UNDER SECRETARY OF DEFENSE
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WASHINGTON, D.C. 20301-4000

MAY 3 2007

PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT

SUBJECT: Policy Guidance for the Disability Evaluation System and Establishment of Recurring Directive-Type Memoranda

References: (a) Section 597 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364)
(b) Government Accountability Office Report 06-362, Military Disability System: Improved Oversight Needed to Ensure Consistent and Timely Outcomes for Reserve and Active Duty Service Members, March 2006

This directive-type memorandum establishes updated Department of Defense (DoD) guidance for the overall management of the Disability Evaluation System and issues policy to comport with references (a) and (b). It supplements DoD Directive 1332.18, "Separation or Retirement for Physical Disability," November 4, 1996.

The guidance attached, incorporating these and other additions will, in due course, be formally consolidated and published. The current DoDD 1332.18, "Separation or Retirement for Physical Disability," and DoDI 1332.38, "Physical Disability Evaluation," November 14, 1996, will be combined into one issuance. Until such time, the Department will issue regular directive-type memoranda every several months pertaining to these issuances, which will reflect consideration of findings and recommendations from the various commissions, task forces, and study groups.

This process of continuous improvement will help develop solutions to resolve many statutory and systemic issues associated with the Disability Evaluation System and the transition of those separated from military service to the care of the Department of Veterans Affairs. It will also allow flexible and prompt response to possible statutory changes and allow the Department to implement potential demonstration efforts that we will seek to explore as alternatives to improve the system. These directive-type memoranda will be coordinated with the Military Departments prior to release.

This policy is issued pursuant to the delegation of authority in paragraph 6.7 of DoDD 5124.02, "Under Secretary of Defense for Personnel and Readiness," November 17, 2006, to the USD (P&R) and is effective immediately.

David S. C. Chu

Attachment:
As stated

cc:
Deputy Under Secretary of Defense for Military Personnel Policy
Deputy Under Secretary of Defense for Plans,
Task Force-Support and Care of Wounded (TF-SACW)

Policy Guidance for Disability Separation or Retirement

The guidance contained in this directive-type memorandum (DTM) formally establishes the Disability Advisory Council, creates annual and quarterly reporting and verification mechanisms, clarifies timeliness goals and other performance measures, and formally elevates program awareness to senior leadership levels, and issues policy to comport with Section 597 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (P.L. 109-364), which is codified at 10 U.S.C. § 1222.

1. RESPONSIBILITIES

1.1. The Deputy Under Secretary of Defense for Military Personnel Policy (MPP), under the Under Secretary of Defense for Personnel and Readiness (USD (P&R)), shall:

1.1.1. Verify annually that the Military Departments maintain current and comparable programs of instruction that:

1.1.1.1. Inform their respective military treatment facilities on the policies and procedures to be followed in the conduct of Medical Evaluation Boards (MEB) used during medical evaluation.

1.1.1.2. Inform Physical Evaluation Board (PEB) members and appellate review authorities on the policies and procedures of disability adjudication.

1.1.1.3. Establish assignment and training guidelines for those who work in the Disability Evaluation System (DES) with attention to guidance promulgated to the Physical Evaluation Board Liaison Officers (PEBLO) as the case managers providing assistance, counseling and case status updates to the affected Service member throughout the DES process.

1.1.2. Publish report requirements in consultation with the Assistant Secretary of Defense for Health Affairs (ASD (HA)) and with the advice of the Disability Advisory Council (DAC), by a separate USD (P&R) memorandum, not later than July 1 of each year, that specify additional information Military Departments will include in the recurring DES Annual Report. Additionally, through the DAC, direct sampling of decisions on disability ratings of medical conditions for Department-wide analysis.

1.1.3. Analyze and provide the DES Annual Report (see paragraph 3.2) and the Quarterly DES Performance Measures Report submitted by the Military Departments to the USD (P&R) for review and guidance.

1.1.4. Establish the DAC (and designate the chairperson) to operate an advisory board to the USD (P&R), under an approved charter that requires regular meetings to assess the functioning of the DES and to provide recommendations on issues and potential changes to the DES.

1.2. The Assistant Secretary of Defense for Health Affairs, under the Under Secretary of Defense for Personnel and Readiness, shall:

1.2.1. Provide medical and health management-related advice to the DAC on all proposed changes to the statutes and polices related to the operation of the DES and its four constituent elements.

1.2.2. Approve the Table of Analogous Codes (TAC) when annually reviewed by the DAC or when revised. The TAC is defined in DoDI 1332.39.

1.2.3. Provide health-related performance metrics and areas of emphasis to the DUSD (MPP) for inclusion in the memorandum that solicits the recurring DES Annual Report. Review and formally comment on the DES Annual Report and Quarterly DES Performance Measures Report submitted by the Military Departments.

1.2.4. Provide O-6 level or civilian equivalent (with experience in the DES) representation to the DAC.

1.3. The Assistant Secretary of Defense for Reserve Affairs, under the Under Secretary of Defense for Personnel and Readiness, shall provide O-6 level or civilian equivalent (with experience in the DES) representation to the DAC.

1.4. The Secretaries of the Military Departments shall:

1.4.1. Ensure that DES procedures:

1.4.1.1. Verify and report to the USD (P&R) through the recurring DES Annual Report that physicians who serve on MEBs are trained in the preparation of MEBs for disability evaluation. Additionally, ensure that military treatment facilities are updated on the policies and procedures to be followed in the conduct of MEBs used during medical evaluation.

1.4.1.2. Include programs and curricula of instruction, for use by PEB during the evaluation and by the appellate review authorities, on the policies and procedures of disability adjudication.

1.4.1.3. Promptly assign and make PEBLOs available to Service members referred into the DES to provide advice, counsel, and general information on the DES. The PEBLO is the case owner providing assistance and case status updates to the affected Service member throughout the DES process. PEBLOs shall provide counseling to the Service member as required by DoDI 1332.38 and the respective Military Department. As a minimum, PEBLOs shall advise Service members of the significance and consequences of the determinations made and the associated rights, benefits, and entitlements. The PEBLO shall not provide legal advice to the Service member. The number of Service members assisted by a PEBLO in active case processing should not exceed 20.

1.4.1.4. Establish assignment and training programs, guidelines, and curricula for those who work in the DES with attention to guidance promulgated to, and by, the PEBLO as the case manager providing assistance, counseling, and case status updates to the affected Service

member throughout the DES process. These guidelines for PEBLOs will be formally certified every three years in the DES Annual Report.

1.4.1.5. Announce and provide to the individual concerned the decision of the PEB. The announcement must convey the findings and conclusions of the board in an orderly and itemized fashion with specific attention to each issue presented by the member in regard to that member's case. This requirement applies to a case both during initial consideration and upon subsequent consideration due to appeal by the Service member or other circumstance. Appropriate processing timelines should be followed.

1.4.1.6. Establish and maintain records verifying compliance with PEB requirements for assignment and training of staff.

1.4.2. Forward the DES Annual Report to the USD (P&R).

1.4.3. Provide O-6 level or civilian equivalent (with experience in the DES) representation to the DAC.

1.4.4. Through their Inspectors General conduct a review of compliance every three fiscal years for the preceding three-fiscal-year compliance period starting with a report due at the end of FY 2009 and covering the period FY 2007 through FY 2009. The Secretaries of the Military Departments shall forward a copy of their final Inspectors General reports to the USD (P&R).

2. ADDITIONAL OPERATING AND TRAINING PROCEDURES

2.1. Duty Related Case Processing Time.

2.1.1. MEB. For duty related cases, when a physician initiates an MEB with the completion of a Narrative Summary (NARSUM), the processing time should not exceed 30 calendar days from the date the NARSUM/MEB report is dictated to the date the complete NARSUM/MEB report and case file is received by the PEB.

2.1.2. PEB. Duty related case processing time should not exceed 40 calendar days from the date of the receipt of the complete NARSUM/MEB report and case file by the PEB to the date of the determination of the final review authority (excluding appellate review).

2.1.3. Total Duty Related Case Processing Time. The total processing time for duty related cases should not exceed 70 calendar days from the date the NARSUM/MEB report is dictated to the date of the determination of the final review authority (excluding appellate review). For each level of appellate review after the Formal PEB, the standard timeliness goal is 30 days from the date of case acceptance to decision.

2.1.4. Processing Goal. Overall, 80% of the cases should be processed within the stated processing goals for MEB, PEB, and appellate reviews.

2.2. Nonduty Related Case Processing Time.

2.2.1. MEB. For nonduty related cases for Reserve Component members referred solely for a fitness determination, when a physician initiates an MEB with the completion of a NARSUM, the processing time should not exceed 90 calendar days from the date the NARSUM/MEB report is dictated to the date the complete MEB case file or physical examination is received by the PEB.

2.2.2. PEB. Nonduty related case processing time should not exceed 40 calendar days from the date of acceptance of the complete MEB case file or physical examination by the PEB to the date of the determination of the final review authority (excluding appellate review).

2.2.3. Total Nonduty Related Case Processing Time. The total processing time for nonduty related cases should not exceed 130 calendar days from the date the NARSUM/MEB report is dictated to the date of the determination of the final review authority (excluding appellate review). For each level of appellate review after the Formal PEB, the standard timeliness goal is 30 days from the date of case acceptance to decision.

2.2.4. Processing Goal. Overall, 80% of the cases should be processed within the stated processing goals for MEB, PEB, and appellate reviews.

2.3. MEB and PEB Procedures.

2.3.1. Medical Evaluation Board.

2.3.1.1. Composition. MEBs must have two or more physician members. One member will be a senior medical officer with detailed knowledge of the standards pertaining to medical fitness, the disposition of patients, and disability separation processing. If the condition is related to a psychiatric diagnosis then the MEB must have at least one psychiatrist on the board.

2.3.1.2. Referral. When a Service member has received optimum hospital/medical treatment benefit for a condition which does not meet medical retention standards, he or she will be referred to the MEB. Other than for cases in which achieving optimum hospital/medical treatment benefit extends beyond one year, referral will be within one year of being diagnosed with a medical condition(s) that does not meet medical retention standards, but may be earlier if the examiner determines that the member will not be capable of returning to duty within one year. Optimum Hospital/Medical Treatment is the point of hospitalization or treatment when a member's progress appears to have medically stabilized and when it can be reasonably determined that the member is not capable of performing the duties of his office, grade, rank or rating.

2.3.1.3. Referral to PEB. The MEB documents whether the Service member meets the medical retention standards. If the Service member does not meet medical retention standards, the Medical Treatment Facility refers the case to the Physical Evaluation Board (PEB) for a determination of fitness.

2.3.2. The Physical Evaluation Board.

2.3.2.1. Composition. The PEB shall be comprised of at least three members and may have military and civilian personnel representatives. PEB organization will be promulgated in regulations and policies of the Military Department. Therefore, specific board composition may differ among the Military Departments and is governed by appropriate departmental regulations. The board will consist of a president who should be a colonel/naval captain/civilian equivalent, a field grade personnel officer or civilian equivalent, and a senior medical officer.

2.3.2.2. Informal PEB. The initial findings and recommendations of Informal PEBs are based on a records review without the Service member's presence. The Service member may accept the finding, rebut, or request a Formal PEB.

2.3.2.3. Formal PEB. As required by 10 U.S.C. 1214, Service members who disagree with the findings of an Informal PEB and who are found unfit are entitled by law to a formal hearing. Service members who are determined fit by an Informal PEB may also request the PEB President grant them a formal hearing. Service members may elect to appear or not appear and to be represented by appointed counsel or by counsel of choice at no expense to the government. Service members may request essential witnesses to testify on their behalf. The PEB President determines whether witnesses are essential. If witness are deemed essential and are employees or Service members, travel expenses and per diem may be reimbursed/paid in accordance with the Joint Federal Travel/Joint Travel Regulation, as appropriate.

2.3.2.4. Appellate and Quality Review Procedures. The Military Departments will establish and publish appellate and quality review procedures particular to the PEB.

2.3.3. Assignment to and Training of DES Personnel. Personnel assigned to the DES include but are not limited to: medical officers who prepare MEBs, PEBLOs, patient administration officers, PEB adjudicators, PEB appellate review members, and judge advocates. Training programs for personnel assigned to the DES must be formal and documented.

2.3.3.1. Assignment of personnel to the DES. Personnel assigned to or impacting the DES may be military, civilian, or contract, but must be formally trained and certified by appropriate DES authority. Assignment to full duties will not occur until training is completed. Individuals assigned for duty as PEBLOs must also receive on the job training with the incumbent or other experienced PEBLO for at least one week. Transfer of existing cases must be accomplished and verified by the Military Department's appropriate DES authority.

2.3.3.2. Training. At a minimum, training curricula shall consist of the following: an overview of the statutory and policy requirements of the DES; the electronic and paper recordkeeping policies of the Military Department; customer service philosophies; familiarization with medical administration processes; an overview of the services and benefits offered by the Department of Veterans Affairs; knowledge of online and other resources pertaining to the DES and DoD and DVA services; knowledge of the chain of supervision and command; and knowledge of Inspector General hotlines for resolution of issues.

3. PERFORMANCE REPORTING AND OVERSIGHT

3.1. Components of Reporting. DES performance reporting shall consist of the DES Annual Report and the Quarterly DES Performance Measures and any other ad hoc reports required by the USD (P&R). Additionally, this section provides an outline of items for Inspectors General to review when completing the requirements of this issuance.

3.2. DES Annual Report. Not later than November 1 of each year, the Secretaries of the Military Departments will provide the USD (P&R) a report that addresses performance metrics; provides data, observations and issues; and discusses proposals and suggestions to improve the DES. Each report will address the performance of the Department DES during the previous fiscal year. USD (P&R) will solicit the report by a separate memorandum annually (on or about July 1). The memorandum will provide the Military Department Secretaries guidance, in addition to the standard metrics required below, in the preparation of the report along with areas of special interest or required comment. The Military Department Secretaries will use the report to certify compliance with DES requirements, raise issues to the USD (P&R), and improve the consistency and effectiveness of the DES.

3.3. DES Annual Report Content. In addition to the requirements specified by USD (P&R) by separate memorandum, the Military Department Secretaries will address the following areas in the DES Annual Report.

3.3.1. Verification to the USD (P&R) whether the Military Department complied with 10 USC, Chapter 61 and other guidance issued under the authority of this DTM.

3.3.2. Verification to the USD (P&R) whether physicians who serve on MEBs were trained in the preparation of MEBs for disability evaluation and whether military treatment facilities were updated on the policies and procedures to be followed in the conduct of MEBs used during medical evaluation.

3.3.3. Verification to the USD (P&R) whether the Military Departments established and utilized programs of instruction for PEB participants and for appellate review authorities, on the policies and procedures of disability adjudication. This verification will include whether personnel assigned to the DES were formally trained and certified by appropriate DES authority and that assignment of those personnel to full duties did not occur until their initial DES training was complete.

3.3.4. Verification to the USD (P&R) whether the Military Departments promptly assigned and made PEBLOs available to members referred into the DES to provide advice, counsel, and general information on the DES.

3.3.5. Verification to the USD (P&R) whether the Military Department announced and provided to each individual concerned the PEB decision and that the announcements conveyed the findings and conclusions of the board in an orderly and itemized fashion with specific attention to each issue presented by the member in regard to that member's case. These

certifications apply to a case both during initial consideration and upon subsequent consideration due to appeal by the Service member or other circumstance.

3.4 Quarterly DES Performance Measures. Based on fiscal quarters, each Military Department shall report performance measures no later than the 15th calendar day following the end of the preceding quarter, the performance measures for their components and a total for the Department. Minimally, the measures shall consist of:

3.4.1. Dispositions. The number and percent of Active and Reserve component members who were assigned the following DES dispositions: fit, separation without benefits, permanent disability retirement, disability severance pay, and temporary disability retirement. The table below provides the format and a sample data set.

Military Department												
Component	Year	Fit		Separation w/o Benefits		PDRL		Severance Pay		TDRL		Total
		#	%	#	%	#	%	#	%	#	%	
Active	**2005**	445	6.9%	506	7.8%	209	3.2%	4468	69.1%	837	12.9%	**6465**
Reserve	**2005**	248	11.2%	338	15.2%	102	4.6%	1220	54.9%	315	14.2%	**2223**

3.4.2. Formal Boards. The number and percent of members requesting a Formal PEB.

3.4.3. Member Appeals. The number and percent of Formal PEB case decisions for Military Department appellate review.

3.4.4. MEB Timeliness. The average number of days per case from the date the NARSUM/MEB report was dictated to the date the complete NARSUM/MEB report and case file was received by the PEB, reported separately for duty and nonduty related cases. Also, report the percentage of cases that met the duty and nonduty related processing goals.

3.4.5. PEB Timeliness. The average number of days per case from the date of the receipt of the complete MEB case file by the PEB to the date of the determination of the final review authority (excluding appellate review), reported separately for duty and nonduty related cases. Also, report the percentage of cases that met the duty and nonduty related processing goals.

3.4.6. PEBLO Caseload. The average ratio of PEBLO-to-case load for the quarter.

3.4.7. Analyses. The report should include the Military Department's analyses of the quarterly disposition data and any sampling of decisions on disability ratings of medical conditions, whether initiated by the Disability Advisory Council or the respective Military Department. These analyses will be used for Department of Defense wide comparison.