

I disagree with the results of my TDRL examination. Can I appeal it?

Yes. Contact the OSC for assistance with appealing your TDRL examination results. The MTF must provide a complete TDRL report that clearly describes your present condition and functional impairments. Full MEB-type exams are not typically required for periodic TDRL examinations; however, a MTF Commander may refer a TDRL examination to a MEB, especially one presenting complex medical conditions or dispute. You will have the opportunity to review and comment on the report of examination before it is approved by the MTF Commander and forwarded to the PEB.

How will the final determination be made in my case?

The same procedure used when you were placed on the TDRL will be employed. A medical evaluation is completed and, after providing you an opportunity to review the exam, it's forwarded to the PEB for adjudication. All medical evidence is carefully evaluated to ensure that a just and accurate determination is made. To ensure that your interests are protected, you will be afforded the opportunity to appeal or rebut the PEB's findings before your case is finalized. The OSC is available to advocate on your behalf.

I've requested a formal PEB hearing and to be represented by appointed military counsel. What should I do next?

While the PEB will forward your information to our offices, we encourage you to also contact us using the information in this brochure so we can begin working with you as soon as possible. Once you submit your demand for a formal hearing, the PEBLO will send your election to the PEB and hearing date will be scheduled in your case. Once scheduled, the PEB will send a copy of your case file to the OSC, who will then assign a specific attorney to represent you. The PEB must provide you and the OSC with at least 10 days advance notice of your scheduled hearing date. The earlier you begin working with OSC, the better your chances to prevail.



If I am unhappy with the decision by the PEB at the formal hearing, will my attorney assist with an appeal?

Yes. Our attorneys will explain your appeal rights and offer advice about whether an appeal is in your best interest. If requested, the attorney will help identify relevant evidence, draft the appeal, and ensure it is submitted in a timely manner.

What happens if I am found fit for duty by the PEB during my TDRL reevaluation?

The Army is different from the other services. It will be your choice whether to return to duty or not. Please note, the TDRL status and disability pay for Soldiers found fit for duty and who do not consent to be returned to duty will terminate.

Telephonic TDRL Legal Briefing Schedule

Every Wednesday, 2:00 p.m. EST
Call 210-249-4234 (comm.) or 421-3272 (DSN)
Pass code: 68603#

Note: There are a limited number of lines, but you can call the below numbers for scheduling a back-up briefing if you are unable to get through.

For further assistance, please call:

Office of Soldiers' Counsel

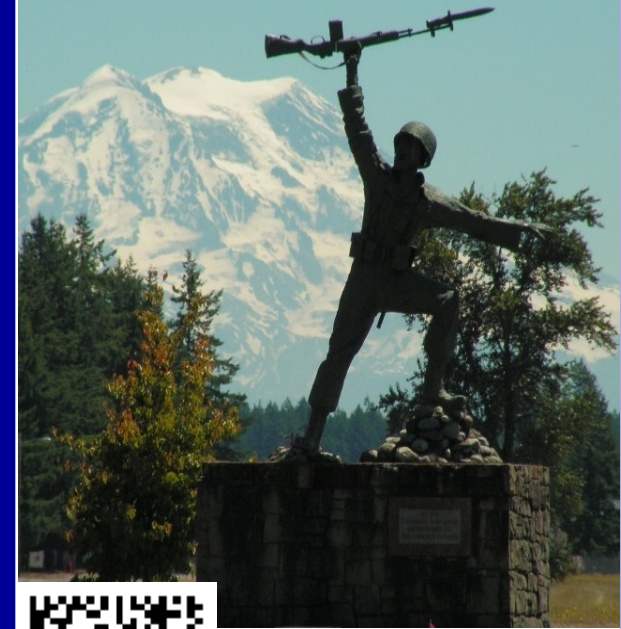
502-624-3123

Office of Soldiers' Counsel
Soldiers' MEB Counsel Office
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Fort Knox, KY 40121



**SOLDIERS' MEDICAL
EVALUATION BOARD
AND PHYSICAL
EVALUATION BOARD
COUNSEL**

TDRL EDITION



**U.S. ARMY MEDICAL
COMMAND
and THE JUDGE ADVOCATE
GENERAL'S CORPS**

**TWO TEAMS WORKING
TOGETHER TO SUPPORT YOU**

This brochure provides information regarding services provided by specially trained Army JAG Corps personnel to TDRL members during the TDRL reevaluation process. The Office of Soldiers' Counsel (OSC) is made up of Army attorneys and paralegals, both uniformed and civilian, who can provide you and your family with information, advice, and representation that will enable you to make informed decisions and fully participate in your TDRL reevaluation process.

What is the TDRL?

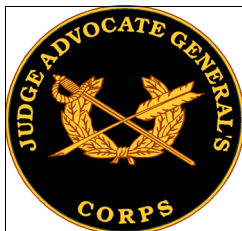
The Temporary Disability Retirement List (TDRL) is a list of medically retired Soldiers with at least one medical condition that has not sufficiently stabilized for a permanent assessment. The original Physical Evaluation Board (PEB) decision placed you on the TDRL and identified a timeframe for your TDRL reexamination. While on the TDRL, you are temporarily retired and maintain a civilian life. Depending on your condition, you will be notified sometime either after the first six months or after eighteen months after your separation date for a TDRL reexamination. Travel expenses will be paid by the Army. Army physicians will re-evaluate your medical condition. Once the reexamination is completed, the Army PEB will determine whether your conditions currently render you FIT or UNFIT, based upon the new exam and medical records. The PEB will also determine the disability rating for unfitting conditions, rather than the Department of Veterans Affairs (VA). TDRL Evaluations must generally occur at least once every 18 months.

What to expect?

Following your reevaluation, if your conditions have stabilized, the PEB may issue a decision finding you permanently retired, separated with severance pay, or fit for duty. If your condition remains unstable, the PEB may keep you on the TDRL. If your unfitting conditions have stabilized, you remain unfit, and your combined Army disability rating is at least 30 percent, or you have over 20 years of qualifying service, you will be permanently retired. If your unfitting conditions have stabilized, you remain unfit and your Army disability rating is less than 30 percent, you will be separated with severance pay.

What are my rights during TDRL?

You have the right to seek free legal counsel through the OSC, at no cost to you, for assistance with your TDRL case! You have the right to review, comment, and appeal the TDRL examination before it is sent to the PEB. Upon receipt of the initial PEB decision, you can demand a formal PEB hearing with or without personal appearance. You can also appeal the PEB decision in writing. Following the PEB, you may appeal your PEB decision to the Army Physical Disability Agency (PDA) and subsequently to the Army Board for Correction of Military Records (ABCMR) if appropriate.



How can the OSC assist me?

The OSC is independent of the Medical Evaluation Board (MEB) and PEB and their sole duty is to advise and represent individual Soldiers in the disability evaluation system. They are highly trained and qualified professionals who are available to assist Soldiers throughout the TDRL reevaluation process, which includes the medical examination and PEB review process. Assistance is available from the initiation of the TDRL examination. We have offices at almost every Military Treatment Facility in the Army. Counsel work diligently to ensure Soldiers make fully informed decisions and then help Soldiers achieve their desired outcome through research, negotiation, and advocacy. Any information you provide to our attorneys and paralegals is privileged and confidential, and can only be disclosed with your permission.

What else can the OSC do for me?

We are available to ensure you are aware of your rights, options and possible outcomes to help you decide whether to fight to return to duty in the Army or pursue a medical separation with an appropriate disability rating. We can provide general advice and help you develop a strategy to reach your desired outcome. As you progress through the process, we provide more specific advice such as whether it is appropriate to appeal a TDRL reexamination or if requesting a formal PEB hearing is advisable. If a formal PEB hearing is held, our attorneys will accompany you at the hearing and will advocate for your desired outcome.

How do I contact the OSC?

Regardless of where you are, you can consult the OSC either in person, by video tele-conference, or by telephone. You can visit <https://www.jagcnet.army.mil/otjagosc> or check with your Physical Evaluation Board Liaison Officer (PEBLO) for the contact information for the nearest OSC. You can also contact the OSC using the phone number and email address provided on the back of this brochure.

The PEB placed me on the TDRL. Should I still consult with the OSC?

Yes. TDRL cases are required by law to be evaluated every 6-18 months. This evaluation may be very brief and you need to be aware of important considerations before you begin on the TDRL. Also, you may be able to successfully challenge the decision to place you on temporary rather than permanent retirement. Your OSC Counsel can provide you with information and advice about the TDRL review process.

How do I prepare for my TDRL evaluation?

- ❖ Obtain and maintain copies of all your medical records after your initial PEB. In most situations, you should provide copies to your PEBLO and bring copies to your TDRL medical evaluation.
- ❖ Maintain current contact information with your PEBLO and the Physical Disability Agency (PDA).
- ❖ Attend an OSC legal briefing by teleconference.
- ❖ Contact the OSC for specific questions and assistance.

Where will my examination take place?

You will normally be referred to the Army Medical Treatment Facility (MTF) closest to your home.

What do I have to bring to my reexamination?

You should bring copies of all medical records (civilian, Department of Veterans Affairs, and military records, to include all medication/pharmacy records) documenting all treatment you have received since placement on the TDRL or since your last TDRL reevaluation. Your records will be reviewed by the physician who examines you and will be included in the medical documents forwarded to the PEB. Failure to provide relevant medical records may adversely affect the decision in your case. If you have any questions or concerns about whether to provide some or all of your medical records, please contact the OSC.

During TDRL, I developed a new condition or an old condition that was not previously found unfitting has worsened. Are they compensable?

A determination of fitness and compensability will be made on all diagnoses made in the TDRL evaluation. If you are determined fit for the condition for which you were placed on the TDRL, but unfit for a noncompensable condition incurred while on the TDRL, you will be separated from the TDRL without entitlement to any disability benefits. Conditions diagnosed in the TDRL examination that were not found to be unfitting in the original PEB decision may be compensable when the condition is unfitting and: (1) the condition was either caused by the condition for which you were placed on the TDRL or is directly related to its treatment; or (2) the evidence of record establishes that the condition was incurred in the line of duty prior to your temporary retirement and was in fact an unfitting disability at the time you were placed on the TDRL. Note, you may be eligible for VA benefits for conditions considered non-compensable by the military.