



DEPARTMENT OF THE NAVY
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS
720 KENNON STREET SE STE 309
WASHINGTON NAVY YARD DC 20374-5023

IN REPLY REFER TO

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CORB: 00
23 Aug 17

SECNAVCORB POLICY LETTER 2017-2

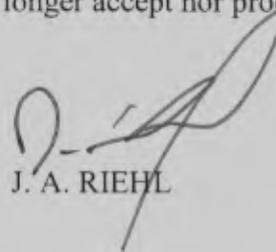
From: Director, Secretary of the Navy Council of Review Boards

Subj: CANCELLATION OF SECNAVCORB POLICY LETTER 2012-12

Ref: (a) SECNAVCORB Policy ltr 2012-12
(b) DODI 1332.18
(c) SECNAVINST 1850.4E

1. Reference (a) established Formal Board Reconsiderations to reduce Service members' travel to Washington, DC and to reduce the number of convened Formal Physical Evaluation Board hearings. While this policy initially had the intended effect, data from the past three years indicates that Formal Board Reconsiderations are infrequently submitted and rarely result in acceptance by petitioners. Further, processing Formal Board Reconsiderations imposes an unnecessary administrative burden on the Physical Evaluation Board. Finally, there is no requirement in reference (b) for Formal Board Reconsiderations, and there is no plan to incorporate them into the revision of reference (c).

2. Effective 1 October 2017, the PEB will no longer accept nor process Formal Board Reconsiderations.



J. A. RIEHL

Copy to:
PEB President
SECNAVCORB Legal Counsel
OJAG Code 16

1850
CORB: 011
18 Jun 12

SECNAVCORB POLICY LETTER 2012-12

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

Subj: CLARIFYING GUIDANCE ON PHYSICAL EVALUATION BOARD (PEB)
FORMAL BOARD RECONSIDERATION HEARING PROCEDURES

Ref: (a) SECNAVINST 1850.4E §§ 3109, 4214, 4215, and 4216

Encl: (1) Petition for Formal Reconsideration
(2) Formal Reconsideration Findings
(3) Election of Options (Formal Recon)

1. Purpose: To ensure compliance with the reference and promulgate procedures prior to the convening of a Formal Physical Evaluation Board (FPEB) hearing and conducting a "Formal Reconsideration. For purposes of this document, the term "Formal Reconsideration" means reconsideration of the Informal Physical Evaluation Board (IPEB) findings by the FPEB after the Petitioner exercises his right to a hearing.

2. Action: SECNAVCORB Policy Letter 2010-1A is canceled on 30 June 2012. Effective on 1 July 2012, the PEB will adhere to the requirements set forth below.

3. Reference & Enclosures: The reference is the Department of the Navy's Disability Evaluation Manual (SECNAVINST 1850.4E) dated 30 April 2002. Section 3109 prohibits *ex parte* communication between a petitioning member (Petitioner) and PEB members. Section 4214 of the reference regulates IPEB findings reconsiderations. Section 4215 regulates member acceptance/non-acceptance of IPEB findings. Section 4216 regulates cases of presumed acceptance when the member fails to respond to the IPEB findings letter. Enclosures (1) through (3) are the mandatory forms used in the Formal Reconsideration process.

4. Procedure: Only the Petitioner may initiate a Formal Reconsideration; a PEB does not have the authority to initiate a Formal Reconsideration on its own motion. The Petitioner or their Counsel shall submit a completed Petition for Formal Reconsideration (enclosure (1)) along with any necessary

Subj: CLARIFYING GUIDANCE ON PHYSICAL EVALUATION BOARD (PEB)
FORMAL BOARD RECONSIDERATION HEARING PROCEDURES

documentation to the PEB Counsel/PEB Administrator. The PEB Administrator will compile, maintain, forward, track, and file all submitted reconsideration requests. The PEB Administrator may deny any incomplete petitions. A petition is incomplete under any one of the following conditions:

a. The petition does not include a summary describing why the case warrants reconsideration;

b. The petition to consider a new diagnosis does not have supporting documentation attached; or

c. The petition to reconsider a diagnosis because of new information does not include new information.

A Petitioner may appeal the PEB Administrator's rejection of an incomplete Petition for Reconsideration by submitting an Appeal For Reconsideration (AFR) to the President of the PEB. A Petitioner cannot use a pending AFR as the sole basis to delay FPEB proceedings.

5. FPEB Proceeding: A FPEB will only reconsider cases brought to its attention through the petitioning process. A rebuttable presumption exists in that the IPEB was correct in law and fact regarding its preliminary adjudication. The FPEB will document its reconsidered findings within the Joint Disability Evaluation Tracking System, or its updated computer program currently in use at the time, and submit a Formal Reconsideration Findings (enclosure (2)) to the PEB Administrator. The PEB Administrator will process the FPEB's findings and forward the Formal Reconsideration Findings and an Election of Options (Formal Reconsideration) (enclosure (3)) to the Petitioner. The Petitioner can only accept the FPEB's Formal Reconsideration by signing and returning the completed Reconsideration Findings and Election of Options to the PEB Administrator for processing.

6. Communication: Board members shall not engage in communication either directly or indirectly with the Petitioner or their Counsel to discuss the merits of the case. Only the PEB Counsel/PEB Administrator will receive and deliver any communication between the Petitioner and Board members.

7. Resource to Medical Expert: Upon a Petitioner's request, the PEB will make available a medical authority to discuss general medical principles only. This medical authority will not serve as an expert witness at the FPEB hearing of the

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FORMAL BOARD RECONSIDERATION HEARING PROCEDURES

Petitioner to whom he has provided general medical advice, or as a voting member of that FPEB, and will not engage in confidential discussions with the Petitioner or their Counsel.

8. Petitioner Rights: A pending Petition does not cancel or suspend a FPEB. The Petitioner cancels his Formal PEB by accepting the FPEB's Formal Reconsideration Findings. The Petitioner's acceptance initiates the finalization of their case in accordance with the FPEB's Formal Reconsideration, and pursuant to the reference. If the Petitioner does not accept the FPEB's reconsidered findings, the FPEB will proceed as scheduled.

9. Timing: Petitions for Formal Reconsideration must be received by the PEB Administrator no later than 16:00 on the fifth (5th) business day prior to the scheduled FPEB hearing date. A Petitioner may accept their FPEB reconsidered findings until the day the FPEB convenes on the record.

10. Superseding Findings: The most recent Formal Reconsideration Findings render all prior PEB findings void, and precludes the Petitioner from electing any previous PEB findings they may deem more favorable. A Petitioner may withdraw a petition for reconsideration any time before the FPEB convenes to consider the petition. If the PEB Administrator does not receive a signed Election of Options (Formal Reconsideration) and the Petitioner or their Counsel does not appear before the FPEB, the PEB will presume the Petitioner's acceptance of the PEB's most recent findings and initiate finalization of the Petitioner's case in accordance with the reference.

11. Delegation: The PEB Administrator's authority originates with the President PEB and is delegable. Petitioners may petition for a Formal Reconsideration, and/or accept, or reject, the FPEB's Formal Reconsideration Findings via their counsel.

J. A. RIEHL

Copy to:
President PEB
SECNAVCORB Legal Counsel