

This summary of the procedure for processing conscientious objector requests is not all-inclusive. Please consult MCO 1306.16E for specifics.

APPLICATION

Upon appropriate application for conscientious objector (CO) status, the applicant will be: (1) advised of the specific provisions of §3103 of Title 38, U.S. Code regarding the possible effect of discharge as a CO on VA benefits, and (2) required to sign the statement in enclosure (5).

INTERVIEWS

A chaplain shall personally interview the applicant and submit a written opinion, with reasoning, as to the nature and basis of the applicant's claim, sincerity and depth of conviction. A clinical psychologist or psychiatrist (or physician if neither is reasonably available) shall also interview the applicant and submit a written report of psychiatric evaluation indicating the presence or absence of any psychiatric disorder that would warrant treatment or disposition through medical channels, or such character or personality disorder as to warrant recommendation for appropriate administrative action.

INVESTIGATION, HEARING AND REPORT

The SPCMCA over the applicant will appoint a captain or higher, senior to the applicant and not in his chain of command, to investigate the application.

The investigating officer (IO) will conduct the investigation, hold a hearing, and prepare a report on the application. A copy of the IO's report will be provided to the applicant when forwarded to the SPCMCA. The investigation will afford the applicant an opportunity to present evidence in support of his application, enable the IO to ascertain and assemble all relevant facts to create a comprehensive record, and facilitate an informed recommendation by the IO and decision on the merits by higher authority.

The hearing is not governed by the rules of evidence except that testimony shall be taken under oath. The applicant is entitled to: (1) counsel at his own expense; (2) present witnesses; and (3) question other witnesses who appear and examine all items. The hearing is informal and not an adversary proceeding, and any relevant evidence may be received. If the applicant fails to appear or submit to questioning, such fact may be considered by the IO and the hearing may proceed in his absence.

A verbatim record is not required, but the applicant may provide for one at his own expense. In the absence of such, the IO will summarize the testimony of witnesses and permit the applicant or counsel to examine the summary and note differences.

The IO will prepare a written report containing:

- (1) a statement as to the applicant's appearance;
- (2) identification of counsel, if any, and whether the nature and purpose of the hearing were explained to and understood by the applicant;
- (3) any documents, statements and other material received during the investigation;
- (4) summaries of the testimony of the witnesses presented (or a verbatim record, if available);
- (5) a statement of the IO's conclusions with reasons as to the underlying basis of the applicant's conscientious objection and the sincerity of the applicant's beliefs.
- (6) the IO's recommendations for disposition of the case, including reasoning. The IO will recommend:
 - (a) Denial of any classification as a CO;
 - (b) Classification as 1-A-O CO; or
 - (c) Classification as 1-O CO.

ENDORSEMENT

When the IO's report is forwarded to the SPCMCA, the applicant will be provided a copy and informed of the right to submit a rebuttal within 7 days. The SPCMCA will review the report for completeness and legal sufficiency, and may return it to the IO for further investigation. The SPCMCA will send it, with personal recommendation for disposition and supporting rationale, via the chain of command to CMC(MM) for final determination. The SPCMCA's forwarding endorsement will include a statement from the applicant acknowledging receipt of a copy of the IO's report and will contain either a rebuttal or a statement that no rebuttal will be submitted. Each officer in the chain of command will provide specific recommendation. The applicant will have an opportunity to comment on or refute any additional information within 7 days.

Processing of an application need not be abated by UA status, disciplinary action or administrative separation proceedings subsequent to the initiation of the application.

Until CMC(MM) makes a final decision, every reasonable effort will be made to assign applicants to duties, which will conflict as little as possible with their asserted beliefs. Applicants will conform to the normal requirements of military service and perform such duties as assigned. Applicants may be disciplined for violations of the UCMJ while awaiting action on their applications.