



Department of Defense MANUAL

NUMBER 1332.18, Volume 1

August 5, 2014

Incorporating Change 1, Effective August 21, 2020

USD(P&R)

SUBJECT: Disability Evaluation System (DES) Manual: General Information and Legacy
Disability Evaluation System (LDES) Time Standards

References: See Enclosure 1

1. PURPOSE

a. Manual. This manual is composed of several volumes, each containing its own purpose. The purpose of the overall manual, in accordance with the authority in DoD Directive 5124.02 (Reference (a)), is to implement policy, assign responsibilities, and provide procedures for the DES pursuant to DoD Instruction (DoDI) 1332.18 (Reference (b)).

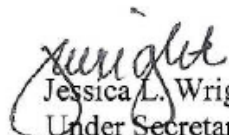
b. Volume. Unless otherwise stated in this volume, this volume assigns general responsibilities and provides general procedures for using the LDES process to refer, evaluate, return to duty, separate, or retire Service members for disability.

2. APPLICABILITY. This volume applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

3. POLICY. It is DoD policy in accordance with Reference (b) that the DES must be used for determining fitness for duty as well as determining return to duty, separation, or retirement of Service members because of disability in accordance with Title 10, United States Code (Reference (c)). The applicable standards for all determinations related to disability evaluation must be consistently and equitably applied, in accordance with Reference (c), to all Service members, both Active Component (AC) and Reserve Component (RC).

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosures 3 through 7.
 - a. Enclosure 7 of this volume pertains only to the LDES process.
 - b. Additional procedures that are unique to the IDES process are contained in Volume 2 of this manual.
 - c. Procedures that are unique to the EDES process are contained in the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) Memorandum (Reference (d)).
6. RELEASABILITY. **Cleared for public release**. This volume is available on the Directives Division Website at <https://www.esd.whs.mil/DD/>.
7. SUMMARY OF CHANGE 1. The change to this issuance updates references and organizational titles and removes expiration language in accordance with current Chief Management Officer of the Department of Defense direction.
8. EFFECTIVE DATE. This volume is effective August 5, 2014.


Jessica L. Wright
Under Secretary of Defense for
Personnel and Readiness

Enclosures

1. References
2. Responsibilities
3. Documentation of Medical Evaluation Board (MEB) Results
4. The Department of Veterans Affairs Schedule for Rating Disabilities (VASRD)
5. Assignment Guidelines, Training, Qualifications, Duties, and Resources for Physical Evaluation Board Liaison Officers (PEBLOs) in the DES
6. Provision of Legal Counsel in the Disability Evaluation Process
7. Time Standards for LDES Case Processing

Glossary

TABLE OF CONTENTS

ENCLOSURE 1: REFERENCES.....5

ENCLOSURE 2: RESPONSIBILITIES.....6

 ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS (ASD(HA)).....6

 ASD(M&RA).....6

 GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (GC DoD).....6

 SECRETARIES OF THE MILITARY DEPARTMENTS.....6

ENCLOSURE 3: DOCUMENTATION OF MEDICAL EVALUATION BOARD (MEB)
RESULTS8

 MINIMUM MEB ELEMENTS8

 IMPARTIAL MEDICAL REVIEWS (IMRs).....9

ENCLOSURE 4: THE VASRD.....10

 GENERAL.....10

 BEHAVIORAL DISORDERS DUE TO TRAUMATIC STRESS.....11

 TOTAL DISABILITY RATING BASED ON UNEMPLOYABILITY11

 EXTRA-SCHEDULAR RATINGS.....11

ENCLOSURE 5: ASSIGNMENT GUIDELINES, TRAINING, QUALIFICATION, DUTIES,
AND RESOURCES FOR PHYSICAL EVALUATION BOARD LIAISON OFFICERS
(PEBLOs) IN THE DES12

 GENERAL.....12

 ASSIGNMENT GUIDELINES13

 TRAINING AND QUALIFICATION13

 PEBLO DUTIES.....14

 RESOURCES16

 FACILITY RESOURCES17

ENCLOSURE 6: PROVISION OF LEGAL COUNSEL IN THE DISABILITY
EVALUATION PROCESS18

 REQUIREMENTS.....18

 LEGAL ADVICE AND REPRESENTATION.....18

 ACCESS TO DOCUMENTATION19

 SERVICE MEMBER APPEALS AND HEARINGS19

 LEGAL COUNSEL IN ADVANCE20

 DELAY FOR GOOD CAUSE.....20

 QUALIFICATIONS AND TRAINING OF LEGAL COUNSEL.....20

ENCLOSURE 7: TIME STANDARDS FOR LDES CASE PROCESSING.....22

 SPECIALTY CONSULTATIONS22

 COMMANDER DOCUMENTATION22

 RESOURCING TO MEET LDES TIME STANDARDS22

 TIME STANDARDS FOR DUTY-RELATED LDES CASES22

 TIME STANDARDS FOR NON-DUTY-RELATED LDES CASES23

 TIME STANDARDS FOR IDES CASES24

GLOSSARY25

 PART I. ABBREVIATIONS AND ACRONYMS25

 PART II. DEFINITIONS.....26

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (b) DoD Instruction 1332.18, "Disability Evaluation System," August 5, 2014, as amended
- (c) Title 10, United States Code
- (d) Under Secretary of Defense for Personnel and Readiness Memorandum, "Expedited DES Process for Members with Catastrophic Conditions and Combat-Related Causes," January 6, 2009
- (e) DoD Manual 8910.01, "DoD Information Collections Manual," June 30, 2014, as amended
- (f) DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007
- (g) Section 1612 of Public Law 110-181, "National Defense Authorization Act for Fiscal Year 2008," January 28, 2008
- (h) Title 38, Code of Federal Regulations
- (i) Office of the Chairman of the Joint Chiefs of Staff, "DoD Dictionary of Military and Associated Terms," current edition
- (j) DoD Manual 6025.18, "Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Programs," March 13, 2019

ENCLOSURE 2

RESPONSIBILITIES

1. ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS (ASD(HA)). Under the authority, direction, and control of the USD(P&R), the ASD(HA):

a. Oversees the execution of the policies and procedures for the LDES as specified in References (b) and (c) and this manual.

b. Recommends changes in policy, procedures, resourcing, and legislation to the USD(P&R).

c. Monitors and assesses, in accordance with the procedures in DoD Manual 8910.01 (Reference (e)), the impact of changes to the statutes, laws, and regulations of the Department of Veterans Affairs (VA) on the DoD application of the Department of Veterans Affairs Schedule for Rating Disabilities (VASRD) to Service members.

d. Through the Deputy Assistant Secretary of Defense for Warrior Care Policy:

(1) Oversees, assesses, and reports the performance of the LDES to the ASD(HA) in coordination with the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD(M&RA)) and the Secretaries of the Military Departments.

(2) Evaluates policy, procedures, resourcing, and legislation for recommended change.

2. ASD(M&RA). Under the authority, direction, and control of the USD(P&R), the ASD(M&RA):

a. Ensures that policies for the LDES are applied in the RC in a manner consistent with AC personnel.

b. Reviews LDES performance with regard to the RC, and provides the ASD(HA) with recommendations to ensure the LDES process is efficiently and equitably applied to the RC.

3. GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (GC DoD). The GC DoD, in consultation with the General Counsels and the Judge Advocates General of the Military Departments, provides overall legal guidance on all DES-related legal issues.

4. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments:

a. Ensure their respective Departments comply with Reference (b), chapter 61 of Reference (c), DoD 5400.11-R (Reference (f)), and this manual.

b. Ensure their respective Departments develop standards on the maximum number of cases assigned to a PEB member for adjudication at one time consistent with this volume.

c. Subject to the written approval of the USD(P&R), may also use the LDES process for Service members who are in initial entry training status, including trainees, recruits, cadets, and midshipmen. Secretaries of the Military Departments who enroll initial entry trainees, recruits, cadets, and midshipmen in the LDES must offer to enroll these Service members in the VA Benefits Delivery at Discharge or Quick Start programs.

ENCLOSURE 3

DOCUMENTATION OF MEDICAL EVALUATION BOARD (MEB) RESULTS

1. MINIMUM MEB ELEMENTS. MEB results will include the following elements at a minimum (Military Services may require additional elements such as performance assessments):

a. Cover sheet with MEB convening authority signature and MEB decision (added after the MEB).

b. Narrative summary describing history, present status, and prognosis. For medical conditions that, individually or collectively, may render the Service member unfit to perform the duties of his or her office, grade, rank, or rating, the MEB results will describe:

(1) The medical history and current clinical condition. Document whether additional medical exams or diagnostic tests were performed due to the results substantially affecting identification of the existence or severity of potentially unfitting conditions.

(2) The impact on required duty and associated operational assignment limitations.

(3) Whether the medical conditions are likely to improve sufficiently for the Service member to perform the full duties of his or her office, grade, rank, or rating within 12 months.

(4) How the severity of the Service member's medical conditions is likely to change within the next 5 years.

(5) The requirement to monitor or provide treatment for the Service member's chronic conditions beyond the next 12 months.

c. Examinations that meet minimum VA compensation and pension criteria for all medical conditions that could, individually or collectively, prevent the Service member from performing the duties of his or her office, grade, rank, or rating.

d. Service treatment record (to include medical profile, and appropriate additional test and evaluation results).

e. Commander's non-medical assessment letter.

f. MEB addendums.

g. Line of duty (LOD) determinations when required by Military Department regulations.

h. Service member rebuttal, if submitted, and the Military Department's response (surrebuttal).

- i. Competency statement if behavioral health consideration exists.

2. IMPARTIAL MEDICAL REVIEWS (IMRs)

a. In accordance with section 1612 of Public Law 110-181 (Reference (g)), the Secretary of the Military Department concerned will, upon request of the Service member, assign an impartial physician or other appropriate health care professional. The physician or health care professional is independent of the MEB and will:

(1) Serve as an independent source of review of the MEB findings and recommendations.

(2) Advise the Service member regarding the findings and recommendations of the MEB.

(3) Advise the Service member on whether the MEB findings adequately reflect the complete spectrum of his or her injuries and illnesses.

b. After the physician or health care professional has counseled the Service member and the member has received the IMR's report, he or she should have an opportunity to consult with legal counsel during the election period to either concur or submit a written rebuttal to the MEB's findings.

ENCLOSURE 4

THE VASRD

1. GENERAL

a. The Secretaries of the Military Departments will assign disability ratings based on the VASRD as specified in this volume. The Secretaries of the Military Departments may not deviate from the VASRD, including any applicable interpretation of the VASRD by the U.S. Court of Appeals for Veterans Claims, U.S. Court of Appeals for the Federal Circuit, or U.S. Supreme Court. In lieu of the VASRD, the Secretaries of the Military Departments may use criteria prescribed jointly by the Secretary of Defense and the Secretary of Veterans Affairs if use of such criteria will result in a greater percentage of disability than would be determined through use of the VASRD.

b. Use of the VASRD is required in accordance with Title 38, Code of Federal Regulations (Reference (h)), to the extent feasible. In applying the VASRD, any determination of infeasibility must be based on statutory differences between the DoD and VA disability systems, compelling differences in mission grounded in statute, or some other major difference between the two systems. A policy disagreement or differing medical opinion does not constitute infeasibility.

c. To be rated as unfitting for a condition, the Service member must be impaired to such extent that his or her condition is unfitting independently or due to combined effect. Physical examination findings, laboratory tests, radiographs, and other findings do not, in and of themselves, constitute a basis for determining that a Service member is to be rated for a condition.

d. The VASRD is used to make rating determinations for each of the medical conditions determined to be unfitting, whether independently or due to combined effect. When a Service member has more than one compensable disability, the percentages are combined rather than added in accordance with section 4.25 of Reference (h).

(1) The PEB will use the VASRD to establish the Service member's proposed disability rating under the LDES process.

(2) The PEB will apply ratings for unfitting conditions provided by VA to establish the Service member's disability rating under the IDES and EDES processes.

e. VA, specifically, the Veterans Benefits Administration, uses various internal issuances such as Fast letters and Training letters, in its application of the VASRD. Although not legally binding on DoD, these issuances may be used by DoD rating personnel to assist in making rating determinations when rating cases under the LDES.

2. BEHAVIORAL DISORDERS DUE TO TRAUMATIC STRESS. The Secretary of the Military Department concerned will comply with section 1216a of Reference (c) and sections 4.129 and 4.130 of the VASRD for disposition of Service members found unfit because of a behavioral disorder due to traumatic stress. When a behavioral disorder develops on active duty as a result of a highly stressful event severe enough to bring about a Service member's release from active military service, the Secretary of the Military Department concerned will:

a. Permanently retire Service members who receive a rating of 80 percent or greater for a permanent and stable condition(s) not related to the behavioral disorder due to traumatic stress. Assign a permanent rating of at least 50 percent to the behavioral disorder, and combine the ratings in accordance with the VASRD.

b. For all other Service members, assign a rating of at least 50 percent to the behavioral disorder, combine ratings in accordance with the VASRD, temporarily retire the Service member for disability, and schedule an examination to determine whether a change in rating and disposition is warranted. The reexamination will be completed within a time frame that is at least 90 days but within 6 months from the date of placement on the temporary disability retired list.

3. TOTAL DISABILITY RATING BASED ON UNEMPLOYABILITY. The Secretary of the Military Department concerned may assign a total disability rating for compensation, even if the VASRD rating is less than the total, when, in the Secretary's judgment, the Service member is unable to secure or follow a gainful occupation because of Service-connected disabilities. Sections 4.15, 4.16, and 4.18 of Reference (h) contain additional guidance for determining total disability ratings.

4. EXTRA-SCHEDULAR RATINGS. Section 3.321(b) of Reference (h) addresses extra-schedular evaluations for Service members and veterans. However, the VASRD does not prevent the Secretary of the Military Department concerned from assigning ratings in unusual cases not covered by the VASRD. In such cases, extra-schedular ratings commensurate with the average earning capacity impairment due exclusively to Service-connected disability may be assigned. The PEB documents the basis of the conclusion that the case presents such an exceptional or unusual disability that the regular VASRD standards do not apply.

ENCLOSURE 5

ASSIGNMENT GUIDELINES, TRAINING, QUALIFICATION, DUTIES,
AND RESOURCES FOR PHYSICAL EVALUATION BOARD LIAISON OFFICERS
(PEBLOs) IN THE DES

1. GENERAL. The DoD PEBLO and the VA military services coordinators (MSC) are DES non-medical case management specialists who assist Service members through the DES. To achieve an informed and seamless transition for Service members who are medically separated or retired, the PEBLO's responsibility continues until the Service member attains veteran status and is transferred to VA support. The roles and responsibilities of the PEBLO, MSC, and recovery care coordinator (RCC) are described in paragraphs 1a through 1c of this enclosure.

a. PEBLO

(1) The PEBLO is primarily responsible for informing and assisting the Service member or his or her designated representative, as applicable, during the DES. The PEBLO helps manage expectations, coordinate medical appointments related to the disability process, and oversee the Service member's case file.

(2) PEBLOs should know the Service member's unique issues, coordinate DES processing issues across DoD and other federal agencies, and ensure transparency and clarity throughout the DES process. The PEBLO is a liaison between the Service member and a multi-disciplinary team of primary care managers, other appropriate health care professionals, medical care case managers, non-medical case managers (e.g., RCC), patient administration personnel, the PEB, the Service member's command, and the Military Department wounded warrior program liaison or advocate.

(3) The PEBLO may assist with the administrative completion of Service member rebuttals and appeals; however, they are not Service member legal advocates, and may not provide legal advice, legal counsel, or other assistance regarding substantive aspects of the rebuttal.

(4) For all DES cases, the PEBLO educates the Service member about the MEB and PEB process and results, and coordinates with the assigned VA MSC on all issues requiring VA's action.

(5) The PEBLO will continually update the RCC on the Service member and his or her progress through the DES.

b. MSC

(1) The MSC assists Service members in the EDES and IDES with the VA claims process, case development, notification of VA findings and proposed ratings, and ensures timely award of claims.

(2) The MSC educates Service members and their assigned RCC about the EDES and IDES process, disability examinations, and veteran benefits.

c. RCC. The RCC monitors and updates the comprehensive recovery plan of Service members in the EDES and IDES in collaboration with multi-disciplinary teams to reflect Service requirements and the goals of the Service member.

2. ASSIGNMENT GUIDELINES

a. Assignment

(1) PEBLOs will be military or civilian personnel (noncommissioned officers or higher (E-5 or above) or equivalent) whenever practical. The unique duties of the PEBLO require the individual to possess the requisite experience, knowledge, and maturity to provide appropriate support and information to the Service member or the member's designated representative. The PEBLO must be able to carefully handle administrative tasks, including the scheduling and management of all appointments and consultations, and be able to communicate with senior members of the medical and non-medical communities.

(2) PEBLOs should be assigned the role for a minimum of 2 years. Because of the frequency of military reassignments, a civilian in this position may be more desirable. PEBLOs should not be assigned any additional duties that would conflict with their PEBLO duties. PEBLOs must be trained and certified in accordance with section 3 of this enclosure prior to the assignment of their duties.

b. Caseload. The number of Service members assisted by a PEBLO in active case processing should not exceed 34.

3. TRAINING AND QUALIFICATION

a. Orientation. Newly assigned PEBLOs will receive an orientation and introduction to key DES personnel in the military treatment facility (MTF). The establishment of strong professional relationships is critical to PEBLO effectiveness and continuity of care for Service members.

b. Standardized DES Training

(1) At a minimum, training curriculums must provide instruction on the following DoD competencies:

(a) An overview of the statutory and policy requirements of the DES.

- (b) Electronic and paper recordkeeping policies of the Military Department concerned.
- (c) Customer service philosophies.
- (d) Familiarization with medical administration processes.
- (e) Roles and responsibilities of a Service member's assigned government legal counsel.
- (f) An overview of VA services and benefits.
- (g) Online and other resources pertaining to the DES, DoD, and VA.
- (h) The chain of supervision and command.
- (i) The Inspector General hotlines for resolution of issues.

(2) PEBLOs will be trained through formal classroom or web-based training and will not be considered qualified to perform their duties until after demonstrating proficiency in the minimum DoD competencies. The Secretaries of the Military Departments may supplement these minimum core competencies to qualify a PEBLO to perform duties in the DES. Qualification will be documented and filed with the PEBLO's training records.

c. On-the-Job-Training. PEBLOs will receive at least 1 week of on-the-job training with the incumbent or another PEBLO who is fully trained and has at least 1 year of experience prior to assuming their full duties. During this transition and prior to case transfer, the incoming PEBLO will make personal contact with each Service member in his or her portfolio. Transfer and accountability of existing cases must be verified by the PEBLO's supervisor prior to the PEBLO assuming full duties.

d. Continuing Education. After completion of initial training, an annual refresher or continuing education and training is required to ensure PEBLOs remain current in their understanding and application of DES procedures. When DES procedures or processes significantly change, appropriate specialized education and training will be conducted to ensure a fundamental understanding and ability to follow new procedures. Changes to standardized processes will be documented in updates to current DoD policy.

4. PEBLO DUTIES. At a minimum, the PEBLO:

a. Explains the DES process in detail, including access to IMRs, boards, rebuttal, and appeals, and provides and explains an overview of the VA claims process to the Service member or designated representative. The PEBLO must provide brochures and access to other organizational or online resources to the Service member or his or her designated representative.

- b. Explains the statutory rights and requirements, DoD requirements, and respective Military Department policies to the Service member, including process steps.
- c. Explains the DES results to the Service member, or his or her designated representative.
- d. Explains and assists in the processing of requests for formal boards and appeals.
 - (1) Refers the Service member to legal counsel, as appropriate.
 - (2) Advises Service members of available support provided by military, veteran, and national service organizations related to disability processing and transition services.
 - (3) If the Service member elects to be represented by a veteran service organization, ensures that he or she completes VA Form 21-22, "Appointment of Veterans Service Organization as Claimant's Representative" (available at <http://www.vba.va.gov/pubs/forms/VBA-21-22-ARE.pdf>).
- e. Explains the payment calculations for severance pay or retirement pay, or refers the Service member to the appropriate Defense Finance and Accounting Service or finance representative.
- f. For IDES and EDES cases, refers the Service member to the MSC to explain the potential VA benefits and VA-specific appeal process, including the referral to a vocational rehabilitation and employment counselor.
- g. Refers the Service member to the Social Security Administration (SSA) for information on benefits that the Service member could receive while on active duty and after transition to veteran status.
- h. Informs the Service member of potential transition programs and benefits or refers the Service member to the appropriate base-level support agencies, including trained survivor benefit plan counselors and the transition assistance program staff.
- i. Constructs the case file in accordance with Military Department policies and regulations. For IDES and EDES cases, provides the MSC a hard copy or an electronic copy of the file.
- j. Obtains the LOD determination when required, from the Service member's command.
- k. Ensures the Service member is scheduled for all general and disability examinations required for their case through the best source (MTF, contractor, Veterans Health Administration, or TRICARE provider).
- l. Monitors the completion of examinations and resolves scheduling issues to ensure completeness of the case file.

m. Acts as a conduit for information and DES decisions to the Service member's parent command and the VA.

n. Provides the Service member or his or her designated representative with a copy of the Service member's MEB results and the narrative summary; the informal PEB (IPEB) findings, ratings, and decision, and LOD determinations; and ensures medical records are available for review.

5. RESOURCES

a. Best Practices. The Military Departments should collect and distribute best practices related to customer support and communications, standardized training useful to DES management specialists, Military Service correspondence courses related to the DES or non-medical case management, and other methods designed to develop individual skills in this area.

b. Multi-Disciplinary Teams. All members of the professional health care team, including medical care and case managers, non-medical case managers, patient administration personnel, wounded warrior program liaison or advocate, MSC, and RCC, share in the responsibility to maintain continuity of care for Service members.

c. Subject Matter Experts and Command Authorities. The PEBLO should consult with key individuals to obtain information and assistance for Service members in the DES. Information and assistance is available from:

(1) Impartial health care providers to help the Service member interpret the MEB narrative summary and findings.

(2) Medical care or case managers to help remove unnecessary obstacles throughout the spectrum of care.

(3) The Service member's chain of command, which provides a nonmedical assessment of duty performance and LOD determination, when necessary. Additionally, Military Department Wounded Warrior programs can provide non-medical support for family members, including travel, meal allowances, and housing, and other matters.

(4) The RCC, when assigned, oversees the delivery of services and resources identified in the Comprehensive Recovery Plan (CRP) of a seriously wounded, ill, or injured (WII) Service member or veteran.

d. Online Resources. Several resources available to the PEBLO provide information, guides to Service member referral, and general information on the DES, including the MEB and PEB processes.

(1) Military OneSource: <http://www.militaryonesource.com>. A clearinghouse of information and referrals on a variety of subjects, from health care to housing, pay, and

personnel benefits, useful to Service members and those responsible for their care. A 24-hour hotline is available at 1-800-342-9647.

(2) The SSA website: <http://www.ssa.gov/woundedwarriors/index.htm>. Service members can receive expedited processing of disability claims from Social Security.

(3) The Army Wounded Warrior Program website: <http://wtc.army.mil/aw2/>. A 24-hour hotline is available at 1-800-984-8523.

(4) The Navy's Safe Harbor website: http://www.public.navy.mil/bupers-npc/support/safe_harbor/Pages/default.aspx. A 24-hour hotline is available at 1-877-746-8563.

(5) The Marine Corps Wounded Warrior Regiment website: <http://www.woundedwarriorregiment.org/>. A 24-hour hotline is available at 1-877-487-6299.

(6) The Air Force Wounded Warrior website: <http://www.woundedwarrior.af.mil/>. The program office is available at 1-800-581-9437.

(7) The VA website: <http://www.va.gov>. The VA eBenefits website is located at <https://www.ebenefits.va.gov>.

(8) Pay information for WWII Service members is located at the Defense Finance and Accounting Services website: <http://www.dfas.mil/militarymembers/woundedwarrior/woundedwarriorpay.html>.

(9) National Resource Directory (NRD) website: <https://www.nrd.gov/>. The NRD is a website that connects wounded warriors, Service members, veterans, their families, and caregivers to programs and services that support them.

6. FACILITY RESOURCES. The Secretaries of the Military Departments will provide PEBLOs and MSCs with adequate space for counseling and access to online resources. This includes a private counseling space, computer, printer, telephone line, and Internet and e-mail connectivity.

ENCLOSURE 6

PROVISION OF LEGAL COUNSEL IN THE DISABILITY EVALUATION PROCESS

1. REQUIREMENTS. In conjunction with the Judge Advocate General of the Military Department concerned, the Secretaries of the Military Departments will:

a. Provide government legal counsel to advise and represent Service members during the disability evaluation process (IPEBs and formal PEBs (FPEB)), or after an adverse LOD determination, and any subsequent appeals to the Secretary of the Military Department concerned or designee, relating to the final disposition of Service member disability cases. Legal counsel, whether military judge advocates or civilian attorneys employed by the Military Departments, will be provided at no expense to the Service member.

b. Provide training for government legal counsel advising or representing Service members in the disability evaluation process.

c. Ensure appropriate staffing levels for government legal counsel advising and representing Service members in the disability evaluation process.

(1) The Judge Advocate General of the Military Department concerned:

(a) Assigns sufficient numbers of trained legal counsel to advise and represent Service members in proceedings before PEBs and LOD determinations.

(b) Reviews counsel workloads periodically to ensure both quality and timeliness of legal services rendered to Service members.

(c) Adjusts staffing as circumstances dictate.

(2) Normally, government legal counsel will not be assigned an overall caseload that requires them to represent more than 10 Service members per week at FPEB hearings.

d. Ensure all Service members referred into the disability evaluation process are advised of the availability of government legal counsel to advise them concerning their rights and elections.

2. LEGAL ADVICE AND REPRESENTATION

a. Government legal counsel must be available to consult (by telephone or otherwise) with a Service member regarding rights and elections following the member's receipt of the decision of an IPEB. Military Departments may make government legal counsel available to respond to inquiries by Service members earlier than the IPEB decision.

b. Government legal counsel will be assigned to represent each Service member upon election to proceed to a hearing before an FPEB. Representation continues through the respective Military Department's appellate process, if elected, until the Service member's discharge from active duty.

(1) A Service member may waive his or her right to representation by government legal counsel. A waiver by a Service member of their right to government legal counsel must be in writing.

(2) In lieu of government legal counsel, a Service member may elect to be represented by private legal counsel or a representative from a veterans' organization. Any non-government representation will be at no expense to the government.

(a) If a Service member elects a non-government representative, government legal counsel will remain available to the Service member and his or her representative for advice and consultation, but will not participate in a representative capacity at any stage in the DES unless the non-government representative is released, in writing, by the Service member.

(b) If a Service member's non-government representation is terminated, government legal counsel will be available to represent the Service member for further proceedings and appeals.

3. ACCESS TO DOCUMENTATION. When a Service member chooses to have a formal hearing before a PEB, the Service member will provide appropriate authority for assigned government legal counsel to have access to all pertinent documentation pertaining to the member's disability case, including medical records, MEB narrative summary, ratings, diagnostic codes, LOD determinations, and any additional documentation that may be requested by the PEB. Government legal counsel will also have full access to computerized databases and electronic medical records that relate to the Service member's disabilities.

4. SERVICE MEMBER APPEALS AND HEARINGS. Government legal counsel explains to the Service member the general duties of the legal counsel during the disability evaluation process and informs the Service member about the disability evaluation process, including rebutting the IPEB decision, requesting a hearing before the FPEB, and submitting a written appeal of the FPEB decision to the respective correction board or Secretary of the Military Department concerned. Service members also will be advised that:

a. They have the right to request or, if found unfit, demand an FPEB. If granted, their appearance before the FPEB may be made in person; through a designated representative; via videoconference; or by any other means as determined by the Secretary of the Military Department concerned.

b. They must be provided a minimum of 10 calendar days advance written notice of their hearing before the FPEB. This 10-day requirement may be waived by the Service member in writing.

c. Absent difficult circumstances, appeals of the decision of an FPEB will be submitted to the Secretary of the Military Department concerned within 10 calendar days of the Service member being notified of the FPEB decision. The assigned government legal counsel may request additional time in accordance with Military Department regulations and procedures.

5. LEGAL COUNSEL IN ADVANCE. At a minimum, assigned government legal counsel will consult with the Service member at least 1 day in advance of the scheduled FPEB. Service members traveling to an FPEB must be afforded sufficient time to arrive (more than 1 day) in advance of their scheduled hearings to confer with government legal counsel. Before commencement of the hearing, a Service member may waive, in writing, the right to confer with government legal counsel prior to the hearing.

6. DELAY FOR GOOD CAUSE. A Service member or representative may request a delay of a hearing for good cause (such as to secure documentation or witness testimony). Any requests for delay must be submitted to the FPEB president in writing and prior to the scheduled hearing as prescribed by the Military Departments. The FPEB president will respond to requests for delay in writing and, if applicable, will include the grounds for a denial of a request for delay.

7. QUALIFICATIONS AND TRAINING OF LEGAL COUNSEL

a. The Secretary of the Military Department concerned, in conjunction with their Judge Advocate General, provides legal training programs to ensure government legal counsel participating in the physical disability evaluation process have adequate training in the process and associated procedures.

b. The Judge Advocate General ensures that government legal counsels are assigned to represent Service members in the physical disability evaluation process in accordance with the regulations and procedures of the Military Department concerned.

c. For IDES and EDES cases, uniformed or civilian legal counsel of the Military Department concerned, claims agents, and attorneys may represent a member before VA if the representative complies with VA regulations in part 14 of Reference (h).

d. Training programs should provide:

(1) An overview of the statutory and policy requirements of the DES, including DoD issuances pertaining to the physical disability evaluation process, the VASRD, and laws and regulations pertaining to combat-related special injury compensation.

(2) An overview of VA services and federal benefits, including compensation tables based on ratings determinations in effect at the time a rating is adjudicated.

(3) An overview of available resources for recovering Service members and other Service members in the DES.

(4) An overview of online and other resources pertaining to the DES and DoD and VA services.

(5) An overview of the VASRD, the U.S. Court of Federal Claims, the Court of Appeals for Veterans Claims, U.S. Court of Appeals for the Federal Circuit, or U.S. Supreme Court. Additionally, although not binding, published decisions by the VA General Counsel may be informative.

(6) Knowledge of inspector general hotlines, ombudsman programs, and Service programs for resolution of issues of concern to recovering Service members.

ENCLOSURE 7

TIME STANDARDS FOR LDES CASE PROCESSING

1. SPECIALTY CONSULTATIONS. Service members who have been referred to the DES and who require specialty care consultation will be scheduled and seen within TRICARE standards.

2. COMMANDER DOCUMENTATION. The Service member's unit commander must provide all official military personnel documents required for disability processing within 5 calendar days of the PEBLO's or PEB's request. Examples of these documents are the commander's letter, a copy of the LOD determination (if applicable), physical performance records, and personnel evaluations as required by the Service member's respective Service.

3. RESOURCING TO MEET LDES TIME STANDARDS

a. MEB

(1) The Secretaries of the Military Departments, in conjunction with personnel and medical directorates of their respective departments, will direct the allocation of additional personnel to the MEB process at an MTF when the MTF fails to meet DES processing goals for MEB processing for 3 consecutive months.

(2) Time attributed to rebuttals or pending consultation with an impartial provider will not be included in processing time.

b. PEB

(1) The Secretaries of the Military Departments will direct the allocation of additional personnel to the PEB process, consistent with DoD policy and guidance, when the PEB fails to meet DES processing goals for PEB processing for 3 consecutive months.

(2) If increasing the staffing of an existing PEB or organizing an additional PEB, the Military Departments should coordinate with the Judge Advocate General concerned to ensure appropriate staffing levels for government legal counsel.

4. TIME STANDARDS FOR DUTY-RELATED LDES CASES

a. MEB. The provider completes and signs the MEB narrative summary within 5 calendar days of receiving the completed disability examinations and specialty consultation summaries. For duty-related medical conditions, a physician initiates a MEB after the narrative summary has been completed. The processing time should not exceed 30 calendar days from the date the

narrative summary is completed to the date the PEB receives the complete case file, excluding IMR and rebuttal time.

b. PEB. Duty-related case processing time should not exceed 40 calendar days from the date the PEB receives the complete MEB packet and case file to the date the reviewing authority makes a determination, excluding appellate review.

c. Appellate Review. The goal is to complete each level of appellate review required by Military Department-specific regulations within 30 calendar days.

d. Total Duty-Related Case Processing Time. The total processing time for duty-related cases should not exceed 70 calendar days from the date the provider completes the MEB narrative summary to the date the review authority makes a determination, excluding appellate review.

e. Processing Goal. Overall, 80 percent of the cases should be processed within the stated processing goals for MEB, PEB, total case processing time, and appellate reviews.

5. TIME STANDARDS FOR NON-DUTY-RELATED LDES CASES

a. Medical Disqualification. For RC members not on active duty whose fitness for duty comes into question for non-duty related medical impairments and who request referral, or are directed into the DES solely for a fitness determination, the case processing time by the MEB should not exceed 90 calendar days. The 90 calendar days start from the date of the administrative review by the designated RC medical authority of the medical information that causes the disqualification and ends the date the PEB receives and accepts the Service member's case file.

b. PEB. Non-duty-related case processing time should not exceed 40 calendar days from the date the PEB accepts the case file or physical exam to the date of the decision by the PEB, excluding appellate review.

c. Appellate Review. For each level of appellate review after the FPEB, the standard timeliness goal is 30 calendar days from the date of decision by the FPEB.

d. Total Non-Duty-Related Case Processing Time. The total processing time for non-duty-related cases should not exceed 130 calendar days from the date of the administrative review by the designated RC medical authority of the medical information that causes the disqualification and ends the date of the decision of the PEB, excluding rebuttal time.

e. Processing Goal. Overall, 80 percent of the cases should be processed within the stated processing goals for the non-duty-related medical evaluation, PEB, total case processing time, and appellate reviews.

6. TIME STANDARDS FOR IDES CASES. Time standards for IDES cases are contained in volume 2 of this manual.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

| | |
|-----------|---|
| AC | active component |
| ASD(HA) | Assistant Secretary of Defense for Health Affairs |
| ASD(M&RA) | Assistant Secretary of Defense for Manpower and Reserve Affairs |
| CRP | comprehensive recovery plan |
| DES | disability evaluation system |
| DoDI | DoD instruction |
| EDES | expedited disability evaluation system |
| FPEB | formal physical evaluation board |
| GC DoD | General Counsel of the Department of Defense |
| IDES | integrated disability evaluation system |
| IMR | impartial medical reviews |
| IPEB | informal physical evaluation board |
| LDES | legacy disability evaluation system |
| LOD | line of duty |
| MEB | medical evaluation board |
| MSC | military services coordinator |
| MTF | military treatment facility |
| NRD | National Resource Directory |
| PEB | physical evaluation board |
| PEBLO | physical evaluation board liaison officer |
| RC | reserve component |
| RCC | recovery care coordinator |
| SSA | Social Security Administration |
| USD(P&R) | Under Secretary of Defense for Personnel and Readiness |
| VA | Department of Veterans Affairs |
| VASRD | Department of Veterans Affairs Schedule for Rating Disabilities |
| WII | wounded, ill, or injured |

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this volume.

active duty. Defined in the DoD Dictionary of Military and Associated Terms (Reference (i)).

compensable disability. A medical condition that is determined to be unfitting due to disability and that meets the statutory criteria of chapter 61 of Reference (c) for entitlement to disability retired or severance pay.

DES. The DoD mechanism for determining return to duty, separation, or retirement of Service members because of disability in accordance with chapter 61 of Reference (c).

designated representative. A person making DES decisions for the Service member. This could be a court-appointed representative or a personal representative in accordance with DoD 6025.18-R (Reference (j)).

disability. Any impairment due to disease or injury, regardless of degree, that reduces or prevents an individual's actual or presumed ability to engage in gainful employment or normal activity. The term "disability" or "physical disability" includes mental disease, but not such inherent defects as developmental or behavioral disorders. A medical impairment, mental disease, or physical defect standing alone does not constitute a disability. To constitute a disability, the medical impairment, mental disease, or physical defect must be severe enough to interfere with the Service member's ability to adequately perform his or her duties.

EDES. A voluntary joint DoD - VA DES process to authorize the full range of benefits, compensation, and specialty care to Service members who sustain catastrophic injuries or illnesses.

extra-schedular evaluations. The rating established for a case that presents such an exceptional or unusual disability that the regular VASRD standards do not apply (e.g., beyond the VA Schedule).

government legal counsel. A U.S. Government attorney, representing the interests of the Service member, who may be an assistant Staff Judge Advocate, General Schedule civilian employee, or contracted attorney paid for by the U.S. Government.

IDES. The joint DoD -VA process by which DoD determines whether ill or injured Service members are fit for continued military service and DoD and VA determine appropriate benefits for Service members who are separated or retired for disability.

LDES. A DES process by which DoD determines whether eligible wounded, ill, or injured Service members are fit for continued military service and determines appropriate benefits for Service members who are separated or retired for disability. Service members processed through the LDES may also apply for veterans' disability benefits through the VA pre-discharge Benefits Delivery at Discharge or Quick Start programs, or upon attaining veteran status.

LOD determination. An inquiry to determine whether an injury or illness was incurred when the Service member was in a military duty status. If the Service member was not in a military duty status, whether it was aggravated by military duty; or whether it was incurred or aggravated due to the Service member's intentional misconduct or willful negligence.

MEB. For Service members entering the DES, the MEB conducts the medical evaluation on conditions that potentially affect the Service member's fitness for duty. The MEB is composed of two or more civilian or military physicians working for the Military Department concerned. The term sometimes refers to the MEB process. The MEB documents the Service member's condition and medical history with a narrative summary, sometimes referred to as the MEB report. The MEB can find that the member has one or more medical conditions that, individually or collectively, may render the member unfit to perform the duties of the member's office, grade, rank, or rating, and refer the member to the PEB.

MEB convening authority. A senior medical officer, appointed by the MTF commander, who has detailed knowledge of standards of medical fitness and disposition of patients and disability separation processing and who is familiar with the VASRD.

MEB process. For Service members entering the DES, the MEB conducts the medical evaluation on conditions that potentially affect the Service member's fitness for duty. The MEB documents the Service member's medical condition(s) and history with an MEB narrative summary as part of an MEB packet.

medical impairment. Any disease or residual of an injury that results in a lessening or weakening of the capacity of the body or its parts to perform normally, according to accepted medical principles.

MSC. A VA employee assigned to serve as a liaison for the Service member throughout the VA disability evaluation and claims process.

office, grade, rank, or rating

office. A position of duty, trust, and authority to which an individual is appointed.

grade. A step or degree in a graduated scale of office or military rank that is established and designated as a grade by law or regulation.

rank. The order of precedence among members of the Military Services.

rating. The name (such as "Boatswain's Mate") prescribed for Service members of a Military Service in an occupational field.

PEBLO. The non-medical case manager who provides information, assistance, and case status updates to the affected Service member throughout the DES process.

physical profile. A Military Department's physical profile serial system based primarily upon the function of body systems and their relation to military duties.

RCC. A DoD civilian employee, the RCC is the ultimate resource to oversee the delivery of services and resources identified in the Comprehensive Recovery Plan of a seriously WII Service member or veteran. The RCC monitors and regularly modifies the CRP in collaboration with MDTs to reflect the WII and family goals and Service requirements.