRL	at time of removal from the TDRL.

***NOTES*:**

1. Use the pay rate that applies to the member on date of retirement. It may be the current monthly basic pay rate, average monthly retired pay base, or, if eligible and applicable, some other (more favorable) rate, such as the Tower amendment provision outlined in **Attachment 2**, with maximum pay being 75 percent of the base amount of which computed (10 U.S.C. 1401, 1401a, 8991).

2. When placed on TDRL, retired pay will not be less than 50 percent of the monthly pay rate on which computing retired pay. For members who entered military service prior to 8 September 1980, compute according to the current monthly basic pay rate. For members who entered military service on or after 8 September 1980, compute from a monthly retired pay base (RPB). RPB is an average of the member's highest 36 months of active duty pay. Changes that may occur as a result of reexamination will not affect retired pay for members still carried on TDRL.

Table 5.2. Computation of Disability Severance Pay.

R U L E	A	B
	If the member is being	**then take member's years of service, but not more than 12, computed under 10 U.S.C. 1208 (see note 1) and multiply by**
1	initially discharged with disability severance pay	twice the amount of monthly basic pay of the grade to which entitled under paragraph **5.15.**
2	removed from the TDRL and discharged with disability severance pay	the higher of the following: twice the amount of monthly basic pay to which entitled on the date he or she is discharged with severance pay and in the highest AD or Reserve component grade as provided in paragraph **5.15.**; or, twice the amount of monthly basic pay in effect on the date placed on the TDRL and in the highest grade as determined by the Secretary of the Air Force (paragraph **5.15.**) (see note 2).

***NOTES*:**

1. Count as a whole year a part of a year that is 6 months or more, and disregard a part of a year that is less than 6 months (10 U.S.C. 1212 and 37 Comptroller General 832). A member with less than 6 months' creditable service will not receive severance pay since the member has no years of service to use as a multiplier. The law limits maximum disability severance pay to 24 months' pay of the grade in which discharged (10 U.S.C. 1212, paragraph **5.15.**, and **Attachment 2**).

2. Compute the member's pay based on the base pay scale in effect when placed on the TDRL.

Chapter 6

LIMITED ASSIGNMENT STATUS (LAS)

Section 6A—Purpose and Eligibility

6.1. Basic Eligibility. Some members found physically unfit by a PEB can serve on AD in LAS with limitations and controls over their assignments. This option is open to members on EAD who meet the eligibility criteria and apply for LAS. Members who have some type of nondisability retirement or separation pending are not eligible for LAS.

6.2. Procedures and Objective. The SAF may defer the final disposition of members found physically unfit by a PEB and who request LAS.

6.2.1. Retention in LAS depends upon the type and extent of the member's physical defect or condition, the amount of medical management and support needed to sustain the member on AD, the physical and assignment limitations required, the years of service completed, and the Air Force need for the particular grade and specialty.

6.2.2. The LAS program conserves manpower by keeping needed experience and skills that the Air Force can economically use. It is not the intent of the LAS program to retain a member just to increase benefits or allow the member to complete a period of service.

6.2.3. Members not physically fit for AD without restriction do not have a legal or vested right to retention in LAS, and the Air Force does not guarantee retention for any specified period of AD. The Air Force may retire or discharge members on LAS at any time as the result of medical reevaluation. A member continued on active duty in LAS is not presumed physically fit. The DES will determine fitness or unfitness on the evidence of record at the time of final retirement or discharge.

6.2.4. Action Offices. Designated representatives within the offices of the Directorate of Assignments (HQ AFPC/DPA), Medical Service Office Management Division (HQ AFPC/DPAM), Colonel's Group (AFDPO) for cases on colonels, General Officer Matters (AFGOMO) for cases on general officers, and Directorate of Personnel Program Management (HQ AFPC/DPP) have authority to act in processing and approving requests for retention in LAS.

6.3. LAS Retention Criteria. The number of members retained in LAS will be held to an absolute minimum. Action offices will use the following guidelines:

6.3.1. From 15 to 19 Years AD. Consider members:

6.3.1.1. If there is a need for the member's skill, experience, grade or specialty, and

6.3.1.2. If their physical defect or condition has essentially stabilized or, based on accepted principles, shows either gradual improvement or slow progression. Members must be able to function in a normal military environment without adverse effect on their own health, or the health of others, and without need for an excessive amount of medical care.

6.3.2. Airmen with over 20 years active duty service will not be considered for LAS.

6.4. Rules for Members Retained in LAS.

6.4.1. Periodic Medical Examinations. The MTF examines LAS members at least once a year. The report of examination shows the current status of the unfitting physical defects or conditions for which retained in LAS and the status of any additional physical defects or conditions that may affect duty performance.

6.4.2. Service Commitments. Members in LAS must complete any active service commitments they incur unless their overall physical condition deteriorates to a point where they are no longer acceptable for retention in LAS.

6.4.3. Assignment Limitation Identification. The action offices identify members in LAS in the PDS with an assignment limitation code (ALC).

6.4.4. PEB Evaluation. LAS members will be evaluated by a PEB before discharge or retirement.

6.4.5. Inquiries. Address inquiries concerning the disposition status of LAS cases to HQ AFPC/DPPD.

Section 6B—LAS Processing

6.5. Application Procedures. Eligible members request retention in LAS by submitting AF Form 1186, **Retention in Limited Assignment Status**. Before doing so, members must have agreed with the PEB's recommendation. If approved for LAS, file PEB proceedings without further action. If disapproved for LAS, the disability case will be processed. Application procedures are as follows:

6.5.1. Preparing AF Form 1186. The PEBLO or PEB counsel prepares four copies of AF Form 1186 and complete the "Personnel Data" portion of the form. The PEBLO or PEB counsel informs the member of the purpose, policy, and objective of the LAS program before the member signs the forms. Send copies of AF Form 1186 and AF Form 1180 to HQ AFPC/DPPD and give one copy to the member.

6.5.2. Personal Statement. Members who wish to stay on AD in LAS may attach a personal statement to AF Form 1186 giving any information they believe important to their case. This statement may cite matters of record that the member wants to emphasize for review, but the member should not attach other documents to AF Form 1186. Members may request a delay, not to exceed 3 duty days, to prepare the personal statement. If not received within the 3-duty-day period, HQ AFPC/DPPD will process the disability case to completion.

6.5.3. Counseling the Member. The counselor ensures the member understands the approval procedures, the reevaluation requirements, and the possibility of an unscheduled termination of LAS.

6.6. AFPC Processing. HQ AFPC/DPPD reviews the application to ensure the member meets the general eligibility criteria in this section. If the member is not eligible, HQ AFPC/DPPD returns AF Form 1186 to the member, through the MPF or referring medical facility, as applicable, with a cover memorandum advising the member that the application does not meet basic eligibility requirements. When the request meets the basic eligibility standard, process it as follows:

6.6.1. Medical Review. HQ AFPC/DPPD sends AF Form 1186 and allied papers, including the PEB findings and recommended disposition and all available medical records, to HQ AFPC/DPAMM for review. HQ AFPC/DPAMM determines member's medical acceptability for LAS retention and annotates the applicable assignment limitations, if approved, or indicates

disapproval and the reason for the disapproval in the medical review portion of AF Form 1186. After its review, HQ AFPC/DPAMM returns the case to HQ AFPC/DPPD for further action.

6.6.2. Assignment Determinations. When HQ AFPC/ DPAMM determines that the member is medically acceptable for LAS retention, HQ AFPC/DPPD sends the case to HQ AFPC/DPA for all enlisted persons and officers below the grade of colonel, AF/DPO for all colonels, and to AFGOMO for all general officers. The functional area resource manager must determine if the Air Force can productively use the member's services within the limitations specified by HQ AFPC/DPAMM. The resource manager enters the decision in the personnel review portion of AF Form 1186 and returns the case to HQ AFPC/DPPD for further action.

6.6.2.1. LAS Assignment Approved. The resource manager must indicate approval and note the correct assignment limitation code on AF Form 1186. If the member has over 19 years of active duty, add a statement on AF Form 1186 documenting the unique and overriding need for the member's services and specifying a recommended period of retention. HQ AFPC/DPPD is the final approval authority for members with more than 19 years of AD.

6.6.2.2. LAS Assignment Not Approved. The resource manager indicates disapproval on AF Form 1186.

6.6.3. Final Disposition of LAS Approvals. After action by HQ AFPC/DPAMM and the resource manager, HQ AFPC/DPPD completes administrative processing, notifies the member of approval, through the MPF or referring medical facility, and advises appropriate officials of the LAS code and assignment limitations. Retention period for LAS approvals follow these general rules:

6.6.3.1. Over 19 Years of AD. HQ AFPC/DPPD determines the period of retention.

6.6.3.2. Less than 19 years of AD. Retention is not for a specified period of time, but does not normally exceed 20 years of AD.

6.6.4. LAS Disapprovals. When the member is not medically acceptable for retention in LAS or when the resource manager cannot justify retention, HQ AFPC/DPPD advises the member of the disapproval, through the MPF or referring medical facility, and resumes case processing.

Section 6C—LAS Reevaluation

6.7. LAS Reevaluation Rules. Members retained in LAS undergo periodic or annual medical examinations as directed by HQ AFPC/DPPD.

6.7.1. Reevaluations will consider the current status of medical limitation and the need for the particular grade and specialty.

6.7.2. HQ AFPC/DPPD may direct reevaluation at any time to assist in the management of LAS members or to meet current personnel manning requirements.

6.7.3. A reevaluation may consist of a general medical examination or may include an MEB and PEB.

6.7.4. The commander of a member in LAS may, at any time, refer the member to a local medical facility for reevaluation if the member cannot satisfactorily perform duties in his or her grade and specialty. In such cases, proceed according to AFI 48-123 and this instruction.

6.8. Reevaluation Procedures. HQ AFPC/DPPD advises the MPF personnel employment element by memorandum when an LAS reevaluation is due, and directs them to schedule the LAS member for a medical examination.

6.8.1. MPF Action. The personnel employment element schedules the examination at the closest medical facility; tells the member and the member's commander of the date, place, and reason for the examination; and ensures the medical facility has a copy of the memorandum stating the reason for the examination.

6.8.2. MTF Action. Medical facilities conduct examinations and send the completed reports to HQ AFPC/DPPD within 30 days of the date of the request for re-evaluation. Unless HQ AFPC/DPPD requires or requests an MEB, the physical examination does not have to be extensive. However, it must be in enough detail to allow evaluation of the member's overall condition--with special emphasis on the condition for which the member was first placed on LAS. In most cases SF 502, **Medical Record - Narrative Summary**, or SF 513, **Medical Record - Consultation Sheet**, is adequate.

6.8.2.1. If the MTF can not complete the examination within the time limit, they must advise HQ AFPC/DPPD of the reason for the delay and give a date when they will complete and forward the examination report.

6.8.2.2. When processing by MEB is directed or required, the medical facility must follow guidance in AFI 48-123 and this instruction.

6.8.2.3. The medical report must include sufficient information to document the following items:

6.8.2.3.1. Interim Medical History. New developments or changes since last LAS evaluation.

6.8.2.3.2. That may contribute to the member's overall physical disability.

6.8.2.3.3. Present Medical Support. Current therapy and treatment requirements.

6.8.2.3.4. Present Duty Performance. Member's functional impairment as it relates to ability to perform duties.

6.8.2.3.5. Statement of Opinion. The examining physician may include an opinion as to whether he or she still considers the member medically acceptable for retention in LAS. If considered acceptable, the physician also specifies if the present assignment limitations remain valid and whether he or she still considers the member physically unfit for return to full military duty.

6.8.3. AFPC Action. Upon receipt, HQ AFPC/DPPD sends the current physical examination and the entire LAS case file to HQ AFPC/DPAMM for review.

6.8.3.1. HQ AFPC/DPAMM Action. Review the case and determine if the member is still acceptable for retention in LAS and, if acceptable, whether a change in assignment limitations is appropriate. Advise HQ AFPC/DPPD of any change in limitations. If the member is no longer acceptable for LAS retention, direct MEB action as outlined in AFI 48-123 and this instruction.

6.8.3.2. Assignment Resource Manager Action. When HQ AFPC/DPAMM recommends retention in LAS, the resource manager, as identified in paragraph **6.6.2**, reviews the case to

determine if they can still justify LAS assignment. After review, the resource manager returns the case to HQ AFPC/DPPD indicating whether continued LAS is, or is not, justified.

6.8.3.3. HQ AFPC/DPPD Action. Advise the member by memorandum, through the MPF, of the final decision concerning retention in LAS. When the member is no longer medically acceptable for LAS, or when the LAS assignment is no longer justifiable, initiate MEB action. If approving retention in LAS, include any change in assignment limitation in the approval notice.

6.9. Exceptions to Normal LAS Reevaluations. Upon receiving information indicating further LAS retention may not be appropriate, HQ AFPC/DPPD may send the case file to HQ AFPC/DPAMM or the proper functional resource manager for review, direct an MEB and PEB, or take any other action necessary to determine if the member's continued retention on LAS is appropriate.

Chapter 7

PERIODIC EXAMINATION OF MEMBERS ON THE TDRL

Section 7A—TDRL Examination Rules

7.1. Requirement for Periodic Examination. The law, 10 U.S.C. 1210, requires reexamination of all members on the TDRL at least once every 18 months to determine if there has been a change in the disability that resulted in their placement on the TDRL. These periodic examinations continue until final disposition or until the statutory period expires (currently 5 years) whichever is earlier.

7.1.1. HQ AFPC/DPPD usually schedules the initial examination 16 months after placing the member on the TDRL so the medical facility can complete it before the end of the 18th month. They schedule the examination at the Air Force medical facility closest to the member's home that has the required capability, or the closest DoD medical facility if indicated by the member's medical condition.

7.2. Importance of Processing TDRL Examinations Rapidly. Many TDRL members must leave school or their jobs to report for examination, and any undue delay may cause hardship. HQ AFPC/DPPD notifies everyone concerned approximately 20-30 days in advance of the scheduled reporting date and time for the examination. The members must report on time, and the medical facility must complete the examination without delay.

7.3. Failure to Report for Periodic Examinations. In accordance with the law (10 U.S.C. 1210) TDRL members who fail to report for periodic examinations, after having been properly notified, will have their retired pay terminated. All members on the TDRL shall advise HQ AFPC/DPPD of their current mailing address. In this way, members will receive important notices on periodic examinations, as well as other correspondence of interest.

7.4. Procedures for Periodic Examinations.

7.4.1. About 60 days before the reporting date, HQ AFPC/DPPD sends the previous TDRL medical records and any special instructions to the examining facility and requests a TDRL medical examination appointment.

7.4.2. Within 10 days of receiving the request, the examining facility will call or send a message to HQ AFPC/DPPDS giving the date and time of the appointment, and indicating whether they will evaluate the member on inpatient or outpatient status.

7.4.3. If the medical facility can not conduct the examination, they must return the records within 15 days to HQ AFPC/DPPDS -If appropriate, HQ AFPC/DPPDS then schedules the examination at another facility as quickly as possible, or returns the package for necessary processing.

7.4.4. The member shall provide to the examining physician, for submission to the PEB, copies of all his or her medical records (civilian, VA, and all military medical records) documenting treatment since the last examination.

7.4.5. If the member is being treated by a civilian physician or the VA and member provides them directly to HQ AFPC/DPPDS, HQ AFPC/DPPDS will provide the information to the PEB for review. If the PEB determines that the report is sufficient to evaluate the member, the scheduled appointment at the MTF will be canceled.

7.4.6. If the member fails to report for the examination on the scheduled reporting date, the medical facility must advise HQ AFPC/DPPDS immediately and await further instructions.

7.4.7. Telephone Counseling. TDRL members may call HQ AFPC/DPPDS toll-free at 1-800-531-5806 for information or counseling regarding their periodic examination or the findings and recommended disposition of the IPEB.

7.5. Travel and Per Diem Allowance. Members traveling to a medical facility for examination, or to Lackland AFB TX for the formal PEB, receive travel and per diem allowance based on their retired grade (10 U.S.C. 1210 and JFTR volume 1, chapter 7, part I). The Air Force reimburses them for the cost of travel to and from the examining facility or the formal PEB as well as certain other costs, such as meals and lodging, at about the same rates as AD members of the same grade in TDY status. Members are not authorized use of rental vehicles.

7.6. Travel Orders. About 20-30 days before the reporting date, HQ AFPC/DPPD sends travel orders to the member. The order shows the exact date, time, and place to report and includes the authority for payment of travel costs. The orders and the accompanying information sheets contain instructions for the members on what they need to do and their entitlements.

7.7. Orders Processing by the Examining Facility. The medical facility endorses the order to show whether they examined the member as an inpatient or outpatient, the dates and times the member reported and was released after completing the examination. If the examination was in outpatient status, tell whether or not the member occupied government quarters. The examining facility must ensure the member has an indorsed order to submit with the claim for reimbursement. The member submits a travel voucher to 12 CPTS/FMFL for reimbursement. FMFL must also approve all advances.

7.8. Authorized Escort. An escort may accompany a member to the place of examination or to the formal PEB when the member is not physically or mentally able to travel without help. Submit the request and supporting documents for review by HQ AFPC/DPPD before beginning travel. If approved, HQ AFPC/DPPD includes the authority for an escort's travel in the member's travel order. The attendant may file a claim for expenses according to JFTR, volume 1, chapter 7, part I. However, if traveling by private conveyance, the Air Force will reimburse only the retired member for transportation costs.

7.9. Purpose and Scope of TDRL Reevaluation. The purpose of the periodic examination is to determine if the condition for which the member was retired has changed since retirement or since the previous TDRL evaluation. The medical facility conducts the examination according to AFI 48-123.

7.9.1. The report of examination centers on the unfitting defects and conditions and includes anything the examining physician discovers or observes as to what the member is actually able to do or not do.

7.9.2. The examination also includes information on any other defect or condition incurred or discovered after the member's retirement. For any newly identified defect or condition, the report indicates whether the member incurred the condition while on active duty or while on TDRL. For any change to an old defect or condition, the narrative summary indicates whether the condition is better or worse than at the time of retirement.

7.9.3. The examining facility performs the necessary diagnostic, laboratory, and radiological procedures which clearly and accurately establish the member's current status. Include the following in the final report: test results, a statement as to the normal test value for the

procedures done, copies of consultations, and a statement identifying all medications the member is currently taking.

7.9.4. The examining physician includes medical statements and opinions in the report of examination when such information may help the PEB evaluate the member's current condition. However, since prior TDRL medical records are available to the PEB and higher levels of review, do not repeat information in previous records except to make a point. The physician will include a detailed statement of interim history describing social, industrial, or educational activity, as well as the medical prognosis. References to the administrative disposition of the member, such as return to active duty, retention on TDRL, permanent retirement, discharge for disability, or probable percentage of disability are not appropriate and frequently lead to unnecessary questions or disappointment for the member.

7.9.5. Insurance Claims. The examining DoD medical facility may bill the reasonable costs of the TDRL examination to a third-party payer such as an insurance company or a medical service or health plan under which the member is a covered beneficiary (10 U.S.C. 1095). Additionally, please note the following:

7.9.5.1. Do not bill the member for costs not paid (such as required deductibles or co-payments).

7.9.5.2. If the third-party payer asks the member to clarify the charges, resource management personnel at the DoD medical facility will help in completing any additional claim forms.

7.9.5.3. Do not release confidential drug and alcohol treatment records without a patient consent executed according to federal law and Public Health Service regulations. A general consent form to release "medical records" or an assignment of third-party payer benefits will not satisfy Public Health Service requirements.

7.10. Processing at the Examining Facility. The commander of the examining facility or designated representative makes sure the medical facility completes the examination as quickly as possible so the member may return home without delay.

7.10.1. Time Limits. Follow these general rules:

7.10.1.1. When possible, complete the examination within 1 to 3 duty days after the member arrives at the examining facility.

7.10.1.2. Only extend the examination period if the examining physician believes a short period of observation or medical testing is absolutely essential for a complete report. Hold such examinations to a minimum.

7.10.1.3. The DoD requirement is to provide medical reports to HQ AFPC/DPPD within 30 days of examination.

7.10.1.4. Do not send the case to HQ AFPC/DPPD until all laboratory studies and consultations have been completed and included in the report. If the MTF can not complete the report of examination within the required period, advise HQ AFPC/DPPD in writing of the reason for delay and give an estimated date of report completion. Never keep the member at the examining facility pending review of laboratory test results or to await typing of the report.

7.10.2. Report of Examination. The examining medical facility must send the completed report and all previously loaned medical records to HQ AFPC/DPPDS. The completed report consists of SF 502 and the results of all laboratory procedures and consultations. Further, the service member shall provide copies of all civilian, VA, and military medical records documenting treatment since the last TDRL reevaluation. Submit the narrative summary in original plus two legible copies.

7.10.3. Competency Rules. If the member was mentally incompetent when last examined and there has been a change in competency since then, or if there is a question as to mental competency, the examining military facility must convene a competency board according to DFAS-DE 177-373, volume 1, chapter 24, Joint Uniform Pay System - DJMS AFO Procedures and AFI 48-123. A competency ruling will not be required for members evaluated at VA or civilian medical facilities. In these cases, the member or an NOK must contact DFAS-CL to arrange for a change in competency. Take the following action:

7.10.3.1. Include a copy of the board's competency determination with the report of examination when sending it to HQ AFPC/DPPD.

7.10.3.2. Send a copy of the competency board to DFAS-CL/FRAA.

7.10.3.3. If it would be harmful or against the member's best interest to know his or her medical condition, the examining physician will point that out in the narrative summary. HQ AFPC/DPPD will then process the case accordingly.

7.11. TDRL Members Imprisoned or Confined by Civil Authorities. The law requires periodic examination, regardless of the member's status or circumstances. For members imprisoned or confined by civil authorities, HQ AFPC/DPPD requests a report of examination and a copy of the commitment order, when appropriate, from the confinement institution.

7.11.1. If the report received contains sufficient information, the PEB uses it to evaluate the member. If the report is inadequate, or if the institution does not send a report, HQ AFPC/DPPD sends the case to SAFPC for review and disposition.

Section 7B—Review by IPEB and FPEB

7.12. IPEB Review of the TDRL Examination. HQ AFPC/DPPD refers reports of examination with prior medical records and allied papers to the IPEB for evaluation as outlined in **Chapter 3**.

7.13. Additional Medical Workup. If the report of examination is inadequate, HQ AFPC/DPPD returns it to the examining facility for more data, or takes other action as necessary to get a complete and adequate report. HQ AFPC/DPPD may direct the member to report to another facility for additional medical workup, or to 59 Med Wg (WHMC), Lackland AFB TX, for complete examination followed by a PEB. HQ AFPC/DPPD issues another set of travel orders when applicable.

7.14. Changes in Prior Determinations. Do not change prior findings such as LOD, proximate result, EPTS factor, and so on, unless there is new and compelling evidence not available to the original board that establishes that the initial determination was in error. Determinations of armed conflict and instrumentality of war are binding so long as the defect remains unfitting.

7.14.1. Conditions found not unfitting when placed on the TDRL are not compensable if they become unfitting while on the TDRL. However, if reevaluation reveals the condition was unfitting when the member was placed on the TDRL, the evaluating board lists the condition as

compensable when making permanent disposition of the case, and documents the reasons for making the change in item 15, AF Form 356. Since the board cannot retroactively change the member's records as of the date placed on the TDRL, HQ AFPC/DPPD will tell the member that he or she may apply for records correction through the AFBCMR process.

7.15. Action by AFPC and Member After IPEB. HQ AFPC/DPPD sends to the member the AF Form 356, a copy of the TDRL report of exam, and a memorandum outlining actions required. When the IPEB recommends removal from the TDRL, the member may agree with the board's recommendation, disagree and request a formal PEB, or waive the formal PEB and submit a written rebuttal. When the board recommends retention on the TDRL, HQ AFPC/DPPD advises the member of the action but does not give the member the option to agree or disagree (see paragraph **7.25**).

7.15.1. Time Limits. The member is provided 30 calendar days to reply when the IPEB recommends final disposition in the case. Upon request, HQ AFPC/DPPD may grant additional time if needed. If there is no response within the time limit, HQ AFPC/DPPD will presume the member concurs and the case will be finalized.

7.15.2. Member Agrees or Submits a Rebuttal to the IPEB Findings. HQ AFPC/DPPD processes the case as outlined in **Chapter 3** and **Chapter 5**.

7.15.3. When Physically Fit. When the recommended disposition of the IPEB is "Removal from the TDRL (Fit)," HQ AFPC/DPPDS sends a memorandum to the member with a 30 day suspense outlining action required. HQ AFPC/DPPDS will notify the appropriate offices; i.e., promotions, enlisted retention, officer appointments and officer procurement.

7.15.3.1. If eligible for return to active duty, HQ AFPC/DPPD sends the member one copy of **Statement Relative to Appointment or Enlistment After Removal from TDRL** along with the informal board's findings and recommendation. The member must make a decision and return the form within 30 calendar days. Except as stated in paragraph **7.15.4**, if the member does not respond within the 30-day time limit, HQ AFPC/DPPD will process the case as if the member did not desire appointment or enlistment.

7.15.3.2. If a member was serving on AD as a non-EAD ARC officer when placed on the TDRL, HQ AFPC/DPPD will refer him or her to the nearest ARC facility for further processing.

7.15.3.3. In addition to permitting return to duty under 10 U.S.C. 1211, the law (10 U.S.C. 1210) provides that members removed from the TDRL as fit will be discharged, retired, or transferred to the inactive Reserve under any other law if, under that law, the members applies for and qualifies for that retirement or transfer, or is required to be discharged, retired, or eliminated from an active status. The member's grade is determined under the provisions of law for which retired, transferred, discharged, or eliminated from an active status. Retired, retainer, severance, readjustment, or separation pay is computed as if the member had been reappointed or reenlisted upon removal from the TDRL and before the retirement, transfer, discharge, or elimination. (See paragraph **7.27** for service retirement procedures involving members removed from the TDRL.)

7.15.3.4. Members found fit who do not elect enlistment or reappointment, and who are not discharged, retired, or transferred to the inactive Reserve as indicated in paragraph **7.15.3.3**, will be discharged without benefits, subject to restriction in paragraph **7.15.4**

7.15.4. Obligated Service. By law, members who entered military service after 1 June 1984 must serve 8 years in the armed services, unless sooner discharged. Do not discharge TDRL

members found fit who entered military service after 1 June 1984, served less than 8 years, and do not want to be reappointed nor to enlist. Instead, when removing them from the TDRL, transfer them to the USAFR (Obligated Reserve Section), and assign them to the Air Reserve Personnel Center (ARPC) to complete their military service obligation. Time spent on the TDRL counts toward the required obligated service.

7.16. Documentation Provided To the FPEB. When a formal hearing is to be held, HQ AFPC/DPPD sends the TDRL examination, medical records, and related documents to the FPEB. If the FPEB decides it needs more medical data, they may refer the member to 59 Med Wg (WHMC) for specific tests, consultations, or medical workups. The FPEB must specify the conditions that require evaluation and identify any other information needed. The FPEB president recesses the hearing pending receipt of the additional data.

7.17. Directed Examination Followed by FPEB Hearing. HQ AFPC/DPPD can direct a complete medical workup and formal hearing when they determine that it is in the best interests of the member or the Air Force. HQ AFPC/DPPD schedules the examination at 59 Med Wg (WHMC), and prepares and sends orders directing the member to report to 59 Med Wg (WHMC) for the required examination. The examination follows the general guidelines in this chapter.

7.17.1. Time Limits. 59 Med Wg (WHMC) must complete the medical workup and examination as quickly as possible--10 to 14 days maximum. If medical personnel at 59 Med Wg (WHMC) need more time, they must advise HQ AFPC/DPPD and the FPEB of reasons for the delay and the expected completion date. As soon as 59 Med Wg (WHMC) completes the medical examination, the member will appear before the FPEB.

7.18. Special Considerations for TDRL Members. The FPEB hearing for a member on the TDRL proceeds as outlined in **Chapter 3**, **Section 3C**. The following special considerations apply:

7.18.1. FPEB In Absentia. When the retired member does not or cannot appear in person, HQ AFPC/ DPPD approves and HQ AFPC/DPPDF convenes a formal hearing in absentia. In such cases, legal counsel must be present during all open sessions. The NOK (or guardian) may also be present and act for the member. Examples of when hearings will be held in absentia, include, member:

7.18.1.1. Is hospitalized, confined, incarcerated, or otherwise unable to travel freely.

7.18.1.2. Is unable to travel because of his or her physical or mental condition.

7.18.1.3. Is unable to act in his or her own behalf because he or she is incompetent or because knowledge of the condition or disability would be harmful to the member.

7.18.2. Excusal from Hearing. A retired member may request to be excused from personally appearing at a hearing. This request is not be confused with the formal hearing that is held in absentia (paragraph **7.18.1**). The FPEB president at his discretion may approve a retired member's request for excusal. The record of the hearing must clearly show that this was a voluntary act by the member. In such cases, the designated legal counsel represents the member during all open sessions. The member remains in the area until the FPEB completes its action. Excusal does not keep the FPEB from referring the member to 59 Med Wg (WHMC) for medical consultations if needed.

7.19. Personal Appearance. The TDRL member must appear before the FPEB, unless the FPEB conducts the hearing in absentia, or the board president excused the member from the hearing.

7.20. Disposition Options of the Formal Hearing. Same as for IPEB (see paragraph **3.29**).

7.21. Special Actions When Member Is Found Fit. When the FPEB recommends "Removal from TDRL (Fit)," the FPEB counsel or other designated counsel:

7.21.1. Provides member a memorandum outlining action required, election statement of intent to seek reenlistment, reappointment or service retirement, if appropriate, and a fact sheet to aid member in making election. Fact sheet includes points of contact for any questions they may have. Member is allowed two weeks to reply to HQ AFPC/DPPDS.

7.21.2. Advises members who were serving on active duty as USAFR or ANG officers when placed on the TDRL to contact their appropriate Reserve component for further processing.

7.21.3. Advises members who entered the military service on or after 1 June 1984 and served less than 8 years of the obligated service provision of 10 U.S.C. 651 as outlined in paragraph **7.15.4**

7.21.4. Counsels enlisted members that HQ AFPC/DPPA will review their records to determine if they are eligible to reenlist. If ineligible, they do not have the option to reenlist, and will be discharged without disability benefits.

Section 7C—AFPC Disposition Actions

7.22. Final Review and Disposition Actions. HQ AFPC/DPPD announces the final disposition on a computer format, **Retirement Special Order - Physically Unfit**, or **Retirement Special Order Removal From TDRL**. These orders are the official notice to TDRL members of final disposition action. Retaining a member on TDRL is not a final disposition (see paragraph **7.24**).

7.23. Stopping Retired Pay. Retired pay stops when TDRL members are removed from the TDRL or when the statutory period of retention on TDRL according to 10 U.S.C. 1210h expires.

7.23.1. HQ AFPC/DPPD may also stop a member's eligibility to receive Air Force retired pay if the member is scheduled to report for periodic examination and refuses or fails to report after having been given proper notice or fails to provide all his or her medical records (civilian, VA, and all military medical records) documenting treatment since the last examination. Rules for reinstatement are:

7.23.1.1. If the member later reports, reinstate eligibility to receive retired pay effective on the date the member reports and completes the examination.

7.23.1.2. If the member can show "just cause" for not reporting, reinstate eligibility to receive retired pay retroactively for a period of not more than 1 year (10 U.S.C. 1210a).

7.23.1.3. If the member does not undergo periodic examinations after disability retired pay has been terminated, they will be administratively removed from the TDRL on the fifth anniversary of placement on the list and separated without entitlement to any disability benefits.

7.23.2. For TDRL members found fit and reappointed or enlisted, disability retired pay stops on the date removed from TDRL.

7.24. Removal From TDRL for Failure To Report or Reply. HQ AFPC/DPPD will process as follows:

7.24.1. Failure To Report for Periodic Examination. Under provisions of this chapter, HQ AFPC/ DPPD schedules members nearing the 5th anniversary of the date placed on the TDRL for

periodic examination. If these members refuse or fail to report after having been properly notified, or if HQ AFPC/DPPDS cannot locate the TDRL member, HQ AFPC/DPPDS refers the case to the IPEB, with a detailed account of all relevant circumstances. Possible follow-on actions:

7.24.1.1. The IPEB may recommend permanent disability retirement, discharge with entitlement to disability severance pay, or removal from the TDRL and discharge without benefits.

7.24.1.2. The designated special assistant to SAFPC may confirm and approve the IPEB's recommended disposition, refer the case to the FPEB for a formal hearing in absentia, or to SAFPC for final disposition.

7.24.2. Members Found Fit Who Fail To Respond as Required. HQ AFPC/DPPD will remove from the TDRL and discharge without benefits TDRL members who have been found fit and fail to reply within the time limit to the notification of the fit finding. HQ AFPC/DPPD will also remove from the TDRL and discharge without benefits a TDRL member who is found fit, requests a FPEB hearing, and fails to report to the FPEB.

7.25. Retention on TDRL. When the IPEB recommends retention on TDRL, HQ AFPC/DPPD furnishes the member a copy of AF Form 356, copy of TDRL report of exam, and a memorandum advising there is no change in member's status or Air Force retired pay as long as the member's name remains on the TDRL regardless of whether or not there is a change in percentage rating. HQ AFPC/DPPD's memorandum of notification includes an approximate date for the next examination and tells the member that instructions, and a firm date, and designated place of examination will be sent approximately 20-30 days before the examination date.

7.26. Enlistment, Reappointment, or Retirement (TERA) After Removal from TDRL as Fit. Upon recommendation of the IPEB be removed from the TDRL as fit:

7.26.1. Enlistment or Reappointment Grade. The appropriate promotions office determines the grade of enlistment or reappointment and advises HQ AFPC/DPPD.

7.26.2. Enlistment. HQ AFPC/DPPDS tells members what date they will remove them from the TDRL and that members will have 60 calendar days from the date removed during which they may enlist without a physical examination. HQ AFPC/DPPDS provides instructions for the member to present to the MPF when reporting for enlistment. After the 60-day period, former TDRL members follow the same enlistment rules that apply to any other civilian.

7.26.3. Retirement (TERA). Members who meet basic eligibility requirements for the TERA will be referred to HQ AFPC/DPPR to apply.

7.26.4. Reappointment of Certain ARC Officers. HQ ARPC/DPRB, reappoints ARC officers being assigned to a Reserve component (not retiring and not returning to AD).

7.27. Service Retirement of Members Being Removed from TDRL. Members who are fit, or who are unfit because of a condition incurred or aggravated while on TDRL after having recovered from the condition for which placed on the TDRL, may apply for service retirement if eligible under AFI 36-3203. HQ AFPC/DPPDS provides the appropriate application forms, and HQ AFPC/DPPR issues orders effecting removal from TDRL on the last day of the month and service retirement on the first day of the following month so there is no loss of pay.

Chapter 8

EVALUATION OF AIR RESERVE COMPONENT (ARC) MEMBERS

Section 8A—General Guidelines

8.1. Purpose. This chapter provides the guidelines for processing through the disability system certain ARC members who meet eligibility requirements in paragraph **8.2** Paragraph **8.3** gives an ineligibility guideline. The Air Force disability system will evaluate ARC members who meet the basic requirements for disability benefits under 10 U.S.C., chapter 61. Further, Ready Reserve members who are pending separation for a non-duty related impairment and Reserve members who are not on a call to active duty of more than 30 days and who are medically disqualified for impairments unrelated to the member's military status and performance of duty shall be afforded the opportunity to enter the disability system for a determination of fitness only but shall not be afforded disability benefits (see section E).

8.2. Eligibility for Disability Processing. The following ARC members who have impairments which were incurred or aggravated in the line of duty are eligible for disability processing:

8.2.1. On active duty for 31 days or more while the member was entitled to basic pay.

8.2.2. After 23 Sep 96, on active duty for 31 days or more but not entitled to basic pay under 37 U.S.C. 502(B) due to authorized absence to participate in an educational program, or for an emergency purpose, as determined by the SAF or designated representative.

8.2.3. On active duty for 30 days or less or on call to Inactive Duty Training (IDT).

8.2.3.1. While traveling directly to or from the place at which such duty is performed; and/or

8.2.3.2. After September 23, l996, any injury, illness, or disease incurred or aggravated while remaining overnight, between successive periods of IDT, at or in the vicinity of the site of the inactive duty training, if the site is outside reasonable commuting distance of the member's residence.

8.2.3.3. Additionally, members of the Ready Reserve with nonduty-related impairments pending separation for failure to meet physical standards. (See eligibility criteria in **Section 8E**).

8.3. Ineligibility for Disability Processing. ARC members are ineligible for disability processing if the member is pending an approved, unsuspended, punitive discharge or dismissal.

8.4. Misconduct. In order for ARC members to be *compensated* for disabilities incurred while in active duty or inactive duty status, the PEB must find that the unfitting condition was not the result of intentional misconduct or willful neglect and was not incurred during a period of unauthorized absence.

8.5. Entitlement to Medical Care and Evaluation. AFI 41-115, *Authorized Health Care and Health Care Benefits in the Military Health Services Systems (MHSS)* outlines an ARC member's possible entitlement to medical care when not on active duty, including hospitalization for evaluation of physical defects or conditions incurred as a result of performing authorized military duty. If there is any question as to a member's entitlement to medical care and evaluation, the medical facility takes action to verify such entitlement.

8.6. Duty and Pay Status:

8.6.1. An ARC member who incurs a disability while performing AD on orders for 30 days or less is not ordered or continued on AD past the date specified solely for processing under this instruction. However, the member is eligible to receive medical care and evaluation. Members with disabilities incurred or aggravated after 29 September 1988 may also be entitled to pay and allowances; however, the amount received is reduced by the full amount of civilian income received during the disability period. Limit payment to a maximum of 6 months unless SAF extends the period after determining it is in the interest of fairness and equity to do so (37 U.S.C. 204(g) and [h]).

8.6.2. ARC members who incur or aggravate an injury, illness or disease in the line of duty while on orders for more than 30 days are not involuntarily released from those orders until final disposition of their disability case. These members' entitlement to full pay and allowances and benefits continue to the same extent provided by law or regulation to regular component members.

8.7. Movement of Member. The PEBLO or medical facility commander advises the member's unit commander or MPF of the disposition or movement to another medical facility or to travel to meet a FPEB. When such movement is necessary, the medical facility issues appropriate orders to authorize the movement.

Section 8B—Administrative Processing

8.8. Records for PEB. When referring an ARC/Ready Reserve member's case to the PEB, the PEBLO at the referring facility obtains all prior medical and related records for use by the PEB following these procedures:

8.8.1. Modify the text of the request for prior medical records as follows: "PEB pending for (grade, name, SSN). Request all medical and clinical records (include places and date of hospitalization and register number, if known). Member claims prior service in (Branch of Service or (state)) National Guard from _____ to _____ under service numbers _____."

8.8.2. Send the request to the custodian of the MPerGp as specified in AFI 36-2608, *Military Personnel Records Systems.*

8.8.3. Send an information copy of the request to the Records Management Division (HQ AFPC/ DPSR), for IMA's send a copy to HQ AFPC/DRSP.

8.8.4. If the member had military service other than Air Force, send a copy to the National Personnel Records Center, Air Force Reference Branch (NPRC/NRPMF-C).

8.9. Case Records for the PEB. Assemble as outlined in AFI 48-123. If the PEBLO can not locate all the needed documents, the PEBLO includes a statement to that effect for the case file. Send cases to the PEB through the SG and DP offices of the appropriate headquarters—ANG (ANG members), HQ AFRC (unit members), or HQ ARPC (individual mobilization augmentees). Cases on Reserve component personnel on EAD or undergoing initial active duty for training do not require headquarters review.

8.10. Case Processing. Upon determining a member to be eligible for disability evaluation, process the case according to **Chapter 3**, **Chapter 4**, and **Chapter 5**. **Section 8C** of this chapter

outlines special processing rules. HQ AFPC/DPPD may grant other exceptions to normal processing when such action is in the best interest of the member and the Air Force.

8.11. Other Administrative Actions. Do not retire or discharge a member whose case is undergoing disability evaluation until completion of the disability case. Do not administratively discharge under AFI 36-3209, *Separation Procedures for Air National Guard and Air Force Reserve Member,* members retired or discharged for disability under this instruction.

8.12. Movement of Member to FPEB. If HQ AFPC/DPPD schedules an ARC member to meet a FPEB, the PEBLO or medical facility commander arranges for movement of the member and prepares orders placing member on TDY to 59 Med Wg (WHMC) to meet the formal PEB (See **Section 3C**, **Chapter 3**). **EXCEPTION:** Members of the ARC with a non-duty related medical condition are responsible for their personal travel and other expenses.

Section 8C—Special Case Processing

8.13. Waiver of PEB Action in EPTS Cases. A member whose physical qualification for military duty is questionable because of an EPTS condition, and whose case is being considered for PEB action under this chapter, may waive evaluation by a PEB subject to conditions outlined below. If the case does not meet all the criteria for waiver or if the member requests evaluation by a PEB, the appropriate headquarters or medical facility will refer the case to the PEB. Also refer a case to the PEB when the member fails or refuses to sign a waiver. Cases must meet the following conditions:

8.13.1. Member's qualification to perform duties of his or her office, grade, or rank is questionable, as determined by medical board action.

8.13.2. The disqualifying defect or condition existed before entry on current period of duty and such duty has not aggravated the defect or condition.

8.13.3. Knowing about his or her medical condition would not be harmful to the member's well being.

8.13.4. The member does not require further hospitalization or institutional care.

8.13.5. After being advised of the right to a full and fair hearing, member still desires to waive PEB action.

8.13.6. Member knows he or she must undergo PEB evaluation to receive Air Force disability benefits, if applicable, but waiving PEB evaluation will not prevent applying for VA benefits.

8.13.7. Member knows that he or she will go home under applicable USAFR or ANG directives to await the final outcome of the case.

8.13.8. Member knows final action on the case may result in discharge, and that he or she may not withdraw PEB waiver action under this chapter.

8.14. Waiver Processing. Prepare the waiver statement in three copies using the format at **Attachment 5**. The commander of the medical facility processing the case, or a designated representative, distributes the original and two copies of the waiver statement as follows:

8.14.1. Original. Send with the original AF Form 618, narrative summary, and memorandum of notification to the appropriate addressee as follows:

8.14.1.1. USAFR Members: HQ ARPC/DPA for Individual Mobilization Augmentees (IMA); or HQ AFRC/DPM for unit members.

8.14.1.2. ANG Members: ANG/MPPSS.

8.14.2. First Copy. Send with a legible copy of AF Form 618 and narrative summary to the member's unit commander or MPF for file with the health records in the Field Records Group. For IMAs, send to HQ ARPC/DRSP.

8.14.3. Second Copy. Give to member.

8.14.4. Completing the Memorandum of Notification to ARC Headquarters.

8.14.4.1. Wording: "(Grade, name) is not considered to be physically qualified for military duty and has waived further evaluation by a Physical Evaluation Board (PEB). Attached are the Medical Board Report and medical summary, with the member's statement waiving PEB action, for disposition of the member under applicable directives. The member will go home to await your final action."

8.14.4.2. If the member is on AD undergoing training, the medical facility commander may send the Medical Board Report and waiver statement to the servicing MPF where the member is training. The MPF completes the discharge processing and advises the USAFR or ANG of final action.

8.15. Disposition of Ineligible Member. An ineligible member is one not physically qualified for military service but who does not qualify for PEB evaluation under this instruction. The medical facility commander or designated representative must advise member that he or she is not eligible for processing under this instruction; cannot stay in a duty status; and will be returned home to await discharge under applicable USAFR or ANG directives.

8.15.1. After completing inpatient or outpatient medical treatment or medical processing, the medical facility commander sends the member home to await discharge. The MTF commander sends a memorandum of notification to the ARC headquarters with a copy to the member and to the unit commander (or MPF) that includes a detailed medical summary describing the member's disqualifying defects. Send notifications to the following offices: For USAFR Category A unit members, HQ AFRC/SGP; for IMAs, HQ ARPC/DPA; for ANG members, ANG/MPPSS.

8.15.2. The medical facility commander prepares the notification memorandum in three copies with the following wording: ("Grade, name) is not considered to be physically qualified for military duty, and is not eligible for processing by a PEB. The attached medical summary reflects the member's current physical status. Please take immediate action to ensure proper disposition of the member under applicable directives. The member is being returned home to await final disposition."

Section 8D—Final Disposition

8.16. Disposition of Eligible Member.

8.16.1. Return to Duty by a Medical Board. If an MEB finds an ARC member physically qualified for military service and returns the member to duty, the medical facility commander returns the member to the unit of assignment or, if the period of duty has expired, sends the member home. Send a copy of AF Form 618 to the unit commander or MPF for file with the health records in the member's Field Records Group. ***NOTE:*** For unit-assigned Reservists, HQ

AFRC/SGP and ANG/SGP will provide disposition instructions to the member's medical unit and distribute the final board report to the appropriate Reserve agencies.

8.16.2. Disposition After PEB Evaluation. After the member has either agreed with the PEB or submitted a rebuttal, the referring medical facility commander takes one of the following actions:

8.16.2.1. Physically Fit. Returns the member to the unit of assignment or, if the period of service has expired, sends the member home.

8.16.2.2. Physically Unfit. If the member does not require further hospitalization, return the member home to await final disposition action. If the member requires hospitalization after retirement or discharge, the referring medical facility commander takes action as outlined in AFIs 48-123 and 41-115.

8.17. Final AFPC Processing After PEB Evaluation. After final disposition, HQ AFPC/DPPD advises the ARC headquarters, prepares retirement orders or discharge information, and mails the case file to the ARC headquarters, as applicable. The ARC addressee completes retirement or discharge processing, including removal from status, if applicable, and issues appropriate instructions to the MPF.

8.17.1. HQ AFPC/DPPD may contact the member's MPF directly if necessary to ensure timely action on any retirement or discharge. When the final disposition is discharge without severance pay, HQ AFPC/DPPD may direct the MPF to discharge the member and notify the USAFR or ANG of the completed action. Offices are:

8.17.1.1. HQ ARPC/DPA for USAFR member not assigned to a specific Reserve unit.

8.17.1.2. AFRC/DPM for USAFR member assigned to a Reserve unit.

8.17.1.3. ANG/MPPSS for ANG member.

8.18. Inactive Status List (ISL) Transfers. Per 10 USC 1209, ARC members approved for disability discharge under 10 U.S.C. 1203 or 1206 and who have 20 or more years of satisfactory federal service computed under 10 U.S.C. 12732 may elect either disability discharge with severance pay, or transfer to ISL with retirement at age 60 under 10 U.S.C. 12732. Per 10 USC 12731D, Selected Reserve members who have 15, but less than 20 years satisfactory service, the last 6 years of which was Reserve duty, may apply for early qualification for retired pay at age 60.

Section 8E—ARC Non-Duty Related Impairments

8.19. Eligibility.

8.19.1. Any member of the Ready Reserve who is pending separation for a non-duty related impairment shall be afforded the opportunity to enter the DES for a determination of fitness. If determined fit, the member is deemed medically qualified for retention in the Ready Reserve in the same specialty for which he or she was found fit.

8.19.2. Members of the Reserve components who are not on a call to active duty for more than 30 days and who are medically disqualified for impairments unrelated to the member's military status and performance of duty shall be referred into the DES solely for a fitness determination upon the request of the member or when directed by the Secretary concerned.

8.20. Standard. The sole standard to be used in making determination of unfitness due to physical disability shall be unfitness to perform the duties of the member's office, grade, rank or rating because of disease or injury.

8.21. Case Processing.

8.21.1. Requests for fitness only determinations will be forwarded to HQ AFPC/DPPD by the appropriate ARC headquarters (ANG, AFRC, or ARPC) and will contain the following documentation:

8.21.1.1. Administrative separation package or medical documentation used by the ARC headquarters to arrive at an unfitness determination.

8.21.1.2. Statement from member requesting referral into the DES for a fitness determination.

8.21.1.3. Statement from member's commander (refer to paragraph **2.4**).

8.21.1.4. ARC headquarters SG's and DP's recommendations.

8.21.1.5. A statement from the member, if he or she so desires.

8.21.2. Cases unable to be adjudicated. When the PEB needs additional information to make a fitness determination, HQ AFPC/DPPD will notify the ARC headquarters of the requirement.

8.21.3. Documenting Findings.

8.21.3.1. Unfit determinations will be documented on a memorandum signed by the PEB President.

8.21.3.2. Fit determinations will be documented on a memorandum signed by the PEB President and approved by the Director, Secretary of the Air Force Personnel Council, or his designated representative.

8.21.4. Fit determination

8.21.4.1. Case will be returned to the appropriate ARC headquarters.

8.21.4.2. Member will be counseled and returned to duty.

8.21.5. Unfitness recommendation

8.21.5.1. Finding will be sent to the appropriate ARC headquarters; they will provide HQ AFPC/ DPPD with member's concurrence or nonconcurrence within 30 days from member’s receipt of recommendation.

8.21.5.2. Member will be counseled, and advised that if a FPEB is demanded, personal travel and other expenses will be their own responsibility.

8.21.6. If member agrees with IPEB unfitness determination:

8.21.6.1. ARC headquarters will finalize separation case through appropriate administrative channels and notify HQ AFPC/DPPD.

8.21.7. If member disagrees with IPEB unfitness determination and requests a formal board hearing.

8.21.7.1. ARC headquarters will advise HQ AFPC/DPPD and HQ AFPC/DPPD will schedule a FPEB hearing in approximately 30 days.

8.21.8. Member appears before the FPEB

8.21.9. If member agrees with the FPEB

8.21.9.1. Case will be finalized.

8.21.10. If member disagrees with the FPEB recommendation

8.21.10.1. HQ AFPC/DPPD will notify ARC Headquarters.

8.21.10.2. Member will be allowed 14 calendar days from date of receipt of FPEB recommendation to submit a rebuttal.

8.21.10.3. Rebuttal along with unfitness case will be forwarded to SAFPC for a final determination.

8.21.11. HQ AFPC/DPPD will advise ARC headquarters of the final determination.

8.21.12. Case will be returned to ARC headquarters for disposition and counseling.

8.22. Information Collections, Records, and Forms/Information Management Tools (IMTs).

8.22.1. Information Collections. Information collections are not created by this publication.

8.22.2. Records. Retain and dispose of records according to the AF Records Disposition Schedule.

8.22.3. Forms/IMTs Prescribed.

8.22.3.1. Forms/IMTs Adopted. No forms/IMTs are adopted by this publication.

8.22.3.2. Forms/IMTs Prescribed. AF Form 356, **Findings and Recommended Disposition of the USAF Physical Evaluation Board**, AF IMT 1180, **Action on Physical Evaluation Board Findings and Recommended Disposition,** and AF IMT 1185, **Statement of Record Data**.

RICHARD Y. NEWTON III, Lt General, USAF
Deputy, Chief of Staff, Manpower, Personnel and Services

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

Title 10, United States Code, *Armed Forces*

DoD Directive 1332.18, *Separation or Retirement for Physical Disability, November 4, 1966*

DoD Instruction 1332.38, *Physical Disability Evaluation, November 14, l996*

DoD Instruction 1332.39, *Application of the Veterans Administration Schedule for Rating Disabilities November 14 1996*

F035 AF PC, *Military Personnel Records System*

Executive Order (EO) 9397

Title 37, United States Code, *Pay and Allowances of the Uniformed Services*

CG Decision B-205953, 18 Jun 82

Title 38, U.S.C., *Veterans Benefits Administration*

Joint Federal Travel Regulation (JFTR)

Title 26, United States Code, *Internal Revenue Service*

Title 32, United States Code, *National Guard*

Uniform Code of Military Justice (UCMJ)

Abbreviations and Acronyms

AD—Active Duty

AFBCMR—Air Force Board for Correction of Military Records

AFMTC—Air Force Military Training Center

AFPB—Air Force Personnel Board

AGR—Active Guard and Reserve Member on Full Time Military Duty Under Title 10, 32 U.S.C.

ALC—Assignment Limitation Code

ANG—Air National Guard

ANG—Air National Guard Readiness Center

ARC—Air Reserve Components

ASD/HA—Assistant Secretary of Defense (Health Affairs)

AWOL—Absent Without Leave

CAR—Casualty Assistance Representative

CHAMPUS—Civilian Health and Medical Program for Uniformed Services

CM—Court-Martial

CONUS—Continental United States

DAFSO—Department of the Air Force Special Order

DES—Disability Evaluation System

DFAS CL—Defense Finance and Accounting Service - Cleveland Center

DJMS—Defense Joint Military Pay System

DoD—Department of Defense

EAD—Extended Active Duty

EO—Executive Order

EPTS—Existed Prior to Service

FPEB—Formal Physical Evaluation Board

HIV—Human Immuno-deficiency Virus

HQ ARPC—Headquarters Air Reserve Personnel Center

HQ USAF—Headquarters US Air Force

IDT—Inactive Duty for Training

IMA—Individual Mobilization Augmentee

IPEB—Informal Physical Evaluation Board

ISL—Inactive Status List

JFTR—Joint Federal Travel Regulations

LAS—Limited Assignment Status

LOD—Line of Duty

MCM—Manual of Courts Martial

MEB—Medical Evaluation Board

MIA—Missing In Action

MPAC—Military Pay and Allowance Committee

MPF—Military Personnel Flight

MPerGp—Master Personnel Records Group

MTF—Medical Treatment Facility

NOK—Next of Kin

NPRC—National Personnel Records Center

OASD—Office of the Assistant Secretary of Defense

OSAF—Office of the Secretary of the Air Force

OSI—Office of Special Investigation

PCA—Permanent Change of Assignment

PCS—Permanent Change of Station

PDAB—Physical Disability Appeals Board

PDS—Personnel Data System

PEB—Physical Evaluation Board

PEBLO—Physical Evaluation Board Liaison Officer

PEBRH—Physical Evaluation Board Referral Hospital

POW—Prisoner of War

RegAF—Regular Air Force

RPB—Retired Pay Base

RPDS—Retired Personnel Data System

RRF—Revised Recommended

SAFPC—Secretary of the Air Force Personnel Council

SBP—Survivor Benefit Plan

SGLI—Servicemen's Group Life Insurance

SJA—Staff Judge Advocate

SSN—Social Security Number

TAFMS—Total Active Federal Military Service

TDRL—Temporary Disability Retired List

TDD—Special Orders Series for TDRL travel orders

TDY—Temporary Duty

TERA—Temporary Early Retirement Authority

TFMSD—Total Federal Military Service Date

TMO—Traffic Management Office

UCMJ—Uniform Code of Military Justice

USAF—United States Air Force

USAFR—United States Air Force Reserve

U.S.C.—United States Code

VA—Veterans Administration

VASRD—Veterans Administration Schedule for Rating Disabilities

VGLI—Veterans Group Life Insurance

YOS—Years of Service

Terms

Accepted Medical Principles— Fundamental deductions, consistent with medical facts, that are so reasonable and logical as to create a virtual certainty that they are correct.

Active Duty— Full-time duty in the active military service of the United States. It includes:

-- Full-time National Guard Duty (on orders).
-- Annual training.
-- Attendance while in active Military Service at a school designated as a Service school by law or by the Secretary of the Military Department concerned.
-- Service by a member of a Reserve component ordered to active duty (with or without his or her consent), or active duty for training (with his or her consent), with or without pay under competent orders.

Active Duty for a Period of More than 30 days— Active duty or full-time National Guard Duty under a call or order that does not specify a period of 30 days or less.

Active Reserve Status— Status of all Reserves who are not on an active-duty list maintained under Section 574 or 620 of 10 U.S.C., except those in the inactive National Guard, on an inactive status list or in the Retired Reserve. Reservists in an active status may train with or without pay, earn retirement points, and may earn credit for and be considered for promotion. In accordance with the Reserve Officer Personnel Management Act (ROPMA), a member in an Active Reserve status must be on the Reserve Active-Status List (RASL)(10 U.S.C. 14002).

Air National Guard of the United States—A reserve component of the USAF consisting of all federally recognized units, organizations, and members of the ANG of the several states, the District of Columbia, and Commonwealth of Puerto Rico, who, in addition to their status as ANGUS members, are Reserves of the Air Force in the same grades in which enlisted or appointed and federally recognized. Membership in the ANGUS is acquired by the enlistment or appointment in the federally recognized ANG of a state and concurrent enlistment or appointment as a Reserve of the Air Force in the same grade.

Air Reserve Components—Includes all categories of the Air Force Reserve and ANG.

Appointed Military Counsel—The legal officer or judge advocate appointed to represent a member before the FPEB.

Armed Conflict—Conflict between nations or other contestants entailing the physical destruction of, or injury to, one another's armed forces. Armed conflict exists if the direct use of physical force endangers the lives or safety of members of the armed services of a nation, belligerent power, coalition, or faction. Armed conflict includes war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerrilla action, riot, or any other action in which Air Force military personnel engage a hostile or belligerent nation, faction, or force. It also includes incidents involving a member while interned as a POW or while detained against his or her will in custody of a hostile or belligerent force or while escaping or attempting to escape from such confinement, POW or detained status.

Compensable Disability—A medical condition determined to be unfitting by reason of physical disability and which meets the statutory criteria under 10 U.S.C, chapter 61, for entitlement to disability retired or severance pay.

Competent, Competency—The member's mental ability to act in his or her own behalf during disability evaluation processing.

Competency Board—A board consisting of at least three medical officers or physicians (including one psychiatrist) convened to determined whether a member is competent (capable of making a rational decision regarding his or her personal or financial affairs).

Component—As used in this instruction, refers to whether the member is a member of the Regular Air Force (Reg Air Force) or a Reserve component member. The Reserve components are the Air National Guard of the US (ANGUS) and AF Reserve (USAFR).

Counsel—The person designated to give advice to a member. Includes the appointed military counsel, other military counsel, or civilian counsel. Also pertains to advice or information given by legal counsel, PEB Liaison Officer, and others in the disability evaluation system, MPF, TMO, accounting and finance office, etc.

Creditable Service—Military service that can be used in determining the disposition of a case, entitlement to benefits, etc.

Death—A determination of death must be made in accordance with accepted medical standards and the laws of the State where the member is located or the military medical standards in effect at an overseas location.

Defect, Defects—Missing or damaged (injured or diseased) parts of a member's body.

Deployability—A determination that the member is free of a medical condition(s) that prevents positioning the member individually or as part of a unit, with or without prior notification to a location outside the Continental United States for an unspecified period of time.

Disability—Any impairment due to disease or injury, regardless of degree, which reduces or precludes an individual's actual or presumed ability to engage in gainful or normal activity. The term "physical disability" includes mental disease, but not such inherent defects as behavioral disorders, personality disorders, and primary mental deficiency. A physical disability is not necessarily unfitting and may be referred to as a physical defect or condition.

Disposition—The end result of board action or the final action taken in a case.

Dual Action—The case of a member who, in addition to the disability evaluation, also has some other nondisability separation action pending resolution along with the disability action.

Duty Related Impairments—Impairments which, in the case of a member on active duty for 30 days or less, are the proximate result of, or were incurred in line of duty after September 23, l996, as a result of:

-- Performing active duty or inactive duty training;
-- Traveling directly to or from the place at which such duty is performed; or
-- An injury, illness, or disease incurred or aggravated while remaining overnight,
between successive periods for purpose of IDT, at or in the vicinity of the site of the IDT, if the site is outside reasonable commuting distance of the member's residence.

Excess Leave—Leave during which the member does not receive pay and allowances. The member does not accrue leave while on excess leave status.

Exhibit, Exhibits—Documents presented to a PEB as evidence in a disability evaluation case.

Existed Prior to Service (EPTS)—A term used to signify there is clear and unmistakable evidence that the disease or injury, or the underlying condition producing the disease or injury, existed prior to the individual's entry into military service, during a break in service, or during a period of inactive service.

Extended Active Duty (EAD)—Active duty under orders specifying a period of more than 30 days.

Fit—The ability of a member to perform the duties at his or her office, grade, or rank. It is the same as physically fit.

Formal, Formal Hearing—Refers to the type of proceedings before the FPEB at Lackland AFB TX. The member has a legal counsel and may present evidence and appear in person

Full and Fair Hearing—A hearing held by a board, before which the Service member has the right to make a personal appearance with the assistance of counsel and to present evidence in his or her behalf.

Impairment of function—Any disease or residual of an injury that results in a lessening or weakening of the capacity of the body or its parts to perform normally, according to accepted medical principles.

Inactive Duty Training (IDT)—Duty prescribed for Reservists, other than active duty or full-time National Guard Duty, under 37 U.S.C. 206, or other provisions of law. It does not include work or study in connection with a correspondence course of a Uniformed Service.

Incompetent—The state of a member who is mentally unable to act in his or her own behalf in matters pertaining to pay, records, and disability processing.

Inpatient—An individual, other than a transient patient, admitted (placed under treatment or observation) to a bed in a MTF that has authorized or designated beds for inpatient medical or dental care.

Instrumentality of War—A vehicle, vessel, or device designed primarily for Military Service and intended for use in such Service at the time of the occurrence of the injury. It may also be a vehicle, vessel, or device not designed primarily for Military Service if use of or occurrence involving such a vehicle, vessel, or device subjects the individual to a hazard peculiar to Military Service. This use or occurrence differs from the use or occurrence under similar circumstances in civilian pursuits. There must be a direct causal relationship between the use of the instrumentality of war and the disability, and the disability must be incurred incident to a hazard or risk of the service.

Limited Assignment Status (LAS)—Permits an unfit member to be voluntarily retained on AD and ARC to perform specific duty with certain limits on his or her assignability.

Line of Duty (LOD) Investigation—An inquiry used to determine whether an injury or disease of a member performing military duty was incurred in a duty status; if not in a duty status, whether it was aggravated by military duty; and whether incurrence or aggravation was due to the member's intentional misconduct or willful negligence.

May Be Permanent—Refers to a disability that has not stabilized and is such that the PEB cannot accurately assess the ultimate extent of impairment.

Medical Treatment Facility (MTF)—A facility established for the purpose of furnishing medical or dental care to eligible individuals.

Natural Progression—The worsening of a pre-Service impairment that would have occurred within the same timeframe regardless of Military Service.

Next of Kin (NOK)—The nearest relative to the member who may act for the member who is physically or mentally unable to act for himself or herself.

Noncompensable Defects or Conditions—Those that resulted from a member's intentional misconduct or willful neglect and those incurred during a period of AWOL are noncompensable. Also included are EPTS conditions not aggravated by service, non-duty related conditions of an ARC member, and conditions incurred while in excess leave status.

Nonratable, Unratable, Not Ratable.—A physical defect or condition that does not qualify for a percentage rating under the VASRD because it does not, in itself, cause the member to be unfit for military service or because the condition is one that renders a member as unsuitable, rather than unfit, for military service.

Office, Grade, or Rank or Rating—*Office* - A position of duty, trust, authority to which an individual is appointed; *Grade* - A step or degree in a graduated scale of office or military rank that is established and designated as a grade by law or regulation; *Rank* - The order of precedence among members of the Armed Forces; *Rating* - The name (such as Boatswain's Mate") prescribed for members of an Armed Force in an occupational field.

Performing Military Duty of 30 Days or Less—A term used to inclusively cover the categories of duty pertaining to 10 U.S.C. 1204 - 1206 (active duty, IDT, and travel directly to and from active duty or IDT).

Permanent Disability—A disability that has stabilized, and the compensable rating is not likely to change for a reasonable period of time (usually the statutory TDRL period or the remainder of that period, for those already on TDRL), or the disability rating is 80 percent or more and is not likely to fall below that rating within a reasonable period of time.

Personnel Data System—A collective term encompassing the total vertical computerized personnel data system. It is used when not referencing a specific subsystem. The system provide the capability for equitable, responsive, uniformly administered and cost effective management and administration of AD military, ANG, AFRC, retired, and civilian personnel.

Physical Disability—Any impairment due to disease or injury, regardless of degree, that reduces or prevents an individual's actual or presumed ability to engage in gainful employment or normal activity. The term "physical disability" includes mental disease, but not such inherent defects as behavioral disorders, adjustment disorders, personality disorders, and primary mental deficiencies. A medical impairment or physical defect standing alone does not constitute a physical disability. To constitute a physical disability, the medical impairment or physical defect must be of such a nature and degree of severity as to interfere with the member's ability to adequately perform his or her duties.

Pre—existing-Refers to the fact that some physical defect or condition (including disease) had its source, or start, before the member entered the military service (see EPTS).

Preponderance of Evidence—That evidence which tends to prove one side of a disputed fact by outweighing the evidence on the other side (that is, more than 50 percent). Preponderance does not necessarily mean a greater number of witnesses or a greater mass of evidence; rather, preponderance means a superiority of evidence on one side or the other of a disputed fact. It is a term that refers to the quality, rather than the quantity of the evidence.

Presumption—An inference of the truth of a proposition or fact, reached through a process of reasoning and based on the existence of other facts. Matters presumed need no proof to support them, but may be rebutted by evidence to the contrary.

Presumption of Fitness—The presumption that a service member was in sound physical and mental condition upon entering active service, except for medical impairments and physical disabilities noted and recorded at the time of entrance.

Proximate Result—A permanent disability the result of arising from, or connected with active duty, annual training, active duty for training, or inactive duty training (IDT), (etc.) to include travel to and from such duty or remaining overnight between successive periods of inactive duty training. (Only applicable to disabilaities incurred on or before 23 September l996.

Rating, Ratable, Ratings—The disability percentage classification applied to a physical defect or condition that renders a member unfit for military service.

Ready Reserve—Units and individual reservists liable for active duty as outlined in Sections 12301 (Full Mobilization) and 12302 (Partial Mobilization) of 10 U.S.C. This includes members of units, members of the Active Guard Reserve Program, Individual Mobilization Augmentees, Individual Ready Reserve, and the Inactive National Guard.

Recoup, Recoupment—Usually used in reference to the legal requirement of a member to pay back disability severance pay if he or she later qualifies for disability compensation from the VA.

Residual, Residuals—Usually used in reference to the remaining physical or mental defect or impairment that remains after a disease or injury has stabilized.

Service Aggravation—The permanent worsening of a pre-service medical condition over and above the natural progression of the condition caused by trauma or the nature of Military Service.

Service Connected—A VA term applied to physical or mental defect or condition incurred or aggravated in the line of duty while performing active military service.

Severance Pay—A one-time lump sum payment to members whose military service ends prematurely due to a physical or mental disability incurred in line of duty.

Stable, Stabilized—Fixed, not likely to change; usually used in reference to a physical or mental defect or condition that is not likely to change significantly in degree of severity over a specified period of time.

Unfit—The inability of the member to perform duties of his or her office, grade or rank as a result of physical or mental disability.

United States AF Reserve (USAFR)—All reserves of the Air Force except those units, organizations, and members assigned to the ANGUS.

Veterans Administrations Schedule for Rating Disabilities, VA Schedule, or VASRD—The schedule that the Air Force uses as a guide in determining the disability percentage for each condition.

Workup—Used in reference to the completion of medical tests, examination, or consultation required in the disability evaluation process.

Addresses

Secretary of the Air Force Personnel Council (SAFPC)
1535 Command Dr EE-Wing, Room 307
Andrews AFB MD 20331-7002

ANG/MPPSS
3500 Fetchet Avenue
Andrews AFB MD 20762-5157

DFAS-CL
PO Box 99191
Cleveland OH 44199-1126

12 CCPS/FMFT
29 Main Circle Ste 1
Randolph AFB TX 78150-5260

HQ AFPC/DPPD
550 C Street West Ste 6
Randolph AFB TX 78150-4708

HQ AFPC/DPSR
550 C Street West Ste 21
Randolph AFB TX 78150-4723

HQ AFPC/DPAMM
550 C Street West Ste 26
Randolph AFB TX 78150-4728

HQ AFRC/DPM
155 Second Street
Robins AFB GA 31098-1635

HQ AFPC/DPPDF
2320 Carswell Ave Ste 3
Lackland AFB TX 78236-5607

59 Medical Wing (WHMC)
2200 Bergquist Ste 1
Lackland AFB TX 78236-5300

HQ AFRC/SGP
155 Second Street
Robins AFB GA 31098-1635

HQ ARPC/DPA
6760 E. Irvington Place #1500
Denver CO 80280-1500

HQ ARPC/DSMRH
6760 E. Irvington Place #4600
Denver CO 80280-4600

HQ USAF/SG
170 Luke Ave Ste 400
Bolling AFB DC 20332-5113

NPRC/NRPMF-C
9700 Page Blvd
St Louis MO 63132-5100

Attachment 2

COUNSELING THE EVALUEE

A2.1. Purpose for Counseling. To ensure all members undergoing disability evaluation fully understand the process, the PEBLO counsels them on at least two occasions: when the case enters the disability evaluation system at the referring facility, and again when the PEB completes its action. PEBLOs will not speculate about the possible case disposition or percentage of disability in counseling evaluees. When members request a formal hearing, the PEBLO counsels them at the referring facility, then the appointed military counsel counsels them before and after the hearing. Counseling varies, depending on the circumstances in each case. Information in this attachment, as well as other parts of this instruction, will answer most questions. In addition, HQ AFPC/DPPD prepares and distributes a "Disability Counseling Guide for PEB Liaison Officers" to assist in counseling. However, the PEBLO or PEB counsel should contact HQ AFPC/DPPD if they need help.

A2.2. Counseling Materials. The PEBLO and the PEB counsel must have ready access to copies of this instruction, AFPD 36-32, DoD Directive l332.l8, DoDI 1332.39 (Application of the Veterans Administration for Rating Disabilities), as well as copies of AFI 48-123, and the VASRD. Make these directives available to the member while the case is being processed. Prior to acting on a Service member's request for a formal PEB, review with the member the applicable standard detailed in the VASRD or DoD Instruction 1332.39. If member requests a FPEB hearing, encourage them to submit a rebuttal to the PEB. The PEBLO and the PEB counsel have access to other Air Force directives, the Joint Federal Travel Regulation (JFTR), the Manual for Courts Martial (MCM) and any other materials that would be helpful in counseling the member.

A2.3. Information on Percentage Ratings. Refer to specific parts of the VASRD and DoD Directive 1332.39 for an explanation of the percentage rating for each defect or condition listed on the AF Form 356.

A2.4. Effect of Disposition. Explain the effect the recommended disposition may have on the member's military status. If the recommended disposition is permanent disability retirement or placement on the TDRL, outline the benefits and privileges that go with retired status. If TDRL, explain the legal requirement for periodic examinations as well as the possibility of final disposition any time within the mandatory retention period on the TDRL. If the recommended disposition is discharge, explain to the member that he or she will lose entitlement to Air Force benefits upon termination of military status.

A2.5. Grade Determination. Generally, members retiring or separating for disability do so in the grade in which they are serving on active duty. Members may be eligible to retire or separate in a higher grade if they served satisfactorily in a higher grade, or are Regular Air Force enlisted members or Reserve component officers holding a valid appointment in a higher ARC (USAF Reserve) commissioned grade. The OSAF makes the grade determination, and HQ AFPC/DPPD announces the decision in retirement orders or discharge notification message. length of creditable service according to 10 U.S.C. 1208. AF Form 356, item 7, shows the length of

service at the time the PEB considers the case. To be eligible for retirement for physical disability, the member must have at least 20 years of service creditable for retirement or a disability rating of 30 percent or more. A member whose compensable disability rating is less than 30 percent and who has less than 20 years of creditable service will be entitled to discharge with severance pay.

A2.6. Length of Service. One factor in determining entitlement to disability benefits is the member's length of creditable service according to 10 U.S.C. 1208. AF Form 356, item 7, shows the length of service at the time the PEB considers the case. To be eligible for retirement for physical disability, the member must have at least 20 years of service creditable for retirement or a disability rating of 30 percent or more. A member whose compensable disability rating is less than 30 percent and who has less than 20 years of creditable service will be entitled to discharge with severance pay.

A2.7. SAFPC Review. Advise members that, after completion of PEB action, HQ AFPC/DPPD will refer the case to SAFPC for final review unless the Director, SAFPC, has authorized an AFPC official to finalize the case under special assistant authority. The counselor also explains that the Air Force Personnel Board within SAFPC may direct the final disposition in the case or may change the PEB's findings and recommended disposition. If the change is major, HQ AFPC/DPPD refers AFPB's revised recommended findings to the member for review and comment (**Section 5A**, **Chapter 5**). The PEBLO or PEB counsel advises the member of his or her legal rights, available options, and actions required.

A2.8. VA Benefits. Advise member of the right to apply to the VA for benefits. The counselor will stress that the Air Force and the VA operate under different laws, and the decision of one agency is not binding on the other. The PEBLO or PEB counsel advises members of the following pertinent items:

A2.8.1. VA Disability Compensation. Give the member an estimate of VA compensation if the VA were to rate the disability at the same percentage as the Air Force, but stress that this is only an estimate and not binding. Explain how the VA includes compensation for dependents when rating the disability at 30 percent or more and that the Air Force has no such legal authority (10 U.S.C., chapter 61, and 38 U.S.C. 314 and 315 (wartime) and 38 U.S.C. 331, 334, and 335 (peacetime)). Advise each member that the MPF will give him or her the opportunity to file a claim for VA benefits during final out-processing. If the member elects not to apply for VA benefits, he or she must sign a statement acknowledging the opportunity to apply. The member may exclude from gross income either the amount of retired pay attributed to combat-related injuries or the amount of disability compensation the member could receive from the VA, whichever is greater. This is regardless of whether the member applies to the VA for such disability compensation. The tax laws do not require the Air Force to make a determination as to the probable VA disability compensation. The PEBLO tells members about this provision of law and gives them a rough estimate of the probable VA compensation.

A2.8.2. Waiving Retired Pay for VA Compensation. Advise members they may waive all or part of retired pay to receive VA disability compensation. The part of the Air Force retired pay waived is equal to VA compensation received. If VA compensation equals or

exceeds Air Force retired pay, the member must waive all Air Force retired pay. The member may revoke the waiver at any time to reestablish Air Force retired pay. This action has no effect on the right to waive Air Force retired pay again at a later date, if such action is a financial benefit.

A2.8.3. Recouping Disability Severance Pay. The VA deducts the entire amount of Air Force disability severance pay from any VA compensation paid. At the discretion of the VA, the member may repay the entire amount in one lump sum, or the VA may withhold the monthly compensation until the total amount withheld equals the amount of the Air Force disability severance pay received.

A2.8.4. Other VA Benefits. Counsel member on other VA benefits, such as post service life insurance, educational benefits, medical care, or hospitalization, but emphasize that approval of such benefits is at the discretion of the VA.

A2.9. Travel and Transportation. Advise members being retired or discharged for disability of the travel and transportation entitlements in the JFTR, volume 1. Counseling should include the following pertinent facts.

A2.9.1. Home of Selection Move:

A2.9.1.1. Injured or Ill Provision of the JFTR. The travel and transportation entitlements provided under this provision provide some different entitlements (for example, overland shipment of a privately owned vehicle, 18,000 pounds weight allowance regardless of grade, etc.) than those provided for members retired for disability or discharged with severance pay. The provision applies only in cases of prolonged hospitalization or treatment as verified by a statement of the commanding officer at the receiving hospital. The member must exercise these entitlements before retiring or separating. Failure to do so will not serve as a basis for requesting an extension of the disability retirement or separation date.

A2.9.1.2. Retired. Members being retired for disability, regardless of years of service, may move dependents and household goods to a home of selection. Volume 1 of the JFTR shows the authorized weight allowances. Refer members to the local TMO for information and counseling on these entitlements. Advise them that failure to follow the instructions provided may result in liability for all or part of the cost of movements to a home of selection.

A2.9.1.3. Discharged With Disability Severance Pay. Members discharged from active duty with disability severance pay who have completed at least 8 years of continuous active duty with no single break of more than 90 days have the same entitlement as members retired for disability.

A2.9.2. Home of Record. Members being discharged from active duty, with or without disability severance pay, who do not qualify under paragraph **A2.9.1.3.** may move to home of record or place from which ordered to active duty.

A2.10. Legal Rights. The PEBLO advises member that he or she has the legal right to a full and fair hearing before being discharged or retired for physical disability. The counsel also advises the member that appearance before a formal PEB constitutes a full and fair hearing as envisioned by the law. Advise member that this legal right does not extend to members found fit and recommended for return to duty. ***EXCEPTION:*** TDRL members found fit and recommended for removal from TDRL.

A2.11. Pay Counseling. Upon receipt of findings and recommended disposition of the IPEB, the PEBLO advises the member concerning entitlement to disability retired pay or disability severance pay and gives the member the pay estimate provided by HQ AFPC/DPPDS. If the FPEB changes the recommended disposition or compensable rating, the FPEB counsel revises the pay estimate accordingly. The PEBLO also advises the NOK that DFAS-CL will not release an incompetent member's retired pay to the NOK without trustee or legal guardianship designation. The NOK obtains legal guardianship papers through the civilian courts at his or her own expense. Obtain trusteeship designation through DFAS-CL.

A2.12. Estimated Pay. Advise all members that the discharge or retired pay estimate serves only as information to consider in making the decision to agree or disagree with the PEB action. The MPF furnishes additional information at the time of actual retirement or discharge; however, the final authority for pay computations rests with DFAS-CL for retirements, or DFAS-DE or the local finance office for disability severance pay (see paragraph **5.13.**).

A2.13. Disability Retired Pay Computation. Retired pay computations are based either on a percent of disability or percent for creditable service, whichever will result in a greater dollar amount for the member.

A2.13.1. Members in Service Before 8 September 1980.

A2.13.1.1. To compute retired pay based on percent of disability, multiply the percent of disability (not to exceed 75 percent) by the current monthly basic pay rate of the retirement grade.

A2.13.1.2. To calculate retired pay based on years of service, multiply the current monthly basic pay rate of the retirement grade by the retired pay multiplier. Calculate the retired pay multiplier by multiplying the computed value for years and months of creditable service times 2.5 percent. Derive computed value for months of creditable service by dividing the number of full months of completed service by 12. ***EXAMPLE:*** To compute the retired pay for a member with 15 years and 7 months of creditable service take the following steps:

Step 1 - 7 mos divided by 12 = .583 of a year. (Round off to two decimal places.)

Step 2 - Add .58 to 15 to get the computed value for years and months of creditable service = 15.58 years.

Step 3 - Multiply 15.58 years by 2.5 percent (.025) = 38.95 percent. (Retired pay multiplier).

Step 4 - Monthly basic pay rate for grade in which retired multiplied by 38.95 percent = retired pay based on years of service.

A2.13.2. Members in Service After 7 September 1980. For members who entered a uniformed service after this date, apply the retired pay multiplier based on the percent of disability to the retired pay base (RPB) instead of the monthly basic pay rate. The RPB is an average of a member's highest 36 months of active duty pay. If the member served less than 36 months, the RPB is an average of pay for the months served. The formula for computing disability retired pay using years of service also applies. However, years of service is not a factor in retired pay computation for members retiring for disability until they acquire at least 12 years, 1 month of service. (A member with less than 20 years active service must have a disability rating of at least 30 percent to qualify for retirement. Twelve years of service equates to 30 percent.)

A2.14. Disability Severance Pay. Compute 2 months' basic pay for every year of active service not to exceed 12 years or a maximum of 24 months' pay (**Table 5.2.**).

A2.14.1. Rounding Out Service. Count as a whole year service of six months or more; disregard service of less than 6 months.

A2.14.2. Less Than 6 Months Service. Advise members who have less than 6 months of active service that they will not receive any disability severance pay from the Air Force, as they have no active service to use as a multiplier.

A2.15. Tax Counseling. After advising member of the estimate of gross retired pay, the PEBLO counsels members on how much of that pay may be subject to income tax and how much may be exempt. The PEBLO should point out that, even though DFAS-CL determines the gross amount of retired pay, the final authority on the amount of taxes owed is the Internal Revenue Service (IRS). The Air Force has no control over IRS laws or rules. However, in counseling include the following items so the member will have an idea of the amount of tax he or may have to pay.

A2.15.1. Withholding Tax. Estimate the approximate amount of monthly withholding tax (see table in the "PEBLO Guide").

A2.15.2. Survivor Benefit Plan (SBP). Explain that the member must decide whether to participate in the SBP, the desired level of participation, and that DFAS will exclude monthly SBP payments from gross retired pay subject to income tax. More information on the SBP is in AFI 36-3006, *Survivor Benefit Plan (SBP) and Supplemental Survivor Benefit Plan (SSBP)(Active, Guard, Reserve, and Retired).*

A2.15.3. Tax Exemption. Explain that the amount of retired pay based on percent of disability is tax free for those members who meet the tax exemption criteria in paragraph **3.27.** For those individuals, only the portion of retired pay based on years of service that

exceeds the amount based on disability is subject to income tax. If disability retired pay equals or is more than the amount based on service, retired pay is tax-free.

A2.16. Retired Pay While On TDRL. The retired pay of a TDRL member is the same as that of a member permanently retired for disability. ***EXCEPTION:*** While on the TDRL, the member will not receive less than 50 percent of the amount of monthly basic pay or RPB to which entitled at time of retirement. Except for cost of living increases, a TDRL member's retired pay will not change until removed from the list for permanent disposition. This is true even if the percentage rating changes following periodic examination.

A2.17. The Tower Amendment. A save pay provision known as the Tower Amendment (10 U.S.C 1401a(f)) permits a member to use earlier active duty pay rates (cost of living adjusted), if advantageous. The member must have been eligible to retire under nondisability provisions of law when those earlier rates were in effect except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired. Another condition requires computation of pay using the grade held and years of service accrued at the time those rates were in effect. When using the Tower Amendment, compute the portion of disability retired pay based on percent of disability using the current basic pay rate only. This portion may be tax free.

A2.18. Allotments From Retired Pay. The PEBLO advises member being retired for disability that he or she must take action to continue, discontinue, change, or add allotments from retired pay before the effective retirement date. Otherwise, the same allotments will continue provided retired pay will cover them. All allotments from retired pay are subject to the rules, limitations, and restrictions in DFAS-DE 177-373, volume 1.

A2.19. Creditable Service. HQ AFPC/DPPD provides the PEBLO with the length of service used in computing disability retired pay at the same time that they send the PEB findings and recommended disposition. However, the PEBLO must stress the following general items when counseling the member:

A2.19.1. Basic Pay. The length of service for basic pay sets the rate of basic pay. This service is not rounded off and the member must have at least 1 day over the required amount to use that particular rate of basic pay (37 U.S.C. 203, 204, 1009).

A2.19.2. Multiplier. The service that determines the multiplier may include both active and inactive service. Computation for the multiplier generally falls into the following categories:

A2.19.2.1. Enlisted Members. Service may include active, inactive, and certain “point” credit.

A2.19.2.2. Officers. May include active, inactive, and certain constructive service with only "point" credit for inactive service after 1 June 1958.

A2.19.2.3. ARC Members. Service may include active, inactive, and certain "point" credit.

A2.20. Retirement or Discharge Counseling:

A2.20.1. The counseling outlined in this attachment does not take the place of the final retirement or separation counseling conducted by the member's MPF. This attachment is to aid the PEBLO in informing the member of all aspects of the disability evaluation system. The PEBLO must keep in close contact with the nearest servicing MPF for assistance in resolving related personnel actions. A2.20.2. In cases of sudden illness or imminent death, family members often need additional time to understand the effect of their decisions upon family well-being. The PEBLO refers the member (or NOK) to the MPF for counseling as soon as the member becomes terminally ill (see **Chapter 2**). This earlier personal affairs counseling by the MPF provides the family extra time to discuss and prepare for vital decisions they must make should the member be retired for physical disability. Counseling will include the following subjects: The difference in benefits payable when a terminally ill member dies on active duty versus in retirement; explanations of SBP options, Servicemen's Group Life Insurance (SGLI) and Veterans Group Life Insurance (VGLI) programs; private life insurance affected by retirement; and Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) cost sharing if the member is in a civilian hospital. Also explain to the member or NOK that a request for immediate retirement or separation could result in forfeiture of unused accrued leave days that they can not sell back to the government (see **Chapter 5**).

A2.21. How the Air Force Applies the VASRD. The Air Force uses the VASRD and appropriate DoD guidance to determine the percentage of disability for each ratable defect or condition shown on AF Form 356. The VASRD does not provide a specific rating for all physical defects or conditions. Many of the general policies in the VASRD do not apply to the military services, since they are primarily for the guidance of VA rating boards and often cover laws and policies that apply only to the VA. Consequently, DoD has developed specific guidance on general policy and certain ratable defects and conditions listed by VA diagnostic code numbers (DoD Instruction 1332.39).

Attachment 3
PCS IN AWAITING ORDERS STATUS INSTRUCTIONS

I understand that if AFPC approves my request for "PCS in awaiting orders status":

a. I will be entitled to pay and allowances during the period of PCS in awaiting orders status.

b. The period spent on PCS in awaiting orders status is charged against any accrued leave, and any remaining time is an authorized absence.

c. Transportation or travel allowances will be furnished if authorized for me, my dependents, and household goods, if I so desire (JFTR, volume 1).

d. If I choose to receive transportation or travel allowances as indicated in paragraph c , I understand that:

1. My entitlement to further transportation or travel allowances (to a home of selection) will be exhausted if I am discharged without severance pay. They will also be exhausted if I am discharged with severance pay before 8 years continuous duty (with no single break of more than 90 days).

2. If I am discharged for physical disability with entitlement to severance pay and have completed at least 8 years of continuous active duty (with no single break of more than 90 days) immediately before discharge, or, am retired by reasons of physical disability (permanent or temporary), I will be authorized additional transportation or travel allowances for my dependents and household goods, to a home of my selection. However, entitlement to additional transportation or travel allowances for my dependents and household goods may not exceed the entitlement from my last permanent duty station to home of selection, minus any transportation or travel allowances furnished or paid while PCS in awaiting orders status.

e. If ordered to return to duty, I will be entitled to travel and transportation allowances for myself, my dependents, and household goods based on permanent change of station entitlements from the location of my awaiting orders to my new permanent duty station (including return to present duty station).

f. If retirement or discharge is delayed or stopped for any reason, I remain subject to military control and subject to orders to a duty station, for duty, further medical treatment, and so on, as determined by the Air Force.

NOTE. Give a copy of this statement to each member who requests "PCS in awaiting orders status." Counsel the member on the provisions of the JFTR that pertain to the transportation of dependents and household goods.

Attachment 4
RETIREMENT OR DISCHARGE DOCUMENTS AND REPORTS

A4.1. Immediately after receiving retirement orders or disposition instructions, the MPF prepares the following required forms and documents to complete the disability processing.

A4.1.1. **DD Form 214, Certification of Release or Discharge from Active Duty.** Prepare and distribute according to AFI 36-3203.

A4.1.2. **Retired Pay Documents. DD Form 2656, Data for Payment of Retired Personnel** and other related documents. Send prepared documents to DFAS-CL/FR, as outlined in AFMAN 36-2622 and AFI 36-3006.

A4.1.3. Character of Discharge. Except where otherwise shown below, members discharged for disability are honorably discharged and receive DD Form 256AF, **Honorable Discharge**.

A4.1.3.1. Officer. An officer's service may be characterized as General (under honorable conditions) only when approved and directed within OSAF. In these cases, HQ AFPC/DPPD will specifically notify the servicing MPF of the approval.

A4.1.3.2. Enlisted. Describe as "entry level," the separation of enlisted members in entry level status as defined in AFI 36-3208, unless OSAF specifically approves an honorable discharge. For the purpose of determining entry level character of service, consider the effective date of member's disability discharge as the date separation proceedings began. Characterize the service of enlisted members as General (under honorable conditions) when, based on the member's military record, a recommendation for such a discharge has been processed according to AFI 36-3208; or when directed by officials within OSAF. HQ AFPC/DPPD will notify the servicing MPF of OSAF approval.

A4.1.4. **DD Form 363AF, Certificate of Retirement.** Give to all members retiring for disability (permanently, or placed on the TDRL) with enough creditable service to qualify for nondisability retirement. Prepare the certificate as outlined in AFI 36-3203 and present in a Retirement Binder (National Stock Number 7510-00-134-8179) at a suitable ceremony. If the certificate or binder is not available, the MPF keeps the data needed to fill out the form and mails the item to the member's non-military address as soon as they are available.

A4.1.5. **DD Form 256AF.** HQ AFPC/DPPD will prepare and mail a discharge certificate to members removed from the TDRL and discharged.

A4.1.6. **Certificate of Appreciation.** AF Form 1344JA97 (for husbands and wives) Prepare and present as outlined in AFI 36-3203 to the spouse of a member retiring for

disability (permanently or placed on TDRL) with enough creditable service to be eligible for non-disability retirement.

A4.1.7. **DD Form 2542, Certificate of Appreciation for Service in the Armed Forces of the United States.** Prepare and present according to AFI 36-3203 to each member of the active and Reserve forces retiring for disability (permanently or placed on the TDRL) with enough creditable service to qualify for nondisability retirement.

A4.1.8. Retirement Options or Entitlements Fact Sheet. Give this fact sheet (AFI 36-3203) to members retiring for disability at the same time you give them their retirement orders, or when they are undergoing retirement processing and counseling, whichever is earlier. The MPF advises members not to begin moving dependents or storing household goods before receiving their retirement orders, or until they know the order number and the fund citation. Before moving, members will contact the nearest military transportation officer for counseling on transportation entitlements.

A4.1.9.Identification Cards. Issue or dispose of identification cards as shown in AFI 36-3001, *Issuing and Controlling Identification (ID) Cards.*

A4.1.10. **Special Information Report.** Where deemed proper, the MPF reports special information required by AFI 71-101, Vol II, *Criminal Investigations, Counterintelligence, and Protective Service Matters,* at the time of final retirement or discharge processing.

Attachment 5
WAIVER STATEMENT

"I have been told that, based on findings of a Medical Board, I am not physically qualified for retention in the military service. This disqualification is based on the finding of a physical defect or condition considered to have existed before entry on my current duty status, and does not appear to be incident to, or aggravated by, such duty. I have been told that I have a right to the same processing as any other member of the Air Force being discharged by reason of physical disability, including the consideration of my case by a Physical Evaluation Board. However, I hereby waive this right. I understand that, as a result of signing this waiver statement, I will be released from duty and returned to my home to await disposition under applicable USAFR or ANG directives. I also understand that I will not be eligible to receive disability benefits from the Air Force, but this waiver action does not stop me from applying for disability benefits administered by the Department of Veterans' Affairs."

(Signature) (Date)

NOTE. If the member is a USAFR non-prior service enlisted person, add the following sentence to the last paragraph of the waiver statement: "I also waive further processing under AFI 36-3209."

Attachment 6
IC 99-1 TO AFI 36-3212, PHYSICAL EVALUATION FOR RETENTION, RETIREMENT, AND SEPARATION 30 SEPTEMBER 1999

SUMMARY OF REVISIONS

This change incorporates interim change (IC) 99-1 which enables the Secretary of the Air Force Personnel Council's (SAFPC) decision on disability cases, when it changes the findings and recommendation of the PEB, to be a final decision. See the last attachment of publication, IC 99-1, for the complete IC. A bar (/) indicates revision from the previous edition.

5.1. SAFPC Review. Under authority of Title 10 U.S.C. 1216, chapter 61, the SAF retires or separates individuals found unfit to perform the duties of their office or grade due to physical disability. As the action agency within the Office of the Secretary of the Air Force (OSAF), the SAFPC reviews disability cases and announces the final decision of the Secretary.
5.1.1. Deleted.
5.1.2. Deleted.
5.1.2.l. Deleted.
5.1.2.2. Deleted.
5.1.2.3. Deleted.

5.3.2. The Air Force Personnel Board (AFPB) directs a formal PEB (if one hasn't been held previously) and member concurs with the FPEB and case does not meet the criteria of paragraph **5.4.**

5.5. When Cases Are Forwarded to SAFPC. The board within SAFPC, the Air Force Personnel Board (AFPB), reviews all disability cases forwarded by HQ AFPC/DPPD under paragraph **5.4.**

5.6. Composition of AFPB. There are 5 voting members and normally two will be Medical Corps officers. At least one voting member must be a Medical Corps officer.

5.6.1. Deleted.

5.6.1.1. Deleted.

5.6.1.2. Deleted.

5.6.1.3. Deleted.

5.6.1.4. Deleted.

5.6.1.5. Deleted.

5.6.1.6. Deleted.

5.6.1.7. Deleted.

5.6.1.8. Deleted.

5.6.1.9. Deleted.

5.6.2. Deleted.

5.6.2.1. Deleted.

5.6.2.2. Deleted.

5.6.2.3. Deleted.

5.6.2.4. Deleted.

5.6.2.5. Deleted.

5.6.3. Deleted.

5.7. Changes to PEB Findings. The AFPB may change the findings and recommended disposition of the PEB. When this happens, the AFPB documents and describes the basis for the change. Based on the application of accepted medical principles, the AFPB identifies the principles at issue, and relates the issue to the facts and circumstances established in the record of the proceedings of the PEB. The AFPB recommends the final disposition to SAFPC under the criteria in paragraph **5.9.**

5.7.1. Deleted.

5.7.2. Deleted.

5.7.2.1. Deleted.

5.7.3. Deleted.

5.7.3.1. Deleted.

5.7.3.2. Deleted.

5.7.3.3. Deleted.

5.8. Personal Appearance. Neither the member, NOK, nor counsel may appear before the AFPB, except at the specific invitation of AFPC. The board reviews all the records evaluated by the PEB(s), records of the PEB(s) hearings, plus any rebuttal or additional documents submitted by the member or requested by SAFPC.

Attachment 6
IC 2006-1 TO AFI 36-3212,
PHYSICAL EVALUATION FOR RETENTION, RETIREMENT, AND SEPARATION

2 FEBRUARY 2006

SUMMARY OF REVISIONS

This change incorporates interim change (IC) 2006-1 (**Attachment 6**) alters the allowable time limits to concur or non-concur with the recommended findings and to submit a written rebuttal to the Formal Physical Evaluation Board (FPEB) recommendation for retention, retirement or separation and establishes across-the-board computations for disability separation and retirement dates. See the last attachment of the publication, IC 2006-1, for the complete IC. A bar (|) indicates revision from the previous edition.

OPR: HQ AFPC/DPPDS (Brenda L. Kurth)

Supersedes: AFI 36-3212, 30 September1999

Certified by: HQ AFPC/DPP (Col Steven M. Maurmann)
1.3.2. Eligibility for Disability Evaluation. USAF Academy (USAFA) Cadets (10 U.S.C. 1217) who incurred a disability on or after 27 October 2004.

3.49.1. Time Limits. After receiving AF Form 356, **Findings and Recommended Disposition of USAF Physical Evaluation Board**, and AF IMT 1180, **Action on Physical Evaluation Board Findings and Recommended Disposition**, the evaluee has 1 duty day to either agree or disagree with the FPEB findings. If the evaluee disagrees, he or she may submit a written rebuttal within 10 calendar days. The FPEB president may approve written requests for additional time to allow the member to obtain additional medical documentation or consult with legal counsel.

5.19.3. HQ AFPC/DPPD will establish disability separation and retirement dates as follows:

5.19.3.1. For members serving at CONUS locations, date of separation or retirement will be established as 40 days from date of Secretary of the Air Force (SAF) Memorandum (SAF) approving the separation or retirement;

5.19.3.2. For members serving overseas, date of separation or retirement will be established as 60 days from date of SAF Memo;

5.19.3.3. For ARC members, date of separation or retirement will be established as 27 days from date of SAF Memo.

8.22. **Information Collections, Records, and Forms/Information Management Tools (IMTs).**

8.22.1. Information Collections. Information collections are not created by this publication.
8.22.2. Records. Retain and dispose of records according to the AF Records Disposition Schedule.

8.22.3. Forms/IMTs Prescribed.

8.22.3.1. Forms/IMTs Adopted. No forms/IMTs are adopted by this publication.

8.22.3.2. Forms/IMTs Prescribed. AF Form 356, **Findings and Recommended Disposition of the USAF Physical Evaluation Board**, AF IMT 1180, **Action on Physical Evaluation Board Findings and Recommended Disposition,** and AF IMT 1185, **Statement of Record Data**.

EXHIBIT 11

DOD INSTRUCTION 1332.45

RETENTION DETERMINATIONS FOR NON-DEPLOYABLE SERVICE MEMBERS

Originating Component:	Office of the Under Secretary of Defense for Personnel and Readiness
Effective:	July 30, 2018
Releasability:	Cleared for public release. Available on the Directives Division Website at http://www.esd.whs.mil/DD/.
Incorporates and Cancels:	Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "DoD Retention Policy for Non-Deployable Service Members," February 14, 2018
Approved by:	Robert L. Wilkie, Under Secretary of Defense for Personnel and Readiness

Purpose: In accordance with the authority in DoD Directive 5124.02, this issuance:

- Establishes policy, assigns responsibilities, and provides direction for retention determinations for non-deployable Service members.
- Provides guidance and instructions for reporting deployability data for the Total Force.

TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the "DoD Components").

1.2. POLICY. It is DoD policy that:

a. To maximize the lethality and readiness of the joint force, all Service members are expected to be deployable.

b. Service members who are considered non-deployable for more than 12 consecutive months will be evaluated for:

(1) A retention determination by their respective Military Departments.

(2) As appropriate, referral into the Disability Evaluation System (DES) in accordance with DoD Instruction (DoDI) 1332.18 or initiation of processing for administrative separation in accordance with DoDI 1332.14 or DoDI 1332.30. This policy on retention determinations for non-deployable Service members does not supersede the policies and processes concerning referral to the DES or the initiation of administrative separation proceedings found in these issuances.

c. Implementation for this policy is October 1, 2018.

1.3. INFORMATION COLLECTIONS. The Monthly Non-deployable Report, referred to in Paragraph 3.2. of this issuance, has been assigned report control symbol DD-P&R(M)2671 in accordance with the procedures in Volume 1 of DoD Manual 8910.01. The expiration date of this information collection is listed in the DoD Information Collections System at https://apps.sp.pentagon.mil/sites/dodiic/Pages/default.aspx.

SECTION 2: RESPONSIBILITIES

2.1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). The USD(P&R) establishes and oversees policy on retention determinations for non-deployable Service members.

2.2. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)). Under the authority, direction, and control of the USD(P&R), the ASD(M&RA):

a. Develops policy on the retention of non-deployable Service members.

b. Monitors the implementation of this guidance.

c. Tracks the number of non-deployable Service members and those non-deployable Service members retained in military service and the justification for such retention, in accordance with Section 3 of this issuance.

2.3. ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS. Under the authority, direction, and control of the USD(P&R), the Assistant Secretary of Defense for Health Affairs:

a. Develops policy recommendations to the USD(P&R) for uniform retention medical standards in coordination with the Secretaries of the Military Departments.

b. Provides oversight of related medical policies and programs.

2.4. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

a. Will:

(1) Determine the deployability status of Service members.

(2) Make retention determinations consistent with this issuance for Service members who have been non-deployable for more than 12 consecutive months.

(3) Submit monthly reports identifying the number of non-deployable Service members for all components within their Departments to the Office of the USD(P&R) in accordance with Paragraph 3.2. of this issuance.

(4) Monitor compliance with requirements established in DoDI 6025.19 to ensure required evaluations, assessments, and other medically related actions are accomplished to improve individual and overall unit readiness.

b. May:

(1) Retain in service those Service members whose period of non-deployability exceeds the 12 consecutive month limit in Paragraph 1.2. of this issuance if determined to be in the best interest of the Military Service.

(2) Delegate the authority in Paragraph 2.4.(b)(1) of this issuance to retain in service those Service members whose period of non-deployability exceeds the 12 consecutive month limit. Such a delegation must be in writing, and may only be made to Presidentially Appointed, Senate-Confirmed officials; Senior Executive Service members; or general/flag officers serving at the Military Department or Service headquarters.

(3) Initiate administrative separation processing, or referral to the DES, as appropriate, prior to a non-deployable Service member being in a non-deployable status for 12 months when the Military Service determines there is a reasonable expectation that the reason will not be resolved and the Service member will not become deployable.

SECTION 3: PROCEDURES FOR TRACKING AND REPORTING SERVICE MEMBERS

3.1. TRACKING.

a. The Military Departments will monitor and track the number of Service members by Military Service that are:

(1) Non-deployable in accordance with the categories established in Paragraphs 3.5. and 3.6. of this issuance.

(2) Deployable with limitations in accordance with Paragraph 3.3. of this issuance.

(3) Deployable but have individual medical readiness (IMR) deficits in accordance with Paragraph 3.7. of this issuance.

(4) In training or in a transient status in accordance with the category defined in Paragraph 3.4. of this issuance.

b. To ensure accurate and consistent accounting across the DoD, Military Services will account for Service members in only one category. If a Service member can be accounted for in more than one category, the Service member will be counted only once and in the category with the highest priority listed in accordance with Paragraph 3.8. of this issuance.

3.2. REPORTING.

a. The Secretaries of the Military Departments will report to the ASD(M&RA) the number of non-deployable personnel (and other categories as provided in this section) for all Military Services, and their respective components, on a monthly basis.

(1) The format for the Monthly Non-deployable Report can be found at https://prhome.defense.gov/M-RA/Inside-M-RA/MPP/OEPM/.

(2) Reports are due by the end of each month with data current as the last day of the previous month. For example, the June Non-deployable Report is due by June 30th with non-deployable data as of May 31st.

b. The number of non-deployable Service members is reported by categories, either temporary or permanent, and grouped into medical, legal, or administrative sub-categories. Each sub-category is further broken down to account for the specific reasons or conditions that make a Service member non-deployable.

c. The number of Service members who are deployable with limitations, in accordance with Paragraph 3.3. of this issuance, will be categorized separately on the monthly report. Such Service members are not to be counted in the non-deployable populations.

d. The number of Service members who require urgent or emergent dental treatment for dental readiness (Dental Class 3), are overdue for annual dental screening (Dental Class 4), or are overdue for a Periodic Health Assessment (PHA) are reported as IMR Deficits in accordance with Paragraph 3.7. of this issuance. Such Service members are not counted in the non-deployable populations.

e. The number of Service members who are in a training or transient status are reported in one of the four categories listed in Paragraph 3.4. of this issuance.

3.3. DEPLOYABLE WITH LIMITATIONS. Service members with a medical condition that requires additional medical screening, or Combatant Command approval prior to deployment outside the continental United States, will be categorized as Deployable with Limitations. This includes, but is not limited to, conditions referred to in DoDI 6490.07.

3.4. TRAINING AND TRANSIENT. The Training and Transient category provides a means to track the human resources necessary to maintain a healthy force, within current end strength constraints. This category contains Service members who are not immediately ready for deployment and fall into one of the following four categories:

a. Initial Entry Training. These Service members are:

(1) Enlisted Service members at recruit training, initial skill training, and other proficiency or developmental training accomplished before moving to the member's first permanent duty assignment. This includes all in-transit time commencing upon entry into active service, through completion of the final course of initial entry training that terminates enlisted trainee status.

(2) Enlisted trainees who enter officer candidate school, officer training school, and Service academy preparatory school following enlistment on active duty. These members will be considered:

(a) Enlisted trainees from initial entry on active duty until commissioning.

(b) Upon commissioning, officer accession students and will remain in the initial entry training category for any subsequent initial entry training, or until they begin travel to their first permanent duty assignment.

(3) Officers at officer basic courses, and all initial skill and proficiency training taken before travel to the Service member's first permanent duty assignment. This includes all in-transit time from entry on active duty until completion of the last initial entry course of instruction.

(4) Reserve Component (RC) Service members (enlisted and officer) who enter the Ready Reserve and are awaiting initial entry training.

b. Cadets and Midshipman. These are individuals currently attending the U.S. Military Academy, the U.S. Air Force Academy, or the U.S. Naval Academy. In accordance with Section 115 of Title 10, United States Code (U.S.C.), cadets and midshipman are counted in the active duty end strength for their respective Service, but by policy are non-deployable while attending school.

c. All Other Training. These are Service members who are attending training that is 20 weeks or more in length, and is conducted after their initial entry training. Examples include Command and Staff Colleges, Senior Service College, the United States Army Sergeants Major Academy, medical residencies, and all other post-graduate professional education opportunities.

d. Transient. These are Service members who are not available for duty while executing permanent change of station orders at the time of the report. This category does not include military personnel who are:

(1) On temporary duty for training between permanent duty stations, or;

(2) Moving between entry-level courses of instruction, specifically Service members who have departed from one duty station and are in transit but have not yet reported for duty at the next permanent duty station.

3.5. TEMPORARY NON-DEPLOYABLE CATEGORIES.

a. Medical. Service members are considered temporarily non-deployable for one of three reasons:

(1) Patient. In accordance with DoDI 1120.11, Service members who are hospitalized and are projected to heal, recover, and return to full duty in less than 12 months are temporarily non-deployable.

(2) Medical Condition That Limits Full Duty. Service members who have temporary profiles or are in limited duty status are counted as temporarily non-deployable. Light duty will not be reported as non-deployable unless the duration exceeds 30 days, with discretion given to the medical officer to extend light duty status for up to 60 days, making light duty no longer than 90 days for conditions expected to recover or stabilize within that time.

(3) Pregnancy (including post-partum). Service members who are pregnant or in the post-partum phase are temporarily non-deployable. The post-partum phase ranges from 6 to 12 months after childbirth for female Service members and is determined by individual Service policy.

b. Legal. Service members are considered temporarily non-deployable for one of two reasons:

(1) Prisoner. Service members convicted by civilian or military authorities and sentenced to confinement of more than 30 days, but for 6 months or less, are temporarily non-

deployable. Service members confined for more than 6 months are not included in end strength numbers and will not be included in the monthly non-deployability report.

(2) Legal Action. Service members who are under arrest, confined 30 days or less, pending military or civil court action, under investigation, a material witness, on commander directed hold, pending non-judicial punishment action under Section 815 of Title 10, U.S.C., also known as Article 15 of the Uniformed Code of Military Justice (UCMJ), or pending discharge based on action under the UCMJ are temporarily non-deployable.

c. Administrative. These Service members are considered temporarily non-deployable for one of eight reasons:

(1) Absent Without Leave or Unauthorized Absence. Service members who are absent without leave, as defined in Section 886 of Title 10, U.S.C., also known as Article 86 of the UCMJ, will be considered as temporarily non-deployable.

(2) Family Care Plan. In accordance with DoDI 1342.19, Service members required but failing to have a family care plan in place are temporarily non-deployable.

(3) Adoption. Service members who are single parents or one member of a dual military couple and are adopting a child are temporarily non-deployable. They are non-deployable for at least 6 months after the child is placed in the home, or longer dependent on the administrative stabilization period prescribed by the jurisdiction in which the adoption occurred.

(4) Service Member Under 18. Service members who are not yet 18 years of age are temporarily non-deployable. The Child Soldier Prevention Act of 2007 prohibits Service members under the age of 18 from taking part in hostilities as a member of governmental armed forces.

(5) Humanitarian Assignment. Service members assigned to a location to provide support to a family member are temporarily non-deployable. These Service members typically receive 12 to 24 months stabilization by Military Service policy.

(6) Service Discretion. Military Services may designate Service members temporarily non-deployable when the previous categories do not apply. Examples include:

(a) Simultaneous Membership Program or Officer Candidate School.

(b) Education stabilization; mobilization deferral for affiliation after release from Active Component.

(7) Pending Administrative Separation. Service members being processed for administrative separation are temporarily non-deployable.

(8) Unsatisfactory Participants or Administrative Action Pending (RC Only). Service members who are determined to be unsatisfactory participants, as defined in DoDI 1215.13, are temporarily non-deployable.

3.6. PERMANENT NON-DEPLOYABLE CATEGORIES.

a. Medical. Service members are considered non-deployable for one of three reasons listed below.

(1) Permanent Limited Duty. Service members with a medical condition that permanently prevents deployment are non-deployable. This includes Service members processed through the DES who are not deployable and were retained in the Military Service. In accordance with Section 1214a of Title 10, U.S.C., Service members cannot be involuntarily administratively separated or denied reenlistment due to unsuitability based solely on the medical condition considered in the evaluation unless the request to separate the Service member is approved by the Secretary of Defense. The Military Service may direct the Service member to reenter the DES process to be reconsidered for retirement or separation for disability.

(2) Enrolled in DES. In accordance with DoDI 1332.18, Service members currently enrolled in the DES process are non-deployable. That includes those pending separation or retirement after receiving a "not fit for duty" determination through the DES.

(3) Permanent Profile Non-duty Related Action Needed (RC). Those RC Service members who have a permanent profile and are pending a decision on a line of duty determination are non-deployable.

b. Administrative. These Service members are considered non-deployable for one of three reasons:

(1) Sole Survivor, Surviving Family Member, or Deferred from Hostile Fire Zone. Service members who acquired the status in accordance with DoDI 1315.15 are non-deployable.

(2) Unable to Carry a Firearm. Service members who are subject to the provisions of Section 922 of Title 18, U.S.C. are non-deployable.

(3) Conscientious Objector. Service members who are granted restriction of military duties in accordance with DoDI 1300.06 are non-deployable.

c. Approved for Retention. This category accounts for Service members who are retained by the Military Department despite being in a non-deployable status for 12 months or longer. Service members who the Military Departments retained in Service and are considered non-deployable for one of two reasons:

(1) Combat Wounded. These are Service members whose injuries were the result of hostile action, meet the criteria for awarding of the Purple Heart, and whose injuries were not the result of their own misconduct.

(2) Other. These are Service members who are not designated as combat wounded but are non-deployable and retained in the Military Service by the Secretary of the Military Department in accordance with Paragraph 2.4. of this issuance.

3.7. IMR DEFICITS. These IMR categories are not considered non-deployable conditions. Components are expected to immediately correct all IMR deficits to ensure Service members are medically ready to deploy.

a. Overdue PHA. These Service members are not compliant with the requirement to complete a PHA in accordance with DoDI 6025.19.

b. Dental Readiness (Dental Class 3). Service members who require urgent or emergent dental treatment.

c. Overdue Dental Screening (Dental Class 4). Service members who are not compliant with the requirement to complete a dental screening in accordance with DoDI 6025.19.

d. Additional IMR Categories. In addition to dental categories (Dental Classes 3 and 4) and PHAs, the Military Departments track three additional areas of IMR: immunization status, medical readiness and laboratory studies, and individual medical equipment. In accordance with DoDI 6025.19, Service members who are not current in these areas are considered partially medically ready.

3.8. PRIORITIZATION OF SERVICE MEMBERS BY CATEGORY. This paragraph sets the prioritization for the grouping of Service members into categories to provide consistent reporting among the Military Departments, in accordance with Paragraph 3.1.(b) of this issuance. Service members will be counted only once, in a single category; Service members who may fall into more than one category will be reported in the priorities established in this paragraph. These categories are listed below in descending order of priority.

a. Deployed. This category includes Service members who are currently deployed. These Service members will not be counted in any other category (including deployable with limitations or approved for retention).

b. Deployable with Limitations.

c. Approved for Retention.

(1) Combat wounded – Non-deployable but retained.

(2) Other – Non-deployable but retained.

d. Permanent Non-Deployable.

(1) Medical permanent limited duty.

(2) Administrative.

(a) Sole survivor, surviving family member, or deferred from hostile fire zone.

(b) Unable to carry a firearm (e.g., Lautenberg Amendment).

(c) Conscientious objector.

(d) Ex-prisoner of war.

(3) Medical Enrolled in DES.

(4) Permanent profile non-duty related action needed (RC).

e. Training and Transient.

(1) Initial entry training.

(2) Cadets or Midshipmen.

(3) All other training.

(4) Transient (permanent change of station).

f. Temporary Non-Deployable.

(1) Medical.

(a) Patient (assigned to "Individuals Account").

(b) Medical condition that limits full duty.

(c) Pregnancy (including post-partum).

(2) Legal.

(a) Prisoner.

(b) Legal Action.

(3) Administrative.

(a) Absence without leave.

(b) Family Care Plan.

(c) Adoption.

(d) Service member under 18.

(e) Humanitarian assignment.

(f) Service Discretion.

(g) Pending Administrative Separation.

(h) Unsatisfactory participants or admin action pending (RC).

g. IMR Deficits.

(1) Overdue PHA.

(2) Dental readiness (Dental Class 3).

(3) Overdue dental screening (Dental Class 4).

SECTION 4: RETENTION DETERMINATION

4.1. RETENTION AUTHORITY FOR NON-DEPLOYABLE SERVICE MEMBERS. In accordance with Paragraph 2.4. of this issuance, the Secretaries of the Military Departments have retention authority.

4.2. RETENTION DETERMINATION.

a. The Secretaries of the Military Departments may retain Service members who are non-deployable in excess of 12 consecutive months, on a case-by-case basis, if determined to be in the best interest of the Service, based on:

(1) The Service member's ability to perform appropriate military duties commensurate with his or her office, grade, rank, or skill.

(2) The likelihood that the Service member will resolve the condition or reason that is the underlying cause of his or her non-deployable status.

b. The Secretaries of the Military Departments may approve retention for Service members who are non-deployable in excess of 12 consecutive months for up to:

(1) The length of time remaining on a Service member's enlistment contract; or

(2) Three years for officers, including warrant officers, and those enlisted members serving on indefinite contracts.

(3) Upon expiration of the retention period, the Secretary of the Military Department concerned may renew retention for a Service member on a case-by-case basis for periods stated in this paragraph.

c. The Secretaries of the Military Departments may establish procedures for Service members who are or will be non-deployable for 12 months or longer due to an administrative reason to request retention consideration.

d. Approval of the retention for Service members who are non-deployable for 12 months or longer will only be made for individual Service members, not an entire cohort or skill set of Service members.

e. Except as required by DoDI 1332.18, the Secretaries of the Military Departments may request from the Secretary of Defense the authority to automatically exempt Service members serving in specified positions from the requirement for a retention determinations pursuant to Paragraph 2.4.b.

f. When appropriate, Service members not recommended for further retention will be considered for processing for administrative separation in accordance with DoDI 1332.14 or DoDI 1332.30, or referral for disability separation in accordance with DoDI 1332.18.

4.3. SPECIAL CATEGORIES.

a. Pregnant and post-partum Service members, as a group, are exempt from Paragraph 2.4.a., for pregnancy-related health conditions during pregnancy through the post-partum period.

b. The Secretaries of the Military Departments have the authority to retain combat wounded Service members who have been evaluated through the DES and whose reason for non-deployability is a direct result of their combat wounds, if requested by the Service member.

(1) Disapproval of retention for non-deployable combat wounded Service members, who wish to be retained and whose reason for non-deployability is a direct result of their combat wounds, may not be delegated.

(2) Retention will be authorized in accordance with Paragraph 4.2.b.

c. Unless found unfit for duty through the DES, Service members serving in specified positions approved by the Secretary of Defense pursuant to Paragraph 4.2.e. are exempt from requiring a retention determination based solely on being in a non-deployable status for 12 months or longer. Upon reassignment, these Service members will again require a retention determination in accordance with Paragraph 4.2.a.

d. Unless sooner discharged or retired under another provision of law, or discharged due to misconduct or sub-standard performance, the Secretaries of the Military Departments may retain those Service members who are, or will be, non-deployable for 12 months or longer due to administrative reasons and who have attained such years of creditable service so as to be within 3 years of qualifying for:

(1) Regular retirement (or in the case of enlisted members of the Navy or Marine Corps, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be) pursuant to Sections 3911, 3914, 6323, 6330, 8911, or 8914 of Title 10, U.S.C.; or

(2) Non-regular retirement (but for age) pursuant to Sections 12731 and 12735 of Title 10, U.S.C., if, in the case of RC members other than RC members within 3 years of qualifying for regular retirement, they have attained at least 17 years of qualifying creditable service as computed in accordance with Section 12732 of Title 10, U.S.C., and continue to attain qualifying creditable service as computed under attains Section 12732 of Title 10, U.S.C. to become eligible for non-regular retirement within the 3-year period.

SECTION 5: AUTHORITIES FOR SEPARATIONS AND RETIREMENTS

5.1. In accordance with Paragraph 1.2. of this issuance, a Service member who has been non-deployable for an administrative reason (not medical or legal) for more than 12 consecutive months, will be processed for administrative separation in accordance with DoDI 1332.14 or DoDI 1332.30. Military Services should ensure expeditious administrative separation proceedings in accordance with Military Department and Military Service policies.

5.2. A Service member who has been non-deployable due to a physical disability that makes him or her potentially unfit for the duties of his or her office, grade, rank, or rating for more than 12 consecutive months will be referred into the DES in accordance with DoDI 1332.18.

GLOSSARY

G.1. ACRONYMS.

ASD(M&RA)	Assistant Secretary of Defense for Manpower and Reserve Affairs
DES	Disability Evaluation System
DoDI	DoD instruction
IMR	individual medical readiness
PHA	periodic health assessment
RC	Reserve Component
UCMJ	Uniformed Code of Military Justice
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness.

G.2. DEFINITIONS. Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

active duty. Defined in the DoD Dictionary of Military and Associated Terms.

active service. Defined in Section 101(d)(3) of Title 10, U.S.C.

active status. Defined in Section 101(d)(4) of Title 10, U.S.C.

combat wounded. Service members whose injuries were the result of hostile action, who meet the criteria for awarding of the Purple Heart, and whose injuries were not the result of their own misconduct.

deployable. A Service member who does not have a Service-determined reason that precludes him or her from deployment.

deployment. The movement of personnel into and out of an operational area or in support of operations. Deployment encompasses all activities from origin or home station through destination, specifically including inter-theater, and intra-theater movement legs, staging, and holding areas.

Military Departments. The Departments of the Army, Navy, and Air Force.

Military Service Headquarters. Headquarters, United States Army; Headquarters, United States Navy; Headquarters, United States Air Force; and Headquarters, United States Marine

Corps.

Military Services. The United States Army, the United States Navy, the United States Air Force, and the United States Marine Corps.

military specialty. A military occupational specialty in the Army and the Marine Corps; an Air Force specialty code in the Air Force; or a rating or Navy enlisted classification in the Navy.

non-deployable. A Service member who has a Service-determined reason that precludes him or her from deployment.

permanently non-deployable. A Service member who has a reason that precludes them from deployment, and there is a Service expectation that the reason will not be resolved and the Service member will never be deployable.

profile. A document used to communicate to commanders the individual medical restrictions for Soldiers and Airmen.

Ready Reserve. Defined in the DoD Dictionary of Military and Associated Terms.

reason code. The term used to define non-deployable categories.

separation. A general term that includes discharge, release from active duty, release from custody and control of the Military Services, transfer to the Individual Ready Reserve, and similar changes in Active and Reserve status.

temporarily non-deployable. A Service member who has a reason or reasons that precludes him or her from deployment, and there is a Service expectation that the reason or reasons will be resolved and the Service member will be deployable.

REFERENCES

DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
DoD Instruction 1120.11, "Programming and Accounting for Active Component (AC) Military Manpower," March 17, 2015
DoD Instruction 1215.13, "Ready Reserve Member Participation Policy" May 5, 2015
DoD Instruction 1300.06, "Conscientious Objectors," July 12, 2017
DoD Instruction 1315.15, "Special Separation Policies for Survivorship," May 19, 2017
DoD Instruction 1332.14, "Enlisted Administrative Separations," January 27, 2014, as amended
DoD Instruction 1332.18, "Disability Evaluation System (DES)," August 5, 2014, as amended
DoD Instruction 1332.30, "Commissioned Officer Administrative Separations," May 11, 2018
DoD Instruction 1342.19, "Family Care Plans," May 7, 2010, as amended
DoD Instruction 6025.19, "Individual Medical Readiness (IMR)," June 9, 2014
DoD Instruction 6490.07. "Deployment-Limiting Medical Conditions for Service Members and DoD Civilian Employees" February 5, 2010
DoD Manual 8910.01, Volume 1, "DoD Information Collections Manual: Procedures for DoD Internal Information Collections," June 30, 2014, as amended
Office of the Chairman of the Joint Chiefs of Staff, "DoD Dictionary of Military and Associated Terms," current edition
The Child Soldier Prevention Act of 2007, 110th Congress, S.1175
United States Code, Title 10
United States Code, Title 18

EXHIBIT 12

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

NICHOLAS HARRISON, *et al.*, Plaintiffs, v. MARK ESPER, Secretary of Defense, *et al.*, Defendants.	No. 1:18-cv-641 (LMB/IDD)

RICHARD ROE, *et al.*, Plaintiffs, v. MARK ESPER, Secretary of Defense, *et al.*, Defendants.	No. 1:18-cv-1565 (LMB/IDD)

DECLARATION OF PAUL ASWELL

I, Paul Lamar Aswell, do hereby state and declare as follows:

1. I am a civilian employee of the Department of the Army, Deputy Chief of Staff, G-1,[1] employed at the Pentagon as the Chief of Army Accessions. Accessions means, broadly, bringing individuals into military service. I have been in this position since October 2009. As a part of my duties, I am responsible for helping shape Army policy on accessions of enlisted and officer service members. My responsibilities generally include reviewing, promulgating, and updating regulations and other policy documents related to Army accessions, as well as overseeing

[1] "G-1" and "J-1" refer to sections of a military staff. The letter indicates the echelon of the section and the number indicates its function. "G" signifies division-level or above, "J" signifies joint (multiservice) headquarters, and "1" indicates a "personnel" function.

accessions-related programs (including recommending and establishing accession targets for officer and enlisted personnel).

2. Prior to my current position, I had served on active duty in the Army from 1978 to 2009. I retired from the Army in the rank of Colonel. My active duty assignments included serving as Chief, Officer Accessions, Headquarters, Department of the Army, and Director of Personnel, U.S. European Command.

3. From my official duties related to these responsibilities, I have an understanding of Army policy on accessions, and in particular, of Army policy concerning the accession of individuals living with the human immunodeficiency virus (HIV). I make this declaration based upon my personal knowledge and upon information that has been provided to me in the course of my official duties. I submit this declaration in support of Defendants' Motion for Summary Judgment and Opposition to Plaintiffs' Motion for Summary Judgment in the above-titled cases.

Army Accessions Policy

4. The Army's greatest asset is our people. Effective accessions policies are paramount in building and ensuring the Army's sustained readiness. The Army cannot be ready to deploy, fight, and win our Nation's wars without recruiting and retaining high quality, physically fit, medically qualified soldiers who can deploy, fight, and win decisively on any current or future battlefield.

5. Throughout its history our Army has endeavored to ensure only medically fit applicants enter service. Accordingly, longstanding Army policy in this area conforms to Department of Defense (DoD) policy which ensures that, prior to contracting, applicants are:

a. Free of contagious disease that may endanger the health of other personnel.

b. Free of medical conditions or physical defects that may reasonably be expected to require excessive time lost from duty for necessary treatment or

hospitalization, or may result in separation from the Military Service for medical unfitness.

c. Medically capable of satisfactorily completing required training and their initial period of contracted service.

d. Medically adaptable to the military environment without geographical area limitations.

e. Medically capable of performing duties without aggravating existing physical defects or medical conditions.

6. The policy above and other Army accessions policies are set forth in numerous Army regulations and other Army guidance, as well as in DoD guidance to which the Army is bound. In addition to the medical fitness standards described above, in order to access into the Army, an individual must meet all military accession standards including, but not limited to, educational, moral, and physical requirements. In addition, there are some career fields and specialties that require heightened levels of medical fitness.

7. Army accessions policies involve consideration of potential future health concerns of an individual rather than solely considering the individual's health at the time of accession. Therefore, Army accessions policies necessarily account for how an individual's medical condition may progress over time. In addition, Army accessions policies are not based solely on medical conditions experienced in current or past conflicts, but the Army and DoD also take into account health and medical fitness concerns that may be posed by potential future conflicts.

Army Policy on the Accession of HIV-Positive Individuals

8. The baseline medical fitness requirements for accession into all military Services are set by DoD. The Army's accessions policy must be, and is, at least as stringent as DoD's accessions policy. Although the Army may choose to impose more restrictive conditions on

accessions than required by DoD's baseline requirements, the Army has not done so with respect to HIV.

9. Department of Defense Instruction (DoDI) 6130.03, *Medical Standards for Appointment, Enlistment, or Induction in the Military Service*, establishes DoD's general medical accession standards and policy.[2] DoDI 6130.03 states that it is DoD policy to "[e]nsure that individuals considered for appointment, enlistment, or induction into the Military Services are . . . [f]ree of contagious diseases that may endanger the health of other personnel." DoDI 6130.03, ¶ 1.2c. This instruction lists a number of medical conditions that disqualify an individual from accessing into military service, to include the presence of HIV. DoDI 6130.03, § 5, ¶ 23b. Army Regulation (AR) 40-501, *Standards of Medical Fitness*, implements the general standards of DoDI 6130.03 and also designates the presence of HIV as a disqualifying medical condition that precludes accession. AR 40-501, ¶ 2-30.

10. Additionally, there are specific DoD and Army policies on accessing HIV-positive individuals. DoDI 6485.01, *Human Immunodeficiency Virus (HIV) in Military Service Members*, states that "[i]t is DoD policy to . . . [d]eny eligibility for military service to persons with laboratory evidence of HIV infection for appointment, enlistment, pre-appointment, or initial entry training for military service pursuant to DoDI 6130.03." DoDI 6485.01, ¶ 3a. The Army implements DoDI 6485.01 through Army Regulation 600-110, *Identification, Surveillance, and Administration of Personnel Infected with Human Immunodeficiency Virus*, which states that "HIV infected personnel are not eligible for appointment or enlistment into the Active Army, the ARNG [Army National Guard], or the USAR [U.S. Army Reserve]." AR 600-110, ¶ 1-16a.

11. When policy permits, designated approval authorities may grant waivers allowing entry for individuals disqualified by the applicable policy. If a policy does not permit waivers of its

[2] To avoid duplication, military policies discussed in this declaration are attached as exhibits to Defendants' Brief in Support of their Motion for Summary Judgment.

requirements, authorized officials may grant exceptions to the policy. The Army can generally grant an exception to its own policy unless the exception would conflict with DoD policy. DoD policy prohibits the accession of individuals with HIV, and therefore the Army cannot grant a waiver or exception to its own HIV accessions policy unless an exception to the DoD policy is granted first. If the Army sought to access an HIV-positive applicant, DoD would need to grant an exception to its policy, and the Army would then need to grant a waiver or exception to its own accessions policy to access an HIV-positive applicant.

* * *

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 1st day of June 2020.

PAUL ASWELL
Chief, Accessions Division
United States Army