



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

Office of the Assistant Secretary

10 September 2024

MEMORANDUM FOR AFPC/DPFD
HQ USAF/JAJO

FROM: Secretary of the Air Force Personnel Council (SAF/MRBP)
1500 West Perimeter Road
Joint Base Andrews, MD 20762-6435

SUBJECT: Secretary of the Air Force Personnel Council (SAFPC) Appeal Process for Line of Duty (LOD), Prior Service Condition (PSC), and 8-Year Rule Determinations for Disability Evaluation System Referred Conditions

References:

- (a) DoDI 1332.18, *Disability Evaluation System*, 10 November 2022
- (b) HAFMD 1-24_Addendum B, *Re-delegation of Authority for Individual Personnel Actions HAFMD 1-24, Assistant Secretary of the Air Force (Manpower and Reserve Affairs)*, 6 November 2019
- (c) DAFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*, 2 February 2024
- (d) DAFI 36-2910, *Line of Duty (LOD) Determination, Medical Continuation (MEDCON), and Incapacitation (INCAP) Pay*, 3 September 2021
- (e) DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, 4 October 2023

1. Purpose: Establish SAFPC procedural guidance for appeals related to Line of Duty (LOD), Prior Service Condition (PSC), and Eight-Year Rule determinations for Disability Evaluation System (DES)-referred conditions. This memo replaces the 11 September 23 memorandum, same subject and amends the 15 August 2024 memo.

2. Applicability: Effective the date of this memo, the following procedures apply to Integrated Disability Evaluation System (IDES), Legacy DES, and Non-duty related fitness (Fit for Duty) cases where the Airman or Guardian requests appellate review of the LOD, PSC, or Eight-year rule determination for their unfitting DES-referred condition(s). These appeals are adjudicated through the Air Force Personnel Board (AFPB) via records-only review and shall be submitted separately from a Formal Physical Evaluation Board (FPEB) determination appeal. This does not preclude the simultaneous submission and processing of these cases, as they will be adjudicated separately.

3. Authorities: In accordance with Reference b, SAF/MRB's authority relating to LODs is limited to making changes to an existing LOD determination. If the evidence is sufficient for SAF/MRB to conclude that the LOD determination should be changed to reflect that the illness, injury, or disease was incurred or aggravated in the LOD, SAF/MRB will issue a Secretarial instrument directing such a change. This authority includes the ability to act on appeals related to a Prior Service Condition (PSC), provided the documentation submitted includes the original administrative, informal, or formal LOD determination. This authority also includes the ability to act on appeals related to the Eight-Year Rule determinations.

4. Procedures:

a. Airmen and Guardians who wish to appeal their LOD, PSC, or Eight-year rule determination may do so:

(1) After non-concurring with their Informal Physical Evaluation Board (IPEB) findings but prior to the FPEB hearing. Appeal packages must be sent to the FPEB within 14 calendar days of the signed Intent to Appeal Memo.

(2) Following the FPEB hearing, but only if the FPEB identified additional unfitting conditions that had not been previously submitted for SAFPC review as a LOD, PSC, or Eight-year rule condition. Appeal packages must be sent to the FPEB within 14 days [or 6 days] from the member's 1180 appeal decision.

b. The service member will submit their appeal to SAFPC through myFSS with their attorney's assistance. The appeal will be in memorandum form and meet the following requirements.

(1) LOD Determination: Documents to include are: copies of the original LOD determination and all attachments (e.g., pertinent military orders, relevant military and civilian treatment records, investigative reports, etc.) and previous appeals of the LOD determination submitted under the provisions of References d and/or e. If no appeal was submitted under Reference d, the memo must justify why such an appeal was not pursued in real time. If there was no original LOD Determination made and the member did not report the medical condition within 180 days of performing military duty in accordance with Reference d, the request will be returned without action with a recommendation to pursue relief through the AFBCMR.

(2) PSC Determinations: Documents to include are: the contested PSC determination, the original administrative, informal, or formal LOD determination (including any underlying investigative report), any appeals thereto, as well as copies of all civilian and military medical records from the purported onset of the original injury/condition, and copies of all relevant military orders (e.g., deployment, TDY, PCS, active duty, inactive duty). Any appeal which does not include the original administrative (documented in service medical records), informal, or formal LOD determination will be returned without action with a recommendation to pursue relief through the AFBCMR.

(3) Eight-year Rule: Documents to include are: copies of a current point credit summary, all DD Forms 214, and a copy of the active-duty orders, and medical documentation

indicating the period of active duty (more than 30 days) when the condition became unfitting.

c. LOD appeal cases will be boarded via the Air Force Personnel Board. Once SAFPC forwards a final decision to AFPC/DPFD, the FPEB Case Management team will forward decision to the service member, attorney, and PEBLO. The service member must accept the current findings of the IPEB or FPEB or appeal the most recent findings to the next level (FPEB or FPEB appeal).

5. The point of contact is Mr. John K. Vallario, john.vallario.1@us.af.mil.

9/10/2024

X LINDA M. HOOVER

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Director, SAF Personnel Council

Signed by: HOOVER.LINDA.M.1051855805