

FREQUENTLY ASKED QUESTIONS ABOUT THE PHYSICAL DISABILITY EVALUATION PROCESS.

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Part I: INTRODUCTION:

1. The Coast Guard's Disability System :

The Coast Guard's Physical Disability Evaluation System (PDES) follows the provisions of certain United States laws (specifically, Title 10, United States Code, Chapter 61) governing the separation or retirement of military personnel due to physical disability. PDES laws were enacted primarily to ensure a vital, fit military force. These laws also provide you certain benefits and protections if your military career ends prematurely due to injury or illness. Should you suffer injury or develop a medical condition, the PDES program will evaluate your ability to perform the duties associated with your office, grade, rank or rating. In accordance with federal law, the Coast Guard may find you fit for duty, separate you, or retire you due to a physical disability.

2. Major stages of the PDES Process:

There are many potential stages in a Physical Disability Evaluation System (PDES) case. Numerous factors and circumstances are involved in determining the stages a PDES case will go through. The following is a general overview of the potential stages in a PDES case and is meant solely to help you in your understanding of the Physical Disability Evaluation System (PDES).

3. I've been seriously hurt, what happens next?

The Coast Guard's first priority is to give you proper medical attention should you become injured or ill. However, if your commanding officer or treating physician believes you are unable to perform your duties due to your disability or illness during or after treatment, you will be referred to a Medical Evaluation Board (MEB), discussed below in Part II.

Part II: MEDICAL EVALUATION BOARD (MEB):

1. What is a Medical Evaluation Board (MEB)?

You will most likely become involved in the PDES process when you incur an injury or illness that calls into question your ability to perform the duties of your office, grade, rank, or rating. Physical Disability Evaluation System Manual (hereinafter, the PDES Manual), COMDTINST M1850.2D, chapter 3. In that case, a Medical Evaluation Board (MEB) will convene, usually at the request of your commanding officer or treating physician.

The MEB will make a recommendation as to whether you meet the Coast Guard's physical retention standards. PDES Manual, chapter 3, par. G.4. The MEB documents your medical problems, defines limitations imposed by your condition (if any), and explains how your condition affects your ability to perform the duties of your office, grade, rank or rating. For the purposes of the Physical Disability Evaluation System, "office" is defined as the member's assigned duties. PDES Manual, chapter 2, par. A.36.

You will be furnished a copy of the board's report unless the information contained in the report might have an adverse effect on your physical or mental health. At that point, you are afforded an opportunity to submit a statement in rebuttal to any portion of the board's report. PDES Manual, chapter 3, par. H. Your rebuttal must be made within 21 calendar days (not counting weekends and holidays) after you receive the MEB report.

Your command will then submit a MEB report, including a Medical Officer's narrative summary of your condition, a command endorsement, and your rebuttal should you choose to make one, to Commander, Coast Guard Personnel Service Center, Physical Disability Evaluation Branch (CG PSC-PSD-de). You should be aware that any rebuttal will become part of the PDES record. For a more detailed explanation of what happens when you are injured, or the Initial Medical Board process, see the PDES Manual, chapter 3.

2. How important is it for me to comment on the MEB?

The MEB report is usually the first indication you receive of the Coast Guard's official diagnosis and determination of the medical conditions that may affect your continued service in the Coast Guard. Normally, the report is provided to you. It contains all of the significant medical findings and opinions, and the recommended disposition of your PDES case. This is generally the first opportunity for you to have input in the disability process. However, you must be aware that if you choose to make a rebuttal to the MEB, anything you say will become part of the permanent record for your case.

If you make a rebuttal, the board, if practicable, reviews the rebuttal and makes changes to the report or provides additional comments that it deems appropriate. You will be provided with any changes or additional comments made by the MEB. If you do not

rebut the initial or revised MEB report within 15 working days, the report is processed for further action in accordance with the PDES Manual.

3. *What is the role of my doctor and the examining doctor at the MEB?*

As your medical care provider, your physician will provide you the best medical advice/treatment/care within their means. Your MEB examining physician's only role is to perform a thorough physical examination and formulate a medical conclusion regarding your health. PDES Manual, chapter 3, par. F.2. The role of your examining physician is confined to providing you with medical advice/treatment/care, and making a medical evaluation and recommendation to an Informal Physical Evaluation Board (IPEB) (discussed below in Part III), and if necessary, to a Formal Physical Evaluation Board (FPEB)(discussed below in Part IV).

The MEB does not assign you a disability percentage rating for injuries or illnesses, nor will it make reference to the Veterans Administration Schedule for Rating Disabilities (VASRD)(a manual used by the IPEB and the FPEB to assign codes and disability percentages to injuries/illnesses; discussed below). PDES Manual, chapter 3, par. G.3.b.

4. *What is my command's role after my Medical Evaluation Board (MEB) is completed?*

Your command should provide you with a copy of the MEB report, and ensure that you are counseled on the contents of the MEB report and your medical condition before the MEB is forwarded to CG PSC PSD-de.

Your command should provide an endorsement to the medical evaluation. The endorsement should contain a summary of the duties normally associated with your office, grade, rank or rating, along with your current duties. A statement regarding your ability to perform current duties should be included. Therefore, you should be sure that your command is aware of any limitations you may have in performing your duties. Finally, the endorsement is required to state the interim duty status (if any) into which you have been placed due to your injury or illness.

Your command has the ability to define your disability within the context of your duties and responsibilities. The PDES Manual makes it clear that “the sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the duties of office, grade, rank or rating because of disease or injury incurred or aggravated through military service.” PDES Manual, chapter 2, par. C.2.

Without a command endorsement, an IPEB (discussed below in Part III) or FPEB (discussed below in Part IV) may have difficulty determining if you are unfit to perform your duties due to injury or illness. As a result, while it is common to focus on the physician statements, diagnosis, and prognosis, what is documented in the command endorsement can also prove helpful. For a more detailed explanation of your command's role, see the PDES Manual, chapter 3, par. I.

Once the MEB package is complete, CG PSC PSD-de will refer the package to an Informal Physical Evaluation Board (IPEB). For a more detailed explanation of the Medical Evaluation Board Process, see the PDES Manual, chapter 3.

5. I am being retired. Am I entitled to a medical board?

The decision to convene an MEB is one made by your command and/or your physician. If you are separating or retiring from the Coast Guard for reasons other than injury or illness, and you are able to perform the duties expected of you in your current billet, a medical board would not be convened as a matter of policy even though medical evidence indicates you have impairments. If a MEB were convened, the IPEB (discussed below in Part III) probably find you fit for full duty by presumption. This is a rule that effectively prevents you from receiving disability benefits from the Coast Guard if you were fully performing the duties of your office, grade, rank or rating prior to your planned separation or retirement. PDES Manual, chapter 2, par. C.2.b.

However, if a MEB and an IPEB (discussed below in Part III) finds you fit for full duty and you disagree, you may overcome this presumption of fitness for duty in one of two ways. First, you may show that because of your injury or illness, you have been unable to perform the duties of your office, grade, rank or rating for a long period of time. Second, you may overcome the presumption if your injury or illness occurs immediately prior to, or while processing, your separation or retirement. For more a more detailed explanation, see the PDES Manual, chapter 2, par. C.2.c. & chapter 3, par. D.7.

Part III: INFORMAL PHYSICAL EVALUATION BOARD (IPEB):

1. What is the IPEB?

An Informal Physical Evaluation Board (IPEB) is a permanently established administrative board located within the Coast Guard Personnel Service Center. It is a panel of at least two commissioned officers, one of whom serves as board President and the other as medical member. The IPEB weighs and impartially examines all relevant evidence in your case and makes findings and recommendations in conformity with applicable laws, regulations, and established policy. The IPEB evaluation is a review based solely on the documented record submitted by your command. Neither you nor any other witnesses are present for this portion of the process.

An IPEB may find you fit for full duty or not fit for duty. A fit for duty finding will be made if the record indicates you are physically and mentally able to perform the duties of your office, grade, rank or rating (including specialized duty, if applicable). For the purposes of the PDES, "office" is defined as the member's assigned duties. Physical Disability Evaluation System Manual (hereinafter, the PDES Manual), COMDTINST M1850.2D, chapter 2, par. A.36.

In reaching its decision, the IPEB is guided by the PDES Manual, the Veterans Administration Schedule for Rating Disabilities (VASRD), Title 38, Part 4, Code of Federal Regulations, the Coast Guard Medical Manual, COMDTINST M6000.1B, and Military Separations, COMDTINST M1000.4.

Occasionally, rather than making a decision of fit for full duty or not fit for full duty, an IPEB might decide that your physical condition is not clear enough to make a fitness determination. In such cases, the IPEB orders a follow-up medical board, called a Disposition Medical Board (DMB). A letter from the IPEB to your command orders the DMB to be conducted and indicates the required specialist consultations and a submission date. The IPEB processes DMB findings in the same manner it processes Medical Evaluation Board (MEB) findings (discussed above in Part II). PDES Manual, chapter 4, paragraph A.7.

For a more detailed explanation of the IPEB, see the PDES Manual, chapter 4.

2. What happens if I am found fit for duty?

If you are found fit for duty by the IPEB, you will be returned to your unit to continue your career. However, if you believe you are unfit, you have the option of rebutting the IPEB findings, while you continue to serve with your unit. PDES Manual, chapter 4, par. A.14.b. Your rebuttal must be in writing and should be submitted via your chain of command within 30 days of the IPEB date. If you are found fit for full duty, you are not entitled as a matter of policy to a Formal Physical Evaluation Board (discussed below in Part III). However, if your physical or mental condition worsens, you may go through the disability process again.

3. When are you considered unfit for duty?

You may be considered unfit for duty when one or more physical or mental disability (injury or illness) prevents you, or could prevent you, from performing the normal and reasonable duties of your office, grade, rank or rating. PDES Manual, chapter 2, par. C.2. Some medical conditions are automatically unfitting as a matter of policy. Coast Guard Medical Manual, COMDTINST M6000.1B, chapter 3, par. F. Although there is no bright-line rule to determine fitness for duty for many conditions, Coast Guard policies are promulgated to ensure members on active duty are fully capable of performing all expected duties.

If you are found unfit, the IPEB makes a fitness decision by balancing the extent of your injury or illness as a limitation to perform assigned duties of your rating – as shown through medical and performance evidence – against the rating requirements in the VASRD and Coast Guard policy. Typical medical evidence used by the IPEB in their decision making process includes the narrative summary written by the MEB (discussed above in Part II), your medical profile, the history and treatment of your injury or illness, referrals to physicians and sick call, and the type and frequency of medication, if any. Performance evidence includes statements from your command, personnel records,

promotions, awards, and adverse personnel actions. However, you should be aware that if you are performing the duties of your office, grade, rank or rating, you may not necessarily be found fit for duty. Similarly, in some situations, you may be unable to perform all the duties expected of your office, grade, rank or rating and be found fit for full duty. For a more detailed explanation of fitness for duty evaluation, see the PDES Manual, chapter 2.

4. I have been found unfit for duty. Is there a Coast Guard policy that allows me to remain on active duty?

Yes, under certain conditions. Foremost, you should have between 18 to 20 years of active duty . Chapter 17 of the Personnel Manual, COMDTINST M1000.6, provides that a member, who was found unfit, may apply to be continued on active duty until 20 years despite his/her disability. A member desiring retention on active duty should submit a request letter to Commander (CG PC-opm-1) or (CG PC-epm-1) with a copy to (CG PSC PSD-de). Commander (CG PC) will consider retaining members on active duty in a limited assignment status if they meet the following criteria:

1. The member possesses a special skill for which there is a specified Service need.
2. The member's physical condition is such that he/she can perform duty requiring their special skill.
3. Retention will not jeopardize their health or their associates' health.
4. The disability is stabilized and is not likely to require frequent absence from duty.
5. The member should have at least 18 years but less than 20 years service.

In exceptional cases, Commander (CGPC-epm-1) will consider retaining an individual with less than 18 years in an aviation rating in a non-flying status until eligible for retirement subject to all these conditions:

1. The member possesses an above average proficiency in an aviation rating for which the Service has a specific need.
2. The member can perform useful service in an established billet for their rate and rating.
3. The member's retention will not jeopardize his or her own or associates' personal health.
4. The member is in pay grade E-6 or above with at least 16 years of service for retirement eligibility.
5. The member submits a written request to Commander (CGPC-epm-1) to remain on active duty until completing 20 years of active service.

5. I was found unfit by the MEB - how can the IPEB find me fit for duty?

Simply put, the Medical Evaluation Board (MEB)(discussed above in Part II) and the IPEB are separate boards with different roles. The MEB does not decide whether you are fit for continued duty. A MEB decides whether you have an injury or illness, and documents the extent of that injury or illness. The MEB then recommends whether the injury or disease is severe enough to cause you to fall below Coast Guard medical retention standards as identified in the Coast Guard Medical Manual, COMDTINST M6000.1B, chapter 3, par. F. If the MEB concludes that you fall below Coast Guard retention standards, it will refer you to an IPEB. But, note that failure to meet retention standards does not necessarily mean that you are unfit for duty, because you may still be capable of performing all the duties of your office, grade, rank or rating.

The IPEB makes the decision of whether you can adequately perform the requirements of your office, grade, rank or rating. The IPEB alone decides fitness for duty by balancing the extent of your injury or illness against your ability to perform the duties of your office, grade, rank or rating. For more information concerning the differences between the MEB and the IPEB, see the PDES Manual, chapters 3 & 4.

6. Should the Coast Guard rate all my medical conditions?

The PDES Manual allows all medical conditions identified in a medical record to be rated. However, chapter 2, paragraph C.2.a states, "[T]he sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the duties of office, grade, rank or rating because of disease or injury incurred or aggravated through military service." This statement makes it clear that only military unfitting conditions will be rated by the IPEB and the FPEB (discussed below in Part IV). In other words, you can only expect to be rated for conditions that are unfitting independent of any other medical conditions. For example, you may be diagnosed with arthritis, which is ratable under the VASRD, but if you are still able to perform all of the duties required of your office, grade, rank or rating, you will not be rated for that condition. For more information, see the PDES Manual, chapter 2.

7. I suffer from a condition listed in the VASRD. Does that mean I will be found unfit and rated by the IPEB?

Just because you have an injury or illness listed in the VASRD does not mean that the IPEB will find you unfit and medically discharge you from the Coast Guard. Before you are considered eligible to be medically discharged (either through separation or retirement) from the Coast Guard, you must be determined to be unable to perform the duties of your office, grade, rank or rating, and your inability to perform your duties is a direct result of a documented injury or illness. In other words, the mere existence of a physical defect or condition that is ratable under the VASRD does not itself provide justification for separation or retirement from military service. PDES Manual, chapter 2, par. C.2.i.

8. *The IPEB stated that my condition existed prior to entering the service and did not rate my disability. How can this be?*

The objective of the PDES is to document and provide benefits for injuries and/or diseases incurred or aggravated while in the Coast Guard. Therefore, injuries and/or diseases that are not service connected do not qualify for potential PDES benefits. The injury or illness that you may have been rated for may have existed prior to your entry into the service (termed EPTE – existed prior to entry into service). Causes of EPTE disabilities include hereditary or congenital defects, injuries, or diseases with an inception before entering service.

You will be separated from the Coast Guard without disability benefits if the IPEB decides your injury or illness existed prior to service and that your condition has not been permanently worsened, or aggravated, by service with the Coast Guard. PDES Manual, chapter 2, par. C.5. Aggravation by service of a preexisting impairment is determined by finding the combined total percentage of disability existing at the time of evaluation and subtracting this from the combined total percentage of disability: (1) existing at the time of entry into active service. (2) incurred during a period of unauthorized absence. (3) otherwise not incurred in line of duty, provided the percentage of disability subtracted can be ascertained in terms of the VASRD. No deduction will be made from a total (100 %) rating; however, the percentage of disability existing upon entry into the service will be set forth in the record. If the condition(s) which existed upon entry cannot be ascertained in terms of the VASRD, insert 0 %. For more information on this topic, see the PDES Manual, chapter 2.

9. *How does the IPEB decide my disability percentage?*

If the IPEB finds that you are unfit, and you are eligible for disability benefits, the IPEB will rate the severity of your injury or illness using the Veterans Administration Schedule for Rating Disabilities (VASRD).

The VASRD lists hundreds of physical and mental disabilities and rates these disabilities using objective medical criteria. Depending on the severity of your illness or injury, the IPEB may rate you from zero to one hundred percent disabled. Disability percentages are a direct result of applying the VASRD to the description and severity of the illness or injury. For this reason, it is important that any disease or injury is correctly characterized in your record. For more information on the rating process, see the PDES Manual, chapter 4.

10. *What happens if I have more than one disability?*

Each condition, taken independently, must prevent you from performing the duties of your office, grade, rank or rating. For example, if you are suffering from a knee injury and a bad back, for both items to be rated, you must be able to show that each condition, independent of the other, prevents you from performing the duties of your office, grade, rank or rating. When you have more than one ratable disability, the percentages are

combined rather than added. This results from the consideration of the most disabling condition first. For example, a person having a condition rated at 60 percent will be considered to have 40 percent remaining efficiency. If that person has another condition rated at 20 percent, he or she is considered to have lost 20 percent of the remaining 40 percent of efficiency, or 8 percent. Thus, a person with a 60 percent disability and a 20 percent disability has a combined disability percentage of 68, which is rounded up to 70.

Pyramiding is the term used to describe the application of more than one VASRD rating to any area or system of the body when that area or system is more appropriately rated under a single code. For instance, if you are missing a hand, you would not also be rated for a missing finger. This is not permitted under the PDES, as it results in overrating the disability.

11. Will I receive higher findings because of my seniority and years of dedicated service to the Coast Guard?

No matter who you are - what rank you hold - or who you know - you will be evaluated by the medical boards based on objective medical documentation. The PDES program makes every effort to ensure consistent application of Coast Guard policies and the VASRD to each evaluatee. Officers and senior enlisted members are treated equally to junior enlisted members.

12. How does the IPEB decide whether I receive severance pay or a medical retirement?

The severity of your injury or illness will determine whether you are separated with severance pay or whether you are medically retired. If you are rated at zero, ten, or twenty percent disabled you will be separated from the Coast Guard with severance pay. If you have an injury or illness rated at 30% or more, or if you have a disability and twenty or more years of active duty service, you will receive a medical retirement. Medical retirement at less than 20 years of service can be permanent or temporary. If your condition stabilizes and becomes permanent you will be permanently medically retired. If your disability is not stabilized or is likely to change, you will be placed on the Temporary Disability Retired List (TDRL) (discussed below in question 13).

13. What is the Temporary Disability Retired List (TDRL)?

If you are being temporarily retired, you will be placed on the TDRL for up to five years and reevaluated at least once every 18 months. See PDES Manual, chapter 4, par. A.8 & chapter 8. You may be temporarily retired if you meet all of the below:

1. Your condition or disability is uncertain or likely to change,
2. Your disability is rated at 30 percent or higher, and
3. You are unfit for duty.

However, the IPEB may make findings in your PDES case at any time if you meet any of

the following:

1. You become fit for duty,
2. Your condition or disability stabilizes, or
3. Your degree of disability falls to less than 30 percent.

14. When am I entitled to a lawyer?

The Judge Advocate General of the Coast Guard has the responsibility to detail military legal counsel to represent you at the appropriate point in the process. Counsel is assigned to PDES cases only after the IPEB has made a decision in your case. The Coast Guard Personnel Command, CG PSC PSD-de, will notify you of the IPEB findings. Upon receipt of the notification letter and findings, you must return an election of counsel and consent form to CG PSC PSD-de, if you wish to elect Coast Guard counsel and consent to the release of your IPEB record so that counsel may properly advise you. Upon issuance of findings and recommendations by the IPEB, you have 30 days to either accept or reject the IPEB's findings. Counsel will brief you on the IPEB's recommended findings and disposition and then, if applicable, represent you before FPEB proceedings. He or she will not advise your command, physicians, or any other interested personnel about your case without your permission.

You may elect to be represented by a civilian counsel or anyone else of your choice, including a disability counselor supplied by one of the veterans' service organizations, at your own expense, or the providing organization's expense. See the PDES Manual, chapter 5, par. A.4.g. You may retain civilian counsel of your choice during any point in the PDES process. If you elect to retain civilian counsel or other legal assistance, you will not normally be provided with appointed military counsel. For more information on this topic, see the PDES Manual, chapter 4.

15. What is the role of my detailed military counsel?

Military counsel is detailed by the Judge Advocate General (CG-094). As such, counsel's obligation is to zealously represent the client, guided by established ethical standards.

By virtue of training, skills, legal and practical knowledge, and experience with the PDES process, military counsel can advise you in making a knowledgeable and informed decision on whether to accept the findings, request reconsideration, or proceed to a formal hearing. The lawyer's paramount duties are to assist you by advising you of your legal rights, identifying the strengths and weaknesses of your case, candidly and fully explaining possible outcomes, and representing you.

The military attorney has no direct control over the findings of the Board. The attorney can only advocate your interests to the board members. Coast Guard legal counsel is not authorized to negotiate with the IPEB or Formal Physical Evaluation Board (FPEB)(discussed below in Part IV) to change the IPEB or FPEB recommended findings.

16. Am I entitled to a written explanation of the findings from the IPEB?

The IPEB makes findings and recommendations of your medical condition in a closed session. The only written record of the IPEB findings is contained in the CG-4808 that you receive via your military legal counsel. However the PSC PSD-de Ombudsman calls every member once the IPEB findings are made and counsels them on the findings.

17. Can I ask for the IPEB to reconsider their decision?

Yes. Sometimes this is a better choice than immediately proceeding to a Formal Physical Evaluation Board (FPEB)(discussed below in Part IV). The purpose of the request for reconsideration is to provide new or additional medical information that was not reasonably available at the time of the MEB. The evidence from the physician who wrote the medical board report is the strongest evidence, but medical evidence from other physicians will also be considered. A request for reconsideration should be submitted before rejecting IPEB findings and within 30 days of the issuance of IPEB findings. However, it is advised that the request be submitted within 20 days of the issuance of the IPEB findings. If no response is received prior to 30 days from the issuance of the IPEB findings, it is advised that the evaluatee submit a rejection to ensure that no rights are inadvertently waived. The IPEB has the discretion to change their findings, following a request for reconsideration.

Should your medical condition change significantly at any time during this process, your Commanding Officer has the responsibility to notify the CG PSC PSD-de of any significant changes in your status or physical condition, and, arguably may need to add to, or change, the command endorsement to the MEB. PDES Manual, chapter 3, par. J.

18. Do my post-service employment plans have any impact on my Coast Guard disability rating?

Your future employability is rarely a consideration in PDES determinations. It would be a consideration only if you were completely unemployable. However, the percentage ratings in the Veterans Administration Schedule for Rating Disabilities (VASRD) represent the average impairment in earning capacity resulting from such injury or illness, had it occurred in a civilian occupation. PDES Manual, chapter 9, par. A.2.a. It is important to remember that the applicable percentage ratings in the VASRD will not always neatly fit every civilian occupation. In some civilian occupations you may not be impaired to the degree of the disability rating found in the VASRD, and in other occupations you may be impaired to a higher degree than the disability rating contained in the VASRD. The CG policy for making disability determinations is described in the PDES Manual, chapter 2, par. C.2.a.

Chapter 2, paragraph C.2.a states, "[T]he sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the

duties of office, grade, rank or rating because of disease or injury incurred or aggravated through military service." This statement makes it clear that no other considerations, including civilian employability would be a consideration by either the IPEB or Formal Physical Evaluation Board (FPEB)(discussed below in Part IV) in making fitness for continued duty/rating determinations. Furthermore, chapter 2, paragraph C.2.b states that "the law that provides for disability retirement or separation (10 U.S.C. chapter 61) is designed to compensate a member whose military service is terminated due to physical disability that has rendered him or her unfit for continued duty." The bottom line is this – your inability to function in your desired future civilian occupation is not normally a consideration in the actual rating assigned by the IPEB or FPEB (discussed below in Part IV). It is only a consideration when the Medical record indicates you are completely unemployable. For more information on this topic, see the PDES Manual, chapters 2.

Part IV: FORMAL PHYSICAL EVALUATION BOARD (FPEB):

1. What happens if I reject the findings of the IPEB?

You may reject the IPEB's recommended findings and disposition and demand a hearing before a Formal Physical Evaluation Board (FPEB), a standing board located at the Coast Guard Personnel Command at Coast Guard Headquarters. PDES Manual, chapter 4, paragraph A.14. The FPEB is a fact-finding body; it holds an administrative hearing to evaluate your fitness for duty and to make recommendations consistent with its findings. The FPEB examines the written medical evidence, evaluates other evidence presented by you and your counsel, and hears witnesses, which may include you, in order to ensure you a full and fair hearing as required by law. Your military legal counsel, or other such representative, will represent you at your hearing. For more information about the FPEB, see the PDES Manual, chapters 4 & 5.

2. How long does it take before my Formal Board is convened?

You have thirty days to accept or reject the IPEB findings. You have the right to at least three working days notice of the time and place of the FPEB hearing. Included in this three-day period you also have the right to reasonable access to the record, and any other evidence that the board is provided prior to the hearing. PDES Manual, chapter 5.

3. Prior to a FPEB, what should I do?

If you reject your IPEB findings, you should immediately begin preparing for your formal board. You are urged to contact your counsel upon submitting your rejection. Also, you will have the right to meet with your Coast Guard appointed lawyer one business day prior to the formal board hearing.

During discussions with your counsel, you and your counsel should thoroughly review your case. PDES counsel will assist you with the Veterans Administration Schedule for

Rating Disabilities (VASRD) criteria associated with your case and the medical documentation provided. Your counsel will explain the strengths and weaknesses of your physical disability case and inform you of any risks involved with proceeding with a formal board.

4. I am going before a Formal Physical Evaluation Board. What should I expect?

The FPEB is normally composed of three officers: a Board President, a Medical Officer, and a third officer called the Military Member. Each officer has an equal say in deciding your case. If you are a member of a minority, a female, or an enlisted person, you may request a minority, female, or enlisted member on your board, if reasonably available. PDES Manual, chapter 5, par. A.4.e.

An officer, acting as Recorder, will also be present. The Recorder is responsible for ensuring the board members are familiar with their duties, for presenting all relevant available evidence to the FPEB, for preparing a complete and accurate record of the proceedings, and for handling certain administrative matters. PDES Manual, chapter 5, par. A.5.c. The Recorder is an impartial participant to the proceedings; however, the Recorder can examine and cross-examine witnesses appearing before the FPEB.

If you give sworn testimony, you should expect to be asked to respond to questions posed by your counsel, as well as questions from the board members. You should anticipate questions relating to the treatment you received, whether you received medication, and limitations that your condition imposes. At the hearing, board members have your medical records, portions of your personnel file, and statements from your command concerning how your condition affects your duty performance. At the FPEB, you may also present new medical evidence on your behalf, call witnesses, and cross-examine witnesses if appropriate. The FPEB uses all of this information in its decision-making process.

Following questions from the board members and your counsel, you have one last opportunity to address the board members by making a statement. When your presentation is over, you and your counsel will be asked to leave the boardroom so that board members may deliberate on your case. Once the board members reach a decision, you and your counsel will return to the hearing room where you will be informed of the board's decision. On average, hearings last approximately an hour to an hour and a half and FPEB determinations are usually concluded the same day. For more detailed information regarding FPEB procedures, see the PDES Manual, chapter 5.

5. What are my rights at a FPEB?

You are entitled to a full and fair hearing, which includes the following:

1. The right to be present in person;
2. The right to challenge any member of the board for cause;
3. The right to present evidence on your own behalf;
4. The right to be represented by detailed counsel or other representative;

5. The right to cross-examine witnesses who are present or can be readily contacted by telephone;
6. The right to receive a copy of the proceedings and findings (audio cassette);
7. The right to make statements under oath or affirmation;
8. The right not to make any statements relating to the origin or aggravation of a disease or injury; and
9. The right to an impartial hearing.

6. Am I entitled to a written explanation of the findings from the FPEB?

Current Coast Guard policy is that the evaluatee is not entitled to a written explanation of the FPEB findings. However, you may make a written request for an explanation. The PDES Manual requires a board to provide amplifying statements setting forth the basis for its findings and recommended disposition when the basis is not readily apparent from the documents of record, as in the case of a disability percentage award varying from the normal, or when your true physical condition is not adequately reflected by the VASRD. PDES Manual, chapter 2, par. C.3.d.

7. May I appeal the decision of the FPEB?

There is no actual appeal of right within the Coast Guard PDES system. At the conclusion of the hearing, the FPEB provides you with its recommended findings and disposition. You have three working days from the date of the FPEB findings to decide whether or not to file a rebuttal and to make notification of your intentions, and 15 working days from the FPEB findings date to submit a rebuttal. PDES Manual, chapter 5, par. D. In the rebuttal you must: (1) state the reasons for rebutting the decision of the FPEB; (2) state the nature of your objection; and (3) provide or cite evidence to support your position. A rebuttal may include substantial existing evidence, which, despite due diligence, could not have been presented before disposition of the case by the FPEB. PDES Manual, chapter 5, par. D.2.

Filing a rebuttal to a FPEB requires a very careful consideration of the possible outcomes. The Physical Review Counsel (PRC) hears FPEB rebuttals. In its review the PRC shall not substitute its judgment for that of the IPEB (discussed above in Part III) or FPEB. If the PRC does substitute its own findings, then a right to appeal to a Physical Disability Appeal Board (PDAB) is triggered. The findings of an FPEB will not normally be modified on review by the PRC unless they were clearly erroneous. PDES Manual, chapter 6, paragraphs B.2 & 3. You should speak with your counsel before making this decision. For more information regarding your appellate rights, see the PDES Manual, chapters 5 & 6.

Part V: PDES FINALIZATION AND
POTENTIAL COAST GUARD & VETERANS BENEFITS:

1. Legal Approval:

Completed IPEB (discussed above in Part III), FPEB (discussed above in Part IV), and Physical Review Counsel (PRC)(discussed above in Part IV, question 7) findings must be forwarded to the CG PSC Office of General Law (LSC) for review for legal sufficiency before they can be finalized. PDES Manual, chapter 4, par. C, chapter 5, par. D.4.b & chapter 6, par. C.2.b.

2. How long do I have until final approval?

It takes 90 days after you accept the findings of the IPEB or after your FPEB for a final disposition of your case by the Commander, CG PSC. After final approval, CG PSC-epm, opm, or rpm issues a message to your command with a retirement/separation date. Normally your retirement/separation date is within several additional weeks from your command's receipt of the CG PSC message.

3. I am being separated from the Coast Guard due to a physical disability, what will be my disability severance pay?

You will be separated from the service with severance pay if you are rated with a zero, ten, or twenty percent disability and less than twenty years of service. Disability severance pay is computed by multiplying twice (2X) your monthly base pay by your years of service (not to exceed 19 years of service). The minimum number of years of service that can be attributed for purposes of this calculation are 3-years of service for service-connected disabilities and 6-years of service for combat-related disabilities.

4. I am being permanently retired from active duty due to a physical disability. What will be my retirement payment?

Disability retirement payment may depend upon your length of active service or upon your percentage of physical disability. Military disability compensation is determined in one of two ways. The first way is to multiply your base pay by your disability percentage. For example, a member with a 30 percent disability rating would retire at 30 percent of his/her base pay. The second method is based on years of service. This method is determined by multiplying your active duty years of service by 2 ½ . For example, a service member with 16 years and a 30 percent disability would receive 40 percent (16 years of service X 2.5) of his/her base pay, rather than 30 percent, because of their longevity of service. After each method is computed, you will be given the one resulting in a greater compensation amount. See the attached handout titled: Information for Members Being Medically Retired.

5. I am being separated from service due to a combat-related physical disability, but I am not getting a retirement. What are the ramifications of a combat-related characterization of my disability?

If your physical disability is characterized as combat-related by the military, but you have less than 20 years of service and the military rates you at 20% or less disabled, you are not entitled to a retirement, but are entitled to concurrent receipt of your severance pay

and VA disability payments. While the military severance pay is subject to taxation, the pay from the VA is not subject to taxation.

6. If I am separated or retired from the Coast Guard, may I also receive entitlements from the Veterans Administration?

Yes. Any member separated or retired from the service may file a claim with the VA for service-connected disability compensation. VA disability compensation varies with the degree of disability and the number of dependents, and is paid monthly. The benefits are not subject to federal or state income tax. To contact the VA call 1-800-827-1000 or visit their Internet site at: <http://www.va.gov>.

VA disability payments have an affect on the amount of military retirement or disability pay. Retired members who receive disability compensation from the VA waive military retired pay equal to the amount of VA compensation received. If the amount of VA compensation exceeds retired pay, retired pay will be waived as a whole. The current VA Benefits Compensation Rate Tables can be found at:

http://www.benefits.va.gov/COMPENSATION/resources_comp01.asp.

7. Can the rating percentages from the Coast Guard and Veteran Administration differ?

Yes. The Veteran Administration implements a separate and distinct policy in rating service members. The Coast Guard only rates unfitting conditions. The VA is concerned with the overall civilian employability of a disabled veteran due to the disability. This emphasis on civilian employment allows the VA more flexibility in addressing the disability of a service member. Because these two separate organizations apply two different policy standards, there often are differences in the overall disability findings.

8. Where can I find out about Transition Benefits?

Coast Guard members being involuntarily separated or retired from the Coast Guard because of physical disability are entitled to Transition Benefits in accordance with the provisions of the Transition Assistance Program, COMDTINST 1900.2. For further information on the Transition Assistance Program contact the nearest Work-Life staff at 1-800-872-4957, or visit the Coast Guard Work-Life Internet site at:

http://www.uscg.mil/worklife/transition_assistance.asp.

9. Do I have any recourse regarding the final decision of the PDES process?

The Coast Guard Board for Correction of Military Records (BCMR) has the authority to review and change Coast Guard and Coast Guard Reserve personnel records, and to grant appropriate relief. The PDES process is covered by the mandate of the BCMR, so current or former members are entitled to apply for relief. For further information, please refer to their website at: <http://www.dot.gov/ost/ogc/org/bcmr/>. Additionally, you have a

right to communicate with your Congressional representatives or to seek judicial injunctive relief from Federal Courts.

INFORMATION FOR MEMBERS BEING SEPARATED DUE TO PHYSICAL DISABILITY

To get a complete understanding of your benefits, you should attend a Transition Assistance Benefits Course. Contact your local PERSRU.

How can I get an estimate of my retirement pay?	Generally, you are entitled to two months base pay for every year of military service up to 19 years of military service. If you have four years and six months and one day of service then the number of years of service will be rounded up to five years. You can also compute your estimated separation pay on the internet at the Air Force Personnel Center web site- www.afpc.randolph.af.mil . Once you reach the web site, choose the option on the left for, "Retirement/Separations." Then, select the "Pay Calculator."
What are my transition benefits?	Your separation from the Coast Guard is involuntary. Therefore, you are entitled to transition benefits. See Commandant Instruction 1900.2 of 7 Feb 1996 entitled Transition Assistance Program.
Am I entitled to a PCS move?	You are entitled to a PCS Move anywhere in the continental United States within one year of being separated. See Commandant Instruction 1900.2 and the Joint Federal Travel Regulations, Chapter 5, Part B, U5130 . Members on the Temporary Disabled Retirement List (TDRL) who are being separated are not entitled to another (a 2 nd) PCS Move. See JFTR, Chapter 5, Part B, U5130, Paragraph E .
Is my separation pay taxable?	Your separation pay is taxable, and the Coast Guard will withhold 28% of your separation pay for tax purposes. However, if you are rated as having a disability by the VA, the 28% that was withheld will be refunded to you. After you have been rated by the VA, you can get the 28% refunded by the IRS by filing a IRS Form 1040 or by the Coast Guard if you provide proper documentation to the Coast Guard Personnel Service Center (PSC) before October of the year you are separated. The Non-Commissioned Officers Association (NCOA) will provide you additional information by calling 1-703-549-0311 . For more information on tax issues, check the IRS web site at www.irs.gov .
Am I entitled to terminal leave?	Your separation date will not be delayed for the purpose of allowing you to use earned leave.
Will I be discharged under honorable conditions?	Your DD-214 will state that you are being separated under honorable conditions. There will also be a code indicating you were medically separated.
Will I receive a Separation physical?	Your medical board serves as your separation physical.
How do I locate the nearest VA office?	The toll free number is 1-800-827-1000 . Check the VA website at www.vba.va.gov for more information.
When can I apply for VA disability compensation benefits?	Once you receive a DD-214. You can check the VA internet site at www.va.gov for more information regarding VA benefits.
Will I receive the same rating if I apply for VA benefits?	The VA makes <i>its</i> own independent disability determinations. Some organizations such as the Disabled American Veterans organization will help you file a claim with the VA. DAV is co located with most regional VA offices. You can call them at 1-877-426-2838 toll free, or check their internet site at www.dav.org .

INFORMATION FOR MEMBERS BEING MEDICALLY RETIRED

To get a complete understanding of your benefits as a retiree, you should attend a retirement seminar - such as a Transition Assistance Benefits Course.

How can I get an estimate of my retirement pay?	The phone number for the USCG Personnel Service Center (PSC) is 1-800-772-8724 . The PPC will give you an estimate of your retired pay. You can also check the PPC web site for useful information concerning pay, service records, VA benefits, TRICARE and social security benefits: www.uscg.mil/hq/psc/ras.htm . You can also compute your estimated retired pay on the internet at the Air Force Personnel Center web site – www.afpc.randolph.af.mil . Once you reach the web site, choose the option on the left for, “Retirement/Separations.” Then, select the “Pay Calculator.”
Am I entitled to a PCS move?	Per the Joint Federal Travel Regulations and Commandant Instruction 1900.2 of 7 Feb 1996 (Transition Assistance Program), you are entitled to a PCS move anywhere in the continental U.S. within a year of being medically retired.
Can I elect to participate in the survivor benefit plan (SBP) before retiring?	If you are married and/or have minor children, you may want to elect to participate in the survivor benefit plan. See the above Air Force web site to learn more about the advantages and disadvantages of enrolling in SBP.
Who can explain my medical benefits to me as a retiree?	Call your Health Benefits Advisor (HBA). Your PERSRU should be able to help you locate your HBA. You may also wish to call one of the 12 TRICARE regions. Unfortunately, each region has a separate number and web site. To locate your region you can call Sierra Tricare at 1-888-999-5195 . As determined by the VA, you may also be entitled to use VA medical facilities depending on the level and nature of your disabilities. For the TRICARE Retiree Dental Program, contact Delta Dental at 1-888-838-8737 or visit their web site at www.ddpdelta.org .
Is my retirement pay taxable?	Yes, it is considered taxable income for Federal tax purposes, unless you were on active duty prior to 24 September 1975 and other limited circumstances. Most states do not tax disability retirement. For more information on tax issues, check the IRS web site at www.irs.gov .
Am I entitled to terminal leave?	Your retirement will not be delayed for the purpose of allowing you to use earned leave. (See chapter 12.C of the Personnel Manual).
Will I retire be under honorable conditions?	Your DD-214 will state that you are being retired under honorable conditions. There will also be a code indicating you were medically retired.
Will I receive a Retirement physical?	Your medical board serves as your retirement physical.
How do I locate the nearest VA office?	The toll free number is 1-800-827-1000 . Check the VA web site at www.va.gov for more information.
When can I apply for VA disability compensation benefits?	Once you receive a DD-214. You can check the VA web site at www.va.gov for more information regarding VA benefits.
Will I receive the same rating if I apply for VA benefits?	The VA makes its own independent disability determinations. Some organizations such as the Disabled American Veterans organization will help you file a claim with the VA. DAV is co-located with most regional VA offices. You can call them at 1-877-426-2838 toll free, or check their internet site at www.dav.org .
What are other sources of information?	The Retired Military Almanac appears to be the most comprehensive handbook. It is offered free at some of the retirement seminars. It can also be purchased for under \$10 by calling 1-888-872-9698 .
Am I entitled to social security benefits?	The toll free number to locate the Social Security office nearest you is 1-800-772-1213 . Generally, very few members being medically retired are entitled to social security (less than 3%). For more information about the Social Security Administration, you can check their web site at www.ssa.gov .