

Medical Evaluation FAQ

Physical Evaluation Boards

Our Attorneys at Tully Rinckey PLLC are very experienced in working with servicemembers through the entire Physical Evaluation Board Process. Service members may become physically unfit for duty due to illness or injury. A service member is unfit for duty when they are unable to perform the duties considering their rank and duty position. Determining whether a member can reasonably perform their duties includes consideration of deployability and this standard is to be applied uniformly to both the Active and Reserve Components of that Service. **FAQS ABOUT MEDICAL EVALUATION BOARDS:**

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How does the PDRL work?

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How does the physical disability evaluation system generally get started?

The process will generally begin with a Medical Evaluation Board (MEB)

. A service member's medical record is typically referred to an MEB

by the treating physician when the treating physician has concerns the service member may have a medical condition that will result in the inability to perform military duties.

What are the responsibilities of the Medical Evaluation Board (MEB)?

The MEB

is tasked with preparing a report documenting the service member's medical history, current physical status and recommend duty limitations. This report documents whether a medical condition(s) interfere significantly with the member's ability to carry out the duties of the member's rank and rate. This is generally referred to determining whether the member meets "retention criteria" to remain in the service. The service member has the right to respond to the report of the medical board.

What happens if the MEB determines the member to not meet the retention criteria?

If the MEB

determines that there is a significant interference with a servicemember's ability to perform their duties then the case is referred to an Informal Physical Evaluation Board (IPEB).

What is the role of the informal and formal Physical Evaluation Board (IPEB/FPEB)?

The IPEB will make the initial determination whether the service member is fit or unfit for duty. If the member is dissatisfied with the IPEB finding, the member can appeal it by requesting a hearing before the FPEB. The determination of the IPEB is not binding in any respect on the FPEB. Thus, it is possible to have a worse outcome at the FPEB than was obtained at the IPEB. It is, therefore, very important to know how the entire process works before making a decision to appeal the determination of the IPEB.

What happens if a member is found unfit?

If it is determined that a servicemember is unfit for duty then the PEB must determine whether the injury or illness is service connected. This means that a determination must be made whether the illness or injury that caused the member to be found unfit was the result of the member's military service. This is similar to a civilian "workman's compensation" determination.

What considerations go into determining whether the injury was service connected?

There is a rebuttable presumption that an illness or injury was incurred incident to service. There are, however, a number of situations where the presumption is overcome and the illness/injury will be found not to be service connected unless the member can provide evidence to demonstrate that it was service connected.

What are some examples of situations where the illness or injury are not service connected?

Among the situations where the illness or injury will be considered as NOT service connected are when it was incurred: while an unauthorized absentee; while not entitled to basic pay; when due to the member's own misconduct or while not in the line of duty; and, for illnesses, when the illness first presents itself within 6 months of commencing extended active duty (although this may be disproved based upon the type of illness or when the member has 8 or more years of total active duty).

What is the impact of a medical condition being determined as not service-connected?

If the decision is that the illness was not service-connected, then it is not compensable under the disability evaluation system; and, while the Veterans Administration (VA) will make its own determination as to eligibility for benefits, that will now be a more difficult case to make to the VA.

What happens if the condition is considered to be service connected?

When the condition is considered to be service connected, then the IPEB will continue to process the matter for determination of separation or medical retirement. The principal determining factor will be what disability "rating" is given to the member's medical conditions.

What are disability ratings?

Disability ratings are calculated at 10% increments from 0% to 100%, although not all medical conditions are rated at every 10% increment from 0% to 100%. Thus, for example, a specific medical condition may be rated at 0%, 40%, 60% and 100%.

How are disability ratings determined?

Individual disability ratings are determined utilizing the Veterans Administration Schedule for Rating Disabilities (VASRD), which is found at Title 38, Code of Federal Regulations (CFR), Part 4; as modified by service specific regulations (e.g., SECNAVINST 1850.4D, AR 40-501).

What is the significance of a disability rating?

The final calculation of the disability rating determines the percentage of base pay to be awarded to a member. The most significant aspect of this is that ratings of 0%, 10% or 20% will result in being separated with a single separation payment; whereas disability ratings of 30% or higher will result in being placed on either the Temporary Disability Retired List (TDRL) or the Permanent Disability Retired List (PDRL).

What is the effect of being rated at 20% or less and medically separated?

When a person is medically separated, they receive a single separation check calculated at two times base pay, times years of service; not to exceed 12 years of service; for a total

separation check not to exceed 24 months of base pay.

What is the effect of being rated at 30% or more?

If a member is found to be rated disabled at 30% or more, then they will either go on the TDRL for a period not to exceed 5 years; or be placed on the PDRL.

How does the TDRL work?

If a member is placed on the TDRL, then every 18 months they will undergo a new evaluation and the same process will be completed. Not later than the end of the 5 years, the member will be returned to duty; found fit, but unsuitable and separated; be medically separated; or medically retired. While on the TDRL the member will receive not less than 50% of their base pay.

How does the PDRL work?

Once a member is placed on the PDRL, they are permanently retired from the military at the specified disability rating and will receive that percentage of their base pay from the military.

Can a member also receive benefits from the VA?

A member can receive benefits from the VA while still in the service, after being separated from the service, and after being retired from the service. The VA will make its own disability rating determination. Because the military services and the VA systems evaluate disabilities for different purposes, it is often the case that the VA will rate a member at a higher disability rating than the service will rate that same service member. If you are facing going through the Physical Evaluation Process, call us at 518-218-7100 to speak with one of our experienced military attorneys.

Contact us during normal business hours via Skype

. Click on the image above to schedule a time to speak with an attorney.