



DEPARTMENT OF THE NAVY  
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS  
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WASHINGTON NAVY YARD DC 20374-5023

IN REPLY REFER TO

5420  
CORB:003  
23 Nov 09

**SECNAVCORB POLICY LETTER 2009-2**

From: Director, Secretary of the Navy Council of Review Boards

Subj: IMPLEMENTATION OF FY 2010 NDAA PROVISION PERTAINING TO  
NDRB REVIEW OF PTSD/TBI CASES

Ref: (a) P.L. 111-084

Encl: (1) P.L. 111-084, section 512(b)

1. Reference (a) is the 2010 National Defense Authorization Act (NDAA) signed into law on 28 October 2009. Section 512 of the NDAA (enclosure (1)) amends 10 USC 1553 to require expedited review of cases involving applicants who, following a deployment in support of a contingency operation were, as a consequence of that deployment, diagnosed with either post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI). Per the reference, expedited review will be provided to those former service members meeting the above criteria and whose applications for relief are based in whole or in part on matters relating to PTSD or TBI. Reference (a) also requires that a board considering these applications include a physician, psychiatrist, or clinical psychologist member.

2. Effective immediately, the Naval Discharge Review Board (NDRB) will adhere to the requirements set forth in section 512(b). Those cases meeting the statutory criteria will receive priority review over other cases and a final decision in such cases will be expedited.

3. Higher priority/expedited review may be afforded to non-TBI/PTSD cases when, in the Board's determination, those cases present compelling circumstances that warrant adjudication before "section 512" cases. Examples of compelling circumstances includes those instances wherein expedited NDRB action could result in entitlement to Veterans Administration medical benefits in those cases where the applicant has a severe medical condition(s) and no other health insurance, or where board action could preclude loss of significant employment or educational opportunities. Should concern arise over an

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individual case's priority status the NDRB President will bring this to the attention of Counsel and the Director.

4. In addition to the Senior Medical Advisor, physicians assigned to the Physical Evaluation Board (PEB) will serve, when required by the President, NDRB, as voting members on boards considering section 512 cases. The President, NDRB, through coordination with the President, PEB, will ensure designated physicians meet NDRB qualification standards prior to serving as a voting board member.

5. The NDRB shall separately track and record case processing milestones and decision results for each section 512 case for inclusion in anticipated reports to secretarial authorities. Each section 512 case shall be placed in a colored folder distinct from other NDRB cases to ensure ready identification and accountability.

A handwritten signature in black ink, appearing to read 'J. A. Riehl', with a stylized flourish at the end.

J. A. RIEHL

Copy to:  
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**House Report 111-288 - NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010**

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***Subtitle B--General Service Authorities***

**SEC. 511. CONTINUATION ON ACTIVE DUTY OF RESERVE COMPONENT MEMBERS DURING PHYSICAL DISABILITY EVALUATION FOLLOWING MOBILIZATION AND DEPLOYMENT.**

*Section 1218 of title 10, United States Code, is amended by adding at the end the following new subsection:*

*“(d)(1) The Secretary of a military department shall ensure that each member of a reserve component under the jurisdiction of the Secretary who is determined, after a mobilization and deployment to an area in which imminent danger pay is authorized under section 310 of title 37, to require evaluation for a physical or mental disability which could result in separation or retirement for disability under this chapter or placement on the temporary disability retired list or inactive status list under this chapter is retained on active duty during the disability evaluation process until such time as such member is--*

*“(A) cleared by appropriate authorities for continuation on active duty; or*

*“(B) separated, retired, or placed on the temporary disability retired list or inactive status list.*

*`(2)(A) A member described in paragraph (1) may request termination of active duty under such paragraph at any time during the demobilization or disability evaluation process of such member.*

*`(B) Upon a request under subparagraph (A), a member described in paragraph (1) shall only be released from active duty after the member receives counseling about the consequences of termination of active duty.*

*`(C) Each release from active duty under subparagraph (B) shall be thoroughly documented.*

*`(3) The requirements in paragraph (1) shall expire on the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010.'*

## **SEC. 512. MEDICAL EXAMINATION REQUIRED BEFORE ADMINISTRATIVE SEPARATION OF MEMBERS DIAGNOSED WITH OR REASONABLY ASSERTING POST-TRAUMATIC STRESS DISORDER OR TRAUMATIC BRAIN INJURY.**

*(a) Medical Examination Required-*

*(1) IN GENERAL- Chapter 59 of title 10, United States Code, is amended by inserting after section 1176 the following new section:*

### ***`Sec. 1177. Members diagnosed with or reasonably asserting post-traumatic stress disorder or traumatic brain injury: medical examination required before administrative separation***

*`(a) Medical Examination Required- (1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure that a member of the armed forces under the jurisdiction of the Secretary who has been deployed overseas in support of a contingency operation during the previous 24 months, and who is diagnosed by a physician, clinical psychologist, or psychiatrist as experiencing post-traumatic stress disorder or traumatic brain injury or who otherwise reasonably alleges, based on the service of the member while deployed, the influence of such a condition, receives a medical examination to evaluate a diagnosis of post-traumatic stress disorder or traumatic brain injury.*

*'(2) A member covered by paragraph (1) shall not be administratively separated under conditions other than honorable until the results of the medical examination have been reviewed by appropriate authorities responsible for evaluating, reviewing, and approving the separation case, as determined by the Secretary concerned.*

*'(3) In a case involving post-traumatic stress disorder, the medical examination shall be performed by a clinical psychologist or psychiatrist. In cases involving traumatic brain injury, the medical examination may be performed by a physician, clinical psychologist, psychiatrist, or other health care professional, as appropriate.*

*'(b) Purpose of Medical Examination- The medical examination required by subsection (a) shall assess whether the effects of post-traumatic stress disorder or traumatic brain injury constitute matters in extenuation that relate to the basis for administrative separation under conditions other than honorable or the overall characterization of service of the member as other than honorable.*

*'(c) Inapplicability to Proceedings Under Uniform Code of Military Justice- The medical examination and procedures required by this section do not apply to courts-martial or other proceedings conducted pursuant to the Uniform Code of Military Justice.'*

*(2) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1176 the following new item:*

*' 1177. Members diagnosed with or reasonably asserting post-traumatic stress disorder or traumatic brain injury: medical examination required before administrative separation.'*

*(b) Review of Previous Discharges and Dismissals- Section 1553 of such title is amended by adding at the end the following new subsection:*

*'(d)(1) In the case of a former member of the armed forces who, while serving on active duty as a member of the armed forces, was deployed in support of a contingency operation and who, at any time after such deployment, was diagnosed by a physician, clinical psychologist, or psychiatrist as experiencing post-traumatic stress disorder or traumatic brain injury as a consequence of that deployment, a board established under this section to review the former member's discharge or dismissal shall include a member who is a physician, clinical psychologist, or psychiatrist.*

*'(2) In the case of a former member described in paragraph (1) or a former member whose application for relief is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale or as justification for priority consideration, the Secretary concerned shall expedite a final decision and shall accord such cases sufficient priority to achieve an expedited resolution. In determining the priority of cases, the Secretary concerned shall weigh the medical and humanitarian circumstances of all cases and accord higher priority to cases not involving post-traumatic stress disorder or traumatic brain injury only when the individual cases are considered more compelling.'*

*(c) Report Required- Not later than 240 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the detailed procedures and policies used by the Secretaries of the military department to implement the amendments made by this section, including--*

*(1) the list of officials identified by the Secretaries as required to review physical examinations to determine the possible influence of post-traumatic stress disorder or traumatic brain injury on the behavior of members before their separation under other than honorable conditions;*

*(2) the procedures adopted by the Secretaries to ensure that appropriate physical examinations required by the amendments are conducted;*

*(3) the procedures adopted by the Secretaries to ensure that the medical reviews required by the amendments are conducted; and*

*(4) the procedures adopted by the Secretaries to ensure that requests for review of discharges based on matters related to post-traumatic stress disorder or traumatic brain injury are considered in a timely manner by boards that include appropriate medical personnel, as required by the amendments.*

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