



DEPARTMENT OF THE ARMY
United States Army Physical Disability Agency
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AHRC-D

17 August 2018

MEMORANDUM FOR Presidents, U.S. Army Physical Evaluation Boards

SUBJECT: Physical Evaluation Board (PEB) Procedural Guidance Memorandum #10:
Guidance for Applying the Presumption of Fitness Rule under Various Circumstances

1. Supersession: This memorandum supersedes Physical Evaluation Board (PEB) Procedural Memorandum #10, dated 20 July 2018, subject: Presumption of Fitness Rule Guidance Concerning Reserve Component (RC) Qualitative Retention Board (QRB) and Concerning Retention Control Point (RCP) Date

2. Purpose: To add the circumstance of when Selective Continuation extends the separation date of an officer's mandatory removal date.

3. Reserve Component (RC) Qualitative Retention Board (QRB):

a. Guidance: The presumption of fitness rule applies to disability cases of RC Soldiers non selected for retention by the RC QRB only when all of the criteria, below, are met.

(1) The RC Soldier elected transfer to the Retired Reserve as their preferred option; and

(2) The recommendation of the board was non retention; and

(3) The date the Soldier was referred to the Disability Evaluation System (DES) was after the date the QRB recommendations were approved.

b. Discussion:

(1) The policy for conduct of the RC QRB moved from AR 135-205, chapter 2, to AR 135-178, chapter 16. The PEB adjudicators should familiarize themselves with the following paragraphs of chapter 16.

- 16-4 (Soldiers not to be considered)
- 16-15 (approval or disapproval of board recommendations)
- 16-17 (disposition of Soldiers not selected for retention)

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(2) In general, the presumption of fitness is inapplicable to QRB action because it does not create an RC mandatory removal date. Per AR 135-178, chapter 16, Soldiers non retained by the QRB are fully qualified to continue to serve in the Individual Ready Reserve until they reach 60 years of age. (Of note, RC Soldiers who are within 12 months of reaching age 60 on the date the QRB convenes are not referred to the QRB board.)

(3) The date the Soldier elects transfer to the Retired Reserve pre-QRB is irrelevant to application of the presumption of fitness rule because it is a contingent election.

4. Date to be used as the retention control point (RCP):

a. Guidance: When adjudicating a case involving a retirement eligible RCP, the PEB will use the separation/retirement date established by the U.S. Army Human Resources Command to determine whether Soldier's referral to the DES was before or after the Soldier was within 12 months of the Soldier's retirement eligible RCP.

b. Discussion:

(1) The presumption of fitness rule relates to Soldiers in retirement scenarios. The DoDI 1332.18 (and AR 635-40) includes as a retirement scenario, "An enlisted member is within 12 months of his or her retention control point or expiration of their active obligated service, but will be eligible for retirement at his or her retention control point or expiration of active obligated service."

(2) The DES regulations suppose the enlisted member with a retirement eligible RCP will request voluntary retirement in lieu of accepting discharge. (Mandatory retirement does not occur for enlisted members.)

(3) The release from active duty date for a length of service retirement date is the last day of the month. The AR 635-200, paragraph 4-3e(2), states: "Soldiers who are precluded from retention for any reason will not be retained beyond the last day of the month in which their ETS falls, or, if on Indefinite status, they will not be retained beyond the last day of the month in which their retention control point (RCP) falls. Though the preceding implies an RCP separation could be before the end of the month, for length of service retirement, the release date is no earlier than the last date of the month.

(4) The ODCS, G1, policy POCs for Army Retention support that the separation or retirement date designated for the RCP is an adjusted RCP date.

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5. Selective continuation as an extension of an officer's MRD:

a. Guidance: The PEB will use the end date for the officer's selective continuation as the "MRD" date to determine whether the officer's referral to the DES was before or after the Soldier was within 12 months of their "MRD."

b. Discussion: When an officer with an MRD is selectively continued, the officer's personnel qualification record may continue to list the pre-selective continuation MRD date. However, selective continuation has the operational effect of adjusting the officer's MRD to the end date of the selective continuation. In that the DoDI 1332.18 does not invoke a presumption of fitness at the 18-year point (sanctuary), and in that all of the involuntary removal scenarios in the DoDI 1332.18 have a 12-month period, this indicates DoD does not intend for any Service member to be under a presumption of fitness rule for longer than 12 months.

6. "Fit/fit" versus fit by presumption: For those cases in which the finding would be fit regardless, recommend such statement be included in the DA Form 199 rationale.

7. Point of contact: The point of contact for this memorandum is the United States Army Physical Disability Agency at (877) 577-3065 or via email at usarmy.jbsa.hrc.mbx.usapda-hq-ret-sep@army.mil.

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