

## Members of the *Torres* Class Action

**Overview:** *Torres* Class Members are composed of United States Navy and Marine Corps veterans who were medically separated as a result of their final Physical Evaluation Board (PEB) (Informal PEB (IPEB) or Formal PEB (FPEB)) that occurred between 12 September 2016 and 11 June 2018. *Torres* Class Members have the opportunity to have their PEB findings readjudicated through the Department of the Navy's *Torres* Class Action Review Board (CARB), which could result in a medical retirement.

If you are, or believe yourself to be, a member of the *Torres* Class Action, **please contact the Disability Evaluation System Counsel Program (DESCP) *Torres* Unit at (202) 875-1198 or [DESCP\\_TorresUnit@us.navy.mil](mailto:DESCP_TorresUnit@us.navy.mil) for a consultation.** As a class member, you are entitled to **free and confidential legal representation** from an attorney in the DESCP *Torres* Unit regarding the CARB process.

It is strongly recommended that prior to making any election or submitting any documents to CARB you contact the DESCP *Torres* Unit to discuss your case with one of their Disability Attorneys. You have 180 days from the day you receive your CARB notification letter to make an election either to accept your original PEB findings or to request readjudication of your case by the CARB. If you request readjudication of your original PEB findings, then your case will be reviewed by an Informal CARB. Upon receiving the Informal CARB findings, Class Members may accept the new findings or contest them by requesting a Formal CARB. You may contact the DESCP *Torres* Unit at any point in the process, but we recommend engaging with DESCP as soon as possible.

**Background:** A class action lawsuit was filed in federal court, with a named Class Member of Oscar Torres, on behalf of Sailors and Marines who were medically separated based upon PEB findings administered under the Department of the Navy's Properly Referred Policy. The Properly Referred Policy essentially stated the PEB would only consider conditions that were "properly referred" to the PEB. This policy was in place between 12 September 2016 and 11 June 2018. As a result of this policy, Sailors and Marines may have had additional unfitting conditions that were not considered by the PEB. Due to this policy, it is possible that some individuals were medically separated when they should have been medically retired had the PEB considered additional medical conditions and found those conditions unfitting for the service member.

On 27 September 2022, a federal judge in the United States District Court for the District of Columbia ruled that the Navy's Properly Referred Policy as administered by the PEB from 12 September 2016 to 11 June 2018 was unlawful. See *Torres v. Del Toro*, No. 1:21-cv-306-RC (D.D.C. Sep. 27, 2022). The Court vacated and set aside the PEB decisions for medically separated Sailors and Marines during this timeframe and remanded the cases back to the Department of the Navy for further processing. Members of the *Torres* Class Action are Sailors and Marines who were medically separated as a result of PEB findings that occurred between 12 September 2016 and 11 June 2018.

As a result of the Court's ruling, the Department of the Navy has established the CARB as a corrective process to review your original PEB findings. The CARB will be contacting *Torres* Class Members by mail through the United States Postal Service. Class Members are being notified in alphabetical order according to their last name when they separated from the Navy or Marine Corps. Class Members will receive a letter that includes: 1) a notice of their rights, 2) their original PEB findings, and 3) a Class Action Review Board Election of Options (CARB EOO).

*Torres* Class Members have 180 days from receiving their CARB letter to decide if they want to accept their original PEB findings or to contest the original findings and request readjudication by the CARB. Similar to the original PEB process, there is an Informal CARB and Formal CARB. **Please note, once new findings are readjudicated, there is not an option to go back and accept your original PEB findings.** Before making your decision and submitting the CARB EOO, it is recommended you speak to a DESCP *Torres* Unit Disability Attorney. The CARB will start processing a case once it receives the CARB EOO. There is no cost to you for consultation and representation by a DESCP attorney before the CARB. Attorneys in the DESCP can assist with all aspects of presenting your case to the CARB.

If a Class Member elects readjudication by the CARB, then an Informal CARB will issue new findings. The Informal CARB findings may be the same or different than your original PEB findings. Thus, your DoD disability rating by the CARB may stay the same, increase, or decrease. **Once you receive your Informal CARB findings, you have fifteen (15) calendar days to accept or contest your Informal CARB findings by requesting a Formal CARB.** After the fifteen (15) calendar day timeline, the CARB may presume you accept the Informal CARB findings. Prior to making this decision, it is recommended to speak to a DESCP *Torres* Unit Disability Attorney.

**Recommendation:** *Torres* Class Members should contact the DESCP *Torres* Unit to get additional information about their rights and options. Once *Torres* Class Members receive their CARB letter, they have 180 days to make their election of accepting their original PEB findings or request readjudication by the CARB. It is strongly recommended that *Torres* Class Members speak with a *Torres* Unit Disability Attorney prior to this deadline and before submitting their CARB EOO to discuss their case and options so they can make an informed decision. For Class Members who elect readjudication and receive their CARB Findings, it is recommended they contact a *Torres* Unit Disability Attorney as soon as possible so they can discuss their CARB findings within the fifteen (15) calendar day deadline so they can make an informed decision regarding accepting or contesting their new findings. *Torres* Class Members may contact DESCP's *Torres* Unit prior to receiving their CARB letter. If you have any questions, please contact the DESCP *Torres* Unit at (202) 875-1198 or DESCP\_TorresUnit@us.navy.mil.