

Fit-for-duty Recommendations for Severely Injured Soldiers

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Soldiers lay their lives on the line to protect and defend not only the constitution of the United States, but also their buddies and unit. When they are seriously injured in combat, it is natural for leaders of that unit to feel grateful and loyal. After treatment and rehabilitation comes the test of that loyalty to the injured Soldiers, and to the buddies and unit for which they made such a great sacrifice. Many severely injured Soldiers no longer meet the retention standards of AR 40-501, Standards of Medical Fitness, and are evaluated by a Medical Evaluation Board (MEB) and referred to the Physical Evaluation Board (PEB) which determines if Soldiers are fit for duty, or should be medically discharged or retired. This system requires the Soldier's commander to write a statement describing the Soldier's duty performance. Since the Physical Disability Evaluation System (PDES) places great weight on the commander's assessment, an ethical dilemma ensues. The commander, and the noncommissioned officers whose counsel he or she seeks, must weigh the sometimes competing values of loyalty to the injured Soldier, loyalty to the unit, duty to ensure mission readiness, and integrity. Integrity- doing what is right, is at the heart of this dilemma. Integrity of the system, and the personal integrity of those making a recommendation, is both as simple and as complicated as "what is right?" A review of relevant regulations and guidelines, an examination of the competing values, and evaluation of three possible courses of action will bring clarity to the issue. Commanders should use a standardized approach to make an impartial assessment of a severely injured Soldier's ability to perform his or her duties, and make use of the Continued On Active Duty (COAD) provisions.

Army regulations and guidance from the U.S. Army Physical Disability Agency (USAPDA) require commanders to assess the Soldier's ability to perform the full range of duties for his or her MOS and grade for any board process. AR 600-60, Physical Performance Evaluation System, para 4-12a, specifically requires commanders to "write an evaluation of the soldier's physical capability, addressing the impact of the profile limitations on the soldier's

ability to perform the full range of PMOS [primary military occupational specialty] or specialty code duties.” For an MEB or PEB, AR 635-40, Physical Evaluation for Retention, Retirement, or Separation, para 4-15e requires commanders to submit a statement describing the Soldier’s duty performance. He or she must specifically address the Soldier’s most recent performance of duty, duty limitations caused by the physical condition, ability to perform duties of the current MOS and rank, current duty assignment, and anticipated future assignments. In determining ability to perform duties, the commander should consult the physical requirements tables in Chapter 10 of DA Pam 611-21, Military Occupational Classification and Structure, which outline specific physical requirements for each MOS. He or she should also consider the Soldier’s ability to perform the common tasks in STP 21-1-SMCT, Soldier’s Manual of Common Tasks. It is important for commanders to recognize the specific elements boards must consider. AR 600-60 places special emphasis on the Soldier’s ability to fire a weapon and wear a helmet, protective mask, and load carrying equipment. The other requirement that many commanders misunderstand is world-wide deployability. According to the USAPDA Info Paper “Overview of Physical Disability Evaluation System”, while world-wide deployability may be considered in determining fitness, the ability to perform duties “in every geographic location and under every conceivable circumstance will not be the sole basis for a finding of unfitness.” The final regulatory consideration is the provision in AR 635-40, para 6-3, for the PEB to defer action on a Soldier who is determined to be physically disabled and unfit for duty but desires to remain on active duty. Combat injured Soldiers may request to be Continued On Active Duty (COAD) if “physically capable of performing useful duty in an MOS for which he or she is currently qualified or potentially trainable.” The commander can greatly impact the outcome of board actions through his or her assessment under these regulations, but there is much latitude for the commander in the subjective determination of ability to perform duties.

The subjective nature of the commander's assessment brings into play the competing values he or she must consider. Loyalty is a two-edged sword. It is natural to feel loyal to a Soldier who has been injured in combat; this inspires loyalty to the unit by other Soldiers, but may influence a commander to give the most lenient interpretation of a Soldier's ability to perform duties so the Soldier can continue his or her career. Recommending that a Soldier who has sacrificed so much in combat be separated because of a combat injury can feel disloyal, regardless of the intellectual knowledge that this is the appropriate action. Loyalty to the rest of the unit may influence a commander to apply a more stringent interpretation of a Soldier's ability to perform duties. The concern that other Soldiers may have to 'pull extra weight', and deploy more often, to compensate for an injured Soldier's disability is a legitimate consideration. Every commander has a duty to ensure mission readiness. That sense of duty can create a dichotomy; recommending a Soldier for separation can create a critical void in the unit, but recommending that a severely injured Soldier be retained on active duty may create a critical void during deployments, if the Soldier is not world-wide deployable or is unable to perform as expected. The crux of the matter is integrity. The commander must maintain both personal integrity by doing what he or she judges to be the 'right' thing, and the integrity of the system by not manipulating the process for a specific outcome. Fortunately, there are courses of action which satisfy these competing values.

There are three courses of action that a commander might consider in assessing a Soldier's ability to perform his or her duties. The first is to use a team approach with the ISG, the Soldier, the Soldier's supervisor, and a physician familiar with the case. The team would review a standardized list of performance tasks from DA Pam 611-21 and STP 21-1-SMCT. The commander would base the assessment on the team's determination of the Soldier's likely ability to perform these tasks. The second is to review the Soldier's job requirements according to DA

Pam 611-21 and STP 21-1-SMCT with the 1SG, the Soldier's first line supervisor, and the Soldier. The commander would base the assessment on this review, including the Soldier's perception of his or her performance capabilities. The third is to meet only with the 1SG and the Soldier's supervisor, basing the assessment on the judgment and experience of those non-commissioned officers. In conjunction with each of these courses of action the commander should make sure the Soldier is aware of the provisions of COAD. In the first course of action, using a team approach to the assessment, the commander gains the advantage of an informed medical opinion of physical potential, an experienced viewpoint of the physical demands of performance tasks, and a sense of the Soldier's determination and dedication. By including the Soldier the commander demonstrates loyalty, by including the 1SG and supervisor he or she displays a concern for the duty of mission accomplishment, and by including a physician and using a checklist based on the regulations he or she impartially ensures the integrity of the system and those involved in the recommendation. Combining this with actively pursuing COAD for those Soldiers unfit for full duty, but able to be of continued use in some function of the military, the commander will gain the full advantage of the PDES. The disadvantages of the first course of action are the time and effort required to develop a standardized performance task list, coordinate the meetings, and facilitate the meeting. The second, less advantageous, course of action is the team approach with the 1SG, supervisor, and Soldier. Many of the benefits of the first course of action apply, with the added benefit of easier coordination. However, the absence of a physician can require unqualified and incorrect assumptions of physical potential. This can skew the attempt to make informed and impartial recommendations. The Soldier may also feel the proceedings are less impartial or that unit concerns are given greater weight. Recommending that the Soldier apply for COAD may counteract this impression, but it could also leave the impression that the commander is just 'passing the buck.' The third, least favorable, course of

action is for the commander to meet only with the ISG and supervisor. The same concerns regarding lack of physician involvement would exist. Also, while this would demonstrate loyalty to the unit and concern for the duty of mission accomplishment, the uninvolved Soldier is likely to feel the command shows no loyalty in return for his or her sacrifice. The advantage of a quicker assessment are far outweighed by the potential loss of system integrity due to a lack of an impartial and standardized approach, and the perception, by those not involved in the assessment, of a loss of personal integrity. While the commander may see providing the Soldier information about COAD as a demonstration of loyalty, the Soldier will be skeptical of the motivation after being left out of the assessment process. The first course of action clearly satisfies most of the competing values in resolving the ethical dilemma.

The commander's assessment of a severely disabled Soldier is of vital importance to the PDES in determining the right outcome for the Soldier and the Army. While regulations and USAPDA guidance outline the requirements for the commander, he or she must determine the most ethical way to make the assessment. It is possible to satisfy the competing values of loyalty to the Soldier, loyalty to the unit, duty to mission accomplishment, integrity of the system, and personal integrity. By using a standardized team approach with senior NCO, physician, and Soldier involvement, the commander will make an impartial assessment of a severely injured Soldier's ability to perform his or her duties. Using the COAD option will further capitalize on the advantages of the PDES. The commander can then be assured he or she has done the 'right' thing.