

USAF DISABILITY EVALUATION SYSTEM FACT SHEET (Jan 07)

You are receiving this fact sheet because your case has been entered into the Disability Evaluation System (DES). The purpose of this fact sheet is to explain your options and what you can expect during each step of the DES.

The purpose of the DES is to maintain a fit and vital force. To achieve that end, disability law allows the Secretary of the Air Force (SAF) to remove from active duty those who can no longer perform the duties of their office, grade, rank or rating and ensure fair compensation to members whose military careers are cut short due to a service-incurred or service-aggravated medical condition. The mere presence of a physical defect or condition does not qualify a member for disability retirement or discharge. The physical defect or conditions must render the member unfit for duty.

Disability evaluation begins only when examination, treatment, hospitalization, or substandard performance result in referral to a Medical Evaluation Board (MEB) by the attending physician. Please note that a previously approved separation or retirement date is overridden by the DES process. However, if you have reached the end of your active obligated service and have no remaining service obligations, you may waive referral to the DES with the approval of the Secretary of the Air Force. You must request a waiver, in writing, and such request must attest that you have received counseling on the DES process. For information on this waiver please call the Information Physical Evaluation Board (IPEB) at DSN 665-3519.

The MEB consists of three physicians (in the case of mental illness, a psychiatrist must be present on the Board). The results of the MEB are recorded on an AF Form 618, Medical Board Report, and briefed to you by the local Physical Evaluation Board Liaison Officer (PEBLO) at the Medical Treatment Facility (MTF). The MEB may result in one of two actions:

- a. Return to Duty (RTD). In this situation, the case file is forwarded to the Medical Standards Branch at HQ Air Force Personnel Center (AFPC) for possible determination of an Assignment Limitation Code "C", which may limit assignability to locations where appropriate care for the member's particular condition is available.
- b. Refer to Informal Physical Evaluation Board (IPEB) due to a potentially unfitting condition. In this situation, the member's case is forwarded to HQ AFPC/DPPD, USAF Physical Disability Division, for review by the IPEB.

The IPEB consists of three board members: two physicians and one personnel officer who presides as Board president. The IPEB will adjudicate cases based on a records-only review and make one of the following recommendations:

- a. Return to Duty (RTD). In this situation, the case file is forwarded to the Medical Standards Branch for possible determination of an Assignment Limitation Code "C".

- b. Discharge Under Other Than 10 United States Code, Chapter 10 (DUOT). This finding occurs when it is determined the condition for which the member is being boarded Existed Prior To Service (EPTS) or during a period member was not entitled to basic pay (i.e., AWOL, not on orders).
- c. Discharge With Severance Pay (DWSP). If the Board determines your disability is less than 30% in accordance with guidelines established in the Veterans Administration Schedule for Rating Disabilities (VASRD) and you have less than 20 years active service, the Board will recommend DWSP, and you will be entitled to receive a lump-sum severance pay based on years of service (not to exceed 12 years) multiplied by twice the amount of monthly basic pay. The percentage of disability has no effect on amount of severance pay received. Members with less than 6 months active service are not entitled to severance pay, but may still receive a finding of DWSP with a disability rating assigned. (NOTE: ARC members who are recommended for DWSP who have 20 or more years of satisfactory service will be offered the opportunity to select retirement at age 60 in lieu of receiving severance pay.)
- d. Permanent Retirement (PR). If the Board determines your disability is 30% or more (or you have 20 or more years of active service and your condition is stable), they will recommend medical retirement. You will be entitled to receive retirement pay based on the percentage of disability or years of creditable service (2.5 percent times your base pay times years and months of service under 10 U.S.C. 1208) whichever is more advantageous to you, and will receive all entitlements afforded to any member retired from the Armed Forces.
- e. Temporary Disability Retirement List (TDRL). If the member suffers from a medical condition that is considered unstable at the time the IPEB is held, the Board may recommend placement on the TDRL. In this situation, you are essentially in a retired status, and receive the same entitlements as any military member who is permanently retired from active duty. However, while on the TDRL, you are subject to periodic evaluations (at least once every 18 months). Once your condition has stabilized, the IPEB will either declare you Fit for Duty (you will have the option of reenlistment or separate without benefits), or recommend Discharge With Severance Pay or Permanent Retirement.

The IPEB records their findings on an AF Form 356, Findings and Recommended Disposition of USAF Physical Evaluation Board. This information is forwarded via e-mail to the local PEBLO, who will contact you to set up an appointment for a briefing on the Board's recommendation. Once briefed, you will be allotted three duty days to sign an AF Form 1180 with the following options: (NOTE: You may not appeal a RTD recommendation at this level.)

- a. "I agree with the findings and recommended disposition of the PEB and understand I am waiving the right to a Formal PEB hearing." (NOTE: The Secretary of the Air Force Special Assistant designees assigned to HQ AFPC/DPPD may direct a formal hearing if it is determined to be in the best interest of the Air Force and the member.)

- b. "I do not agree with the findings and recommended disposition of the Informal PEB and demand a Formal hearing of the case."

If you agree with the findings, your date of separation or retirement will be established as follows:

- a. If assigned CONUS, your date of separation or retirement will be 40 days from date of SAF memorandum. (NOTE: SAF memorandum will be signed approximately 3 duty days following your concurrence.)
- b. If assigned Overseas, your date of separation or retirement will be 60 days from date of SAF memorandum. (NOTE: If you are being separated at an overseas location and are going to remain in the overseas area, your date of separation will be 40 days from date of SAF memorandum.)
- c. Date of separation or retirement for ARC members will be 27 days from date of SAF memorandum.

Both your PEBLO and your Military Personnel Flight (MPF) will receive a copy of the separation message.

If you do not agree with the findings, you will be scheduled for a hearing before the Formal Physical Evaluation Board (FPEB). The hearing will typically be held within 30 days of your non-concurrence.

The FPEB consists of three board members: one physician and two personnel officers, one of whom serves as Board president. The Board convenes at Lackland AFB TX, and you will be provided TDY orders to report for the hearing. Prior to arriving for the hearing, you are encouraged to contact legal counsel assigned at the FPEB (DSN 473-4295). Although assigned to the FPEB, the lawyers are there to serve as an advocate for you and will advise you based on the documentation in your case file, your proposed testimony, any new or additional documentation/witness you desire to submit/call for consideration, and your years of experience with the FPEB. If, after speaking to the lawyers, you choose to change your mind and accept the IPEB findings, you may request to waive the FPEB. The FPEB President has the final authority to either allow the waiver or proceed with the hearing.

If you decide to appear before the FPEB, you will be provided TDY orders to arrive approximately three days prior to the hearing. (NOTE: ARC members pending separation for non-duty related impairments who desire to appear before the FPEB must do so at their own expense.) This will allow you time to confer with legal counsel to prepare your case. You may either utilize the legal counsel provided at the FPEB, or provide counsel of your choosing at your expense. Any witnesses you desire to have testify on your behalf will also be at your expense. If, after meeting with legal counsel, you desire to waive the FPEB, you may do so. Again, the FPEB President has the final authority in this matter.

The Formal hearing is in a court room-like setting, with only the FPEB members, you and your counsel present. The hearing is audio-taped, and may be video-taped at your request. Once your hearing is complete, the FPEB will meet in private chambers prior to making a recommendation on your case. The FPEB utilizes the same recommendations as the IPEB, and may either uphold the IPEB findings or make a different recommendation. You will be

briefed on their findings and provided one duty day to either agree or disagree with their findings.

- a. If you agree, your case file will be sent to the Chief, USAF Physical Disability Division, HQ AFPC/DPPD, for finalization. There are four personnel in DPPD sworn in to act on behalf of the Secretary of the Air Force regarding disability matters. They will review the findings of both the IPEB and FPEB and either approve the findings of the FPEB or forward your case to the Secretary of the Air Force Personnel Council (SAFPC) for further adjudication. (This occurs only if they feel directing a review by the SAFPC is in the best interest of either you or the Air Force.) Again, your separation or retirement date will be computed as previously outlined.
- b. If you disagree, you may choose to submit a rebuttal to SAFPC or not. If you do not desire to submit a rebuttal, your case may be closed out by a SAFPC designee at HQ AFPC/DPPD. In those cases, you would be separated or retired as recommended by the FPEB. (Separation/retirement date will be computed as previously outlined.) If you desire to submit a rebuttal, you must do so within 14 calendar days (21 if stationed overseas). If the FPEB does not receive your written rebuttal within the specified period of time, your case will be forwarded to HQ AFPC/DPPD for finalization.

The SAFPC is the final board of appeal for member's being processed through the DES. They will review your case file, an audio transcript of your Formal hearing, and your written rebuttal and make a final disposition. The SAFPC may concur with the findings of the previous boards, or make an alternate determination. HQ AFPC/DPPD will be notified and you will be informed of the disposition, along with your date of separation or retirement, if applicable, through your local PEBLO.

If you feel an error or injustice occurred during the processing of your case through the DES, you may apply to the Air Force Board for Correction of Military Records (AFBCMR). The AFBCMR, which is the highest level of administrative appeal in the Air Force, will carefully consider your petition and make recommendations as it deems appropriate to the Secretary of the Air Force. Please be aware that submission of an application should not be interpreted as an automatic approval. The final determination will be based on the information submitted, and your case will be decided only after careful consideration of the evidence presented, with the burden or proof resting on you.

Limited Assignment Status (LAS). If the member has 15 or more years service and is motivated to remain on active duty, even though found unfit by the PEB, he/she may apply for consideration under the LAS program. DoD and Air Force directives provide for the retention of certain members who, although found physically unfit by a PEB, are willing and able to effectively continue on active duty with appropriate assignment limitations. Such members may be retained on active duty in LAS. This program is intended for members having between 15 and 20 years service, and allows the Air Force to salvage needed experience and skills. Eligible members may be retained if they meet all of the following requirements:

- a. Have applied for LAS.

- b. Have a stable unfitting condition or one that is deteriorating at a slow rate.
- c. Can be maintained in the military environment without adversely affecting themselves or their co-workers.
- d. Will not require inordinate medical care.
- e. Have expertise in a specialty that the Air Force needs.

Retention in LAS is directly dependent on the nature and degree of physical limitation, the years of service completed, and the needs of the Air Force. The primary objective of LAS is to conserve manpower by salvaging needed experience and skills. Members are not retained in LAS solely to increase their benefits or to complete a period of service.

To apply for LAS, the member must first be found unfit by a PEB and then, if he or she meets the eligibility criteria, submit a formal request for this status. Those retained in LAS must undergo an annual physical examination with continued retention contingent upon the results of the examination and the continued need for the member's grade and specialty.

Members retained in LAS will normally not be retained on active duty past 20 years of active service. Individuals with over 20 years of service may apply for LAS but, if approved, they will normally be retained for a one-year period only. Individuals retained in LAS do not have to overcome the presumption of fitness when they approach their normal separation or retirement dates.

Department of Veterans Affairs (VA) Versus Air Force. As a matter of information, you should be aware of the differences between the Air Force and Department of Veterans Affairs (VA) disability programs. The Air Force and the VA are separate government agencies which operate under different laws and policies. Both agencies administer disability compensation programs; however, the VA program compensates honorably discharged veterans for any ratable service-connected medical defect. The Air Force, on the other hand, provides disability benefits only for those members whose military service is prematurely ended because of one or more service-incurred or service-aggravated medical conditions. Both agencies are required, by law, to use the Veterans Administration Schedule for Rating Disabilities (VASRD) when determining the appropriate disability rating for each ratable physical condition. However, the findings of the two agencies frequently differ because the VA may compensate for any service-connected physical or mental condition listed in the VASRD, whereas the Air Force may only rate those conditions which render the member unfit for further military service.

We hope this information assists you in understanding the DES process. Should you have any questions, please contact the local PEBLO, who will call our office if necessary or, if your case has been referred for a Formal hearing, you may contact the Disability Legal Council at DSN 473-4295.

PERTINENT WEB SITES:

HQ AFPC Disabilities Division's website at <http://ask.afpc.randolph.af.mil> Click on 'Personnel Services' tab, follow menus for disability.

www.va.gov (Veterans Administration)

www.mypay.dfas.mil/mypay.aspx (Defense Finance Accounting System)

www.afpc.randolph.af.mil/SBP (AF Survivor Benefit Program-under Career Planning & AF Retirements)

HQ AFPC/JA website at <http://ask.afpc.randolph.af.mil> Click on "Personnel Services' tab, go to 'Legal & Appeals', then "Judge Advocate Support' to Physical Evaluation Board

www.ask.afpc.randolph.af.mil (AF Family Support Operations-under Personnel Services)

www.dod.mil/dfas/retiredpay/survivorbenefits.html (DFAS Survivor Benefit Guide)

www.dod.mil/dfas/retiredpay/preparingforretirement.html (DFAS Retirement Preparation Guide)

www.archives.gov/records-mgmt/index.html (National Personnel Records Center)

www.ask.afpc.randolph.af.mil (AF Retirement/Separations - under Career Planning)

PEBLO: PLEASE INCLUDE THIS ACKNOWLEDGEMENT WITH THE MEDICAL EVALUATION BOARD (MEB) FILE FOWARDED TO HQ AFPC/DPPD.

I, _____, HAVE BEEN BRIEFED ON THE DISABILITY
(PRINT NAME)

EVALUATION SYSTEM (DES) PROCESS AND HAVE BEEN PROVIDED A COPY OF THE DES FACT SHEET. I UNDERSTAND THE PHYSICAL EVALUATION BOARD LIAISON OFFICER (PEBLO) IS MY POINT OF CONTACT THROUGHOUT THIS PROCESS AND I WILL CONTACT HIM/HER WITH ANY QUESTIONS OR CONCERNS REGARDING THE STATUS OF MY CASE.

SIGNATURE

DATE