

**PART 2 - POLICIES CONCERNING REFERRAL OF CASES TO THE
PHYSICAL EVALUATION BOARD**

3201 Criteria For Referral To The Physical Evaluation Board

a. Active Duty Members. As a general rule, an active duty member or a reservist on extended active duty will be referred for disability evaluation only by a medical board that has found the member's fitness for continued naval service questionable by reason of physical or mental impairment. A determination of questionable fitness must be supported by objective medical data displaying the nature and degree of the impairment. In those cases where it is not practicable to have a medical board consider the case; e.g., the member being hospitalized in a non-military hospital, the case may be referred by cognizant authority to the PEB when available medical records show that the member's fitness for continued naval service is questionable. In all cases, Navy and Marine Corps members MEBs must be processed through a Navy MTF with Convening Authority for further referral to the PEB.

b. Inactive-Duty Reservists

(1) Refer per reference (g) for disability evaluation those inactive-duty reservists issued an NOE for disability benefits due to a disability that occurred while serving on active duty or performing inactive duty training .

(2) An inactive duty reservist who has not been given an NOE and who has been determined by the CHBUMED to be "Not Physically Qualified" (NPQ) for active duty or retention will be referred, at the member's request, to the Informal PEB for final determination of physical condition. If the member is then found Unfit by the Informal PEB and assigned the PEB finding of NPQ, the member has the right to demand a Formal PEB. The member will bear all associated travel, lodging, meal, and incidental costs to the Formal PEB site.

(3) Cases of inactive duty reservists without an NOE may be processed into the DES for a FIT/ UNFIT determination by the PEB under the following circumstances:

(a) While serving as an inactive duty reservists, the member is ordered to active duty and serves a period of active duty greater than 30 days; and

(b) The member incurs or aggravates a condition during this period of active duty and his/her medical records contain documentation as to the nature of member's conditions including the approximate date of incurrence/aggravation. A FIT/UNFIT determination will not be made if the PEB cannot determine from the member's records that his/her condition(s) was incurred/aggravated during a period of active duty. In such cases, a Physically Qualified/Not Physically Qualified determination will be made.

Recourse for former inactive duty reservists who incurred or aggravated a condition during a previous period of active-duty, but do not meet the above requirements, is a petition to the Board for Correction of Naval Records.

c. Specified Physical Impairments. A list of physical impairments that are normally cause for referral to the PEB is contained in enclosure (8) to this instruction.

3202 Circumstances Not Justifying Referral To The Physical Evaluation Board

a. Lack Of Motivation. Lack of motivation alone for performance of duty does not justify referral to the PEB.

b. Request for referral to the PEB by the service member.

c. Mere Presence Of Physical Defect. The mere presence of disease or injury alone does not justify referral. Referral should take place only when, in the opinion of a medical board, the defect may materially interfere with the member's ability to perform reasonably the duties of his or her office, grade, rank, or rating/MOS on active duty. Also see enclosure (3), part 3.

d. Inability To Meet Initial Enlistment/Appointment Standards. Once enlisted or commissioned, the fact that a member may fall below initial entry or appointment standards, specified in the reference (f) (MANMED), does not require that the case be referred for disability evaluation.

e. Physical Disqualification For Special Duties. Physical disqualification from special duties, such as flying, serving on submarines or in a medical specialty, does not necessarily imply physical unfitness. Referral is appropriate only in cases where the member's ability to reasonably perform active military service is in doubt.

f. Inability to Meet Physical Standards for Specific Assignment or Administrative Requirement. The inability to meet screening criteria for a specific assignment or administrative requirement; i.e., deployment, overseas or sea duty assignment, or participation in PRT/PFT cycle, does not justify referral. Referral is appropriate only in cases where the condition appears to be permanent in nature or of such a degree as to render the member unable to return to naval service within a reasonable period.

g. Members Being Processed For Separation Or Retirement For Reasons Other Than Physical Disability. Do not refer a member for disability evaluation who is being processed for separation or retirement for reasons other than physical disability, unless the member previously was found Unfit but retained on active duty in a Permanent Limited Duty (PLD) status, or the member's physical condition reasonably prompts doubt that he or she is Fit to continue to perform the duties of office, grade, rank or rating/MOS.

3203 Rejection Of Cases

a. President, PEB may reject any case, which lacks necessary or required information needed to determine fitness, mental competence, eligibility for disability benefits, or an appropriate disability rating. However, in extraordinary cases, with the concurrence of the DIRNCPB, the President, PEB may accept a case and direct evaluation based upon evidence of record.

b. If the President, PEB rejects a case, the MEB will be returned, to include all supporting documents, to the originating facility. Specific deficiencies shall be identified to enable the submitting medical facility, general court-martial authority, or command having cognizance over the member, to provide the required information.

c. The President, PEB may reject any case (medical information submitted as a new Medical Board report, or addendum to a previous board) in which the date of the newly dictated medical information is within 6 months of the date of the PEB's Notification of Decision if, upon review by a medical officer assigned to the Informal PEB, the medical officer advises:

(1) The condition reported does not alter the subject member's previous findings ; or

(2) The condition reported is not a significant deterioration of the previously reported condition; or

(3) The service member's treatment has not significantly changed; or

(4) The service member has required no significant outpatient treatment other than that required for maintenance.

d. If the member is rehospitalized but has had no surgical procedures performed within 6 months of the PEB's issuance of its Notification of Decision of the member's previously evaluated case, the convening authority of the Medical Board, with the advice of the patient administration office, should assess whether the outcome of the rehospitalization as reported in the proposed Medical Board report would alter the previously determined findings of the PEB. The application of this criteria is particularly important when no diagnoses other than those previously reported to, reviewed by, and finally determined by the PEB are identified, or a chronic condition is involved and no objective medical evidence indicates that a significant change in the nature and the degree of severity of the condition has occurred.

e. In all above-noted circumstances, in order to ensure a reliable medical history is preserved, maintain entries in the member's health record to document all medical procedures undergone by the member.

f. The following general rules apply to all Medical Boards:

(1) Timeliness of submission of new medical information is critical to ensure PEB determinations are based on up-to-date, complete and accurate information. A service member's case before the PEB is final when Notification of Decision (en bloc) has been signed and issued to CMC (M&RA) or CHNAVPERs. Accordingly, the PEB normally will reject submission of information after Notification of Decision.

(2) The PEB normally will reject the case of a service member whose physical condition is the same, for which a final decision was issued within the last 6 months, unless after medical review, the condition appears to have substantially changed.

(3) Cases before the PEB normally will not be held in abeyance, continued, or a Notification of Decision canceled because the member alleges a treating physician is submitting a note, letter, or other document allegedly presenting additional information about the service member's condition.

(4) Cases before the PEB normally will not be held in abeyance, continued or a Notification of Decision canceled based on any information other than that officially submitted by or through the MTF (convening authority).

(5) The PEB will reject all cases in which the sole diagnoses involves conditions not constituting a physical disability as defined in paragraph 2016.

(6) The PEB will reject all cases in which the member is being processed for misconduct which could result in the member receiving either a punitive or administrative discharge due to that misconduct.

g. MEBs submitted on members with mandatory/voluntary retirement dates must be received by the PEB 60 days prior to the originally approved retirement date to allow for adequate processing time. Presently, PEB will verify dates with the appropriate service headquarters. Those MEBs received within the 60-day window will be screened by a Medical Officer of the Informal PEB to ensure serious conditions potentially overcoming PFit are not overlooked. Cases not accepted after medical review will be rejected and returned to the MTF. Service headquarters will be notified of case rejection and to continue processing the member for retirement. Acceptance of cases within this window does not necessarily mean that members will overcome the presumption of fitness rule.

3204 Suspension Or Termination Of Cases

a. When the PEB terminates a case for the reasons cited in paragraph 3203, return the MEB report, to include all supporting documents, to the originating MTF for corrective action and resubmission, if warranted. Process as new those cases resubmitted to the PEB after termination. In the case of inactive duty Reservists, the case should be returned to the NOE Issuing Authority.

b. When the PEB suspends a case for the reasons cited in paragraph 3203, hold the case in abeyance pending receipt of required documentation/information.

(1) A case will not be suspended for a period of time in excess of 60 days. After the 60-day period the case will be terminated and returned to the originating MTF.

(2) Cases suspended by the Informal PEB are usually the result of administrative deficiencies; i. e., missing LODI, missing Non-Medical Assessments (NMA), missing MEB physician signatures, etc. Upon receipt of required information, these cases will be inserted back into the process at the point at which the evaluation stopped. Cases will not be suspended for administrative errors or oversights for more than 30 days. Cases will not be suspended for additional medical information in excess of 60 days. Cases that exceed the limits above will be terminated.

(3) Cases suspended at the Formal PEB level are usually the result of substantial issues; i. e., new medical information pending, unplanned surgery or hospitalization, etc.. In those instances, cases will not be suspended for periods of more than 60 days.

c. Once a case has been terminated or rejected, resubmission, if necessary, is not allowed until all actions or information requested by the PEB are complete.

d. All parts of a MEB included as part of a previously terminated or rejected case, to include medical and non-medical information, must be less than 6 months old when received by the PEB. Ensure all interim SF-600 entries and other medical documentation not previously submitted are included in resubmission. A case not meeting these criteria will be rejected.

3205 Non-Medical Documentation Reports - Current Performance Of Duty

a. When a member is referred for physical disability evaluation, an assessment of the member's performance of duty by his or her chain of command may provide better evidence of the member's ability to perform his or her duties than a clinical estimate by a physician. Particularly in cases of chronic illness, non-medical documentation may be expected to reflect a member's capacity to perform accurately.

b. Provide non-medical documentation in all Medical Board reports to include:

(1) Except in situations of critical illness or injury or where the member has been declared "Death Imminent", a statement from the member's immediate commanding officer, executive officer, company commander, or command senior enlisted advisor addressing:

(a) Indicators of medical problems or absence of medical problems based on observations of the member while in-duty and off-duty situations;

(b) Description of current job assignment, including an assessment of how the medical problem has or has not affected the member's performance, ability to participate in the Physical Readiness Test (PRT)/Physical Fitness Test (PFT), and ability to deploy;

(c) Recent disciplinary history of the individual, including any disciplinary action pending;

(d) Description of the member's rating/Military Occupational Specialty (MOS), Navy Enlistment Classification Code (NEC), and/or specialty, including an estimation of how the member's condition will affect his or her ability to fulfill occupational requirements in the future; and,

(e) Commanders are also required to complete the non-medical documentation form and submit a narrative assessment on how the service member's medical condition impacts on his/her ability to perform military duties. Enclosure (11) contains the NMA form and an example of a narrative assessment.

(f) When the member has been reassigned for medical purposes, the MTF will obtain this statement from the member's former unit commander.

(2) A copy of the line of duty determination, when required by reference (h).

(3) Official documentation identifying the next-of-kin, court appointed guardian, or trustee in the case of members who are determined incompetent.

(4) Pertinent personnel records; e.g., copies of annual evaluation reports and promotion recommendations, awards, letters of appreciation, letters of commendation, etc., may also be included, but are not required unless specifically requested by the President, PEB.

c. Regardless of the presence of illness or injury, do not consider inadequate performance of duty, by itself, as evidence of Unfitness due to physical disability unless it is established that there is a cause and effect relationship between the two factors. Further, lack of motivation for performance of duty alone does not constitute a basis to award a disability .

3206 Hospitalization And/Or Surgery Performed After Medical Evaluation Board Report Referral To The PEB

a. Prior to submission to the PEB, member must complete elective surgical procedures that may affect a member's physical qualification for duty before initiation of a Medical Board. If a MEB or health record entry states that a surgical procedure is scheduled (or contemplated) the MEB should not be submitted until after the surgical procedure is done and an appropriate period of convalescence has occurred. An addendum addressing the results of surgery must be submitted with the MEB or the case will be terminated or rejected.

b. When hospitalization or non-elective, urgent surgery occurs or is contemplated for a service member who has a case before the PEB, the MTF shall notify the PPEB by written statement via FAX or message traffic, information copy to CHNAVPER/CMC

(M&RA) and CHBUMED, requesting PEB suspend or terminate the case. The statement will include the rationale for the requested action including the urgent nature of the hospitalization or surgery.

(1) When considering a medical procedure for a member whose case has been referred to the PEB for disability evaluation, the MTF should consider whether or not the member will have sufficient time remaining on active duty for appropriate follow-up care and should not assume that the Department of Veterans Affairs (DVA) will accept responsibility for such care unless the member has already been accepted as a DVA beneficiary.

(2) The timeliness and completeness of submission of any new medical information after a case has been referred to the PEB is critical to ensure PEB determinations are based on up-to-date, complete and accurate information.

(3) If PEB is notified before the Notification of Decision (En bloc) has been issued to the service headquarters, the case will be medically reviewed to determine if the case should be suspended, or terminated. If PEB action on the case is suspended, the MTF shall submit an addendum after hospitalization or surgery and an appropriate period of convalescence has been achieved following the procedures outlined in 3204 to ensure up to date documentation is provided to the PEB.

3207 Periodic Physical Examinations TDRL

See enclosure (3), part 6 to this instruction. Diagnoses centering on EPTS conditions still are not ratable.

3208 Member's Access To Medical Board Reports And Counseling

a. Unless the information contained in the MEB report may, in the judgment of the MEB convening authority, have an adverse effect on the member's mental or physical health, the member shall:

(1) be provided a copy of the MEB report;

(2) be counseled regarding the opinions and recommendations of the medical board;

(3) be afforded the opportunity to discuss opinions and recommendations with each member of the MEB; and

(4) be afforded an opportunity to submit a statement regarding any portion of the MEB report. No precise format is prescribed. The medical board shall attach written comments to the report addressing the statements considered adverse by the member.

b. When the information contained in the MEB report may, in the judgment of the medical board convening authority, have an adverse effect on the member's mental or physical health, or when the member has been determined to be incapable of managing his

or her financial affairs by a board of medical officers convened and constituted in accordance with reference (f) (MANMED), Chapter 18, the member's court appointed legal guardian or the next-of-kin as defined in section 2049 will be counseled (in the above precedence order), provided with a copy of the report, and afforded the opportunity to exercise the member's rights as discussed in paragraph 3208a.

3209 Waiver of Disability Evaluation Processing

a. With the approval of the PPEB, acting on behalf of the Secretary of the Navy, a service member may waive entrance into the Disability Evaluation System (DES) under the following circumstances:

(1) When the MEB reflects that the service member's medical condition existed prior to service and was not aggravated by service; or,

(2) Physical disability evaluation requires extension past the date of the member's service agreement, end of active obligated service or approved retirement date, the member does not consent to retention, and the member has no remaining reserve service obligation. Members of a Reserve component on active duty for more than 30 days may continue disability evaluation upon release from active duty provided they maintain a Ready Reserve status. They must, however, sign a waiver declining retention on active duty.

b. Members approved for separation under any program that incurs a Reserve obligation and who have conditions which are cause for referral into the DES are prohibited from waiving physical disability evaluation.

c. Members in Permanent Limited Duty (PLD) status may not waive requirement for DES reevaluation until such time as the PLD period is completed or terminated if the PLD period was in excess of 12 months. Paragraph 6011 applies.

d. A member requesting waiver of disability evaluation processing must complete the waiver memo per enclosure (13). A waiver is not granted until approved by the PPEB.

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