

MILPERSMAN 1900-020

CONVENIENCE OF THE GOVERNMENT SEPARATION BASED ON CONSCIENTIOUS OBJECTION (ENLISTED AND OFFICERS)

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References	50 U.S.C. 456 38 U.S.C. 3103 5 U.S.C. 301
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1. **Policy**. Members may be separated on the basis of Conscientious Objection when their religious training and belief have a firm, fixed, and sincere objection of their participation in war in any form, or the bearing of arms.

2. **Burden of Proof**. The applicant bears the burden of proving their claim of conscientious objection as grounds for separation, or assignment to noncombatant training and service. They must show, by clear and convincing evidence

a. the nature or basis of their claim comes within the definition and criteria prescribed herein; and

b. their belief in connection therewith is honest, sincere, and deeply held. They also have the burden of determining and setting forth the exact nature of their request (i.e., whether for separation based on conscientious objection (1-0); or for

assignment to noncombatant training and service based on conscientious objection (1-A-0).

3. **Conditions or Restrictions**

a. After entering the naval service, a request for discharge based solely on conscientious objection, which existed but was not claimed prior to enlistment or notice of induction, shall not be considered when such beliefs satisfied the requirements if

(1) classification as a conscientious objector under Section 6(j) of the Universal Military Training and Service Act, as amended (50 U.S.C 456) and related provisions of law; and

(2) the member failed to request classification as a conscientious objector by the Selective Service System (SSS); or

(3) if their request for classification as a conscientious objector before entering military service was denied on the merits by the SSS and their present request for classification as a conscientious objector is based on essentially the same grounds; or

(4) supported by essentially the same evidence, as the request, which was denied by the SSS.

b. Claims growing out of the experiences prior to entering military service but which did not become fixed until after entry into the service will not be considered.

c. All claims of conscientious objection will be judged by SSS standards used in determining 1-0 or 1-A-0 classification of draft registrants prior to induction. Subject to the limitations set forth above, an application for conscientious objector status may be approved for any member who is conscientiously opposed to participation in war, in any form, when opposition is founded on "religious training and belief" as defined in MILPERSMAN 1900-010, and whose position is sincere and deeply held.

d. A true conscientious objector must be against all wars, rather than a specific war.

4. **Applicant's Proof of Moral and Ethical Beliefs.** The applicant must show that moral and ethical beliefs are against

participation in war, in any form, that these beliefs have directed their life in the way traditional religious convictions of equal strength, depth, and duration have directed the lives of those whose beliefs are clearly found in traditional religious convictions.

5. **Primary Factors**

a. A primary factor to be considered is the sincerity with which the belief is held. Great care must be exercised in determining whether asserted beliefs are honestly and genuinely held. Sincerity is determined by an impartial evaluation of the applicant's thinking and living in its totality, past and present.

b. Care must be exercised in determining the integrity of belief and the consistency of application.

c. Information presented by the applicant should be sufficient to convince that the applicant's personal history reveals views and actions strong enough to demonstrate the belief upon which conscientious objection is based is the primary controlling force in their life and that expediency or avoidance of military service is not the basis of their claim.

d. The conduct of an applicant, in particular their outward manifestation of the beliefs asserted, will be carefully examined and given substantial weight in evaluating the application.

6. **Relevant Factors**

a. Relevant factors to consider in determining applicant's claim of conscientious objector include

(1) training in the home and church;

(2) general demeanor and pattern of conduct which supports asserted beliefs;

(3) participation in religious activities;

(4) whether ethical or moral convictions were gained through training, study, contemplation, or other activity comparable in rigor and dedication to the processes by which traditional religious convictions are formulated;

(5) credibility of the applicant; and

(6) credibility of persons supporting the claim.

(i.e., Applicant made some major commitments during the time their beliefs were developing which are inconsistent with their claim. Application as a conscientious objector shortly after applying and denied for a special Navy program - or becoming aware of the prospect of hazardous or other undesirable duty. Taking the military oath of office shortly before applying for conscientious objector status may be evidence of insincerity in a given case.) These examples are noteworthy because of their frequent recurrence. The potential relevant areas of inquiry are limitless.

b. An applicant claiming 1-0 status will not be granted 1-A-0 status as a compromise. An applicant may be assigned noncombatant status if the record clearly indicates beliefs such that the applicant is qualified as a noncombatant, but not for discharge as a conscientious objector.

c. Particular care must be exercised not to deny the existence of bona fide beliefs simply because those beliefs are incompatible with one's own. Church membership or adherence to particular theological tenets are not required to warrant separation or assignment to noncombatant training and service for conscientious objectors. Mere affiliation with a church or other group, which advocates conscientious objection as a tenet of its creed, is not necessarily determinative of an applicant's position or belief. Conversely, affiliation with a church or group, which does not teach conscientious objection beliefs in any, given case. Where an applicant is or has been a member of a church, religious organization, or religious sect, and where their claim of conscientious objection is related to such membership, inquiry may properly be made as to the fact of membership and the teaching of the church, religious organization, or religious sect, as well as the applicant's religious activity. The fact that the applicant may disagree with, or not subscribe to, some of the tenets of their church does not necessarily discredit their claim. The personal convictions of each applicant will be controlling so long as they derive from their moral, ethical, or religious beliefs. An applicant who is otherwise eligible for conscientious objector status may not be denied that status simply because their conscientious objection influences their views concerning the nation's domestic or foreign policies. The task is to decide whether the beliefs professed are sincerely held and

whether they govern the claimant's actions in both word and deed.

7. **Classification of Conscientious Objectors.** Conscientious objectors are classified as

a. **1-0:** a person who by reason of conscientious objection, sincerely objects to participation of any kind of war - in any form.

b. **1-A-0:** a person who by reason of conscientious objection, sincerely objects to participation as a combatant in any war in any form, but whose convictions are such as to permit military service in a noncombatant status.

8. **Procedures When Classified 1-A-0 Upon Induction.** Members classified 1-A-0 by Selective Service prior to induction shall be transferred for recruit training and be subject to noncombatant service/duties and training. The member shall sign the following NAVPERS 1070/613 (Rev. 10-81), Administrative Remarks entry:

(date): "I have been counseled concerning designation as a conscientious objector. Based on my training and belief, I consider myself to be a conscientious objector within the meaning of the status and regulations governing conscientious objectors and am conscientiously opposed to participation in combatant training and service. I request assignment to noncombatant duties for the remainder of my term of service (end of EAOS). I fully understand that on expiration of my current term of service, I may not be eligible for voluntary enlistment, reenlistment, extension or amendment or current enlistment, or active service in the Armed Forces by reason of my 1-A-0 classification."

WITNESSED:

SIGNATURE OF MEMBER

9. Procedures for Requesting Classification as a Conscientious Objector. Use the following format to apply for designation as a Conscientious Objector:

(date)

From: (Rate/full name/class/SSN)

To: Navy Personnel Command (PERS-832 for Enlisted)/
(PERS-834 for Officers)

Via: Commanding Officer, (command)

Subj: REQUEST FOR DESIGNATION AS A CONSCIENTIOUS OBJECTOR

Ref: (a) MILPERSMAN 1900-020

1. I request (discharge -or- assignment to noncombatant services/duties) on the grounds of conscientious objection. The following required information is provided:

a. Permanent home address:

b. School and colleges attended after age 16:

<u>School Name/Address</u>	<u>Type School</u>	<u>Inclusive Dates</u>
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c. Chronological list of all compensated and uncompensated jobs held after age 16:

<u>Employer/Address</u>	<u>Type Work</u>	<u>Inclusive Dates</u>
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d. All residences after age 16:

<u>Address/City/State</u>	<u>Inclusive Dates</u>
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e. Spouse and member's parents' names/address and religion/sect (if deceased, so state):

f. I (made/did not make) application to the Selective Service System (local board) for classification as a conscientious objector prior to entry into the Armed Forces. (If application was made, list local board and decision made by the board - if known.)

g. A description of the nature of my belief: (Thoroughly explain the nature of the belief, which requires you to seek separation from the Navy or assignment to noncombatant services/duties by reason of conscientious objection.)

h. Explanation of how my belief changed/developed: (Includes factors (how/when/from whom/from what source training was received) and the beliefs acquired or which caused the change in or development of conscientious objector beliefs.)

i. Explanation of when and why these beliefs became incompatible with military service:

j. Explanation of the circumstances under which I believe in the use of force, under any foreseeable circumstances (if none, so state):

k. Explanation of how my current life style has changed as a result of my belief, and the future actions I plan to continue my support of these beliefs:

l. Explanation of what, in my opinion, most conspicuously demonstrates the consistency and depth of beliefs, which gave rise to this application:

m. Prior service (if any; if none, so state):

<u>Military Service</u>	<u>Inclusive Dates</u>	<u>Type Discharge</u>
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n. The following information is provided regarding my religious sect or organization:

<u>Religious Sect/ Organization</u>	<u>Name & Location of Governing Body/Head</u>	<u>Name & Location of Church, Congregation Customarily Attending</u>	<u>Level of Participation</u>
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Explain when, where, and how you became of member of said sect or organization.

o. Information on the pastor or leader of my (church, congregation, or meeting):

<u>Name</u>	<u>Title</u>	<u>Address</u>
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p. A description of the creed or official statements (if any, and if known) of said religious sect or organization in relation to participation in war:

NOTE: Members will submit a signed copy of the following privacy act statement with their application:

"THE AUTHORITY TO REQUEST THIS INFORMATION IS DERIVED FROM 50 U.S.C. 456j AND 38 U.S.C. 3103, AND 5 U.S.C. 301, DEPARTMENTAL REGULATIONS. THE PURPOSE OF THIS APPLICATION IS TO ALLOW THE MEMBER TO APPLY FOR CONSCIENTIOUS OBJECTOR STATUS. THIS APPLICATION IS COMPLETELY VOLUNTARY; HOWEVER, FAILURE TO PROVIDE THE REQUIRED INFORMATION WOULD RESULT IN AN INABILITY TO PROCESS THIS REQUEST AND THE MEMBER WOULD NOT BE ABLE TO RECEIVE THE REQUESTED STATUS."

q. A description of my relationship with and activities in all organizations with which I am or have been affiliated (since age 16), other than military, political, or labor organizations:

2. Enclosures (1) - () (as applicable) provide additional information, references, or official statements, which I desire you to consider in review of this application.

(Signature)

10. Required Interviews

a. A chaplain and psychiatrist or clinical psychologist, who are members of a regular or reserve component of any of the Armed Forces, will personally interview the applicant. A written report must be provided by both and attached as enclosures and part of the case file. If the applicant refuses to participate, is uncooperative, or unresponsive in the course of these interviews, this fact will be included in their statements.

b. The chaplain will provide opinion of the nature and basis of the applicant's claim, sincerity, and depth of conviction in the claim of conscientious objection, and a recommendation of disposition with the rationale for the conclusion.

c. The psychiatrist or clinical psychologist will provide a report or psychiatric disorders which would warrant treatment or disposition through medical channels or such personality disorder, which would warrant recommendation for appropriate administrative separation action. Comments concerning the sincerity or credibility of the applicant's claimed convictions may also be included.

d. Both interviewing officers will provide their personal impressions of the applicant, such as demeanor and manner in which they answer questions. Consideration should be given to all background information and any outward manifestations, which tend to support or rebut the applicant's claim.

e. Applicants should be carefully evaluated to ensure they are not objecting to military service solely on the basis of a false premise. (Example - applicant may state they cannot serve because they are opposed to murder, organized killing for the sake of ideology, military ventures to gain territory or national wealth, and similar reasons which they indicate to be policies of the Government or the Armed Forces). Political opposition to national policies is not necessarily an indication of an applicant's objection to war on a moral, ethical, or religious basis.

11. Investigating Officer

a. A lieutenant commander or above will be appointed, by the commanding officer (CO), as the Investigating Officer (IO). If not reasonably available, the CO may appoint a lieutenant, who in his opinion, is well-qualified by reason of age, education, training, experience, and length of service. The officer will not be in the immediate chain of command of the member, and will be senior to the applicant.

NOTE: The CO may appoint a judge advocate of the grade of lieutenant or above. (In this regard, the Naval Legal Service Office (NLSO) may provide on an "as available" basis a judge advocate to act as hearing officer).

b. The investigating officer

(1) may obtain guidance and assistance from the NLSO or command judge advocate.

(2) will conduct a hearing on the application to afford the applicant an opportunity to present any evidence desired in support of the application. This will help the hearing officer to ascertain and assemble all relevant facts to create a comprehensive record, and to facilitate an informed recommendation to the CO.

(3) will actively and critically examine the applicant's beliefs, and any failure or refusal to submit to questioning under oath or affirmation. Should the applicant fail to appear, the IO may proceed in the applicant's absence as the applicant is considered to have waived the right for appearance.

(4) will fully advise and counsel the applicant concerning the provisions of 38 U.S.C. 3103 which provides in pertinent part that the discharge of any person on the grounds of conscientious objection who refused to perform military duty, to wear the uniform, or otherwise to follow lawful orders of competent military authority shall bar all rights (except government insurance) of such personnel under laws administered by the Department of Veteran's Affairs (DVA) based upon the period of service from which discharged or dismissed. The only exception is in cases where it is established to the satisfaction of the DVA that the member was insane. Have the applicant sign the following NAVPERS 1070/613 entry (include in case file):

"(date): I have been advised of the provisions of 38 U.S.C. 3103 concerning possible non-entitlement to benefits administered by the Department of Veteran's Affairs (DVA) due to discharge from the military service as a conscientious objector under certain conditions. I understand that a discharge as a conscientious objector who refused to perform military duty or otherwise to follow lawful orders of competent military authority, shall bar all rights, based upon the period of service from which discharged, under any laws administered by the DVA except my legal entitlement (if any) to any war risk, government (converted), National Services Life Insurance (NSLI), or Serviceman's Group Life Insurance (SGLI)."

12. Documentation by the Investigating Officer (IO)

a. The IO will include his/her recommendations for disposition of the case and the rationale for such disposition. Subject to the provisions that an applicant claiming 1-0 status will not be granted 1-A-0 status as a compromise, the actions recommended will be limited to denial of any classification as a conscientious objector, classification as 1-A-0 conscientious objector, or classification as 1-0 conscientious objector.

b. Provide a written report summarizing the hearing. Indicate if member appeared at the hearing, if member had counsel present and if so, provide the counsel's identity, and whether the nature and purpose of the hearing was explained to the applicant. Provide conclusions regarding the underlying basis, sincerity, and depth of the applicant's conscientious objection and beliefs. Forward all documents considered and reviewed during the hearing.

c. The entire package will be forwarded to the CO, with a copy to the applicant and his/her counsel (if applicable). Have the applicant sign a statement per below, and include a copy of such statement with your report to the CO.

"(date): I received this date a copy of the record (as defined in MILPERSMAN 1900-020) of my conscientious objection hearing. I understand that I have the right to submit a written rebuttal to this record, provided my rebuttal is submitted to the investigating officer within 5 working days after this date. I (do/do not) desire to submit a rebuttal."

(Signature)

13. The Hearing

a. The hearing will be informal in character and the rules of evidence employed by court-martial do not apply, except that all oral testimony presented shall be under oath or affirmation. Any relevant evidence may be received. Statements obtained from persons not present at the hearing need not be made under oath or affirmation. The hearing is not an adversary proceeding.

b. A verbatim record of the hearing is not required. If the applicant desires such a record and agrees to provide it at their own expense, it may be done. If elected, a copy will be provided to the IO at the conclusion of the hearing and at no expense to the government. The IO will summarize the testimony of witnesses and permit the applicant or their counsel to examine the summaries and note for the record their differences from the IO's summary.

14. **Applicants' Rights at Hearing**

a. They are entitled, at their own expense, to be represented by counsel who shall be permitted to be present at the hearing, assist the applicant in the presentation of their case, and examine all items in the file.

b. They may submit additional evidence (including sworn/unsworn statements), and present witnesses in their own behalf; but they are responsible for securing their attendance. The installation or local commander shall render all reasonable assistance in making available witnesses requested by the applicant. The applicant is permitted to question any other witnesses who appear and to examine all items in the file.

15. **Commanding Officer's Responsibilities**

a. Review the record for completeness, and return to the IO for further investigation as necessary.

b. Forward completed case file to NAVPERSCOM (PERS-832 for Enlisted/PERS-834 for Officers) with CO's comments and recommendations. Comments are restricted to those matters contained in the record.

c. If the applicant's request is for assignment to noncombatant services/duties, provide a recommendation whether the applicant should be detailed to such assignment or training, and if so, whether they are qualified and desire assignment to the Hospital Corps or in the case of officers, to the Medical Corps/Medical Service Corps/Dental Corps/Nurse Corps. If the member does not desire such duties and training, or is not qualified, state whether their services can be used on board if assigned a Limited Duty Designator L-8.

d. Comments as appropriate on the member's rebuttal of the IO's investigation if applicable.

e. Upon receipt of the member's request, assign the member duties provided the minimum practicable conflict with their professed beliefs and require the member to maintain the same standards of performance and behavior as other members assigned. If member is under orders for transfer, they are required to carry out orders in effect at the time or subsequently received.

f. Inform all concerned, and NAVPERSCOM (PERS-832) if the member becomes the subject of disciplinary action, and outcome of such. If member will be receiving a court-martial, action of their request will be held in abeyance pending the outcome of such trial.

g. Administrative separations for any reasons other than Conscientious Objection take precedence over separation as a conscientious objector.

16. **Action by NAVPERSCOM**

a. When a determination that member's application meets the criteria of 1-0 classification, NAVPERSCOM (PERS-832/834) will direct member's discharge by reason of Convenience of the Government - Conscientious Objection.

b. Members classified as 1-A-0 will be reassigned to noncombatant training and services/duties as indicated below, or discharged from military service at the discretion of NAVPERSCOM (PERS-832/834). Members reassigned shall sign the NAVPERS 1070/613 entry for 1-A-0 induction under block "Procedures When Classified 1-A-0 Upon Induction". Add the following statement block above the member's signature.

c. "Privacy Act Statement: The authority to request this information is derived from 5 U.S.C. 301, Departmental Regulations. Purpose of this form is for member's acknowledgment of the conscientious objector status. Information is used to restrict member's reenlistment or extension of enlistment upon expiration of current enlistment. Completion of this form is mandatory, failure to provide the required information may result in not being designated as a conscientious objector."

d. Determination by NAVPERSCOM is final with respect to administrative separation. Personnel designated as conscientious objectors and retained in the service for

noncombatant training or services/duties will be assigned as follows:

(1) After completion of recruit training, enlisted or inducted members may be transferred to the Hospital Corps for further training provided they volunteer and meet the requirements. Qualified members previously classified 1-A-0 and subject to induction into certain staff corps and only with the approval of NAVPERSCOM (PERS-834). Such members shall not be allowed to avoid the important or hazardous duties, which are the responsibility of all members of the medical organization. Any member who does not meet the requirements for this training, who fails to complete the prescribed course of instruction, or who otherwise cannot be assigned to this training or duty, shall be employed in other noncombatant service/duties if retain in the naval service.

(2) If a member cannot be utilized in a noncombatant assignment, the CO shall report this fact to the cognizant personnel distributor who shall transfer the member to a noncombatant duty assignment.

17. **Characterization of Service**

a. Officers: Honorable

b. Enlisted: Honorable, unless a General (Under Honorable Conditions) or Entry Level Separation is warranted in MILPERSMAN 1910-300.