

Integrated Disability Evaluation System Legal Briefing

This message generally describes how the Soldiers' Medical Evaluation Board Counsel Office at Camp Atterbury provides advice and representation to you during the Integrated Disability Evaluation System (IDES) process. If you have elected the legacy disability evaluation system, please call the client appointment number and request to schedule a legacy disability evaluation system briefing. A more detailed, interactive and live version of this information is provided in the mandatory IDES legal briefing described below.

1. Reserve Component Legal Briefing. At your earliest opportunity, please participate in one of the 60 minute telephonic legal briefings that are held every:

- 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#.

You can also call in to these conference calls using DSN 421-3272, (312) for Overseas DSN, with the access code for the scheduled call. These legal briefings last about 45 minutes and provide an overview of IDES with an emphasis on Soldiers' Medical Evaluation Board Counsel office processes to support you in obtaining a fair and accurate representation of your injuries. The conference calls also provide a convenient opportunity for you to ask brief questions without disclosing or consenting to disclose Protected Health Information (PHI).

2. Requirements for Receiving Legal Counsel. Prior to a Soldiers' MEB Counsel advising and representing you in IDES, you need to read, sign, and return the following representation and disclosure forms described below in an email message (preferred), by facsimile to (812) 526-1208/1306, or by mail to the address provided in the contact information at the end of this message.

a. Disability Evaluation System (DES) Army Legal Counsel Representation.

This form describes the scope of your representation by Soldiers' Counsel while you are going through DES.

b. Authorization for Disclosure of Medical or Dental Information DD 2870. You grant Soldiers' Counsel access to your medical information by completing DD Form 2870 for authorization of medical and dental information disclosure and another DD Form 2870 for authorization of behavioral health/psychotherapy information. Please read the forms and complete blocks 1-3, sign block 11, and date block 13 on both forms. In these authorizations, you are consenting to disclose your Protected Health Information (PHI) to Office of Soldiers' Counsel members for the purpose of advising and representing you in the DES process.

c. Authorization to Send and Receive Medical and Privileged Information by Electronic Mail. You grant Soldiers' Counsel email permissions by completing an Authorization to Send and Receive Medical Information by Electronic Mail form. Please read the form and complete the blocks for Name, Date of Birth, Social Security Number (Last Four Only), Email Address or Addresses, and Telephone Number, Email Address, and Soldier's Signature. Your consent permits Office of Soldiers' Counsel members to send your Protected Health Information (PHI), medical, dental, behavioral health and psychotherapy along with your attorney-client privileged information, in an unsecure email message if you do not have an active U.S. Army enterprise email account or are otherwise incapable of receiving encrypted email messages. You cannot be compelled to use email communications for PHI and attorney-client privileged information. If you do not want to consent to the use of unsecure email, please indicate on this form that you do not consent. Postal mail and courier service will be used as an alternative to email for PHI and attorney-client privileged information but which may create delays.

4. Initial Steps in the Integrated Disability Evaluation System (IDES)

a. VA Form 21-0819. One of the most important steps in the Integrated Disability Evaluation System (IDES) is preparation of the VA Form 21-0819 VA/DOD Joint Disability Evaluation Claim Form. The block labeled "Medical Conditions to be Considered as the Basis of Fitness for Duty Determination" should list P3/P4 conditions on your Physical Profile DA Form 3349. Block 11 labeled "Additional Conditions" should list all additional conditions to be evaluated (be comprehensive) in addition to those previously listed as described above. If a condition is not listed or not service connected, it will not be evaluated during the VA C&P Examination and consequently not rated by the VA. Consider studying your conditions, so you are better informed, use correct terminology, and list all separate conditions. If you do not claim all of your medical conditions on this form, you may not receive compensation that you would otherwise be entitled to receive. You are required to certify that the statements in this form are true and complete to the best of your knowledge.

b. VA Compensation and Pension (C&P) Examination. The C&P Examination will evaluate all conditions listed on VA Form 21-0819. Prior to your C&P Examination, you should consider reviewing websites that will give you a better understanding of the C&P examination and rating decisions such as the U.S. Army Physical Disability Agency and the U.S. Army Physical Evaluation Board National Capital Region at <https://www.hrc.army.mil/TAGD/US%20Army%20Physical%20Disability%20Agency>, Detailed official C&P examination information is available by reviewing Disability Benefits Questionnaires (DBQs) DBQs are available at http://www.benefits.va.gov/compensation/dbq_ListByDBQFormName.asp Detailed VA rating information is available by reviewing relevant portions of the VA Schedule for Rating Disabilities (VASRD) available at <http://www.benefits.va.gov/warms/bookc.asp>

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(1) Onset. The examiner will try to determine the onset of your condition based on medical records and an interview with you. If you discuss an incident prior to your military service or when you were not on pay status, this discussion might be used to demonstrate that your condition is not service connected or that it existed prior to service. In discussions about incidents prior to military service or that occurred while you were not on pay status, provide context around the incident and its impact on you to aid the examiner in determining onset.

(2) ROM Testing. For C&P DBQ examinations having range-of-motion (ROM) testing, pay particular attention to the following functional limitation testing:

- **Initial Measurements.** Initial ROM testing is performed with a goniometer, which is similar to a plastic protractor with two extended arms to measure angles. You should become familiar with the movements that will be tested and indicate to the examiner when you experience pain.
- **Repetitive Use Testing.** After performing initial ROM testing, repetitive motion testing of three repetitions for each movement will be performed. The intent of repetitive motion testing is to identify limitations in ROM that occur after repeated movement typically caused by pain. As with initial measurement, indicate to the examiner when you are experiencing pain.

(3) Flare-Ups and Functional Loss. Most C&P examinations have the requirement to discuss flare-ups and functional loss. Although the examiner should request this information, Soldiers should volunteer this information if not asked. Soldiers may want to prepare a written description of their flare-ups and functional loss using a VA Statement in Support of Claim VA Form 21-4138 that can be provided to the examiner.

- **Flare-Ups.** The examiner will ask you whether you experience periodic flare-ups that cause decreased ROM. Many joint related injuries have periodic flare-up, and it is unlikely that your examination will be during one of these flare-ups. Indicate to examiner the frequency of flare-up and show the examiner your decreased ROM upon flare-up. Prior to your examination, consider writing a short paragraph describing your flare-ups to present to the examiner to improve completeness and accuracy. Most other conditions examined such as behavioral health can also experience flare-up conditions.
- **Functional Loss.** The examiner will ask you whether your injury results in a loss of your ability perform an activity. Indicate to the examiner any activity that your injury that limits your performance, e.g, cannot run or cannot lift above shoulder level, and show the examiner your decreased ROM experience when you attempt to perform certain functions. Prior to your examination, consider writing a short paragraph describing your functional loss to present to the examiner to improve the examination completeness and accuracy. Most other conditions examined such as behavioral health can also experience functional loss such as an inability to remember names.

(4) Conduct of C&P Examination. If at any time during your C&P examination, you believe the examiner is not properly conducting the examination, please inform the examiner and request to have the examination stopped for you to consult with the VA patient advocate and submit a complaint. The examiner will observe you when ROM measurements are not being taken to determine whether distracted ROM estimates, such as you tying your shoes, would be inconsistent with the ROM measurements using a goniometer. If the examiner determines your distracted ROM estimates are inconsistent with your ROM measurements, the examiner may indicate that your measured ROM measurements cannot be relied upon for ratings. Of course knowingly providing false information or false conduct during your C&P examination may subject you to prosecution.

c. Line of Duty (LOD) Investigations. For your conditions that you believe are likely medically unacceptable, Reserve Component Soldiers should have a completed LOD investigation. The Physical Evaluation Board usually relies on an LOD finding of “incurred in the line of duty” to find that an unfitting condition did not Exist Prior To Service. Please ensure your PEBLO has a copy of all completed LODs. If you do not have an LOD for each likely medically unacceptable condition, you should immediately request an LOD investigation in writing from your unit. Your request should include a copy of all relevant documents such as medical records and orders. Your unit is required to complete the requested LOD by the next drill. DoDM 1332.18-V2, August 5, 2014.

5. Steps in the Integrated Disability Evaluation System (IDES)

a. Pre-MEB Proceedings Appointment Scheduling. Prior to receiving your DA Form 3947, you may have questions regarding your enrollment into IDES and decide to schedule a telephonic appointment with a Soldiers’ MEB Counsel (SMEBC). Please immediately schedule this appointment by calling Client Appointments anytime 24/7 at **(317) 771- 4748**. During non-core hours, clients will hear the following voice mail message. “This is the Camp Atterbury Soldiers’ MEB Counsel client appointment number. Please request an appointment or leave a message and clearly state your full name, rank and call-back number.”

b. MEB Proceedings Appointment Scheduling. After you receive your DA Form 3947 and NARSUM, you may decide to schedule a telephonic appointment with a Soldiers’ MEB Counsel (SMEBC). Please immediately schedule this appointment because you have only five business days for your SMEBC legal consultation if needed to prepare an Impartial Provider Review (IPR). If you desire an appointment, please call Client Appointments anytime 24/7 at **(317) 771- 4748**.

c. MEB Proceedings Appointment. A Soldiers’ MEB Counsel (SMEBC) will interview you to discuss your DA Form 3947 and other relevant documents along with your goal to be found fit or found unfit and separated. Most clients find their MEB proceedings acceptable and concur with the findings. If appropriate, a SMEBC will assist you in preparing an Impartial Provider Review (IPR) or MEB rebuttal.

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From the date you are counseled by your PEBLO on your DA Form 3947 MEB proceedings, you have five business days to make your elections and submit an IPR and twelve business days to submit an MEB rebuttal. Prior to your appointment, you must complete and return the two Authorization for Disclosure of Medical or Dental Information DD Form 2870 (medical/dental and behavioral health/psychotherapy) and the Authorization to Send and Receive Medical Information By Electronic Mail form.

d. Informal PEB Proceedings Appointment Scheduling. After you receive your DA Form 199 Informal Physical Evaluation Board (IPEB) Proceedings, you may decide to schedule an appointment with a Soldiers' MEB Counsel (SMEBC). Please schedule this appointment immediately because you have only ten business days from the date your PEBLO counsels you on your DA Form 199 for your SMEBC legal consultation and legal documents to be prepared and filed. If you desire a telephone appointment, please call Client Appointments anytime 24/7 at **(317) 771-4748**. During non-core hours, clients will hear the following voice mail message. "This is the Camp Atterbury Soldiers' MEB Counsel client appointments number. Please request an appointment or leave a message and clearly provide your full name, rank, and call-back number."

e. Informal PEB Proceedings Appointment. A Soldiers' MEB Counsel (SMEBC) will interview you to discuss your DA Form 199 along with your goal to be found fit or found unfit and separated. Most clients find their IPEB proceedings acceptable and concur with the findings. When appropriate, a SMEBC will assist you in preparing an IPEB Reconsideration to support your goal of being found fit or adding conditions to be found unfit. If your VA rating for an unfitting condition is not fair and accurate, a SMEBC can assist you in preparing a VA Rating Reconsideration (VARR), typically by presenting new medical information.

f. Formal PEB. If you do not concur with your IPEB, you can request a formal PEB with or without a formal hearing in the National Capital Region. If you request a formal hearing, the Soldiers' MEB Counsel's will be available to advise you in preparing for your formal PEB prior to the appointment of your Soldiers' PEB Counsel (SPEBC). Your assigned SPEBC will contact you a minimum of 14 days prior to your scheduled formal hearing date. Formal PEBs are conducted in Arlington, VA and typically last two days with first day morning for consultations with your SPEBC, and the second day for your actual formal hearing.

6. Administrative Separations. If a Soldier is in the process of being administratively separated under a chapter with a potential Other Than Honorable (OTH) discharge, the Soldier should immediately obtain representation by Trial Defense Service (TDS). If the Soldier has one or more medically unacceptable condition, the Soldier's General Court Martial Convening Authority will decide whether the Soldier's continues in IDES beyond MEB Proceedings. Representation by TDS will improve the Soldier's chances to continue in IDES. Army National Guard Soldiers should contact their state Office of the Staff Judge Advocate to reach TDS. Army Reserve TDS can be contacted at: <https://www.jagcnet.army.mil/8525781C0048C0D5>. All Soldiers being administratively separated, even under a chapter without a potential OTH, should still consult with TDS.

7. No Classified Information. The Office of Soldiers' Counsel is not authorized to receive or store classified media in any form. Please do not send classified material to this office. If you believe that there is classified material which may help your case, please notify the paralegal or attorney that you are assigned to so that the proper arrangements can be made for its use by our cleared personnel. Do not disclose the classified information to us, just point us in the right direction.

8. Contact. The point of contact for this message is Mr. Ben Hill, Paralegal, at the Camp Atterbury Medical Evaluation Board Remote Operations Center (MEBROC), Soldiers' Medical Evaluation Board Counsel Office, Office of Soldiers' Counsel, Region I.

a. Telephone/Fax/Email. Client Appointments anytime 24/7 at (317) 771-4748; Mr. Ben Hill (812) 526-1499, ext. 62240 phone, thomas.b.hill12.civ@mail.mil; Mr. Eric Waldkoetter (812) 526-1499 ext 62245, (317) 432-0182 cell (preferred), eric.r.waldkoetter.civ@mail.mil; Mr. James Abeshaus (812) 526-1499 ext 62665, james.r.abeshaus.civ@mail.mil or (812) 526-1208/1306 fax. When transmitting information by facsimile, please also phone or send an email message to ensure the transmission is picked up promptly.

b. Office Address: Camp Atterbury, Soldiers' MEB Counsel, 1013 Eggleston Street, Edinburg, IN 46124-5000.

c. Web Link:

<http://www.atterburymuscatatuck.in.ng.mil/Home/OfficeofSoldiersCounsel.aspx>

The Soldiers' Medical Evaluation Board Counsel office at Camp Atterbury is eager to assist you with the IDES process to achieve your goal of either staying in the Army or separating from the Army along with obtaining eligible benefits. Please do not hesitate to call or email me with any questions or concerns during the IDES process.