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Personnel

PHYSICAL EVALUATION FOR RETENTION, RETIREMENT, AND SEPARATION

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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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 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.

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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. USAF Academy (USAFA) Cadets (10 U.S.C. 1217).

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.

2.6.1. If a major change in the diagnosis or in member's condition is discovered, the referring MTF commander must 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 HQ AFPC/DPPD.

2.6.2. If a case meets the criteria for recall and the Secretarial memorandum has been signed finalizing the case, the hospital commander needs to contact the Medical Standards Branch, HQ AFPC/DPAMM, for procedures to follow in order to do a new MEB and request medical hold. HQ AFPC/DPAMM is to inform HQ AFPC/DPPD if they approve a medical hold. When a new MEB is received by the IPEB and documentation supports a change to the previous IPEB findings, the case will be sent to SAFPC for finalization.

2.7. Quick Processing of Terminally Ill Members. When medical authorities determine that death is imminent (within 72 hours), have indicated that in the MEB report, and the member or NOK requests expeditious processing, the PEBLO immediately contacts HQ AFPC/DPPD for guidance. HQ AFPC/DPPD processes these cases on a 24-hour basis. After normal duty hours, contact the AFPC Casualty Operations Center (HQ AFPC/DPWCS).

2.7.1. The PEBLO transmits the following minimum documentation to HQ AFPC/DPPD by data facsimile or commercial express service: AF Form 618, **Medical Board Report;** SF 502, **Medical Record-Narrative Summary**; AF Form 348, **Line of Duty Determination** (when required), competency determination (when required); and a signed request for expeditious processing and placement on the TDRL with 100 percent compensable rating from the member or NOK. Do not use message transmissions of MEB findings for PEB review.

2.7.2. When anticipating quick processing of a seriously ill member, the PEBLO asks the local MPF Casualty Assistance Representative (CAR) to brief the member or NOK who must then decide if expeditious processing would be in their best interests (see **Attachment 2**).

2.8. VA Physician's Guide for Disability Evaluation Examinations. Physicians who prepare cases for the MEB and PEB may use the "*VA Physician's Guide for Disability Evaluation Examinations*" to describe defects. This ensures consistency in reporting similar conditions and assists boards in the review and evaluation process. The VA publishes the guide in limited numbers, and HQ AFPC/DPPD may furnish it to the evaluating boards and Physical Evaluation Board Referral Hospitals (PEBRH).

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, Lackland), 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 Unfit Findings. HQ AFPC/DPPD sends AF Form 356, along with a 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 3 duty days to agree or disagree with the IPEB's findings. HQ AFPC/DPPD may approve limited extensions up to 3 duty 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 or DoDI 1332.39, 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 will 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. Schedule a formal hearing for any member who disagrees with an unfit finding, tell the PEBLO the date and time the member is to report to the FPEB and send all the case records to the FPEB.

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 Forms 356 and 1180, the evaluee has 3 duty days to either agree or disagree with the FPEB findings. If the evaluee disagrees, he or she may submit a written rebuttal within 14 calendar days (21 days, if stationed oversea). In unusual circumstances, the FPEB president may approve written requests for additional time.

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. HQ AFPC/DPPDF records the formal hearing testimony on audio and video cassettes and attaches the audio cassettes 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 recom-mended 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 U.S.C. 1201).
4	No	Yes		No	30-100		
5	No	Yes		No	30-100		
6	No	Yes	Yes	No	30-100		
7	No	Yes		Yes	0-100	may be permanent	temporary retirement (TDRL). (10 U.S.C 1202).
8	No	Yes		No	30-100		
9	No	Yes		No	30-100		
10	No	Yes	Yes	No	30-100		

R U L E	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 recom-mended dispositionis (item 12)**
11	No	Yes		No	0-20	is or may be permanent	discharge with severance pay (10 U.S.C 1203).
12	No	Yes	Yes	No	0-20		
13	No	Yes		No	0-20		

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 U.S.C. 1204).
4	No	Yes	No	30-100		
5	No	Yes	Yes	0-100	may be permanent	temporary retirement (TDRL) (10 . U.S.C. 1205).
6	No	Yes	No	30-100		
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. For disability retirements, HQ AFPC/DPPD prepares and distributes, **Retirement Special 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.

LINE	A	B	C
	To Complete		
	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).

LINE	A To Complete Sec	B To Complete Item	C Enter
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.
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.

LINE	A	B	C
	To Complete		
	Sec	Item	Enter
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.
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		
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

	If disposition is	1	2	3	4	5	6	7	8
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			
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. 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.

5.1.2.1. 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 cop-

ies 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. Before issuing disposition instructions, HQ AFPC/DPPD contacts the MPF personnel relocations element for verification of current accrued leave balance, leave sold back since 10 February 1976, and PTDY days applicable under **Chapter 4**. The MPF must respond by message (includes MINIMIZE) and that message becomes a part of the original disability case file.

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.

RULE	A	B	C
	If the member is	**then take the monthly pay rate (see note 1) of the grade to which member**	**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.

RULE	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 20 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. Over 20 Years AD. Consider these members for LAS only if there is a unique and overriding need for their particular specialty and their only restriction is being assigned to a base with adequate military or civilian medical facilities to provide the required medical support. Retention under this category may be for a specified number of years of service based on grade. LAS may terminate at any time based on medical reevaluation and the needs of the SAF.

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.

DONALD L. PETERSON, Lt General, USAF
DCS/Personnel

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

DFASCL-—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 CourtsMartial

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

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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.

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.