Title 8, California Code of Regulations

Chapter 4.5

# **Subchapter 1. ADMINISTRATIVE DIRECTOR – ADMINISTRATIVE RULES**

**~~ARTICLE 2 DISABILITIES, DESCRIPTIONS OF~~**

## **SUBCHAPTER 1.6 PERMANENT DISABILITY RATING DETERMINATION**

### § ~~9725~~10145. Method of Measurement.

The method of measuring physical elements of a disability should follow the Report of the Joint Committee of the California Medical Association and Industrial Accident Commission, as contained in *"Evaluation of Industrial Disability”* edited by Packard Thurber, Second Edition, Oxford University Press, New York, 1960. This section shall not apply to any permanent disability evaluations performed pursuant to the permanent disability rating schedule adopted on or after January 1, 2005.

Authority: Sections 133, and 5307.3, Labor Code.

Reference: Sections 4660, 4662, 4663, 4664, Labor Code.

### § ~~9726~~10146. Method of Measurement (Psychiatric).

The method of measuring the psychiatric elements of a disability shall follow the Report of the Subcommittee on Permanent Psychiatric Disability to the Medical Advisory Committee of the California Division of Industrial Accidents, entitled "The Evaluation of Permanent Psychiatric Disability," ~~(hereinafter referred to as the "Psychiatric Protocols")~~ as adopted, forwarded for adoption on July 10, 1987, and subsequent amendments and/or revisions thereto adopted after a public hearing. This section shall not apply to any permanent disability evaluations performed pursuant to the permanent disability rating schedule adopted on or after January 1, 2005.

~~Note: The Report (which contains these Protocols) of the Subcommittee on Permanent Psychiatric Disability, as adopted, does not appear as a printed part of the Administrative Director’s Regulations (8 California Code of Regulations, Section 9726); copies will be made available through the Medical Director of the Division of Industrial Accidents.~~

Authority: Sections 133, and 5307.3, Labor Code.

Reference: Sections 4660, 4662, 4663, and 4664, Labor Code.

### § ~~9727~~10147. Subjective Disability.

Subjective Disability should be identified by:

1. A description of the activity which produces the disability.

2. The duration of the disability.

3. The activities which are precluded and those which can be performed with the disability.

4. The means necessary for relief. The terms shown below are presumed to mean the following:

1. A *severe* pain would preclude the activity precipitating the pain.

2. A *moderate* pain could be tolerated, but would cause marked handicap in the performance of the activity precipitating the pain.

3. A *slight* pain could be tolerated, but would cause some handicap in the performance of the activity precipitating the pain.

4. A *minimal* (mild) pain would constitute an annoyance, but causing no handicap in the performance of the particular activity, would be considered as nonratable permanent disability.

This section ~~shall~~ does not apply to any permanent disability evaluations performed pursuant to the permanent disability rating schedule adopted on or after January 1, 2005.

Authority: Sections 133 and 5307.3, Labor Code.

Reference: Sections 4660, 4662, 4663 and 4664, Labor Code.

~~Article 7. Schedule for Rating Permanent Disabilities~~

### §~~9805~~ 10148. Schedule for Rating Permanent Disabilities, Adoption, Amendment.

The method for the determination of percentages of permanent disability is set forth in the Schedule for Rating Permanent Disabilities, which has been adopted by the ~~A~~administrative ~~D~~director effective January 1, 2005, and which is hereby incorporated by reference in its entirety as though it were set forth below. The schedule adopts and incorporates the American Medical Association (AMA) *Guides to the Evaluation of Permanent Impairment 5th Edition*. The schedule shall be effective for dates of injury on or after January 1, 2005 and for dates of injury prior to January 1, 2005, in accordance with subdivision (d) of Labor Code section 4660~~, and it shall be amended at least once every five years~~.

The schedule may be downloaded from the [Division of Workers' Compensation website](http://www.dir.ca.gov/dwc/dwcrep.htm) at ~~http://~~www.dir.ca.gov/dwc/dwcrep.htm.

Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 4660, 4662, 4663 and 4664, Labor Code.

### ~~§9805.1. Data Collection, Evaluation, and Revision of Schedule.~~

~~The Administrative Director shall: (1) collect for 18 months permanent disability ratings under the 2005 Permanent Disability Rating Schedule (PDRS) effective for injuries occurring on or after 1/1/05 and effective for injuries occurring on or after 4/19/04 and before 1/1/05 where there has been either no comprehensive medical-legal report or no report by a treating physician indicating the existence of permanent disability, or when the employer is not required to provide the notice required by Labor Code Section 4601 to the injured employee; (2) evaluate the data to determine the aggregate effect of the diminished future earning capacity adjustment on the permanent partial disability ratings under the 2005 PDRS; and (3) revise, if necessary, the diminished future earning capacity adjustment to reflect consideration of an employee's diminished future earning capacity for injuries based on the data collected. If the Administrative Director determines that there is not a sufficient amount of data to perform a statistically valid evaluation, the Administrative Director shall continue to collect data until a valid statistical sample is obtained. If there is a statistically valid sample of data that the Administrative Director determines supports a revision to the diminished future earning capacity adjustment, the Administrative Director shall revise the PDRS before the mandatory five year statutory revision contained in Labor Code section 4660(c).~~

~~Authority cited: Sections 133 and 5307.3, Labor Code. Reference: Sections 4660, 4662, 4663 and 4664, Labor Code.~~

§ 10150. Disability Evaluation Unit

The Disability Evaluation Unit (DEU), under the direction and authority of the administrative director, will issue permanent disability ratings as required under this subchapter utilizing the Schedule for Rating Permanent Disabilities adopted by the administrative director. The ~~Disability Evaluation Unit~~ DEU will prepare the following kinds of rating determinations:  
  
(a) Formal rating determinations  
  
(b) Summary rating determinations  
  
(c) Consultative rating determinations  
  
~~(d) Informal rating determinations.~~  
  
Authority: [Sections 133 and 5307.3, Labor Code](http://www.lexis.com/research/buttonTFLink?_m=7481b286122b13067a2d566b5cf6a5dc&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010150%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=1&_butInline=1&_butinfo=CA%20LAB%20133&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=62f5400b47aa7704d9b14deecdbb3e26).

Reference: [Sections 124, 4061, 4660, 4662, 4663 and 4664, Labor Code](http://www.lexis.com/research/buttonTFLink?_m=7481b286122b13067a2d566b5cf6a5dc&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010150%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=2&_butInline=1&_butinfo=CA%20LAB%20124&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=fed073472353d9024fa27a25a1c96094).

### ~~§ 10150.1 Signature Disputes and the Signatures of Consultants.~~

~~(a) Anyone who disputes the authenticity of any signature must file with the Manager of the Disability Evaluation Unit an objection to the pleading or other document within ten (10) days of the filing of that document. The objection shall contain a complete explanation of the basis for the objection.~~

~~(b) The filing of a document, signed with a “/s/ name” or an electronic image of the signature filed with the login and password of the Division of Workers' Compensation consultant assigned to the case shall constitute an original signature for all purposes.~~

~~Authority cited: Sections 133 and 5307.3, Labor Code.~~

~~Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.~~

### ~~§ 10150.2. Technical Unavailability of EAMS.~~

~~Technical problems with filing documents shall be governed by section 10225 of title 8 of the California Code of Regulation.~~

~~Authority: Sections 133 and 5307.3, Labor Code.~~

~~Reference: Sections 5502 and 5700, Labor Code.~~

### ~~§ 10150.4. Misfiled or Misdirected Documents~~

~~(a) A request to move or substitute a corrected document shall be made in conformity with section 10223 of title 8 of the California Code of Regulations, except that a written request to substitute with the proposed document for substitution appended shall be made in lieu of a petition to substitute as allowed under section 10223(b). The authority to approve moving a document from one file to another file shall reside with the Manager of the Disability Evaluation Unit or his or her designee.  
  
(b) If a document is not filed in compliance with sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations and these regulations, the administrative director may in his or her discretion take the actions set forth in section 10222 of title 8 of the California Code of Regulations.~~

~~Authority: Sections 133 and 5307.3, Labor Code.~~

~~Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.~~

### ~~§~~10151. Filing Requirements.

(a) ~~"Electronic Adjudication Management System" or "EAMS" means the computer case management system used by the Division of Workers' Compensation to electronically store and maintain the Division of Workers' Compensation or the appeals board's case files and to perform other case management functions.~~

~~(b)~~ All forms or correspondence submitted to the DEU ~~shall~~ will be stored in the Electronic Adjudication Management System (EAMS) and then destroyed. Case opening documents will be assigned a case number by the Division of Workers' Compensation after filing. The case number will include the prefix "DEU". ~~(1)~~ (b) Except for documents or forms which open a ~~Disability Evaluation Unit~~ DEU file, all documents and forms ~~shall contain a case number assigned by the Division of Workers' Compensation~~ must be filed with the DEU case number. ~~The case number shall be preceded by the prefix "DEU." Case opening documents shall be assigned a case number by the Division of Workers' Compensation after filing.~~ Documents or forms filed without a DEU case number will be returned to the sender with instructions for proper filing.

~~(2) All documents presented for filing shall conform to the requirements of sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations.~~

~~(3) All filed paper documents and forms shall be scanned into the EAMS and then will be destroyed. A properly filed paper document or form shall be deemed a legal filing for all purposes.~~

~~(4) The service of all documents and forms shall conform to the receiving party’s designated preferred method of service in section of 10218 of title 8 of the California Code of Regulations.~~

Authority: Sections 133, 4061, 4660, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124 and 4061, Labor Code.

### ~~§10151.1. Electronic Filing Exemption.~~

~~If a document is filed with EAMS as part of the electronic filing trial, that document does not need to be filed in compliance with sections 10228 and 10232 of title 8 of the California Code of Regulation.~~

~~Authority: Sections 111, 133, 5307.3 and 5307.4, Labor Code.~~

~~Reference: Sections 124 and 4061, Labor Code.~~

### §10156. Formal Rating Determinations, Evidence.

(a) A formal rating determination will be prepared by the ~~Disability Evaluation Unit~~ DEU when requested by the Appeals Board or a ~~W~~workers' ~~C~~compensation ~~J~~judge on a form specified for that purpose ~~by the Administrative Director~~. The form will provide a description of the disability to be rated, the occupation of the injured employee, the employee's age at the time of injury, the date of injury, the formula used, and a notice of submission ~~in accordance with Appeals Board Rules of Practice and Procedure.~~

(b) Formal rating determinations prepared by disability evaluators will be deemed to constitute evidence only as to the relation between the disability or impairment standard(s) described and the percentage of permanent disability.

Authority: Sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4660, 4662, 4663, 4664 and 5701, Labor Code.

### §~~10150.3.~~10157. Disability Evaluation Unit and Request for Reconsideration of Summary Rating File Retention.

(a) Following a period of ~~fifty (~~50~~)~~ years after the filing of a document used to open a case or file, the Division of Workers' Compensation may destroy the electronic ~~and/or paper~~ file in each case ~~maintained by the Disability Evaluation Unit~~.

(b) The Division of Workers' Compensation, at any time, may convert a paper file to an electronic file. ~~The Division of Workers' Compensation shall inform the parties when a paper file is converted. If a paper case file has been converted to electronic form, the paper case file may be destroyed no less than~~~~30 business days after the parties have been informed of the conversion.~~

(c) Reconsideration files will be retained for seven years.

Authority: Sections 133 and 5307.3, Labor Code. Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

### ~~§10158. Formal Rating Determinations As Evidence.~~

~~Formal rating determinations prepared by disability evaluators shall be deemed to constitute evidence only as to the relation between the disability or impairment standard(s) described and the percentage of permanent disability.~~

~~Authority: Sections 133 and 5307.3, Labor Code.~~

~~Reference: Sections 124, 4061, 4660, 4662, 4663 and 4664, Labor Code.~~

### §~~10159~~10158. Time Period for Issuing a Summary Rating Determination Pursuant to Labor Code § 4061(e)****.****

Following the receipt of a comprehensive medical-legal evaluation from a Qualified Medical Evaluator that is eligible for rating under section ~~10160~~ 10159, the ~~Disability Evaluation Unit~~ DEU ~~shall~~ must issue a summary rating determination pursuant to Labor Code section 4061(e) within 20 days of either the date the time has passed for the filing of a request for factual correction under Labor Code section 4061(d)(1), or the date of receipt of a supplemental report submitted to the ~~Disability Evaluation Unit~~ DEU in response to a request for factual correction under section 37 ~~of title 8 of the California Code of Regulations~~, whichever is later.

Authority: Sections 111, 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124 and 4061, Labor Code.

### § ~~10160~~10159. Summary Rating Determinations for~~,~~ Comprehensive Medical Evaluation of Unrepresented Employee~~s~~.

(a) The ~~Disability Evaluation Unit~~ DEU will prepare a summary rating determination upon receipt of a properly prepared request. A properly prepared request ~~shall~~ must consist of:

(1) a completed Request for Summary Rating Determination, DWC AD Form 101 (DEU);

(2) a completed Employee's Disability Questionnaire, DWC AD Form 100 (DEU); and

(3) a comprehensive medical evaluation of an unrepresented employee from a Qualified Medical Evaluator.

(b) The insurance carrier or self-insured employer ~~shall~~ must provide the employee with an Employee's Disability Questionnaire DWC AD Form 100 (DEU) prior to the appointment scheduled with the Qualified Medical Evaluator. The employee will ~~be instructed in the form and manner prescribed by the administrative director to~~ complete the questionnaire and provide it to the Qualified Medical Evaluator at the time of the examination.  
  
(c) The insurance carrier, self-insured employer or injured worker ~~shall~~ must complete a Request for Summary Rating Determination of Qualified Medical Evaluator's Report DWC AD Form 101 (DEU), a copy of which shall must be served on the opposing party. The requesting party ~~shall~~ must send the request, including proof of service of the request on the opposing party, to the Qualified Medical Evaluator together with all medical reports and medical records relating to the case prior to the scheduled examination with the Qualified Medical Evaluator. The request ~~shall~~ must include the appropriate DEU address of the Disability Evaluation Unit. A listing of all of the offices of the ~~Disability Evaluation Unit~~ DEU, with each office's area of jurisdiction, will be provided, upon request, by any DEU office ~~of the Disability Evaluation Unit~~ or any Information and Assistance Office.  
  
(d) When a summary rating determination has been requested, the Qualified Medical Evaluator ~~shall~~ must submit all of the following documents to the Disability Evaluation Unit DEU at the location indicated on the DWC AD Form 101 (DEU) and ~~shall~~ must concurrently serve copies on the employee and claims administrator:

(1) Request for Summary Rating Determination of Qualified Medical Evaluator's Report as a cover sheet to the evaluation report;

(2) Employee's Disability Questionnaire;

(3) Comprehensive medical evaluation by the Qualified Medical Evaluator, including the Qualified Medical Evaluator's Findings Summary Form (QME Form 111).  
  
(4) A document cover sheet and separator sheet pursuant to [section 10205.14 ~~of title 8 of the California Code of Regulation~~](http://www.lexis.com/research/buttonTFLink?_m=a87802faf20c5c114706a40a132a8d0e&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010160%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=1&_butInline=1&_butinfo=8%20CA%20ADMIN%2010205.14&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=aa06d9900d2bd7597352bf482a97b38b), which ~~shall~~ must only be served on the ~~Disability Evaluation Unit~~ DEU.  
  
(e) No request for a summary rating determination ~~shall~~ will be considered to be received until the Employee's Disability Questionnaire, the Request for Summary Rating Determination of Qualified Medical Evaluator's Report, and the comprehensive medical evaluation have been received by the office of the ~~Disability Evaluation Unit~~ DEU having jurisdiction over the employee's area of residence. In the event an employee does not have a completed Employee's Disability Questionnaire at the time of his or her appointment with a Qualified Medical Evaluator, the medical evaluator ~~shall~~ must provide this form to the employee for completion prior to the evaluation. Any requests received ~~on or after April 1, 1994~~ without all the required documents will be returned to the sender.  
  
(f) Except when a request for factual correction is filed in compliance with [section 37 ~~of title~~ ~~8 of the California Code of Regulations~~](http://www.lexis.com/research/buttonTFLink?_m=a87802faf20c5c114706a40a132a8d0e&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010160%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=2&_butInline=1&_butinfo=8%20CA%20ADMIN%2037&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=10171d0292970ec719c855b7601ae580), any request for the rating of a supplemental comprehensive medical evaluation report ~~shall~~ must be made no later than ~~twenty~~20 days from the receipt of the supplemental evaluation report and ~~shall~~ must be accompanied by a copy of the correspondence to the evaluator soliciting the supplemental evaluation, together with proof of service of the correspondence on the opposing party.  
  
(g) If a Qualified Medical Evaluator files a correction to the comprehensive medical evaluation previously filed pursuant to [section 37(d) ~~of title 8 of the California Code of Regulations~~](http://www.lexis.com/research/buttonTFLink?_m=a87802faf20c5c114706a40a132a8d0e&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010160%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=3&_butInline=1&_butinfo=8%20CA%20ADMIN%2037&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=6045294e9621a9145982d7d5d93975d5), the ~~Disability Evaluation Unit~~ DEU ~~shall~~ must consider in its summary rating the corrections indicated by the Qualified Medical Evaluator in the supplemental report.

Authority: Sections 133, ~~and~~ 5307.3, and 5307.4, Labor Code.

Reference: Sections 124, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

### § 10160.~~1.~~ Summary Rating Determinations, Report of Primary Treating Physician for Unrepresented Employee.

(a) For injuries on or after January 1, 1994, the insurance carrier, self-insured employer or the employee may request a summary rating of the primary treating physician's report prepared in accordance with Section 9785.  
  
(b) The request may be made by completing a Request for Summary Rating Determination of Primary Treating Physician's Report (DWC AD Form 102 (DEU)) and filing the request with the ~~Disability Evaluation Unit~~ DEU together with a copy of the primary treating physician's report, if the report has not already been filed in EAMS.  
  
(c) A filed copy of the request form and a copy of the primary treating physician's report ~~shall~~ must be served immediately after filing on the non-requesting party, with a proof of service on the non-requesting party.  
  
Authority: [Sections 133, 5307.3 and 5307.4, Labor Code](http://www.lexis.com/research/buttonTFLink?_m=8f5e4d5da5e5a0643840c968f53a7243&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010160.1%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=1&_butInline=1&_butinfo=CA%20LAB%20133&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=afb17b7dd83c380575ed5c275ce13de6).

Reference: [Sections 124, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code](http://www.lexis.com/research/buttonTFLink?_m=8f5e4d5da5e5a0643840c968f53a7243&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010160.1%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=2&_butInline=1&_butinfo=CA%20LAB%20124&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=24e207eaa1164f864b80b8e006b71a18).

~~§ 10160.5.  Summary Rating Determinations, Represented Employees.~~  
  
~~(a) For injuries on or after January 1, 1991 and before January 1, 1994, the Disability Evaluation Unit will prepare a summary rating determination in cases where the injured worker is represented only if requested by a party. A summary rating determination will be prepared only upon receipt of a properly prepared request. A properly prepared request shall consist of:  
  
(1) A completed Request for Summary Rating Determination DWC AD Form 101 (DEU);  
  
(2) An evaluation by a Qualified Medical Evaluator or Agreed Medical Evaluator.  
  
(b) The requesting party shall complete a Request for Summary Rating Determination of Qualified Medical Evaluator's Report and submit it together with all medical reports and medical records concerning the case to the medical evaluator. The medical evaluator shall send the completed medical evaluation report together with the Request for Summary Rating Determination to the office of the Disability Evaluation Unit designated by the administrative director and specific on the Request for Summary Rating Determination of Qualified Medical Evaluator's Report and shall simultaneously serve the party or parties requesting the evaluation.  
  
(c) Notwithstanding the provisions of subdivision (b), a party may request a summary rating determination following receipt of a medical report prepared by a Qualified Medical Evaluator or Agreed Medical Evaluator on a represented case. The party shall file the Request for Summary Rating Determination of Qualified Medical Evaluator's Report and the medical report with the DEU office designated by the administrative director and shall immediately serve a filed copy of the Summary Rating Determination on the other party.  
  
(d) If a case is settled prior to receipt of a summary rating which has been requested, the requesting party shall notify the DEU office of the settlement.~~  
  
Authority:[~~Sections 133, 5307.3 and 5307.4, Labor Code~~](http://www.lexis.com/research/buttonTFLink?_m=6bd6f09be163652a54491bc780710fd5&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010160.5%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=1&_butInline=1&_butinfo=CA%20LAB%20133&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=3be10a4c4c2614e10b0a931fd2d80a54). Reference:[~~Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code~~](http://www.lexis.com/research/buttonTFLink?_m=6bd6f09be163652a54491bc780710fd5&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010160.5%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=2&_butInline=1&_butinfo=CA%20LAB%20124&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=03d19f18cbf11e2c1d60e2bd999ce9d2).

### § 10161. Forms

(a)[Employee's Disability Questionnaire](http://www.dir.ca.gov/dwc/FORMS/EAMS%20Forms/DEU/DEU100.pdf) (DWC AD Form 100 (DEU)).

(b) [Request for Summary Determination of Qualified Medical Evaluator's Report](http://www.dir.ca.gov/dwc/FORMS/EAMS%20Forms/DEU/DEU101.pdf) (DWC AD Form 101 (DEU)).

(c) [Request for Summary Determination of Primary Treating Physician's Report](http://www.dir.ca.gov/dwc/FORMS/EAMS%20Forms/DEU/DEU102.pdf) (DWC AD Form 102 (DEU)).

(d) Request for Reconsideration of Summary Rating by the Administrative Director (DWC AD Form 103 (DEU)).

(e) The Request for Summary Rating Determination of Qualified Medical Evaluator's Report, the Employee's Disability Questionnaire, and the Request for Summary Rating Determination of the Primary Treating Physician's Report may be reproduced by automated office equipment or other means as long as the printed content and layout of the form are identical to the specified form.

Authority: Sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4062, 4062.01, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

### ~~§10161.1. Reproduction of Forms.~~

[~~DEU Forms~~](http://www.dir.ca.gov/dwc/forms.html)

The Request for Summary Rating Determination of Qualified Medical Evaluator's Report, the Employee's Disability Questionnaire, and the Request for Summary Rating Determination of the Primary Treating Physician's Report may be reproduced by automated office equipment or other means as long as the printed content and layout of the form are identical to the specified form.

~~Authority: Sections 133 and 5307.3, Labor Code.~~

~~Reference: Sections 124, 4061, 4062, 4062.01, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code~~.

§ 10162. Summary Rating Determinations, Apportionment.  
  
(a) In cases where the injured worker is not represented and a Qualified Medical Evaluator's formal medical evaluation indicates apportionment of the permanent disability, a summary rating determination will not be made until a workers' compensation administrative law judge has reviewed the medical evaluation to determine if the apportionment is inconsistent with the law. The determination of the workers' compensation administrative law judge will not be admissible in any judicial proceeding.  
  
(b) Upon receipt of a formal medical evaluation which apportions the disability, the ~~Disability Evaluation Unit~~ DEU will transmit the medical evaluation to the presiding workers' compensation administrative law judge of the office of the appeals board designated by the ~~Disability Evaluation Unit~~ DEU, with a request to review the apportionment to determine whether it is inconsistent with the law. The workers' compensation administrative law judge ~~shall~~ must make the determination and respond to the ~~Disability Evaluation Unit~~ DEU within 45 days.  
  
(c) If the workers' compensation administrative law judge refers the medical report back to the Qualified Medical Evaluator for correction or clarification, the Qualified Medical Evaluator ~~shall~~ must provide a response to the workers' compensation administrative law judge within 30 days of the referral. If no response is received, the workers' compensation administrative law judge ~~shall~~ must make a determination whether the apportionment is inconsistent with the law, and a summary rating determination will be made.  
  
~~(d) In cases where the injured worker is represented and an Agreed Medical Evaluator or Qualified Medical Evaluator apportions the permanent disability, the Disability Evaluation Unit will issue a summary rating determination "Before Apportionment."~~

Authority: [Sections 133, 5307.3 and 5307.4, Labor Code](http://www.lexis.com/research/buttonTFLink?_m=2fe3f232524659850353b6660892d083&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010162%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=1&_butInline=1&_butinfo=CA%20LAB%20133&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=ad198ed065f21c7b2f232d20e801fdc7).

Reference: [Sections 124 and 4061, Labor Code](http://www.lexis.com/research/buttonTFLink?_m=2fe3f232524659850353b6660892d083&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b8%20CCR%2010162%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=2&_butInline=1&_butinfo=CA%20LAB%20124&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzt-zSkAb&_md5=c45e88d5cbc042b601f01600288f7318).

### § ~~10165~~10164. Service of Summary Rating Determination and Notice of Options Following Permanent Disability Rating.

~~Within the time specified in Labor Code section 4061(e),~~ ~~t~~The ~~Disability Evaluation Unit~~DEU ~~shall~~ will serve the permanent disability rating determination on the employee and the employer and the Notice of Options Following Permanent Disability Rating (DEU Form 110) on the employee ~~and employer~~ by the method of service described in section of ~~10218~~ 10205.6 ~~of title 8 of the California Code of Regulation~~.

Authority: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124 and 4061, Labor Code.

### § ~~10164~~10165. Reconsideration of Summary Rating Determinations~~, Reconsideration~~ if Employee is Unrepresented.

(a) Requests for reconsideration of the summary rating determination ~~shall~~ must be filed with the administrative director in writing within 30 days of receipt of the summary rating determination. DWC-AD Form 103 (DEU) can be used to file for reconsideration. The request ~~shall~~ must clearly specify the reasons the summary rating determination should be reconsidered and ~~shall~~ must include a proof of service on the other party and any other information necessary to support the request. Reconsideration of a summary rating may be granted by the administrative director for one or more of the following reasons:

(1) the summary rating was incorrectly calculated;

(2) the comprehensive medical evaluation failed to address one or more issues;

(3) the comprehensive medical evaluation failed to completely address one or more issues;

(4) the comprehensive medical evaluation was not prepared in accordance with required procedures, including the procedures of the administrative director promulgated under paragraph (2) or (3) of subdivision (j) of Section 139.2.

Requests for reconsideration which are not based on one of the above reasons will be denied.

(b) The administrative director ~~shall~~ must not accept or consider, as a basis for a request for reconsideration, a supplemental or follow-up evaluation which was requested by a party after a summary rating determination has already been issued to the parties.

(c) The administrative director will not review any request for reconsideration of a summary rating in a case that is pending before a workers’ compensation administrative law judge.

(~~c~~d) If the administrative director determines that an additional evaluation from another Qualified Medical Evaluator is necessary, the matter ~~shall~~ must be referred to the Medical Director of the Medical Unit for the provision of another Qualified Medical Evaluator.

Authority: Sections 133, 5300, 5301, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124, 4061, Labor Code.

### § 10166. Consultative Rating Determinations.

(a) The ~~Disability Evaluation Unit~~DEU will prepare consultative rating determinations upon request of the appeals board, workers' compensation administrative law judges, settlement conference referees, arbitrators, workers' compensation judges pro tempore and information & assistance officers.

(b) Consultative rating determinations may be requested for the purpose of determining the ratable significance of factors, reviewing proposed compromise and release agreements for adequacy, determining commuted values, resolving occupational questions or any other matters within the expertise of the disability evaluators. Consultative ~~R~~rating ~~D~~determinations will not be admissible in judicial proceedings.

(c) The ~~Disability Evaluation Unit~~DEU may also prepare consultative rating determinations upon receipt of reasonable requests from employers, injured workers or their respective representatives. A request is not considered reasonable where an insurance carrier or self-insurer seeks a consultative rating determination for the purpose of terminating its liability or for negotiating a compromise and release settlement where the injured worker has no representative. Consultative rating determinations ~~shall~~ must not ~~to~~ be used as a substitute for summary rating determinations.

(d) In all cases the person making a request for a consultative rating determination will provide the ~~Disability Evaluation Unit~~ DEU with the occupation and age of the injured worker at the time of injury.

~~(e) No consultative rating determination will be provided on cases in which an application for adjudication of claim has been filed with the appeals board without prior written authorization of the Appeals Board, a workers' compensation administrative law judge, settlement conference referee, arbitrator, workers' compensation judge pro tempore, or information & assistance officer. In cases where an application has been filed, the disability evaluator may require that any request for consultative rating determination be accompanied by the appeals board file.~~

Authority: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 123.6, 123.7, 124, 5275, 5451, 5502, 5701 and 5703.5, Labor Code.

### §~~10166.1~~10167. ~~Form~~ ~~(~~Request for Consultative Rating~~)~~ Form (DWC AD Form 104 (DEU).

[DWC AD Form 104 (DEU)](http://www.dir.ca.gov/dwc/FORMS/EAMS%20Forms/DEU/DEU104.pdf)

Authority: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 123.6, 123.7, 124, 5275, 5451, 5502, 5701 and 5703.5, Labor Code.

### §~~10165.5.~~ 10168. Notice of Options Following Disability Rating (DEU Form 110).

~~NOTICE OF OPTIONS FOLLOWING DISABILITY RATING~~

~~This is a disability rating determination (Rating) prepared by the State of California Disability Evaluation Unit within the Division of Workers' Compensation. It describes your percentage of disability. This percentage is based on your limitations as reported by the doctor, your potential loss of future earning capacity, your age, and the type of work you were doing at the time of your injury. If the rating indicates that you have some permanent disability, you should automatically begin to receive permanent disability payments. Payments are made in installments, every two weeks, for the number of weeks shown on the rating, less any permanent disability payments made to you prior to the rating.~~

~~If the rating is not disputed by you or your employer, you do not have to take any action to receive your benefits. We do want you to know that you may have two options you may want to consider. They are:~~~~1) STIPULATED FINDINGS AND AWARD; 2) COMPROMISE AND RELEASE;~~

~~1) STIPULATED FINDINGS AND AWARD~~

~~If you and the employer, carrier or agent accept the rating, written agreements may be submitted to the Workers' Compensation Appeals Board (WCAB) requesting that an Award be made without the need for a hearing. We recommend this option when the rating is not disputed, and you have a need for future medical care. A Workers' Compensation Judge will review the stipulations and issue an award.~~

~~ADVANTAGES~~

~~A stipulated award is a quick, easy way to settle your case while protecting your rights; There is no need to take time off work to go to a hearing; The Division of Workers' Compensation will review the settlement to protect your rights at no cost to you, there is no need to hire a lawyer; If your condition worsens, you can apply for additional payments anytime within five years from the date of your injury; If you need additional medical care or you are to receive a life pension (rating of 70% or more), your rights to future benefits can be fully protected and a judge can enforce the award if there later becomes a problem. You may request a lump sum payment of all or part of your permanent disability if you can show a financial need or hardship. However, a Workers' Compensation Judge must first be convinced that it would be in your best interest.~~

~~DISADVANTAGES~~

~~You normally will not receive a lump sum payment, but will receive your benefits in payments every two weeks.~~

~~2) COMPROMISE AND RELEASE~~

~~A Compromise and Release Agreement is a settlement which usually permanently closes all aspects of a workers' compensation claim except for vocational rehabilitation benefits, including any provision for future medical care.~~

~~The Compromise and Release is paid in one lump sum to you. It must be reviewed and approved by a Workers' Compensation Judge.~~

~~ADVANTAGES~~

~~You may receive more money than you would receive under a Stipulated Findings and Award because you are giving up your future rights in exchange for money.~~

~~If the employer, or insurance company disputes the rating, a Compromise and Release will assure you receive an agreed amount of money now rather than risk getting nothing or a lesser amount later.~~

~~You will receive your benefits in one lump sum.~~

~~DISADVANTAGES~~

~~A Compromise and Release usually permanently releases the employer from all future responsibilities. After your case has been resolved by a Compromise and Release Agreement, you cannot ask for more medical treatment at your employer's expense, nor can you claim additional benefits if your disability or condition becomes worse. Also, if you later die as result of the injury, your dependents would not be entitled to death benefits.~~

~~Once a Workers' Compensation Judge has approved your Compromise and Release, the settlement is final and it cannot be set aside except in very rare circumstances.~~

~~If you would like more information, you can receive recorded information free of charge, by calling 1-800-736-7401 or you may contact your local Information and Assistance officer (listed in the state government section of your telephone book under Department of Industrial Relations, Division of Workers' Compensation). You may also consult an attorney of your choice.~~

~~SPECIAL NOTICE TO UNREPRESENTED INJURED WORKERS~~

~~If you disagree with the rating because you believe that the rating was improperly calculated or that the doctor failed to address any or all issues or failed to properly rate your impairment, you may request administrative review of the rating within 30 days of receipt of the rating, from the Administrative Director of the Division of Workers' Compensation. In some cases, you may be entitled to an additional medical evaluation or a different medical specialist. Your request should include a copy of the rating and a copy of the report from the doctor. A copy of the request must be sent to your claims adjustor.~~

~~If you have questions about whether to request administrative review of your rating or whether another medical evaluation is appropriate, you should contact the local Information and Assistance Officer listed in the state government section of your telephone book under Department of Industrial Relations, Division of Workers' Compensation. They can tell you how to file the request if you decide to do so.~~

**NOTICE OF OPTIONS FOLLOWING PERMANENT DISABILITY RATING**

This is a disability rating determination prepared by the Disability Evaluation Unit. This rating is based on physician reports, your age, and occupation at the time of your injury. You should begin to receive permanent disability payments every two weeks, for the number of weeks shown on the rating, less any prior permanent disability payments made to you. However, permanent disability payments will not be made prior to an award if your employer offers you a job at 85% or more of your wages or if you return to work for another employer at 100% or more of your wages at the time of your injury. You have two options to settling your case, both of which will be reviewed and approved by a Workers’ Compensation Judge.

1. **STIPULATED FINDINGS AND AWARD**

If you and the claims administrator accept the rating, written agreements may be submitted to the Workers' Compensation Appeals Board requesting approval. If your condition worsens, you can apply for additional payments within five years from the date of your injury.

1. **COMPROMISE AND RELEASE AGREEMENT (C&R)**

A Compromise and Release Agreement is a settlement which generally closes all aspects of a workers' compensation claim including future medical care. It is paid in one lump sum to you. Once a Workers' Compensation Judge has approved this settlement it is final and cannot be set aside except in very rare circumstances.

**DIFFERENCES BETWEEN STIPULATED AWARD AND C&R**

* A stipulated award is a way to settle your case while protecting your rights.
* With a stipulated award, if you need additional medical care or you are to receive a life pension (rating of 70% or more), your rights to future benefits can be fully protected.
* With a stipulated award, you will receive payments every two weeks.
* You may receive more money with a C&R because you are giving up your future rights.
* If the employer or insurance company disputes the rating, a C&R will assure you receive an agreed amount of money rather than risk litigation.
* You will receive your benefits in one lump sum with a C&R.
* After your case has been resolved by a C&R, you cannot ask for more medical treatment nor can you claim additional benefits if your disability or condition worsens. Also, if you later die as a result of the injury, your dependents would not be entitled to death benefits.

If you would like more information, you may contact your [local Information and Assistance Office](http://www.dir.ca.gov/dwc/ianda.html) free of charge (listed in the state government section of your telephone book under Department of Industrial Relations, Division of Workers' Compensation or online at www.dir.ca.gov/dwc/ianda.html). You may also consult an attorney of your choice.

**SPECIAL NOTICE TO UNREPRESENTED INJURED WORKERS**

If you disagree with the rating because you believe that the rating was improperly calculated, or that the doctor failed to address any or all issues, or failed to properly rate your impairment, you may request administrative reconsideration of the rating within 30 days of the rating. Your request should include copies of the following: summary rating determination, report from the physician, and any supporting documentation you wish to submit. In addition, a copy of the request must be sent to your claims adjuster. [DWC-AD Form 103 Request for Reconsideration of Summary Rating](http://www.dir.ca.gov/dwc/FORMS/EAMS%20Forms/DEU/DEU103.pdf) by the Administrative Director can be found at: www.dir.ca.gov/dwc/FORMS/EAMS%20Forms/DEU/DEU103.pdf. Mail requests to: Division of Workers’ Compensation, Attn: Summary Rating Reconsideration, P.O. Box 70823, Oakland, CA 94612.

More information about workers’ compensation cases may be found in a [guidebook for injured workers](http://www.dir.ca.gov/InjuredWorkerGuidebook/InjuredWorkerGuidebook.html) at

www.dir.ca.gov/InjuredWorkerGuidebook/InjuredWorkerGuidebook.html.

Authority: sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4062, 4602.01, 4062.1, 4062.2, 4062.5, 4064, 4660, 4662, 4663, and 4664, Labor Code.

### ~~§10167. Informal Ratings.~~

~~(a) An informal rating will be prepared by the Disability Evaluation Unit upon the request of the employee and/or his/her representative and the employer, or at the request of an Information and Assistance Officer providing the necessary information. Such requests shall be submitted on forms and in a manner prescribed by the administrative director. Informal ratings shall be issued only in those instances where an Application for Adjudication of Claim has not been filed with the appeals board. All medical reports pertaining to the case must be submitted with the request.  
  
(b) The Disability Evaluation Unit will issue the informal rating, which will contain a statement that the informal rating is not: a) a finding, award, order or decision of the appeals board, and b) evidence as to the existence of the factors of disability.  
  
(c) Where the informal rating indicates a life pension, or provision for future medical treatment appears indicated, the Disability Evaluation Unit will forward a copy of the rating to an Information and Assistance Officer for the purpose of obtaining a stipulated award, or other action as may be appropriate.  
  
(d) Self-ratings prepared by the employer are not acceptable substitutes for informal ratings prepared by the Disability Evaluation Unit.~~

~~Authority: Sections 133 and 5307.3, Labor Code.~~

~~Reference: Section 4061, Labor Code.~~

### § 10169. Commutation Tables and Instructions.

Table 1 (“Present Value of Permanent Disability at 3% Interest”) ~~as issued in January 2001~~, Table 2 ~~(“Present Value of Life Pension at 3% Interest for a Male”)~~(“Present Value for a Life Pension for a Male”) ~~as issued in July 2001~~, Table 3 ~~(“Present Value of Life Pension at 3% Interest for a Female”)~~(“Present Value for a Life Pension for a Female”),  ~~as issued in July 2001,~~ and ~~“Commutation Instructions”, as issued in January 2001,~~ Table 4 “Commutation Instructions with Examples” are hereby incorporated by reference in their entirety as though they were set forth below. The tables and instructions are available from any office of the Division of Workers' Compensation and may be accessed and printed from the [Division's homepage](http://www.dir.ca.gov) at www.dir.ca.gov.

Authority: Sections 133, 5100, 5101, 5307.3, and 5307.4, Labor Code.

Reference: Sections 5100 and 5101, Labor Code.

### § ~~10169.1~~10170. Commutation of Life Pension and Permanent Disability Benefits.

(a) Determinations of the present value of a life pension under Labor Code ~~S~~section 5101(b) ~~shall~~ must be made in accordance with the Commutation Instructions contained in ~~S~~section 10169, and ~~shall~~ must be based on the actuarial data contained in Section 10169, Table 2 ("~~Present Value of Life Pension at 3% Interest for a Male"~~ Present Value for a Life Pension for a Male”) or Table 3 ("~~Present Value of Life Pension at 3% Interest for a Female"~~ Present Value for a Life Pension for a Female").

(b) Determinations of the present value of permanent disability indemnity under Labor Code ~~S~~section 5101(b) ~~shall~~ must be made in accordance with the Commutation Instructions contained in ~~S~~section 10169, and ~~shall~~ must be based on the actuarial data contained in ~~S~~section 10169, Table 1 ("Present Value of Permanent Disability at 3% Interest").

(c) The ~~A~~administrative ~~D~~director ~~shall~~ must periodically revise Tables 2 and 3 of Section 10169 to incorporate revisions to the "U.S. Life Tables" and "Actuarial Tables Based on The U.S. Life Tables" issued by the United States government following each decennial census.

Authority cited: Sections 133, 5100, 5101, and 5307.3, and 5307.4, Labor Code.

Reference: Sections 5100, 5100.5, 5100.6, 5101, Labor Code.