This chapter describes the DoD Disability Evaluation System from five perspectives: (1) its stated purpose and desired outcomes, (2) its external customers, (3) its organizational setting, (4) the DES operating framework that exists in common across the military departments, and (5) aspects of DES operations that are unique to certain military departments. Examining the DES from these perspectives is important to gaining a thorough understanding of both the system and the recommendations described in this report.

The first section of this chapter discusses the purpose of the DES. We give the system's purpose the preeminent position in this chapter because it is central to any effort to improve the operation of the DES. The first section also outlines a set of desired outcomes that explicitly states the intended results of operating the system to achieve its purpose. The second section of this chapter identifies the DES customers and their expectations of the system.

Because the DES exists within an organizational setting, the third section of this chapter describes the elements of the system within that setting, the organizational location of those elements within the military departments, and the relationships and flow of information among the organizations that operate the various elements of the DES and among other organizations inside and outside the military departments.

The final section of this chapter summarizes the common operating framework of the DES across the military departments and aspects of DES operations that are unique to certain military departments, in other words, instances of variability.

PURPOSE STATEMENT AND DESIRED OUTCOMES

A purpose statement describes the fundamental and unchanging reason for the DES's existence. It differentiates the DES from other human resource management systems (and tools) and is the foundation for designing, redesigning, organizing, and monitoring every aspect of the system.

Lacking explicit direction from the Office of the Secretary of Defense (OSD) on the purpose of the Disability Evaluation System, the military departments tend to interpret DoD policy language to fill the directional void and operate their systems
Improving Performance of the DoD Disability Evaluation System

accordingly. Their statements of purpose (or “objectives” or “mission statement”) include various renditions and combinations of five themes:

1. Maintain a fit force.
2. Provide compensation and benefits.
3. Remove unfit members from active duty.
4. Balance the interests of the government and the service member.
5. Serve both active and Reserve service members implicitly; the Department of the Navy explicitly includes the Reserve components.

The military departments’ various DES purpose statements, along with the mission statement set forth by the Joint Service Disability Working Group in 1993, appear in Appendix B.

The system’s stated purpose should be the foundation for any major change in the direction, structure, or operation of the DES. After extensive discussions with its primary participants and based on a review of OSD and military department documents, we formulated the following statement of purpose of the Disability Evaluation System:

1. Unfitting condition” is a term commonly used in DES policy. Although not explicitly defined in DoD or U.S. statutory documents, the term could be said to refer to “a medical condition resulting from disease or injury that makes a service member unfit to perform the duties of the member’s office, grade, rank, or rating” (DoD Directive 1332.18, 1996, p. 2; DoD Directive 6130.3, 1994, p. 1).

2. The OSD relies on time standards for processing medical boards through the Disability Evaluation System to assess system performance. Chapter 6 outlines a comprehensive performance measurement system that relates output measures, such as medical board processing time, to desired outcomes.

3. We derived the purpose and outcomes from the DoD and military department documents and from interviews with primary participants. As a result, they should be generally acceptable to decisionmakers in the OSD and military departments; however, we did not attempt to secure agreement from those decisionmakers. Rather, we believe it is essential for the ASD/FMP, in consultation with the ASD/RA and ASD/HA, to decide on a stated DES purpose and desired outcomes, using our proposed framework as a starting point. The objective of their deliberations is a common framework to develop a sense of ownership of the DES purpose and desired outcomes—the purpose and desired outcomes inform all other decisions and interventions. This purpose-driven approach is discussed in greater detail in Appendix F.
1. Service members having a similar condition and similar office, grade, rank, or rating receive similar fitness decisions within the military department.

2. Service members found unfit receive similar disability ratings for similar conditions across and within the military departments.

3. Service members freely and appropriately exercise their rights to administrative due process.

4. Service members return to duty, separate, or retire for disability in a timely manner.

5. Primary participants perform their duties as efficiently as possible so that, collectively, they return service members to duty, or separate or retire service members for disability in a fair, consistent, and timely manner.

The two major DES interventions recommended in Chapters 5 and 6 flow from the proposed purpose statement and set of desired outcomes. Because a shared purpose and shared understanding of desired outcomes do not currently exist, reaching consensus on a purpose statement and a set of desired outcomes is an important first step in the development of interventions to improve the performance of the DES. We recommend that the OSD make reaching this consensus a key initial action.

We used the purpose statement and outcomes proposed here to develop the two major recommendations discussed in Chapters 5 and 6, recognizing that some of the specifics will change if the OSD modifies the proposed purpose—the foundation of the DES’s existence. However, based on our discussions with the primary participants, we believe that the purpose statement and outcomes we suggest are close to those that will eventually be agreed upon.

EXTERNAL CUSTOMERS

The military departments operate their DESs to benefit two customers: individual service members and individual military services. The system’s stated purpose and desired outcomes define customer expectations. As such, service member expectations center on similar dispositions (among service members in similar circumstances) and on due process. Service expectations center on expeditious processing and efficient operations.

For a discussion of measuring system performance in terms of how well it meets external customer expectations, see Chapter 6.

THE ORGANIZATIONAL SETTING

The DES operates to achieve its stated purpose within a larger organizational context. According to DoD policy documents, the DES is composed of four major elements. Significantly, no single organization within the military departments “owns” all of the elements of the system. The DES interfaces with other systems within the military departments. The organizations that constitute the DES exchange operationally critical information with other organizations within the military departments
and with one external organization, the Department of Veterans Affairs. The DES’s operation within this context directly affects its performance.

The Elements of the Disability Evaluation System

DoD policy documents identify the four elements that constitute the Disability Evaluation System:

- medical evaluation
- physical disability evaluation, to include appellate review
- counseling
- final disposition.

A service member enters the DES when a medical evaluation calls into question his or her ability to meet medical retention standards to perform military duties. A member who does not meet medical retention standards progresses to a physical disability evaluation.

Primarily while undergoing medical and physical disability evaluations, the service member receives counseling regarding what to expect throughout all phases of the disability evaluation process, the significance and consequences of the determinations that are made, and his or her rights, benefits, and entitlements.

A member who disagrees with the physical disability evaluation findings and recommendations may redress that disagreement through appellate review.

Appropriate personnel authorities accomplish final disposition of the service member’s case by issuing orders and instructions to implement the determination of the respective military department’s final reviewing authority. The service member exits the DES by returning to duty, separating (with or without compensation), or retiring for disability or length of service. Figure 3.1 illustrates the four elements that constitute the DES. It notes that the counseling element primarily occurs simultaneously with the medical evaluation element and the physical disability evaluation portion of the second element.

The admittedly simple representation of the DES shown in Figure 3.1 belies its underlying complexity. Some of that complexity arises because no single organization owns all the elements of the system.

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4This introduction to the four elements of the DES is based on DoD disability policy documents and does not include the variations that exist across the military departments, such as the alternative route into the Army DES through the Military Occupational Specialty Medical Retention Board. The last section of this chapter specifies the operational and structural differences that we identified within the three military departments’ DESs in the context of the system framework that is common across the military departments.
Organizational Location

The Disability Evaluation System is but one of the systems supporting the personnel (human resource management) communities of the military departments. The system, ideally, supports the broader goals of the personnel functions of which it is a part, which in turn support broader enterprise goals of the military departments and the DoD. In fact, the “maintain a fit force” theme identified in the various purpose statements of the military departments, as noted earlier in this chapter, highlights the linkage between the DES and the enterprise goals of the military departments and the DoD to maintain a fit force. As one of many management tools to support the enterprise goals, the DES is the specific tool used to evaluate service members with medical conditions that make them potentially unfit to perform their duties, and to remove those service members who are unable to fulfill the duties of their office, grade, rank, or rating.

Two functional areas within the military departments collaborate to operate the DES: the medical community and the personnel community.

The Medical Evaluation Board, which is responsible for the medical evaluation element, is organizationally located at the MTFs. The board is part of the medical community of the military departments.

5To avoid misunderstanding, we avoid using the acronym MEB, which is commonly used to mean three different things: the group of physicians who convene as a board, the narrative summary, and also the complete disability case file. Instead, we use the term “Medical Evaluation Board” when referring to the group of physicians that convene as a board (including those who pass records among themselves without actually convening a board), we refer to the narrative summary as the “narrative summary,” and we refer to the disability case file as the “medical board.”
As later chapters of this report describe, many of the primary participants of the DES view the Physical Evaluation Board, which is responsible for the physical disability evaluation element, as the heart of the system. The PEB is part of the personnel community in all three military departments, although each department positions the PEB within a different part of its overall organizational structure. The Army PEB, for example, belongs to the Army Physical Disability Agency, Office of the Adjutant General, Total Army Personnel Command. The Department of the Navy PEB is a component of the Director, Naval Council of Personnel Boards, Office of the Assistant Secretary of the Navy (Manpower and Reserve Affairs). The Air Force PEB belongs to the Air Force Physical Disability Division, Directorate of Personnel Program Management, Air Force Personnel Center.

In addition, the higher-level appellate review beyond the PEB in the second element of the DES and the final disposition element reside organizationally within the personnel community.

To achieve its purpose, the DES also interfaces with other organizations within the military department: each service member’s unit and the Office of the Judge Advocate General. The service member’s unit has a direct interest in the operation of the DES because the unit must operate without a replacement for the service member until final disposition of the case, and the service member receives legal advice and representation from an attorney from the Office of the Judge Advocate General.

Figure 3.2 portrays the organizational setting of the DES within the medical community (in particular, MTFs) and the personnel community and its interface with the other military department organizations: the service member’s units and the Office of the Judge Advocate General.

The flow of information among these entities is even more abundant than Figure 3.2 suggests. Given the organizational setting illustrated in Figure 3.2, Figure 3.3 portrays the DES as one of many major systems that exchanges information, including one
system external to the DoD, the Department of Veterans Affairs. For the DES to operate smoothly and efficiently, the military departments must understand, and manage, these interfaces and information streams.

The military departments operate their individual systems based on their interpretations of DoD disability policy. Careful examination revealed essentially identical system frameworks, with numerous operational and structural variations, across the military departments. The following section describes the system framework that is common across the military departments in terms of process, primary participants and their roles, information examined, and range of disposition options in each phase of the process. Within the context of a common system framework, the following section also specifies the operational and structural variations that we identified within the three military departments’ DESs.

SYSTEM OPERATING FRAMEWORK ACROSS DEPARTMENTS: OVERVIEW OF THE FOUR DISABILITY EVALUATION PHASES

As noted earlier, DoD disability policy documents set forth policy within a framework that consists of four elements: (1) medical evaluation; (2) physical disability evaluation, to include appellate review; (3) counseling; and (4) final disposition by the appropriate personnel authorities.

This section describes the system’s operational framework. It reorients the policy focus from “elements” to “phases” through which an individual service member’s case may move, introducing a systems perspective of the DES.
A service member who enters the DES can potentially pass through four progressive phases:

1. Medical evaluation and disposition by the Medical Evaluation Board
2. Physical disability evaluation, including the possibility of a formal hearing, and disposition by the PEB
3. Two or three higher levels of appellate review beyond the PEB
4. Final disposition by the appropriate personnel authorities.

Counseling, cited as the third “element” within disability policy documents, is not a separate phase. Counseling aids service members as they progress through the first two phases in particular. Figure 3.4 portrays the four phases of the DES in relation to the four individual DES elements.

When a service member has received maximum benefit from medical treatment for a condition that may prevent the service member from meeting medical retention standards, and the service member fails to improve or recover, he or she may be referred to a Medical Evaluation Board by

- a physician
- the unit commander, through the MTF commander
- the service headquarters or higher command.

**Note:** Other means of referral to a Medical Evaluation Board exist in two military departments:

- The Army Military Occupational Specialty Medical Retention Board (MMRB), an administrative screening board that evaluates the ability of service members with a “permanent 3” or “permanent 4” medical profile to physically perform in a worldwide field environment in their primary military occupational specialty, may direct referral to a Medical Evaluation Board. When the MMRB refers a service member to a Medical Evaluation Board, the service member must be referred to the PEB, whether or not the member meets medical retention standards.

- The most frequent cause of referral to the Medical Evaluation Board in the Department of the Navy is that the service member used all of the Temporary Limited Duty available and still requires medical treatment. The Chief, Naval Operations; Chief, Marine Corps; Chief, Naval Personnel; and Chief, Bureau of Medicine and Surgery may order an MTF to convene a Medical Evaluation Board for a member (Secretary of the Navy Instruction 1850.4D, 1998, p. 3-2).

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Phase 1. Medical Evaluation and Disposition by the Medical Evaluation Board

A service member’s case enters the Disability Evaluation System when the referring physician dictates a narrative summary7 for a Medical Evaluation Board.8

Note the following military department-specific differences:

- Interns may write narrative summaries at the Army MTFs.
- First-year residents generally write the narrative summaries at Department of the Navy MTFs.
- The Departments of the Army and Navy refer service members who have a high probability of not returning to duty to Medical Evaluation Boards.
- The Air Force refers service members who have a high probability of returning to duty to Medical Evaluation Boards.

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7 Although practitioners in all the services frequently refer to the narrative summary document as a “medical board,” this report uses the term medical board exclusively to refer to the complete disability case file including the narrative summary and all other associated addenda. The Army calls the narrative summary a “MEB narrative summary.”

8 An active or Reserve component service member with a prognosis of death within 72 hours and an LOD Determination of Yes (LOD-Yes) enters the Disability Evaluation System any time, day or night, for expeditious disability retirement processing, also known as imminent death processing. Based on an investigation of the circumstances surrounding a service member’s disabling medical condition under the regulations of the respective military department, an LOD determination is made during the physical disability evaluation phase to establish whether the member’s disability was incurred or aggravated while the member was in a duty status, as defined in DoD Instruction 1332.38 (1996).
Factors that lead to a Medical Evaluation Board for active duty service members include the following:

- a condition that may permanently interfere with service and/or require permanent assignment limitations
- mental incompetency in managing personal affairs
- member’s refusal of reasonable medical treatment.

Note the following military department-specific differences:

- In the Department of the Army, a service member undergoing treatment for medical conditions may receive a period of convalescent leave during which he or she is still considered a patient of the MTF; the service member must return periodically for evaluation by a physician. A service member who can return to duty with restrictions is given a profile. Profiles are either temporary, to be reevaluated at a given date, or permanent, to remain with a service member for the remainder of his or her career. In some of these cases, a service member’s ability to meet retention standards may be questionable, resulting in referral to a Medical Evaluation Board.

- In the Department of the Navy, a service member may receive up to 30 days of “light duty” while undergoing treatment for a medically diagnosed condition. If the member continues to need medical treatment at the end of the 30-day period, he or she may be referred to a Limited Duty Board or Medical Evaluation Board for further evaluation. The member may receive up to 16 months of Temporary Limited Duty (in up to eight-month increments) or spend up to 30 days in Medical Hold pending completion of a Medical Evaluation Board referral to the PEB.

- In the Air Force, the Medical Standards Branch assigns and removes “Code C,” an assignment limitation code, to a member’s personnel records. The system monitors a service member assigned Code C and generally examines his or her medical condition every one or two years, depending on the condition. The Air Force does not limit the length of time a member may serve with a Code C.

From the perspective of primary participants across the military departments, the date a narrative summary is dictated is generally accepted as the date the service member enters the DES. However, from the perspective of the service member, substantial time may pass between the date the referring physician decides the service member’s medical condition calls into question his or her ability to meet medical retention standards and the date the physician actually dictates the narrative summary. During this intervening time, the service member schedules and awaits the appropriate specialty consultations, the results of the various medical tests, and the synthesis of all of his or her pertinent medical evidence into a narrative summary.9

9Numerous primary participants expressed concern that progression through this preliminary phase is not generally monitored and many service members get “lost”—that is, delayed—in the system while
The narrative summary initiates the service member’s disability case file, which is generally referred to as the “medical board” or the “MEB.”

The narrative summary documents the full clinical information for all of the service member’s medical conditions and states whether any of them is cause for referral into the DES. The summary includes a medical history, results of appropriate physical examinations, and medical test results. It synthesizes all pertinent medical evidence from all appropriate medical and surgical consultations into one comprehensive document together with diagnosis, treatment, and prognosis. It clearly describes the service member’s current physical and/or mental condition in enough detail for the PEB to adjudicate the case. Although all narrative summaries require specific detailed medical data for PEB adjudication, the following categories of cases require information in greater detail and with more specificity than other categories require:

- Orthopedic
- Neurological/Neurosurgical (in particular, backs)
- Ophthalmologic
- Pulmonary
- Cardiological
- Psychiatric
- Migraine headache–related
- Fibromyalgia
- Rheumatology.

DoD Instruction 1332.38 (1996) encourages physicians who prepare medical boards for referral for physical disability evaluation to use the Department of Veterans Administration’s Physician’s Guide for Disability Evaluation to describe the nature and degree of severity of the member’s condition.

Each medical board contains numerous additional documents, depending on the particular case and the military department’s administrative requirements. All, however, contain the following nonmedical documents: (1) a letter from the service member’s commander describing the impact of the service member’s medical condition on the member’s ability to perform his or her normal military duties and to deploy or mobilize, as applicable; (2) a copy of the LOD determination, when required; (3) pertinent personnel records as required by the member’s service to establish his or her military history; and (4) an official document identifying the next of kin, court appointed guardian, or trustee when a service member is determined waiting for all the required actions before the physician dictates the narrative summary. Some MTFs reportedly manage this otherwise unmonitored period of time to their advantage by requiring physicians to wait to dictate the narrative summary until the PEBLO assembles all of the medical and nonmedical documents that constitute a medical board. This practice contributes to decreased Medical Evaluation Board processing time, which is reported to the OSD.

10Department of Defense Instruction 1332.39 (1996) details the exact type of medical information required for all cases.
incompetent. These additional documents may also include previous medical boards, the member’s rebuttal, and the Comprehensive Clinical Evaluation Protocol evaluation or waiver, if appropriate.

**Note the following military department–specific differences:**

- The Departments of the Army and Navy medical boards include Standard Form 88/Standard Form 93, Report of Medical History.
- The Department of the Navy medical boards may include previous Limited Duty Boards and physician surrebuttals.

Patient administrators at the MTFs generally assist PEBLOs in compiling the necessary medical and nonmedical documents that constitute the comprehensive disability case file—that is, the medical board—before forwarding it to the PEB.

**Note the following military department–specific differences:**

- The Army job titles for what this report refers to as “patient administrators” include “patient administration staff members” and “MEB clerks” that assist PEBLOs.
- At the Department of the Navy medical centers, known as the “Big-8,” PEBLOs focus on counseling service members whereas patient administrators compile the documentation for the medical boards.

Dictating the narrative summary triggers initial counseling by the PEBLOs.

**Note the following military department–specific differences:**

- Most Army PEBLOs are Army civilian employees, assigned to positions in the continental United States (CONUS). The Army typically assigns noncommissioned officers with backgrounds in patient administration to its limited medical PEBLO positions outside CONUS. Army PEBLOs are appointed by and work for the MTF commander, not the Physical Evaluation Board.
- The Department of the Navy assigns senior enlisted members (E-7 or above) with backgrounds in patient administration to PEBLO positions at the eight Navy medical centers. PEBLOs at the Big-8 are the only PEBLOs in any of the military departments that work for the Physical Evaluation Board. The Department of the Navy also assigns equivalent Navy civilian employees and enlisted members—called “disability evaluation counselors”—from a wide range of diverse specialties, such as nuclear machinist’s mate, electrician, postal worker, electronic warfare technician, gas turbine electronic technician, and aviation ordnance technician, to collateral PEBLO duty at smaller MTFs; they work for the MTF commander.
- The Air Force also typically assigns enlisted service members with a background in the patient affairs medical career field to PEBLO duty, although it recently began reorganizing the PEBLO function from patient affairs in the MTFs to flight
medicine, which actually performs the medical examinations. Some Air Force PEBLOs are also Air Force civilian employees. Air Force PEBLOs also work for MTF commanders.

The PEBLOs advise service members regarding what to expect throughout all phases of the disability evaluation process, the significance and consequences of the determinations that are made, and the service member’s rights, benefits, and entitlements.

Note the following military department–specific differences:

- The Army makes every effort to send members for pre-separation counseling 90 days prior to separation.
- The Department of the Navy PEBLOs funnel service members through the Navy Transition Assistance Program (TAP). PEBLOs present a Disability Transition Assistance Program, which is Part 1 of the TAP. Part 2 is mandated by law and managed by commanders.
- In the Air Force, as soon as it is evident that a service member will meet a Medical Evaluation Board, the PEBLO refers the member to the Military Personnel Flight for pre-separation counseling to satisfy the requirements of 10 U.S.C. 1142, although final disposition within the DES is unknown.

A Medical Evaluation Board—a clinical body of two or three physicians at an MTF—reviews the narrative summary and supporting addenda. One Medical Evaluation Board member is a psychiatrist when a psychiatric condition is under examination.

Note the following military department–specific differences:

- The Army Medical Evaluation Boards consist of two or three physicians plus a reviewing authority. They do not convene a “group board”; they pass the medical boards among the designated members, one at a time.
- Department of the Navy Medical Evaluation Boards also act by passing a medical board from one physician to the next until all three designated members have reviewed it.
- Only the Air Force actually convenes a group of three staff-rank physicians (that is, not interns or residents) in one place at one time to act on narrative summaries, with the MTF commander or designee as an approving authority.

The Medical Evaluation Board documents, under departmental regulations, the service member’s medical status and duty limitations based on the medical diagnosis and prognosis found in the narrative summary. The Medical Evaluation Board evaluates and reports on the (1) diagnosis; (2) prognosis for return to full duty; (3) plan for further treatment, rehabilitation, or convalescence; (4) estimated length of time the disabling condition will exist; and (5) medical recommendations for the disposition of the service member. The Medical Evaluation Board determines if a reasonable
doubt exists of a service member’s ability to meet medical retention standards to perform military duties.

**Note the following military department–specific differences:**

- Only the Army Medical Evaluation Boards determine the service member’s ability to meet medical retention standards only for his or her *current* military occupational specialty.
- The Department of the Navy Medical Evaluation Board makes a clear statement of its opinion that the member’s condition does or does not render the member “unable to continue naval service by reason of physical impairment” (Secretary of the Navy Instruction 1850.4D, 1998, p. 3-59).
- The Air Force Medical Evaluation Board relates the member’s defects, capabilities, limitations, and prognosis to the military environment. Members must be able to perform military service in such a manner as to reasonably fulfill the purpose of their employment on active duty (U.S. Department of the Air Force Physical Disability Division, 1999, p. 9).

The Medical Evaluation Board recommends a case disposition based solely on a records review. The Medical Evaluation Board may recommend

- return to duty
- referral to the PEB
- the case be returned to the physician(s) for further evaluation, treatment, or clarification
- referral to the parent service for review and disposition.

**Note the following military department–specific differences:**

- Department of the Navy Medical Evaluation Boards may also recommend a period of “light duty” or a period of temporary limited duty.
- If an Air Force Medical Evaluation Board finds an Air Force service member temporarily disqualified for worldwide duty, it may forward the case to the Medical Standards Branch for review and approval. The Medical Standards Branch may direct further observation or treatment. In these cases, the Medical Standards Branch gives the service member a Temporary 4 profile (4-T) and the case is reconsidered at a later date. The service member may remain on a 4-T profile for a maximum of one year. A service member who remains disqualified for worldwide duty at the end of one year on 4-T must be processed for Medical Evaluation Board/PEB evaluation (U.S. Department of the Air Force Instruction 48-123, 1994).

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11Throughout this report, the term “records review” means that the service member does not appear before the decisionmaking body; only the written record of the service member—the disability case file referred to as the “medical board”—represents the service member’s case.
The Medical Evaluation Board approving authority reviews all Medical Evaluation Board decisions recorded in the medical boards before forwarding to the PEB. This approving authority is a senior physician, generally assigned or delegated by the MTF commander, and is not considered a member of the Medical Evaluation Board.

**Note the following military department–specific difference:**

- The Department of the Navy title for the Medical Evaluation Board approving authority position is “M.E.B. convening authority,” although the Department of the Navy Medical Evaluation Board does not physically convene in one place to review medical boards.

When a Medical Evaluation Board report expresses a reasonable doubt of a service member’s ability to fulfill the duties of his or her office, grade, rank, or rating, the MTF refers the medical board to the PEB for a determination of fitness and a disability rating for those found unfit.

DoD Instruction 1332.38 (1996) establishes the following time requirement goal for the medical evaluation phase of the DES: “When a physician initiates a Medical Evaluation Board, the processing time should normally not exceed 30 days from the date the Medical Evaluation Board report is dictated to the date it is received by the Physical Evaluation Board.”

**Note the following military department–specific difference:**

- Secretary of the Navy Instruction 1850.4D (p. 1-11) restates the timeliness goal: “Medical Board reports referring members to the Physical Evaluation Board will be processed, dictated, and received by the Physical Evaluation Board within 30 days of the attending physician’s desire to convene a medical board based on the doctor’s opinion that the service member’s return to full duty is unlikely and optimal medical benefits have been attained. Delays of acceptance by the PEB for completion of case documentation requirements are not included within this time standard” [emphasis added].

DoD Instruction 1332.38 establishes the following time requirement goal for Reserve component service members referred solely for a fitness determination on a non-duty-related condition: “For cases of Reserve component members referred solely for a fitness determination on a non-duty-related condition, processing time for conduct of Medical Evaluation Board or physical examination shall not exceed 90 calendar days.”

**Phase 2. Physical Disability Evaluation and Disposition**

The PEB conducts the Physical Disability Evaluation process; the process consists of two levels of adjudication: Informal PEB adjudication and Formal PEB adjudication. The Informal PEB conducts a records review and issues findings and recommendations. Service members found unfit who choose to appeal the findings and recommendations of the Informal PEB have an opportunity to present their case in person
with legal representation at the Formal PEB, which then issues findings and recommendations.

PEB administrative action officers are the focal point for quality assurance during this phase. They (1) receive medical boards from MTFs, log them in, quality-check them for administrative sufficiency, send insufficient medical boards back to the referring MTF, and route sufficient ones to the Informal PEB; (2) notify appropriate service headquarters of pending PEB actions on service members; and (3) forward medical boards of appealed cases to the Formal PEB. The following sections of this chapter outline the operations of the two levels of PEB adjudication—Informal PEB adjudication and Formal PEB adjudication, plus final disposition from both.

Note the following military department–specific differences:

- The Army job titles for what this report refers to as “PEB administrative action officer” include “case analyst” and “recorder.” Recorders are noncommissioned officers, warrant officers, or civilians of equivalent grades who work for the PEB.
- “Recorder” is also the job title in the Department of the Navy.
- The Air Force job title is “action officer”; nine GS-07s and one technical sergeant serve as action officers to support the Informal PEB. Unlike the other military departments, each action officer manages an individual case from the time it is logged in at the Informal PEB until the case is closed, a period which may cover several years, depending on the stability of the member’s condition and the level of appellate review sought.

Informal Physical Evaluation Board. The Informal PEB consists of three voting members, including at least one physician, and one nonmedical officer. The physician(s) interpret(s) the diagnosis and prognosis from the Medical Evaluation Board. The nonmedical officer—typically a personnel officer—interprets the impact on the service member’s unit from the member’s inability to perform his or her duties as a result of the condition or impairment. A Reserve component officer fills one of the three voting positions when adjudicating a Reserve component case. When the board members cannot agree on findings or recommendations, the dissenting member may write a minority opinion that becomes part of the medical board.

Note the following military department–specific differences:

- Army Informal PEB composition normally includes a nonmedical officer president (O-6), one personnel management officer, and one physician who may be either civilian or military. The president and personnel management officer may be of any branch except the special branches. The personnel management officer is usually a Reserve or National Guard member. A Reserve component officer, otherwise qualified for PEB duty, serves on the informal board when it evaluates Reserve component cases. Likewise, female, minority, or enlisted representation on the Formal PEB is provided, when possible, upon request. The same members constitute both the Informal and Formal PEBs, which means the same members may adjudicate the same case on two different levels.
• Department of the Navy Informal PEB membership consists of one medical officer and two line officers, usually a Navy and Marine Corps officer. All members are senior military officers, O-6 preferred. One of the two line officers acts as the Informal PEB administrator, preferably the line officer from the member’s service (Navy or Marine Corps).

• Air Force Informal PEB membership consists of two medical officers (O-6s) and one line officer, generally a personnel officer (O-5 or O-6), who is designated Informal PEB president.

The Informal PEB determines whether the service member is eligible for full adjudication or only a fitness finding for Reserve component non-duty related cases. It evaluates each case and issues a finding of each service member’s fitness to perform the duties of his or her office, grade, rank, or rating on the basis of the preponderance of the evidence in the medical board.

**Note the following military department-specific differences:**

• The Army Informal PEB issues a finding of the service member’s fitness to perform the duties of his or her “office, grade, rank, or rating and military occupational specialty.”

• Air Force Informal PEB issues a finding of the service member’s fitness to perform the duties of his or her “office, grade, or rank.”

In each case, the Informal PEB weighs the nature and degree of the service member’s condition or impairment as presented in the medical board against the requirements and duties expected of the service member’s office, grade, rank, or rating, and the commander’s assessment of the service member’s duty performance.

The Informal PEB considers the following compensability criteria:

• Any injury or disease discovered after a service member enters active duty, with the exception of congenital and hereditary conditions, is presumed to have been incurred in the line of duty.

• Presumption that service incurred or service aggravated condition, and overcoming presumption.

• Line of duty determination (depending on the case—administrative, informal, or formal).

**Note the following military department-specific difference (to the LOD Determination):**

– The Naval Reserve uses the term *Notice of Eligibility* for the LOD Determination.

• Standard of proximate result applies to Reserve component members whose disability originated prior to September 24, 1996.
• Presumption of fitness, and overcoming presumption. Members with retirement dates and members who face higher tenure restrictions are presumed fit. Because these members qualify for length-of-service retirement, the potentially disabling condition is presumed not to be a reason for “early firing.”

• Noncompliance (refusal of treatment).

Based on the information in the service member’s medical board, the Informal PEB may find the member fit or unfit. The military departments each rely on different fitness criteria.

**Note the following military department–specific differences:**

• The Army PEB (both Informal and Formal) determines fitness based upon whether the record of evidence shows that the medical condition does or does not preclude reasonable performance of the duties required of the service member’s office, grade, rank, or rating. It relies heavily on the performance data provided by the service member’s immediate commander (DoD Instruction 1332.38, 1996, Part 3, paras. B and C [published version], and DoD Instruction 1332.38, 1996, Part 3, paras. E3.P3.2 and E3.P3.3 [electronic version]; 12 AR 635-40, 1990, para. 4-19d[2]).

• The Department of the Navy determines fitness by relating the nature and degree of physical disability of the member to the requirements and duties that member may reasonably be expected to perform in his or her office, grade, rank, or rating. It published its fitness standards and criteria in Secretary of the Navy Instruction 1850.4D, 1998, pp. 3-13 through 3-17.

• The Air Force relies on the standards and criteria for determining fitness in DoD Directive 1332.18, para. C.3 (para. 3.3 in the electronic version) (U.S. Department of the Air Force Instruction 36-3212, 1998, p. 17). The Air Force Informal PEB may express its opinion concerning possible reclassification, but does not have the authority to direct reclassification, establish physical profile limitations or direct assignments (U.S. Department of the Air Force Physical Disability Division, 1999, p. 12).

If the Informal PEB finds a service member unfit and the service member does not have an LOD Determination of No (LOD-No) or a condition that existed prior to service, the Informal PEB assigns a code and rates the service member’s degree of disability using the VASRD, the DoD Instruction 1332.39, Enclosure 3, or the current analogous codes established by a group of physicians from all three military depart-

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12 The Department of Defense Directive (DoDD) 1332.18 and Department of Defense Instruction (DoDI) 1332.38 documents posted on the DoD Web site use a different paragraph numbering system than the published paper documents. Primary participants reported that service member customers generally have easier access to the electronic version on the Web than to the published version, whereas primary participants who work with the system on a daily basis rely almost exclusively on the published paper versions. As a result, primary participants who respond to customer inquiries based on the electronic version of the DoD Directive and the DoD Instruction must translate the paragraph numbers in their published paper version to the paragraph numbers in the customer’s electronic version.
ments and distributed to augment those published in Enclosure 3. The analogous codes supplement VASRD codes, which do not include all possible impairments that result from combat or many current medical diagnoses.

The range of recommendations available to an Informal PEB for a service member found unfit to perform the duties of the member’s office, grade, rank, or rating is as follows:

- Stable condition, unfit
  - Discharge with severance pay if the disability is rated less than 30 percent and member has less than 20 years of service
  - Discharge without severance pay (in cases of LOD-No or Existed Prior to Service [EPTS])
  - Retire for disability if the disability is rated 30 percent or more or member has more than 20 years of service and is eligible for retirement

- Unstable condition, unfit
  - Place on Temporary Disability Retired List if the disability is rated 30 percent or more or the member has more than 20 years of service and is eligible for retirement.

The range of recommendations available to the Informal PEB for a service member found fit to perform the duties of the member’s office, grade, rank, or rating, if the condition is stable, is as follows:

- Fit
  - Return to duty
  - Remove from TDRL and return to duty.

All three military departments exercise an administrative process for granting light or limited duty to a service member who is found fit but requires additional time to heal.

When the Informal PEB finds a service member fit, the PEB administrative action officers route the medical board back through the appropriate administrative channels to the MTF and notify the service member’s PEBLO. The PEBLO notifies the service member of the findings, recommended disposition, and appeal options.

**Note the following military department–specific differences:**

- An Army service member has ten calendar days to make a decision regarding the Informal PEB findings and recommendations. A member found fit may elect either of the following options:
  - Concur
  - Nonconcur, with or without rebuttal.
If the service member concurs, the PEB president approves the proceedings for the Secretary of the Army. The PEB recorder forwards the medical board to the Physical Disability Branch within the Army Physical Disability Agency for final disposition.

Unless a minority report was entered, if the service member nonconcurs with the finding without submitting a rebuttal, the PEB president has approval authority for the Secretary of the Army and forwards the case to the Physical Disability Branch for final disposition. The Army Physical Disability Agency must approve all cases that include a minority report before final disposition. If the service member nonconcurs and submits a statement or rebuttal to the recommended findings without asking for a formal hearing, the PEB president responds in writing to the service member, normally within three days. If the service member’s rebuttal does not result in a change to the Informal PEB findings, the response explains the Informal PEB’s decision to adhere to the earlier findings. The service member is advised that the rebuttal will be included in the medical board and considered in the review action by the Army Physical Disability Agency. A copy of the PEB president’s letter is included in the medical board that is forwarded to the Army Physical Disability Agency for final review.

- A Department of the Navy service member has 15 calendar days in which to make a decision regarding the Informal PEB findings and recommendations; acceptance is presumed on the sixteenth day after the receipt of findings. A member found fit may elect either of the following options:
  - Accept the fit finding and continue service
  - Disagree with the finding and request reconsideration by the Informal PEB.

Reconsideration may relate to the same diagnosis or a new diagnosis. A member offering new medical information, or a significant nonmedical assessment that was not previously available or considered, is eligible to have the Informal PEB reconsider the case. The member must also present a new nonmedical assessment. In requesting reconsideration, the member must also submit a statement regarding his or her desire for a Formal PEB if the findings are unchanged. If the new information does not change the results of the Informal PEB finding, the PEB president may grant a member a Formal PEB. The member found fit does not have a right to a Formal PEB. If the member does not request a hearing, or if the hearing request is denied, the Informal PEB findings become final. If, upon reconsideration, the finding is changed to unfit, the member receives new notification and is presented with the applicable options.

- Air Force members found fit do not have a right to an appeal process because they have not been “fired.” However, the Informal PEB will review the cases again at the request of the commander of the referring MTF, if the commander believes that important evidence was omitted from the previous medical board that was sent to the Informal PEB.
When the Informal PEB finds the service member unfit, it determines whether the service member is eligible for other special considerations, such as permanent limited duty, as an exception to policy.

**Note the following military department–specific difference:**

- The Army Informal PEB determines whether the service member is eligible for Temporary Early Retirement Authority or Reserve component member early qualification for retired pay at age 60.

- Only the Department of the Navy limits the amount of limited duty time awarded by the PEB, which together with the service headquarters has authority to grant permanent limited duty of 60 days or less for Marines and 90 days or less for Navy members.

The Informal PEB determines if the disabling condition meets the criteria for Instrumentality of War issues, such as exemption of disability retired or severance pay from gross federal income tax, eligibility for civil service preference status, and exemption from the Dual Compensation Act.13

When the Informal PEB finds a service member unfit, the PEB administrative action officers notify the PEBLO who counsels the service member, in person when possible, on the findings, disposition recommendation, implications, and appeal options. Depending on the option the service member elects, the PEB administrative action officers route the medical board to the appropriate review authority, personnel headquarters, or the Formal PEB. Depending on military department policy, the service member has from three duty days to 15 calendar days to elect options.

**Note the following military department–specific differences:**

- An Army service member has ten calendar days to make a decision regarding the Informal PEB findings and recommendations. A member found unfit may elect from among the following options:
  - Concur
  - Nonconcur with or without rebuttal
  - Demand Formal PEB (unfit findings only).

  An Army Formal PEB is a new hearing; it does not start with or refine the findings of the Informal PEB.

  If the service member concurs, the PEB president approves the proceedings for the Secretary of the Army. The PEB recorder forwards the medical board to the Physical Disability Branch within the Army Physical Disability Agency for final disposition.

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13The Dual Compensation Act prohibited military officer retirees from collecting full military retirement pay in addition to full pay as a federal civilian employee, so-called double-dipping. During the course of this study, the 1999 National Defense Authorization Act for fiscal year 2000 repealed the reduction in retired pay for military retirees employed in civilian positions, effective October 1, 1999.
Unless a minority report was entered, if the service member nonconcurs with the finding without submitting a rebuttal, the PEB president has approval authority for the Secretary of the Army and forwards the case to the Physical Disability Branch for final disposition. The Army Physical Disability Agency must approve all cases that include a minority report before final disposition. If the service member nonconcurs and submits a statement or rebuttal to the recommended findings without asking for a formal hearing, the PEB president responds in writing to the service member, normally within three days. If the service member’s rebuttal does not result in a change to the Informal PEB findings, the response explains the Informal PEB’s decision to adhere to the earlier findings. The service member is advised that the rebuttal will be included in the medical board and considered in the review action by the Army Physical Disability Agency. A copy of the PEB president’s letter is included in the medical board that is forwarded to the Army Physical Disability Agency for final review. If the service member nonconcurs with the findings and recommendations with a statement of rebuttal and demands a formal hearing, the PEB may reconsider its findings and recommendations in light of the service member’s statement of rebuttal. If the Informal PEB agrees with the service member and modifies the findings and recommendations, the PEB sends the amended findings to the member’s PEBLO. The PEBLO then notifies the service member of the change. The service member has ten calendar days to make his or her new election. If the service member accepts the revised findings, the case is forwarded to the Physical Disability Branch for final disposition. If the service member does not accept the revised findings or the Informal PEB does not change its earlier findings, the case is scheduled for a formal hearing.

- A Department of the Navy service member has 15 calendar days to make a decision regarding the Informal PEB findings and recommendations; acceptance is presumed on the sixteenth day after the receipt of findings. A member found unfit may do any of the following:
  - Unconditionally accept the findings
  - Conditionally accept the findings
  - Demand a hearing before the Formal PEB.

In the case of unconditional acceptance, the case is forwarded to the PEB president who issues a Notice of Decision to the appropriate service headquarters. In the case of conditional acceptance, the member agrees to accept the findings if the condition requested is met (such as a specified period of permanent limited duty or a specified separation or retirement date). When filing a conditional acceptance, the member must indicate if he or she desires a Formal PEB if the condition is not met. A member found unfit who nonconcurs with the Informal PEB findings may demand a Formal PEB hearing.

- An Air Force service member has three duty days to decide whether to accept or appeal the recommendations. A member found unfit may do either one of the following:
  - Agree with the findings
Disagree with the findings and request a Formal PEB hearing (U.S. Department of the Air Force, Physical Disability Division, p. 11).

If the member accepts the finding and recommendations, he or she signs a form that is sent back to the Disability Operations Branch and the medical board is forwarded to the Secretary of the Air Force Personnel Council. Final disposition includes outprocessing the service member from the Air Force. If the member decides to appeal the recommendations, the action officer assigned to the case schedules an appointment for the Formal PEB within two to three weeks, forwards the medical board to the Formal PEB, and advises the PEBLO at the referring MTF.

In two of the three military departments’ DESs, the officer (O-6) in charge of the department’s PEB board process (called the “PEB board approving authority” in this report) reviews the Informal PEB findings and disposition recommendations for every medical board.

**Note the following military department–specific differences:**

- No one person reviews all Army Informal PEB findings and recommendations. However, the Army Physical Disability Agency is responsible for reviewing and confirming Informal PEB actions. The Army Physical Disability Agency reviews those cases in which the service member disagrees with the findings of the Informal PEB and submits a rebuttal. If the agency changes the findings of the Informal PEB and the service member nonconcurs with a rebuttal, the case is forwarded to the Army Physical Disability Appeal Board for final decision. The Army Physical Disability Agency headquarters also conducts mandatory records reviews for quality assurance of the following cases:
  - All general officers and medical corps officers found unfit
  - All cases in which the service member nonconcurred, with or without a rebuttal, and consideration of the rebuttal did not result in a change in PEB findings and recommendations
  - All cases in which a PEB member submitted a minority report
  - All cases of members assigned to the Army Physical Disability Agency
  - Any case previously reviewed
  - Command directed quality reviews on special-interest cases, such as HIV.

- The Army Physical Disability Agency may do the following:
  - Concur with the findings and recommendations of the Informal PEB or make minor changes or corrections that do not affect the recommended disposition of the soldier, or lower the combined percentage rating
  - Return the case to the PEB for reconsideration, clarification, further investigation, a formal hearing, or other action when the case records show that such action is in the best interest of the service member or the Army
– Issue revised findings providing for a change in disposition of the service member or change in the service member’s disability rating
– Refer the case to the Army Physical Disability Appeal Board.
• The Department of the Navy PEB president, who oversees all Navy PEBs (both Informal and Formal), reviews all Informal PEB findings and disposition recommendations and ensures each case is administratively and legally sufficient. If he or she concurs, the recorder sends a findings letter to the PEBLO to brief the service member. If the service member does not concur, he or she may modify or cancel the findings letter and notification of decision letters and direct appropriate substitute disposition.
• The Chief, Air Force Physical Disability Division, who oversees both the Informal and Formal PEBs, reviews all Informal PEB case findings and recommendations. If the Chief, Air Force Physical Disability Division approves the PEB findings and recommendations, a PEB administrative action officer sends a findings letter to the PEBLO who then informs the service member. If the Chief, Air Force Physical Disability Division does not approve the PEB findings and recommendations, he or she forwards the case directly to the Formal PEB.

A service member found unfit who disagrees with the findings and recommendations of the Informal PEB has a legal right, with the assistance of an attorney at no cost to the member, to appeal his or her case to the Formal PEB.

**Formal Physical Evaluation Board.** The Formal PEB consists of three voting members, including at least one physician, and one nonmedical officer. The physician(s) interpret(s) the medical diagnosis and prognosis. The nonmedical officer—typically a personnel officer—interprets the impact of the member’s inability to perform his or her duties as a result of the condition or impairment on the service member’s unit. A Reserve component officer fills one of the three voting positions when adjudicating a Reserve component case.

A service member may choose representation by an attorney from the Office of the Judge Advocate General at no cost to the member. A service member may also choose to hire a civilian attorney at his or her own expense.

A service member spends one to three working days with an attorney to prepare for his or her formal hearing, depending on military department policy.

**Note the following military department–specific differences:**

• An Army service member is given a minimum of three working days to prepare his or her case with an attorney. If more time is required, the service member can request an extension from the PEB president.
• The Department of the Navy encourages a service member to contact his or her attorney by phone in order to start preparing the case as soon as the service member decides to appeal and before arriving at the Formal PEB. The
Department of the Navy service member meets with his or her attorney the day before the hearing.

- An Air Force service member is given two days to prepare a case with his or her attorney at the Formal PEB location.

The service member’s attorney confers with and fully advises the member of legal and other substantive considerations for his or her case. The attorney represents the service member before the Formal PEB, presenting information and arguments in support of the service member’s case. The attorney also arranges for the presence of desired witnesses and evidence in support of the member’s case, interviews witnesses prior to the formal hearing, and questions them during the hearing.

The Formal PEB is formally structured and nonadversarial in nature. The proceedings are generally audiotaped.

**Note the following military department–specific difference:**

- The Air Force both audiotapes and videotapes the proceedings and gives the member a copy of the audiotape before he or she departs the site of the Formal PEB.

The board members review the evidence in the medical board prior to the formal hearing.

**Note the following military department–specific difference:**

- Some Army formal hearings are held via videoconference.

The service member is called into the formal hearing chamber and sworn in. Any additional documents provided by the service member are entered into evidence. The service member’s attorney enters the member’s plea and the board members question the service member about his or her medical condition of referral and its impact on the service member’s current activities including work, school, and recreation.

**Note the following military department–specific difference:**

- Department of the Navy physician board members may conduct medical examinations on the service member during the formal hearing; Army boards do not include this practice.

At the end of the questioning, the board provides the member with an opportunity to add any additional information that would impact his or her case. Upon completing the open hearing, the board closes for deliberation and the service member and his or her attorney leave the room. The Formal PEB members consult in private to agree upon a fitness decision and disposition recommendation and determine if any additional information entered into evidence impacts Informal PEB administrative decisions.
The range of dispositions available to the Formal PEB is the same as that available to the Informal PEB.

Any dissenting member of a Formal PEB may submit a minority opinion citing particular areas in which he or she disagrees with the action of the formal board. The minority opinion becomes part of the medical board case file.

Upon completion of the deliberations, the board reopens, calls the service member and attorney back into the hearing chamber, and informs the service member of the findings and recommendations. The service member and attorney then depart the chamber.

The attorney counsels the service member regarding Formal PEB findings and options available to the member and recommends courses of action that are most favorable to the member and that are consistent with the letter and intent of statutes, instructions, and other policy documents addressing disability evaluation and administration. The attorney advises the service member and assists, if asked, in the preparation and submission of a request for permanent limited duty, and prepares or assists in the preparation of a rebuttal at the request of the service member. In the case of incompetent service members, the attorney fully informs the court-appointed guardian, or if no guardian has been appointed by a court, the service member’s spouse or next of kin, as appropriate, if the wishes of the spouse or next of kin do not conflict with the proper exercise of the responsibilities of the attorney concerning the member’s best interests.

The service member may concur or nonconcur, with or without a rebuttal. The member has a right to appeal the findings and recommendations of the Formal PEB.

Depending on military department policy, the service member has zero to 15 days to elect options.

**Note the following military department-specific differences:**

- An Army service member may concur with the findings and recommendations or nonconcur with them, with or without rebuttal. He or she has ten calendar days to submit a rebuttal. A rebuttal must be based on one of the following issues:
  - The decision of the PEB was based on fraud, collusion, misrepresentation, or other misconduct
  - Mistake of law
  - The service member did not receive a full and fair hearing
  - Substantial new evidence exists.
- When practical, a Department of the Navy service member is notified of the findings either in open session or by his or her attorney, in person, prior to leaving the Formal PEB site. The attorney then counsels the service member regarding the Formal PEB’s recommendations. A service member is notified that the formal board’s findings are subject to review for administrative and legal sufficiency before issuance by the PEB president. After the review, the service mem-
ber later receives the final Formal PEB findings and the rationale for the findings from the PEB president via certified mail. A service member may choose to accept the Formal PEB findings or submit a Petition for Relief to the Director, Naval Council of Personnel Board, who is the next level of appeal. The member has 15 calendar days from the date of receipt of the Formal PEB findings to submit a Petition for Relief. If the service member accepts the findings and recommendations, the case is finalized and the PEB issues a Notice of Decision to the Chief of Navy Personnel or to the Commandant, Marine Corps (Manpower and Reserve Affairs).

- When the Air Force Formal PEB members reach agreement on a fitness and disposition recommendation, they call the service member and the member’s attorney back into the chambers and read the findings and recommendations, at which point the formal board concludes. The service member must sign a document stating that he or she either accepts or chooses to appeal the findings and recommendations. If the service member leaves the premises without signing the document, it is assumed that he or she chooses to appeal.

In the Departments of the Navy and the Air Force, the PEB approving authority reviews the Formal PEB findings and disposition recommendations for every medical board.

**Note the following military department–specific difference:**

- In the Army, the president of the PEB that heard the case reviews the board’s findings and recommendations. However, the Army Physical Disability Agency does conduct mandatory reviews of the cases mentioned earlier.

DoD Instruction 1332.38 establishes the following time requirement goal for the physical evaluation and disposition phase, including the appellate review and disposition beyond the PEB phase (discussed in the next section) of the DES: “Upon receipt of the [medical board] or physical evaluation report by the [Physical Evaluation Board], the processing time to the date of the final reviewing authority as prescribed by the Secretary of the Military Department should normally be no more than 40 days.”

**Phase 3. Appellate Review and Disposition Beyond the Physical Evaluation Board**

By law (10 U.S.C., Ch. 61, sec. 1214), the military departments may not separate or retire (for disability) a service member without a full and fair hearing if he or she demands it. The Formal PEB meets the requirement of the law. However, in addition to the statutory requirement, the military departments extend two to three additional appellate review opportunities to the service member. Following discharge or permanent retirement, a service member who remains dissatisfied may submit a petition to the appropriate military department’s Board of Correction of Military Records.
Generally, the additional appellate review boards have the same range of disposition options as the PEBs.

Note the following military department–specific differences:

- The Army provides three levels of appellate review beyond the PEB; the last two levels are components of the Army Council of Review Boards.
  - Army Physical Disability Agency
  - Army Physical Disability Appeal Board
  - Army Disability Rating Review Board.
  
The Army Physical Disability Agency reviews those cases in which the service member disagrees with the findings of the Formal PEB and submits a rebuttal. If the agency changes the findings of the Formal PEB and the service member non-concurs with a rebuttal, the case is forwarded to the Army Physical Disability Appeal Board for final decision. The Army Physical Disability Appeal Board reviews disability evaluation cases forwarded by the Commanding General, Army Physical Disability Agency. The Army Disability Rating Review Board reviews disability percentage ratings at the request of a service member who was retired because of physical disability.

- The Department of the Navy provides two levels of appellate review beyond the PEB:
  - Director, Naval Council of Personnel Boards
  - Officer Disability Review Board.

A Department of the Navy service member who disagrees with the findings and recommendations of the Formal PEB may submit a PFR to the next level of appellate review beyond the Formal PEB, the Director, Naval Council of Personnel Boards. The Director, Naval Council of Personnel Boards cannot reduce the final disability rating assigned by the Formal PEB unless the member is offered an additional appearance before a Formal PEB whose members have not previously ruled on the case (U.S. Department of the Navy, 1998, p. 5-2).

The Officer Disability Review Board reviews a limited class of disability cases wherein officers were retired or released from active duty without pay for physical disability (U.S. Department of the Navy, 1998, p. 7-1).

- The Air Force provides two levels of appellate review beyond the PEB; both are components of the Air Force Personnel Council (AFPC):
  - Air Force Personnel Board (AFPB)
  - Physical Disability Appeals Board (PDAB).

An Air Force service member who remains dissatisfied with the Formal PEB findings and recommendations may appeal his or her case to the AFPB, which consists of five senior officers, at least one of which is a medical officer. The AFPB conducts a records review of the case in closed session. The board members re-
view all material examined by the Formal PEB, the PEB report, and the service member’s rebuttal. The physician on the board is the service member’s advocate. The physician reads all of the information in the case file and presents a summary to the rest of the board. He or she answers the board’s questions, but makes no decisions or recommendations. The rest of the members vote secretly; majority vote rules. The AFPB may change the findings of the Formal PEB.

If the AFPB agrees with the Formal PEB or grants the service member’s appeal, the Secretary of the AFPC finalizes the case. Any other major change results in revised findings and recommendations, which the service member may choose to appeal at one final level, the PDAB. This board consists of five senior officers, including at least two medical officers, and conducts a records review in closed session. One officer briefs the case to the other members. They consider the entire medical board plus the service member’s rebuttal. The PDAB issues findings from the same range as all of the preceding boards. Majority vote rules. The PDAB’s decision on the case is final.

**Phase 4. Final Disposition by the Appropriate Personnel Authorities**

After the PEB or another appellate review board makes the final disposition decision, the personnel community returns the service member to duty or outprocesses and issues orders for those separated or retired for disability.

**Note the following military department–specific differences:**

- The Total Army Personnel Command makes final disposition of disability cases. The Physical Disability Branch within the Physical Disability Agency calculates separation and retirement dates and generates orders.

- Navy Personnel Command handles the final administrative discharge of disability cases. The effective date of retirement or separation because of physical disability (either permanent or temporary) is normally within four to six weeks, on average, after issuance of the “Notification of Decision.” The four- to six-week elapsed-time standard, however, is a guideline and not an inflexible rule. It may be exceeded by the Chief of Naval Personnel or the Commandant of the Marine Corps—Manpower Management Division, Separation and Retirement Branch, Disability Separation and Retirement Section in circumstances such as when there is a severe hardship on the member; when the member who is unable to sell earned leave takes the earned leave in lieu of selling it; infeasibility, such as when there is longer lead time for properly vacating government quarters or arranging movement of household effects; and adverse effect on the service such as when the four- to six-week standard precludes contact relief of officers in

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14 The Department of the Air Force is looking at doing away with this last level of appeal. It processed about a dozen cases at the Physical Disability Appeals Board level in 1998 and no findings and recommendations changed. Senior Air Force primary participants note that this level of review does not seem to add any value and it slows down case processing by a month.
command or other key billets (Secretary of the Navy Instruction 1850.4D, 1998, p. 1-11).

- The Secretary of the Air Force Personnel Council (SAFPC) handles the final disposition of each disability case. The Director, SAFPC, is empowered to determine appropriate disposition and announce the final decision of the Secretary. In turn, the SAFPC has designated certain key officials in the U.S. Air Force Physical Disability Division as Special Assistants to the Director, SAFPC. These assistants have the authority to finalize cases and announce the final secretarial determination in those cases not otherwise required to be finalized at SAFPC level.

Setting aside the stated purpose and set of desired system outcomes for the DES proposed earlier in this chapter, Chapter 4 presents our issues-driven analysis of instances of variability in disability policy application across and within military departments, plus recommended interventions to achieve more-consistent policy application. Chapters 5 and 6 shift from the issues-driven approach presented in Chapter 4 back to the recommended purpose-driven approach. The latter approach relies on the stated purpose and set of desired outcomes proposed in this chapter in order to present the major recommendations of this report: interventions in training and management information system deployment.