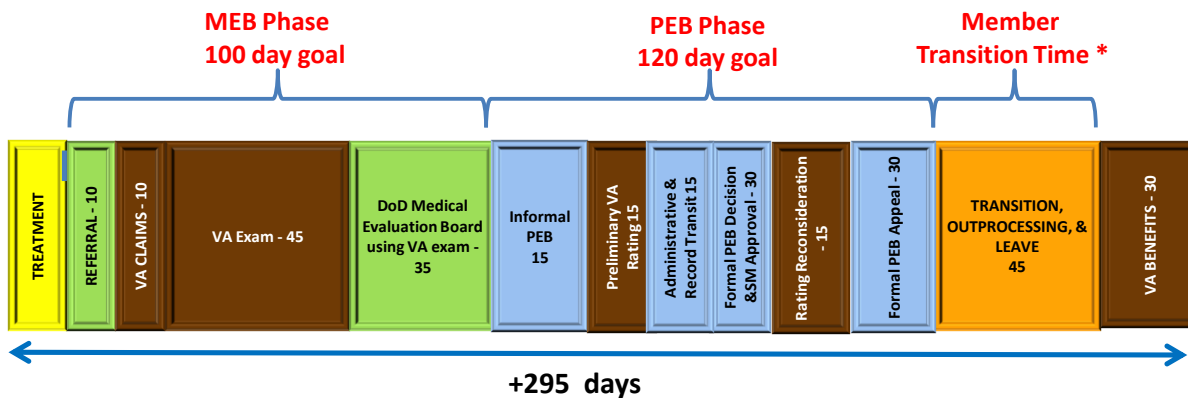


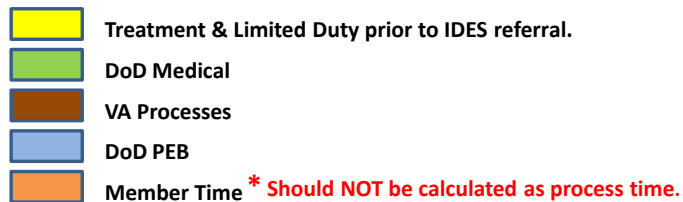
INTEGRATED DISABILITY EVALUATION SYSTEM (DES)

1. Overview of the IDES process:

Integrated Disability Evaluation System Process Steps:



IDES 295 days timeline goal includes all appeals plus member's leave



a. The Integrated Disability Evaluation System (IDES) is the joint DoD-VA process by which DoD determines whether Wounded, Ill, or Injured (WII) service members are fit for continued military service and by which DoD and VA determine appropriate benefits for service members who are separated or retired for a service-connected disability. Although the IDES includes medical examinations, IDES processes are administrative in nature and are independent of clinical care and treatment. The IDES scope includes all medical examinations and all administrative activities associated with IDES case management from the point of referral by a military medical care provider to the point of return to duty or completion of the VA's benefits decision

letter, including the management of service members who are temporarily¹ or permanently retired for disability through the IDES.

b. The MEB is an informal process before a board comprised of at least three physicians, who compile, assess, and evaluate a service member's medical history and current condition.² The MEB process begins when a service member's optimum medical care has been reached or when a service member's physician determines that, even with further treatment, he or she is unable to return to duty. In consultation with the service member's commander and on approval by the Medical Evaluation Board (MEB) convening authority, a military medical care provider refers a Service member to the IDES.³

c. The PEB is a fact-finding board that evaluates all cases of physical disability on behalf of the Marine or Sailor and the Service in accordance with Secretary of the Navy Instruction (SECNAVINST) 1850.4E (Disability Evaluation Manual). The PEB investigates the nature, cause, degree of severity, and probable permanency of the disability concerning the service member referred to the board. The Board evaluates the physical condition of the service member against the physical and mental requirements of his/her particular office, grade, rank or rating. The PEB provides a full and fair hearing as required by 10 U.S.C 1214 and makes findings and recommendations required by law to establish the eligibility of a service member to be retained on active duty due to fitness, or separated or retired from the service because of a physical or mental disability. The PEB is comprised of two levels: informal PEB and formal PEB.

(1) IPEB (informal): The PEB establishes an Informal Physical Evaluation Board (IPEB), made up of the PEB President, personnel or HR officer and a doctor, to review the service member's case file. IPEBs are not conducted in-person and the service member does not interact directly with the IPEB. The IPEB adjudicates the case and requests the VA to provide proposed disability ratings for service member conditions that the IPEB determines to be unfit. The IPEB renders a decision, which the service member receives for review. The service member may request IPEB reconsideration.

(2) FPEB (formal): If the service member disagrees with the IPEB findings, a Formal Physical Evaluation Board (FPEB) is convened at his/her request. A service member found unfit has the right to an

¹ Referred to as TDRL.

² There are two types of Medical Evaluation Boards: MEB (Limited Duty - not in IDES process) and MEB (PEB).

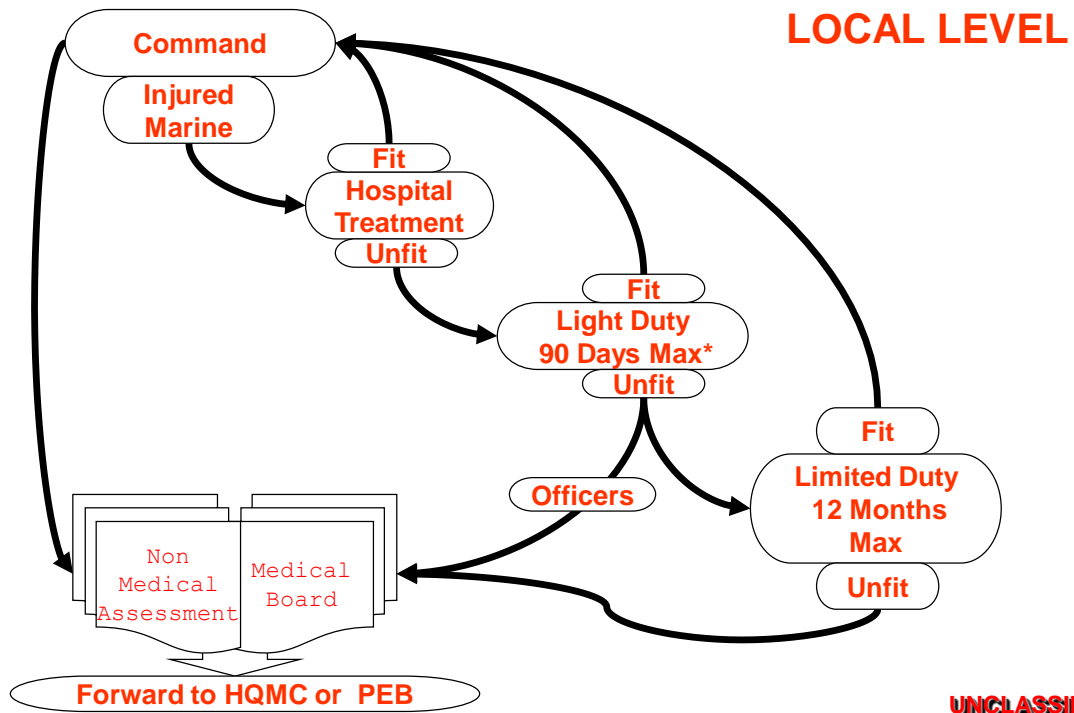
³ The new Integrated Disability Evaluation System (IDES) features a single set of disability medical examinations appropriate for determining both fitness and disability and a single set of disability ratings. By transitioning from the legacy DES to the IDES, evaluation of a service members' fitness for duty runs concurrently with a Department of Veterans Affairs' (VA) determination of a disability rating. Wounded, Ill or Injured service members receive disability evaluations by VA-certified doctors using VA guidelines, while the Defense Department uses these same exams to determine if the service member is fit for duty.

FPEB, while the service member who is found fit may only request an FPEB from the PEB president. The service member may appear before the Board, present evidence, testify, and have legal representation. The service member is transitioned out of the service when found unfit or reintegrated into the unit when found fit.



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Disability Evaluation System Process



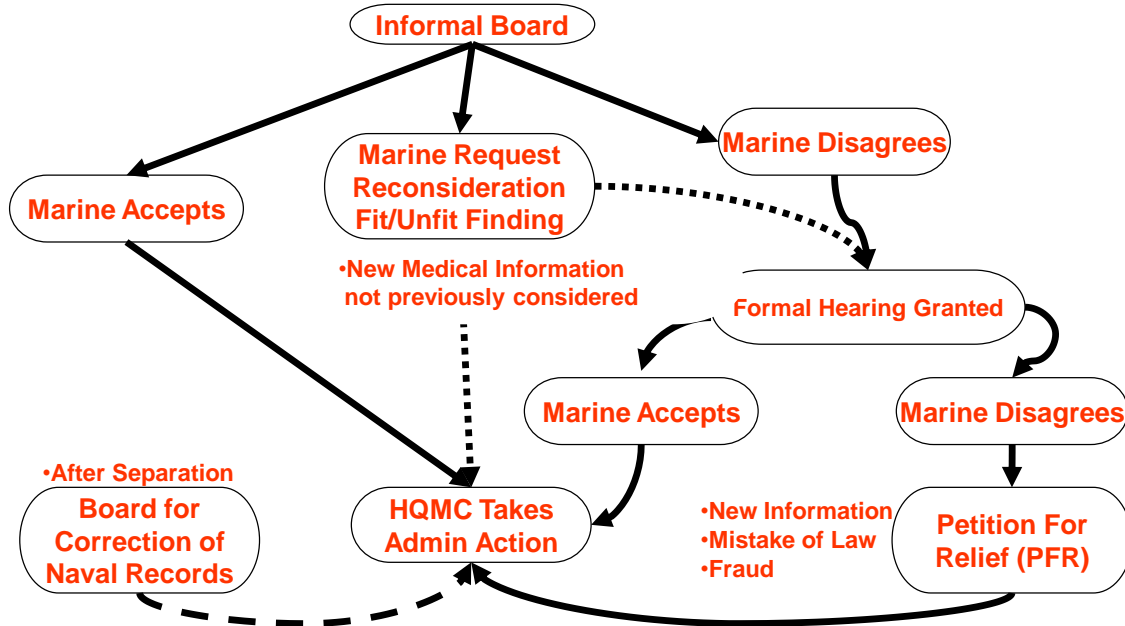
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Disability Evaluation System Process

SECNAV LEVEL (PEB)



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3. Legal support requirements.

a. Required legal support at the FPEB: 10 USC sec. 1214 provides that "no member of the armed forces may be retired or separated for physical disability without a full and fair hearing if he demands it." SECNAVINST 1850.4E, Department of the Navy (DON) Disability Evaluation Manual, details Department of the Navy responsibilities for disability evaluations and states that the Judge Advocate General (JAG) is responsible for: providing legal resources to support the DES and assigning qualified judge advocates to act as legal counsel for members appearing before the Formal Physical Evaluation Boards (FPEB).

b. Added requirement for legal support to service members upon receipt of IPEB findings:

(1) Section 1612 of the 2008 National Defense Authorization Act (NDAA) mandated that the Secretary of Defense develop uniform standards and procedures among the Military Departments for provision of legal counsel to recovering service members while undergoing evaluation by a PEB (formal and informal), to include uniform

standards on the roles and responsibilities of judge advocates assigned to represent those service members.⁴

(2) Implementing Department of Defense policy⁵ directed the Military Departments to make available trained and certified government legal counsel to consult (by telephone or otherwise) with a service member regarding the service member's rights and elections following the service member's receipt of the decision of an Informal Physical Evaluation Board (IPEB).

c. Discretionary legal support: Under the implementing DoD policy, Military Departments have discretion whether to make legal counsel available to service members earlier than receipt of the IPEB decision. The Marine Corps has been providing legal support earlier in the process consistent with the Commandant's commitment to keep faith with our wounded, ill, and injured (WII).⁶ Providing legal representation when service members are first referred to a Medical Evaluation Board (MEB) ensures their rights are protected, that each receives a fair assessment of his or her medical condition, and that the condition is accurately documented during the MEB process.

(JAL, 9 Apr 12)

⁴ 10 USC sec. 1214 provides that "no member of the armed forces may be retired or separated for physical disability without a full and fair hearing if he demands it."

⁵ 14 October 2008 Under Secretary of Defense (Personnel and Readiness) Policy Memorandum on Implementing Disability Related Provisions of the NDAA 2008 (14 Oct 08 Memorandum). Subsequent DoD policy does not appear to alter the Services' flexibility whether to provide pre-IPEB legal support. Directive-Type Memorandum (DTM) 11-015 - Integrated Disability Evaluation System (IDES) 19 Dec 11 - This DTM establishes policy, assigns responsibilities, and prescribes procedures for the IDES, which is superseding the legacy Disability Evaluation System (DES). This DTM shall be used in conjunction with the 14 Oct 08 Memo and other listed references. Therein, it states that the Secretaries of the Military Departments shall establish procedures for their respective Military Departments to ensure legal counsel is available to the Service member during the IDES in accordance with the standards for legal support in (the 14 Oct 08 Memo) and that they may provide legal counsel to represent the service member at all steps of the PEB determinations.

⁶ "We expect and demand extraordinary loyalty from our Marines - a loyalty to Country, family, and Corps. Our Nation has been at war for a decade, placing unprecedented burdens on Marines, Sailors, families, Wounded Warriors, and the families of the fallen. They have all made tremendous sacrifices in the face of danger. We owe them all a reciprocal level of loyalty. Our approach to caring for their needs is based on the same unwavering faithfulness they have demonstrated to the Marine Corps." (General James F. Amos in CMC's 2011 Report to Congress on the Posture of the Marine Corps)