

Physical Disability Board of Review (PDBR) Questions and Answers

1. What is a PDBR review?

The FY 2008 National Defense Authorization Act (NDAA) requires the military services, upon request, to review certain separations for medical conditions where the rating was 20 percent or less and the member did not otherwise retire. The review will evaluate whether, under the applicable guidance in effect at the time, the rating awarded was fair and accurate.

2. Whose ratings can be reviewed?

The rating of members as described above who were separated from between September 11, 2001 and December 31, 2009 can request this review.

3. Who can request this review?

The former service member, their surviving spouse, next of kin or legal representative may request this review.

4. How long do I have to apply?

At the present time, no time limit or cutoff date has been established for this review.

5. How do I request this review?

Applications should be submitted to the Central Intake and Tracking Unit (CITU) located at Randolph AFB, TX on a form, DD Form 294, *Application for Review of Physical Disability Separation from the Armed Forces of the United States* (currently pending approval), or computer-generated equivalent. The applications may be mailed to the following address: SAF/MRBR, 550-C Street West, Suite 41 Randolph AFB, TX 78150-4743. Due to the need for an original signature, applications may not, as of this date, be submitted electronically.

6. When will applications be accepted?

Assuming the request to use this form before final OMB approval is granted, applications forms should be available on this web site on or about 1 December. Applications will be accepted immediately thereafter.

7. I was not in the Air Force; why am I mailing my application to Randolph AFB?

The Department of Defense (DoD) has designated the Air Force as lead component for implementing the PDBR process. As such, the AF has overall responsibility for case tracking and reporting, although the actual case evaluation and adjudication is done in a joint adjudication unit with all Services (and components) represented. The Under Secretary of Defense for Personnel and Readiness retains overall responsibility for program implementation.

8. What should I include with my application?

An applicant may submit statements, briefs, medical records, or affidavits in support of their application. Unless requested by the intake unit, the applicant does not need to send medical records that are already included among his or her service medical documents or the medical separation paperwork (informal board, formal board and appeal files and results).

9. Is there another way this review occurs?

Under special circumstances, the PDBR can initiate a review but if this occurs, the PDBR will contact the former member, explain why the board believes a review is appropriate and ask for his/her consent. If consent is not given, there will be no review.

10. What if I do not consent to a board initiated review and then later change my mind?

You may subsequently request a board review.

11. What is the difference between a Board for Correction of Military (or Naval) Records (BCMR/BCNR) review and a PDBR review?

This is a very important point and you should understand there are several differences between the scope and the consequences of the two reviews. To help you compare you may wish to refer to this comparison chart. Note: a version of this chart is on the DD 294.

COMPARISON - BCMR VERSUS PDBR REVIEW OF RATING

CHARACTERISTIC	BCMR	PDBR
Panel Composition	3 civilians in grade of GS-15 and above	3 military officers in grade of 05/06 (or civilian equivalents); Board president 06 or civilian equivalent only
Review Authority	May apply for review of military record, within three years of error/injustice, (may be waived in the interest of justice)	Medical separation 20% or less where member did not retire finalized between 11 September 2001 and 31 December 2009
Review Process	Application submitted, medical, personnel or legal advisories prepared and served on applicant with	Application submitted, then case summarized by PDBR medical member (or other experts) for presentation to PDBR before vote.

	chance to comment before panel review and vote	Applicant can submit records from non DOD sources
Panel Outcome	Recommendation or Decision	Recommendation only
Decision Authority	Director, Review Boards Agencies (Army, Air Force, Assistant Secretary of the Navy (M&RA) or Assistant General Counsel (M&RA) (Navy)	Director, Review Boards Agencies (Army, Air Force), Assistant Secretary of the Navy (M&RA) or Assistant General Counsel (M&RA) (Navy)
Burden of Proof	Member has the burden of proof to establish error or injustice. There is a presumption of regularity	Member need not allege anything, review accomplished upon request
Effective Date of Correction and Benefits Computation	Benefits retroactive to date of separation	Benefits forward only as of date of final decision
Standards	Will correct errors in records and/or remove an injustice	Rating reviewed for fairness and accuracy
Impact of Subsequent VA Rating	Within discretion of the Board	Will compare VA rating with particular attention to one given within 12 months of separation

12. Can I file with both the PDBR and BCMR /BCNR?

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

Example: You were found unfit for a back problem and separated at 10 percent for this condition. You also had asthma problems but they were not found to be unfitting and thus were

not part of your disability rating. You may only ask the PDBR to re-evaluate your back injury rating. In contrast, you could ask a BCMR/BCNR to change your record to show you were found unfit for both conditions. If you do not go to the PDBR, you could ask the BCMR/BCNR to do both; if you have been to the PDBR, the BCMR/BCNR will not review the rating for the back, but will consider whether you should have been found unfit (and received an additional rating) for the asthma or any other medical condition.

13. Which one should I choose?

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

14. Is there someone who can help me make the choice?

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

15. Will the government pay for an attorney?

The government will not pay for an attorney to advise you in this matter.

16. Can I file in both places at the same time? See answer and example above for limitations on filing with the BCMR/BCNR and PDBR. Assuming you file in both places at the same time, the BCMR/BCNR case may be placed in administrative hold until the PDBR application is decided. When a case is placed on administrative hold, the case is not closed, but no action is taken on the case. The applicant will be notified in writing when the case is placed in this status.

17. What if I have already been to the BCMR/BCNR?

If you filed with the BCMR/BCNR prior to 27 June 2008 (effective date of the DoDI), you will not have to choose between the BCMR/BCNR and the PDBR review.

18. Can my service disability rating be lowered?

No. The PDBR cannot lower a service disability rating.

19. Can I appear in person?

The PDBR is a document review only. There is no provision for a personal appearance.

20. How long will this review take?

Since this is an entirely new process, it is not possible to come up with an estimate at this time.

21. Why does this group need my DVA records?

Part of the PDBR review process is to consider the rating the DVA awarded the applicant for the unfitting condition(s) with particular attention to those awarded within 12 months of separation. Access to DVA medical records is necessary for this review.

22. Will my privacy be respected?

Yes. Only individuals with a need to know will have access to information from the applicant's service and medical records.

23. What if I do not consent to release of my VA records?

If the applicant does not consent to a release of DVA records, the service disability rating will be reviewed for fairness and accuracy but the comparison to the DVA rating will not be accomplished.

24. Where does this review take place?

The case evaluation and consideration (so-called adjudication) will take place in a joint (all services and components represented) central adjudication unit in Crystal City, VA created especially to perform this mission.

25. Who makes the final decision?

By law, the PDBR makes a recommendation to the applicant's Service Secretary who makes the final decision. This responsibility may be delegated to, but to no lower than, the Directors of the Review Boards Agencies (Army and Air Force) and for the Navy, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) or the Associate Counsel. These individuals are career members of the senior executive service (civilian general officer equivalents).

26. How will I be notified?

The Central Intake and Tracking Unit (CITU) will notify the applicant of the final decision and the consequences if the rating is changed including the effect upon benefits. If the rating is changed, that unit will also notify the applicant's Service BCMR/BCNR who will be responsible for correcting the military records. The VA will also be notified where appropriate.

27. Will the decision be explained to me?

The final letter to the applicant will provide a rationale for the decision.

28. When will the correction be effective?

The military records will be corrected effective the date of the Secretary's decision (not retroactive). It should be noted, Board for Correction of Military (or Naval) Records

(BCMR/BCNR) corrections are effective as of the date of the original action (here medical separation). This means that benefits arising from a PDBR will be prospective only whereas a BCMR/BCNR correction would give benefits retroactively.

29. Can I appeal the decision?

By law, the decision of the Secretary (or designee) is final. There are no provisions for appeal or reconsideration by the PDBR. On the other hand, previously denied BCMR/BCNR appeals may be reconsidered when relevant newly discovered evidence (not previously available) is presented.

30. Where can I find more specific guidance on the processing and criteria for the PDBR process?

The governing instruction for the PDBR process is DODI 6040.44 available at <http://www.dtic.mil/whs/directives/corres/pdf/604044p.pdf>.

31. Whom can I contact at the PDBR for additional questions not included on this list?

You may submit a question about processing procedures in writing to the intake unit at the following address: SAF/MRBR, 550-C Street West, Suite 41 Randolph AFB, TX 78150-4743. Please keep in mind, however, that this office will not offer advice or discuss the merits of your application.