

Frequently Asked Questions (FAQs)

Q: What is the Office of Soldiers' Counsel (OSC), and who does it represent?

A: The Office of Soldiers' Counsel represents and advises Soldiers in the Disability Evaluation System (DES), who elect Army lawyers, to aid them in attaining their goal of returning to duty or separating from the Army. The OSC provides Soldiers' Medical Evaluation Board Counsel (SMEBC) during Medical Evaluation Board (MEB) and Informal Physical Evaluation Board (IPEB) proceedings and Soldiers' Physical Evaluation Board Counsel (SPEBC) for Formal Physical Evaluation Boards. Office of Soldiers Counsel lawyers represent only Soldiers and do not represent Commanders, the MEB or Physical Evaluation Board (PEB).

Q: Do I need to prepare for my C&P examinations?

A: Yes, C&P examinations are complex. The examiners vary in their examination techniques and may have limited time to conduct the examination. If you do not prepare, you will reduce your chances of receiving an accurate and fair evaluation. The best initial step to prepare for your C&P examination is to participate in a telephonic legal briefing: Tuesday at 0900 ET (210) 249-4234 Access Code 26089#; Wednesday at 2100 ET (210) 249-4234 Access Code 29370#; and Thursday at 1500 ET (210) 249-4234, Access Code 15176#.

Q: Will the Army provide medical care to support my Disability Evaluation System (DES) appeals because I do not have health insurance?

A: Generally, the Army will not provide you with medical care if you are not in a pay status. If your unit places you in a pay status such as IDT or AT, your unit can schedule medical appointments for you while you are in a non-pay status that can be used to support your DES appeals.

Q: Why does my DA Form 3947 MEB Proceedings fail to indicate whether my medically acceptable conditions were Incurred While Entitled To Base Pay (IWETBP) or Permanently Aggravated by Service (PAS)?

A: Your DA Form 3947 will only indicate whether medically unacceptable conditions are IWETBP or PAS.

Q: My MEB Rebuttal was unsuccessful, now what?

A: Most MEB Rebuttals are unsuccessful because the MEB has limited discretion and the burden is on the Soldier to provide new medical evidence or identify an MEB error. Your MEB Rebuttal will also be reviewed by the Informal Physical Evaluation Board (IPEB) and may result in a change to your DA Form 199.

Q: Why is my sleep apnea, rated by the VA at 50%, not medically unacceptable?

A: Sleep apnea is rarely found medically unacceptable. An example of sleep apnea being found medically unacceptable is with pilots due to the extreme risk of sleep deprivation while flying.

Q: If I am dissatisfied with a VA rating for an unfitting condition, can I appeal?

A: Yes, you can request your Army lawyer, Soldiers' Medical Evaluation Board Counsel, to prepare a VA Rating Reconsideration or VARR which usually requires the submission of new medical evidence to be successful.

Q: How is Army disability severance pay computed?

A: Disability severance pay is a one-time, lump sum payment and is computed as follows: 2 x basic pay for applicable grade x years of service (subject to minimum 3 or 6 years) not to exceed 19 years. Applicable grade is the highest of the following: current grade, highest grade satisfactorily served, or grade to which the Soldier would have been promoted had it not been for the disability for which he is being separated. This is colloquially referred to as, "promotion list grade." Soldiers are credited with a minimum of 3 years of service as computed under 10 USC 1208 unless they qualify for the minimum 6 years of service. To qualify for the minimum 6 years, the disability must be incurred in line of duty in a combat zone as designated by the Secretary of Defense OR incurred during the performance of duty in combat-related operations as designated by the Secretary of Defense. Separation without entitlement to disability benefits occurs when the unfitting disabilities are determined to be non-service connected without permanent aggravation or incurred due to misconduct.

[http://myarmybenefits.us.army.mil/Home/Benefit_Library/Federal_Benefits_Page/DoD_Disability_Severance_Pay_.html?serv=228;](http://myarmybenefits.us.army.mil/Home/Benefit_Library/Federal_Benefits_Page/DoD_Disability_Severance_Pay_.html?serv=228)

<http://www.dfas.mil/retiredmilitary/plan/separation-payments/disability-severance-pay.html>

Q: How is Army disability retirement pay computed?

A: Disability retirement pay is calculated using the higher of the retirement pay under formula "a" or "b." Formula "a" Years of Service Computation is $2.5\% \times \text{Years of Service} \times \text{Retired Base Pay} = \text{Retired Monthly Pay}$. Formula "b" Disability Rating Computation is $\text{Disability Rating} \times \text{Retired Base Pay} = \text{Retired Monthly Pay}$. Your PEBLO will provide you with an estimate your disability compensation on DA Form 5892. Your Army disability pay is included in your gross income unless you have a combat related injury designed V1/V3 on DA Form 199. Army disability pay is offset for VA disability pay, so you are not paid twice for the same condition.