



DEPARTMENT OF THE ARMY
UNITED STATES ARMY PHYSICAL DISABILITY AGENCY
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WASHINGTON DC 20307-5001

AHRC-DOE

21 August 2009

MEMORANDUM TO PEB Presidents

SUBJECT: Physical Evaluation Board Proceedings: Standard for Findings and Recommendations

1. Purpose:

a. To outline the type of evidence upon which the PEB must base its findings and recommendations.

b. To outline the specific PEB requirements for recording findings and recommendations on the DA Form 199.

2. Reference. 10 U.S.C. §1222. Physical evaluation boards (providing that documents announcing a decision of the board in the case convey the findings and conclusions of the board in an orderly and itemized fashion with specific attention to each issue presented by the member in regard to that member's case both during initial consideration and upon subsequent consideration due to appeal by the member or other circumstance.)

3. Findings and Recommendations Standard:

a. PEB findings and recommendations may seem arbitrary when they appear inconsistent with or refute medical evidence regarding:

(1) The presence or absence of diagnoses;

(2) The presence or absence of Department of Veterans Affairs Schedule for Rating Disabilities rating criteria;

(3) Physical limitations as reflected on the DA Form 3349 (Physical Profile); and Stability.

b. When the totality of the medical evidence and/or the performance information is insufficient, the PEB must attempt to remediate (supplement) the MEB. For example, when the issue pertains to the presence or absence of a diagnosis or the presence or absence of particular rating criteria, the PEB must return the MEB requesting additional information. The PEB may need to request re-examination.

c. When any one piece of evidence (medical evidence and/or performance information) is of doubtful weight or credibility, the PEB may attempt to remediate the MEB. Alternatively, the PEB may make a finding based upon its weighing of the evidence. For example, when considering whether a condition is fitting, after fully considering DoDI 1332.38, Enclosure 3, part 3, the PEB may find the Commander's statement is sufficient to support a PEB finding of fit

AHRC-DOE

SUBJECT: Physical Evaluation Board Proceedings: Standard for Findings and Recommendations

even though the MEB indicated the condition does not meet medical retention standards because it interferes with duty performance.

d. Except as specifically indicated below, all PEB findings and recommendations must be based on information within the MEB case file. The case file must include all evidence upon which the PEB based its findings and recommendations.

e. PEB findings and recommendations (to include the specific VASRD ratings) must specifically correlate with and reflect specific medical information from documents such as the narrative summary (NARSUM), specialty consultations, oral testimony presented before a Formal Board, etc. The PEB must support each fit/unfit finding with medical information and/or performance data.

f. PEB findings regarding whether a disease or injury is combat related may appear arbitrary when the case file includes contradictory evidence regarding its etiology.

g. With respect to whether a condition is EPTS (to include addressing the presumption of permanent service aggravation), the PEB may consult with a subject expert (e.g., OTSG). The PEB may base its findings and recommendations on such opinion. The PEB may rely on accepted medical principles for EPTS. When the PEB relies on an accepted medical principle, the PEB must include the specific general medical principle *and* the clear and unmistakable evidence on the DA Form 199. The PEB must include a citation to a source that discusses the general medical principle, i.e., a recognized medical text or journal; or, a reputable online source. The PEB cannot base its findings and recommendations regarding EPTS upon the medical opinion of its medical member.

h. The PEB must consider the significance of LOD-Yes. See AR 635-40 para 4-19g (1) and AR 600-8-4.

i. Where general medical principles exist to meet the required standard of proof regarding whether the condition is stable, the PEB may rely on these medical principles despite the MEB prognosis statement. When the PEB relies on an accepted medical principle, the PEB must state the general medical principle on the DA Form 199 and include a citation to a source that discusses the general medical principle, i.e., a recognized medical text or journal; or, a reputable online source. Otherwise, the PEB must base its stability finding upon the evidence within the MEB case file, specifically the MEB prognosis statement.

j. IAW 10 U.S.C. 1222, the PEB will prepare each DA Form 199 in an orderly and itemized fashion. The DA Form 199 will include:

- (1) Appropriate VASRD diagnostic codes and diagnoses;

AHRC-DOE

SUBJECT: Physical Evaluation Board Proceedings: Standard for Findings and Recommendations

(2) The foundation for the assigned VASRD percentage rating using identified medical/surgical history; objective physical findings; clinical data; and/or subjective complaints.

(3) Evidence used to support fit/unfit findings using identified relevant and cited medical or performance information;

(4) Foundation for stability findings;

(5) Foundation for combat related findings;

(6) Citations to any special regulatory provision used to support findings; and

(7) Citations to MEB case file to support i — vi above.

k. When a Soldier receives a PDES rating through the VA, the PEB will prepare a DA Form 199 which comports with the above regarding the issue of combat related; fitness determination; EPTS; and compensability. The PEB will prepare a DA Form 199 that includes citations to the evidence supporting these findings and recommendations.

FOR THE COMMANDER:

A handwritten signature in black ink, appearing to read 'DANIEL L. CASSIDY', with a stylized flourish at the end.

DANIEL L. CASSIDY
COL, IN
Deputy Commander

Encl

Enclosure: Physical Evaluation Board (PEB) Proceedings: Standard for Findings and Recommendations

Physical Evaluation Board (PEB) Proceedings: Standard for Findings and Recommendations	
For Each Unfitting Condition	
1.	Correct VASRD code and matching VASRD code words.*
2.	Brief history statement when relevant for 10A/C/D.
3.	Foundation for % rating using identified medical/surgical history; objective physical findings; clinical data; and/or subjective complaints.*
4.	When applicable, citation to special regulatory provisions (e.g., §4.26; §4.55a; §4.96a; etc.).*
5.	Foundation for finding unfitting EPTS with no PSA using identified evidence meeting the clear and unmistakable standard.
6.	Foundation for unfit using identified relevant and cited medical or performance information.
7.	When applicable, foundation for TDRL using prognosis statement and/or other permissible evidence.
8.	Citations to documents which include the specific information used for the above findings.
For Each Not unfitting condition	
9.	Specific foundation for fit to include citations to documents upon which finding was based.
For Case as a Whole	
10.	Case file includes all documents and/or evidence cited.
* Not required when VA provides PDES rating.	