



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON, DC 20350-3000

MCO 1306.16F
MPO
11 JUN 2013

MARINE CORPS ORDER 1306.16F

From: Commandant of the Marine Corps
To: Distribution List

Subj: CONSCIENTIOUS OBJECTORS

Ref: (a) MCO P1900.16F W/CH 2
(b) 38 U.S.C. Section 5303
(c) DOD Instruction 1300.06
(d) 50 U.S.C. APP 456(j)
(e) SECNAV M-5210.1

Encl: (1) Definitions
(2) Required Information to be Supplied by Applicants for Discharge or Noncombatant Service)
(3) Summary Sheet for Conscientious Objector Application
(4) Counseling Concerning Department of Veterans Affairs Benefits
(5) Sample Appointing Order
(6) Guide to the Investigating Officer
(7) Sample Investigating Officer's Report
(8) Counseling Concerning Designation as a Conscientious Objector
(9) Selective Service Procedures

1. Situation. Federal Law provides that those opposed to war for religious convictions will not be required to serve in combat.

2. Cancellation. MCO 1306.16E.

3. Mission. Provide current policy and procedures concerning conscientious objection applicable to all Marines.

4. Execution

a. Commander's Intent. Ensure Marines with deeply held convictions on opposition to participation in war in any form or

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the bearing of arms based on religious training and beliefs are afforded due process.

b. Concept of Operations

(1) Conscientious objection does not exempt a Marine from active military service. However, to preclude a conflict between the needs of the service and the desire to respect an individual's religious training and beliefs, no person with beliefs or convictions which would interfere with unrestricted assignments, regardless of Selective Service System classification, will be accessed into the Marine Corps.

(2) The person seeking Conscientious Objector status bears the initial responsibility of presenting evidence which demonstrates by a clear and convincing standard a sincere opposition to participation in war in any form based upon religious training and belief. The claimant must request either separation based on conscientious objection (1-0) or assignment to noncombatant training and service based on conscientious objection (1-A-0).

(3) A Marine who possesses qualifying beliefs which became fixed or crystallized before entering military service is not eligible for Conscientious Objector status.

(4) The administrative discharge of Marines prior to completion of an obligated term of service is at the discretion of the Commandant of the Marine Corps (CMC) based on the facts and circumstances of each case. Insofar as may be consistent with the effectiveness and efficiency of the Military Services, a request for classification as a conscientious objector and relief from or restriction of military duties in consequence thereof will be approved.

(5) Because of the personal and subjective nature of conscientious objection, the existence, honesty, and sincerity of asserted Conscientious Objector beliefs are difficult to determine using any set of rigid standards. Requests for discharge or assignment to noncombatant duties based on conscientious objection will, therefore, be handled on an individual basis with the final determination made per the facts and circumstances in the particular case and the policy and procedures set forth in this Order.

c. Criteria

(1) The criteria set forth in this Order provide guidance in considering applications for separation or for assignment to noncombatant duties based on Conscientious Objection.

(2) Consistent with the policy contained in the references and this Order, an application for classification as a Conscientious Objector may be approved for any individual:

(a) Who is conscientiously opposed to participation in war in any form;

(b) Whose opposition is based on religious training and/or belief; and

(c) Whose position is firm, fixed, sincere and deeply held.

(3) Religious Training and Belief

(a) The applicant may express the belief that forms the basis for the application on religious training and/or belief. However expressed, this belief must be the primary controlling force in the applicant's life and must be of the same strength and depth as found in traditional religious convictions.

(b) A primary factor is the sincerity with which the belief is held. Great care is needed in seeking to determine whether the asserted beliefs are honestly and genuinely held. Impartial evaluation of the applicant's thoughts and actions, both past and present, will help determine the sincerity of the claim. The applicant's actions in all aspects of life should be consistent with the stated beliefs. Information presented by the claimant can be sufficient to convince that the claimant's personal history reveals views and actions strong enough to demonstrate that the expediency or avoidance of military service is not the basis of the applicant's claim.

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

2. Relevant factors considered in determining an applicant's claim of conscientious objection include:

training in the home and religious organization; general demeanor and pattern of conduct; participation in religious activities; 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; credibility of the applicant; and credibility of persons supporting the claimant.

(c) Particular care must be exercised by individuals processing applications not to deny the existence of bona fide beliefs that are incompatible with their own.

1. Religious organization membership or adherence to particular theological tenets is not required to warrant separation or assignment to noncombatant training and service for Conscientious Objectors.

2. Mere affiliation with a religious organization or other group which advocates conscientious objection as a tenet of its creed is not necessarily determinative of an applicant's position or belief.

3. Conversely, affiliation with a religious organization or group which does not teach conscientious objection does not necessarily rule out adherence to conscientious objection beliefs in any given case.

4. Where an applicant is or has been a member of a religious organization and where the 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 religious organization, as well as the applicant's religious activity. However, the fact that the applicant may disagree with, or not subscribe to, some of the tenets of the religious organization does not necessarily discredit the claim. The personal convictions of an individual will be controlling as long as they derive from the individual's moral, ethical, or religious beliefs.

5. Moreover, an applicant who is otherwise eligible for Conscientious Objector status may not be denied that status simply because the conscientious objection influences the 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 applicant's actions both in word and deed. A recommendation for denial of a claimant's application should be made when it can be determined

that the sole basis for the claim rests upon political rather than religious, moral, or ethical beliefs.

(4) An applicant claiming 1-0 status should not be granted 1-A-0 status as a compromise. This does not prohibit the granting of 1-A-0 status when the record makes it clear that such a status is appropriate, notwithstanding the Marine's initial application.

(5) The provisions of the Order will not be used to affect the administrative separation of an applicant who does not qualify as a Conscientious Objector or in lieu of other administrative separation procedures set forth in reference (a). An applicant determined not qualified for Conscientious Objector status, but whose separation would otherwise appear to be in the best interest of the Marine Corps, should be considered applicable for administrative separation under the provisions of reference (a). If a negative recommendation to the applicant's claim for Conscientious Objector status is rendered, forwarding endorsements should not contain statements concerning the type of discharge the applicant desires or the previous nature of service.

d. Procedures

(1) Marines seeking separation or assignment to noncombatant duties because of conscientious objection will submit an application requesting such action. The application will state whether they are seeking a discharge or assignment to noncombatant duties and will include the following items:

(a) The personal information required by enclosures (2) and (3) of this Order.

(b) Any other items which the Marine desires to submit in support of the case.

(2) Before processing the application, the applicant will be advised of the provisions of reference (b) concerning Department of Veterans Affairs benefits and will be required to sign the statement appearing in enclosure (4) (VA benefits) of this Order.

(3) The applicant shall be personally interviewed by a chaplain who shall submit a written opinion as to; (1) the nature and basis of the applicant's claim, and (2) the applicant's sincerity and depth of conviction. The chaplain's report shall include specific reasons for the conclusions. The

chaplain should ensure that the applicant is made aware that the conversation is not privileged and will be used in an official report. In addition, the applicant will be interviewed by a clinical psychologist or psychiatrist (or a physician if neither of the preceding is reasonably available) who shall submit a written report of psychiatric evaluation indicating the presence or absence of any psychiatric disorder which would warrant treatment or disposition through medical channels, or such personality disorder as to warrant recommendation for appropriate administrative action. These reports will become part of the application. If the applicant refuses to participate or is uncooperative or unresponsive in the course of the interviews, this fact will be included in the statement and report filed by the chaplain and clinical psychologist or psychiatrist (or physician).

(4) The commander exercising Special Court-Martial jurisdiction over the applicant will appoint an officer in the grade of captain or higher, knowledgeable in the policies and procedures relating to Conscientious Objector matters, to investigate the applicant's claim. The investigating officer will not be an individual in the chain of command of the applicant. If the applicant is a commissioned officer, the investigating officer will be senior in both temporary and permanent grades to the applicant. Enclosure (5) is a sample Appointing Order.

(5) The investigating officer will conduct the investigation, hold a hearing on the application, and prepare the investigative report. This report, along with the individual's application, administrative documents, the chaplain's and doctor's reports, and any other items submitted by the applicant will constitute the record of the case. The investigating officer's recommendation will be based on the entire record and not merely on the evidence produced at the hearing. A copy of the investigating officer's report will be provided to the applicant when the record is forwarded to the commander who appointed the investigating officer. The applicant will be informed of the right to submit a rebuttal to the report within 7 days. The first forwarding endorsement will include a statement from the applicant acknowledging receipt of a copy of the investigating officer's report and will contain either a rebuttal to the report or a statement that no rebuttal will be submitted. Enclosure (6) is a guide to the investigating officer, and enclosure (7) is a sample Investigating Officer's Report.

(6) The record of the case will be forwarded to the commander who appointed the investigating officer. It will be reviewed for completeness and legal sufficiency by a judge advocate. If necessary, the case may be returned to the investigating officer for further action. When the record is complete, the commander will send it, with personal recommendation for disposition and supporting rationale, via the chain of command to CMC Manpower Management Division (MM) for final determination. Each officer in the chain of command will provide specific recommendation.

(7) The commanding general or commanding officer providing the final endorsement and recommendation will refer a copy of all material to be forwarded to CMC (MM) to the applicant. The applicant will be informed of the right to submit a rebuttal to the additional material within 7 days. On receipt of the applicant's statement or expiration of the 7-day period, the package will be endorsed either "Forwarded" or "Forwarded, no comments have been received" as appropriate.

(8) CMC (MM) has the authority to approve Conscientious Objector designation. In those cases where CMC (MM) determines that Conscientious Objector designation is not justified, CMC (MM) will forward the recommendation to the Secretary of the Navy (SECNAV) for final determination. Any additional information, other than the record of the case with endorsements, and the official service record of the applicant, which is adverse to the applicant, will be made part of the record, and the applicant will be given an opportunity to refute or comment on the material before a final decision is reached. The reason for an adverse decision will be made a part of the record and will be provided to the individual.

(9) Processing of applications can be suspended by the unauthorized absence of the applicant, by the institution of disciplinary action, or by administrative separation proceedings against the applicant. An applicant whose request for classification as a Conscientious Objector has been approved will not be discharged until disciplinary action has been resolved.

(10) Until a final decision is made by CMC (MM) or SECNAV, every reasonable effort will be made to assign applicants to duties within the command which conflict as little as possible with their asserted beliefs. Applicants will conform to the normal requirements of the command and perform satisfactorily such duties as they may be assigned. Applicants may be disciplined for violations of the Uniform Code of

Military Justice (UCMJ) while awaiting action on their applications.

(11) A Marine Reservist who applies for Conscientious Objector status will not normally be ordered to involuntary active duty until the application is resolved. Proper resolution of the application is best accomplished within the Reserve unit. During the period of application the provisions of paragraph d. (10) above apply. If a Reservist applies for Conscientious Objector status after notification of the commanding officer's intent to recommend involuntary active duty, and in the commanding officer's best judgment the application is without merit and simply a means to avoid involuntary active duty, the commanding officer may recommend to CMC Reserve Affairs (RA) that the application be held in abeyance, and the Marine ordered to active duty. When the Marine reports as ordered, the application may be renewed and processed under this Order.

e. Classification

(1) 1-0. An applicant requesting discharge, who is determined to be a 1-0 Conscientious Objector by CMC (MM), will be discharged "For the Convenience of the Government" with an entry in the service record and on the discharge document reflecting the reason for separation as conscientious objection. The type discharge issued will be based on the applicant's service record, and the provisions of reference (a). Pending separation, the applicant will continue to be assigned duties that provide the minimum practical conflict with the professed beliefs. The applicant will conform to the normal requirements of the command and perform satisfactorily those duties assigned. An applicant is still subject to the UCMJ while awaiting discharge per this Order. An applicant who is awarded a punitive discharge or who is properly processed for another type of administrative discharge, while awaiting final action on a Conscientious Objector application, will be given the punitive or other administrative discharge as appropriate.

(2) 1-A-0

(a) Applicants requesting assignment to noncombatant duties who are determined to be class 1-A-0 Conscientious Objectors will be reassigned to appropriate non-combatant duties, as indicated below, or discharged at the discretion of CMC. Applicants will execute the statement contained in enclosure (8) of this Order.

(b) Class 1-A-0 Conscientious Objectors, if retained in the service, will not be assigned to combat or combat support occupational fields. Instead, they will be assigned to appropriate duties, via on-the-job training, within the combat service support occupational fields.

(c) After receiving the appropriate military occupational specialty (MOS), Conscientious Objectors will be used in that MOS or in other duties consistent with the definition of noncombatant duties provided in this Order. Determination of these duties is the responsibility of the command to which the Conscientious Objector is assigned. Nothing in this Order precludes the assignment of Conscientious Objectors to operating force units, overseas, or in combat areas.

(d) The disposition of Marine officers classified as Conscientious Objectors will be determined by CMC (MM).

(3) Marines assigned noncombatant duties and those assigned normal duties, by reason of the disapproval of their application, will conform to the normal requirements of their command and perform assigned duties satisfactorily. Violations of the UCMJ by these members will be treated as in any other situation.

f. Selective Service System. Enclosure (9) contains procedures for processing application for Conscientious Objector status in cases involving the Selective Service System.

g. Promotion. Promotion of a Conscientious Objector is permitted provided the Marine is otherwise qualified. A Marine's status as a Conscientious Objector, in itself, will not affect promotion nor will special provisions in existing promotion procedures be established.

h. Leave. An applicant who has requested Conscientious Objector status, either 1-0 or 1-A-0, is not eligible for appellate leave pending resolution of the application. Annual leave may be granted per applicable directives.

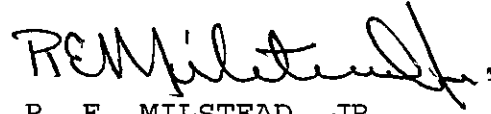
5. Administration and Logistics. Records created as a result of this Order shall be managed according to National Archives and Records Administration approved dispositions per reference (e) to ensure proper maintenance, use, accessibility and preservation, regardless of format or medium.

JUN 11 2013

6. Command and Signal

a. Command. This Order is applicable to the Marine Corps Total Force.

b. Signal. This Order is effective the date signed.



R. E. MILSTEAD, JR.
Deputy Commandant for
Manpower and Reserve Affairs

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DEFINITIONS

1. Conscientious Objection. A firm, fixed, and sincere objection to participation in war in any form or the bearing of arms, by reason of religious training and/or belief. Unless otherwise specified, the term "Conscientious Objector" includes both Class 1-0 and Class 1-A-0 Conscientious Objectors.

2. Conscientious Objector

a. Class 1-0 Conscientious Objector. A member who, by reason of conscientious objection, sincerely objects to participation in military service of any kind in war in any form.

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

3. Religious Training and/or Belief. Belief in an external power or "being" or deeply held moral or ethical belief, to which all else is subordinate or upon which all else is ultimately dependent, and which has the power or force to affect moral well-being. The external power or "being" need not be one that has found expression in either religious or societal traditions. However, it should sincerely occupy a place of equal or greater value in the life of its possessor. Deeply held moral or ethical beliefs should be valued with the strength and devotion of traditional religious conviction. The term "religious training and/or belief" may include solely moral or ethical beliefs even though the applicant may not characterize them as not religious. The term "religious training and/or belief" does not include a belief that rests solely upon considerations of policy, pragmatism, expediency, or political views.

4. War in Any Form. The term "war in any form" will be interpreted in the following manner:

a. Individuals who desire to choose the war in which they will participate are not Conscientious Objectors under the law. Their objection must be to all wars rather than a specific war;

b. A belief in a theocratic or spiritual war between the powers of good and evil does not constitute a willingness to participate in "war" within the meaning of this Order;

c. A willingness to use force to protect one's self, home, or family is not considered inconsistent with a conscientious objection to participation in wars.

5. Noncombatant Service or Noncombatant Duties

a. Service in any unit of the Armed Forces that is unarmed at all times.

b. Any other assignment, the primary function of which does not require the use of arms in combat, provided that such other assignment is acceptable to the individual concerned and does not require that individual to bear arms or to be trained in their use.

c. Service aboard an armed ship or aircraft or in a combat zone shall be considered to be non-combatant duty unless the individual concerned is personally and directly involved in the operation of weapons.

6. Noncombatant Training. Any training which is not concerned with the study, use, or handling of arms or weapons.

REQUIRED INFORMATION TO BE SUPPLIED BY APPLICANTS FOR DISCHARGE
OR NONCOMBATANT SERVICE

Each person seeking release from active service from the Marine Corps, or assignment to noncombatant duties, as a Conscientious Objector, will provide the following information in the format as shown below. The individual may submit such other information as desired.

A. General Information Concerning Applicant.

1. Full name
2. Selective service number (if applicable)
3. Service address
4. Permanent home address
5. Name and address of each school and college attended (after age 16) together with the dates of attendance and the type of school (public, church, military, commercial, etc.).
6. A chronological list of all occupations, positions, jobs, or types of work, other than as a student in school or college (after age 16), whether for monetary compensation or not. Include the type of work, name of employer, address of employer, and the from/to date for each position or job held.
7. All former addresses (after age 16) and dates of residence at those addresses.
8. Parent's names and address. Indicate whether they are living or deceased.
9. The religious denomination of both parents.
10. Was application made to the Selective Service System (local board) for classification as Conscientious Objector prior to entry into the Marine Corps? To which local board? What decision was made by the board, if known? If application was not made, explain why not.
11. During conscription, when the applicant has served less than 180 days in the Military, a statement by the applicant as to whether the applicant is willing to perform work under the Selective Service Alternative Service Program for Conscientious

Objectors if the applicant is eventually discharged as a Conscientious Objector. Also required is a statement from the applicant as to whether the applicant consents to the issuance of an order for such work by the local Selective Service Board.

B. Training and Belief

1. A description of the nature of the belief which requires the applicant to seek separation from the Marine Corps or assignment to noncombatant training and duty for reasons of conscience.

2. An explanation as to how the applicant's beliefs changed or developed, to include an explanation as to what factors (how, when, and from whom or from what source training received and belief acquired) caused the change in or development of conscientious objection beliefs.

3. An explanation as to when these beliefs became incompatible with military service, and why.

4. An explanation as to the circumstances, if any, under which the applicant believes in the use of force, and to what extent, under any foreseeable circumstances.

5. An explanation as to how the applicant's daily life style has changed as a result of the applicant's beliefs, and what future actions are planned to continue to support these beliefs.

6. An explanation as to what in the applicant's opinion most conspicuously demonstrates the consistency and depth of beliefs which gave rise to the claim.

C. Participation in Organizations

1. Information as to whether applicant has ever been a member of any military organization or establishment before entering upon the present term of service. If so, the name and address of such organization will be given together with reasons why the applicant became a member.

2. A statement as to whether applicant is a member of a religious organization or tradition. If so, the statement will show the following:

a. The name of the religious organization, and the name and location of its governing body or head, if known.

b. When, where, and how the applicant became a member of said religious organization.

c. The name and location of any religious organization, congregation, or meeting which the applicant customarily attends, and the extent of the applicant's active participation therein.

d. The name, title, and present address of the pastor or leader of such religious organization, congregation, or meeting.

e. A description of the creed or official statements, if any, and if they are known to the applicant, of said religious organization in relation to participation in war.

3. A description of applicant's relationship with and activities in all organizations with which the applicant is or has been affiliated, other than military, political, or labor organizations.

D. References

Any additional information; e.g., letters, references, official statements of organizations to which the applicant belongs or refers in the application that the applicant desires to be considered by the authority reviewing the application. The burden is on the applicant to obtain and forward such information.

SUMMARY SHEET FOR CONSCIENTIOUS OBJECTOR APPLICATION

		Print Form	
NAVMC 11868 (10-12) (EF) FOUO - Privacy sensitive when filled in.		BEFORE SIGNING THIS FORM, PLEASE READ, DATE AND SIGN THE PRIVACY ACT STATEMENT ON PAGE 2	
SUMMARY SHEET FOR REVIEW OF CONSCIENTIOUS OBJECTOR APPLICATION			
1. DATE OF APPLICATION		2. UNIT	
3. NAME AND GRADE		4. MOS	5. DATE OF BIRTH
6. MARITAL STATUS <input type="checkbox"/> M <input type="checkbox"/> S	7. SELECTIVE SERVICE SYSTEM NO. (IF CONSCRIPTED)	8. APPLICANT REQUESTS 1-0 DISCHARGE	
9. WILLING TO PERFORM ALTERNATE CIVILIAN SERVICE (IF CONSCRIPTED) <input type="checkbox"/> YES <input type="checkbox"/> NO	10. CIVILIAN OCCUPATION		11. PEBD
12. DATE ENTERED ACTIVE DUTY	13. MONTHS OF ACTIVE DUTY	14. EAS	
SAMPLE			
15. DECORATIONS, COMMENDATIONS			
16. APPLICANT'S RELIGION			
WITNESS' SIGNATURE		APPLICANT'S SIGNATURE	
DATE:			

FOR OFFICIAL USE ONLY

Reset Form

Adobe LiveCycle Designer 9

NAVMC 11868 (10-12) (EF), Page 2
FOUO - Privacy sensitive when filled in.

PRIVACY ACT STATEMENT	
In accordance with the Privacy Act of 1974 (Public Law 93-579), this notice informs you of the purpose for collection of information on this form. Please read it before completing the form.	
AUTHORITY: 10 U.S.C. 5041, Headquarters, Marine Corps; 42 U.S.C. 10606 as implemented by DoD Instruction 1030.1, Victim and Witness Assistance Procedures; and E.O. 9397 (SSN).	
PRINCIPAL PURPOSE: To assist officials and employees of the U.S. Marine Corps in the management, supervision, and administration of Marine Corps personnel (officer and enlisted), and the operations of related personnel affairs and functions. The information collected on this form will be filed within a Privacy Act Systems of Records collection governed by Privacy Act System of Records Notice M01070-6, which can be downloaded at http://dpelo.defense.gov/privacy/SORNS/component/usmc/M01070-6.html	
RETENTION AND SAFEGUARDS: Official Military Personnel File records are permanent. Records of Marines who separated, retired, or whose military service obligation expired prior to 1 January 1998 are maintained at the National Personnel Records Center, 9700 Page Avenue, St Louis MO 63132-5100. The records of Marines with remaining military service obligation or contractual obligations after 31 December 1997 are maintained at Headquarters, U.S. Marine Corps, U.S. Marine Corps (Code MMSB), 2008 Elliot Road, Quantico, VA 22134-5030.	
Permanent records are transferred to the National Archives and Records Administration (NARA) 62 years after the completion of the service member's obligated service.	
For Official Military Personnel File records of Marine Corps members in the regular or reserve components as of 1 January 1998 or those members who separated, retired, or died while in service, in the year 1998 or later are maintained at the National Personnel Records Center, Military Personnel Records Branch, 9700 Page Avenue, St. Louis, MO 63132-5100.	
Records are maintained in secure, limited access, or monitored areas. Physical entry by unauthorized persons is restricted through the use of locks, guards, passwords, or other administrative procedures. Access to personal information is limited to those individuals who require the records to perform their official assigned duties.	
ROUTINE USES: To various officials outside the Department of Defense specifically identified as a Routine Use in Privacy Act System of Records Notice M01070-6 for the stated specific purpose in addition to those set out in the blanket routine uses established by the Department of Defense Privacy Office and posted at http://www.defenselink.mil/privacy/notices/blanket-uses.html .	
DISCLOSURE: Providing information on this form is voluntary. If information is not furnished, applicant may not receive the sought for status.	
STATEMENT OF UNDERSTANDING	
I have read and understand this statement. I understand that I will have the opportunity to review the completed investigation before it is submitted to the convening authority.	
DATE:	SIGNATURE:

FOR OFFICIAL USE ONLY

Reset Form

COUNSELING CONCERNING VETERANS ADMINISTRATION BENEFITS

I have been advised of the provisions of 38 U.S.C. Section 5303 concerning possible non-entitlement to benefits administered by the Department of Veterans Affairs due to discharge from the military service as a Conscientious Objector under certain conditions. I understand that a discharge as a Conscientious Objector, who refuses to perform military duty or refused to wear the uniform or otherwise to comply with 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 Department of Veterans Affairs except my legal entitlement (if any) to any war risk Government (converted) or veterans life insurance.

WITNESS' SIGNATURE

APPLICANT'S SIGNATURE

SAMPLE APPOINTING ORDER

[HEADING]

From: Commanding Officer
To: Captain _____ USMC

Subj: INVESTIGATION TO INQUIRE INTO THE APPLICATION FOR
CONSCIENTIOUS OBJECTOR STATUS 1-0/1-A-O; CASE OF LANCE
CORPORAL _____ USMC

Ref: (a) MCO 1306.16F
(b) MCO P1900.16F

1. Effective this date, Captain _____, United States Marine Corps, is appointed as Hearing Officer, for the purpose of conducting an investigation, per the provisions contained in references (a) and (b), to inquire into all the circumstances connected with the claim of Lance Corporal _____ as a Conscientious Objector.

2. You are to review the regulations as set forth in references (a) and (b) and afford the applicant every right and assistance as set forth therein. After conducting a thorough investigation into all the facts concerning this case and holding a hearing as set forth in reference (a), you will submit your report and documentation to this Headquarters, with conclusions and recommended disposition.

//Signature//

GUIDE TO THE INVESTIGATING OFFICER

1. On being appointed to investigate a claim of conscientious objection, the investigating officer will become familiar with this Order, and as necessary, obtain legal advice from the local staff judge advocate or legal officer.

2. The investigating officer must keep in mind that the final decisions will be made without the benefit of observing either the applicant or any of the witnesses. With this in mind, every effort should be made to compile as thorough and clearly written record as possible.

3. As part of the investigation, the investigating officer will seek information from commanders, supervisors, co-workers, clergy, friends, records, and any other sources which may contribute to the final recommendation. Information so obtained will be presented to the applicant at the hearing. At a minimum, the investigating officer should include in the investigative report, and should present to the applicant at the hearing, the results of the investigating officer's conversations with the applicant's immediate work supervisor, immediate commanding officer, at least two individuals who are billeted with the applicant, if available, and the investigating officer's views on whether the service record book of the applicant contains information which either supports or tends to contradict the applicant's claim of conscientious objection.

4. The investigating officer will conduct a hearing on the application. The purpose of the hearing is to afford the applicant an opportunity to present any evidence desired in support of the application; to enable the investigating officer to ascertain and assemble all relevant facts; to create a comprehensive record; and to facilitate an informed recommendation by the investigating officer and an informed decision on the merits of the application by higher authority.

a. If applicants desire, they shall be entitled to be represented by counsel, at their own expense, who shall be permitted to be present at the hearing, assist applicants in the presentation of their cases, and examine all items in the file.

b. Should applicants refuse to make a statement, orally or in writing, during the conduct of the hearing, they will submit a signed statement in their own handwriting that they have been afforded the opportunity to appear in person at the hearing with

counsel retained by them, if desired, and that they refuse to make a statement.

c. In this regard, any failure or refusal of the applicant to submit to questioning under oath or affirmation before the investigating officer may be considered by the officer making a recommendation and evaluation of the applicant's claim.

d. If applicants fail to appear at the hearing without good cause, the investigating officer may proceed in their absence and the applicants will be deemed to have waived their appearance.

e. The hearing will be informal in character and will not be governed by the rules of evidence employed by courts-martial, 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.

f. Commanders will render all reasonable assistance in making all members of their command, requested by the applicant, available as witnesses.

g. A verbatim record of the hearing is not required. If applicants desire such a record and agree to provide it at their own expense, they may do so. A verbatim record must be submitted in typewritten form, identifying the persons making each question, response, or statement. Tape recordings and other electronic or mechanical recordings are not acceptable as a verbatim record. If applicants elect to provide such a record, they shall make a copy thereof available to the investigating officer, at no expense to the Government, at the conclusion of the hearing. In the absence of a verbatim record, the investigating officer will summarize the testimony of witnesses and permit the applicant and counsel to examine the summaries and note for the record their differences with the investigating officer's summary. Copies of statements and other documents received in evidence will be made a part of the hearing record. The investigating officer has the responsibility for authenticating the hearing record, and that version is final as to the record of the testimony of the witnesses.

5. At the conclusion of the investigation, the investigating officer will prepare a written report which will contain the following:

a. A statement as to whether the applicant appeared, whether the applicant was accompanied by counsel and, if so, the latter's identity, and whether the nature and purpose of the hearing were explained to the applicant and understood.

b. A statement as to whether the applicant was advised of the right to have a verbatim record of the hearing, at own expense, and whether the applicant chose to or chose not to have a verbatim record of the hearing.

c. Any documents, statements, and other material received during the investigation. These documents should include certified copies of pages 3, 5, 6, 8, 11, and 12 of the applicant's service record book.

d. Summaries of the testimony of the witnesses presented.

e. A statement of the investigating officer's conclusions as to the underlying basis of the applicant's conscientious objection and the sincerity of the applicant's beliefs, including the reason for such conclusions and the facts upon which they were based. The investigating officer should establish the presence/absence of the basic criteria listed in paragraph 4c of this Order.

f. The investigating officer's recommendation for disposition of the case, including the reasons therefore (ensure compliance with paragraph 4d of this Order). The actions recommended will be limited to the following:

(1) Denial of any classification as a Conscientious Objector; or

(2) Classification as 1-A-0 Conscientious Objector; or

(3) Classification as 1-0 Conscientious Objector.

g. In the preparation of the investigative report, the investigating officer must keep in mind that bare conclusions regarding a particular applicant, the credibility, the sincerity or any other relevant factor, are of minimal assistance in reaching a determination whether to approve a particular application at the HQMC level. The investigating officer should set forth observations, including a detailed statement of the

efforts expended in investigating the application, to assist the ultimate decision maker in considering the application for conscientious objector status.

h. The investigating officer's report, along with the individual's application, the chaplain's and doctor's report, and any other items submitted by the applicant in support of the case will constitute the record. The investigating officer's conclusions and recommended disposition will be based on the entire record and not merely on the evidence produced at the hearings. A copy of the report will be furnished to the applicant at the time it is forwarded to the commander who appointed the investigating officer, and the applicant will be informed of the right to submit a rebuttal to the report within 7 days. The convening authority's forwarding endorsement will include a statement from the applicant acknowledging receipt of a copy of the investigating officer's report and contain either a rebuttal to the investigating officer's report or a statement that no rebuttal will be submitted. See enclosure (8) for Sample Investigating Officer's Report.

SAMPLE INVESTIGATING OFFICER'S REPORT HEADING

N O T I C E - This sample is provided as a guide to the preparation of your report. It reflects the factual detail necessary to support logical conclusions. The evidence presented must support your recommendation for approval or disapproval of the application. Your recommendations will be based upon appropriate regulations and your perception of the applicant's beliefs.

From: Captain _____ USMC
To: Commanding Officer, _____, MCB, Camp Pendleton,
California 92055

Subj: REVIEW OF REQUEST FOR CONSCIENTIOUS OBJECTOR STATUS;
CASE OF LANCE CORPORAL _____ USMC

Ref: (a) MCO 1306.16F

Encl: (1) Commanding Officer, _____, Appointing Order
(2) General Information Sheet and Request for Discharge
as a Conscientious Objector
(3) Chaplain's Interview dtd _____
(4) Record of Psychiatric Examination dtd _____
(5) Letter from _____ dtd _____
(6) Letter from _____ dtd _____
(7) Certified Copies of Lance Corporal _____
service record book, pages 3, 5, 6, 8, 11, and 12

1. Pursuant to enclosure (1) and paragraph 4 of the reference, a hearing of the subject application was conducted at _____ (time/date). Present at the hearing were the applicant and the hearing officer, Captain _____, USMC. (Name all witnesses here.)

2. Applicant was advised of rights and examined all documents or information relevant to the application and reviewed enclosures (2) through (7) for content and accuracy.

3. The applicant was advised of right to counsel and expressed understanding of the right to have an attorney present but desired to proceed with the hearing without counsel.

4. The applicant was advised of the right to have a verbatim transcript of the hearing at applicant's own expense. The applicant was further advised that unless a qualified recorder was provided at the applicant's expense, the hearing would

proceed and the hearing officer's version would be final as to testimony taken at the hearing. The applicant acknowledged understanding this right, the legal effect of proceedings without a recorder and that the applicant wished to waive the right to verbatim transcripts. The applicant was advised that the hearing could be continued to another date if additional time was needed to obtain either counsel or a recorder. Lance Corporal _____ again waived the right to an attorney or a verbatim record. The applicant was also advised and acknowledged understanding the possible effects of discharge as a Conscientious Objector.

5. Lance Corporal _____ was thoroughly advised of the nature and purpose of the hearing, and I am satisfied that the applicant understood the advice.

6. This report is submitted pursuant to paragraph 4d of the reference. The applicant was advised of the right to call witnesses or present other supporting evidence as desired. The applicant was also advised that a delay in the hearing to produce such witnesses could be obtained. Lance Corporal _____ desired to make a sworn statement on the (his/her) behalf and answer the questions of the hearing officer (but) and did (not) submit (any) additional evidence nor did the applicant call any other witnesses. (Name witnesses here.) The statements contained in enclosures (2) through (7) were also considered by the hearing officer in conjunction with the hearing.

7. A hearing was conducted in _____ in conference room on (date) between the hours of ___ and ___. During the hearing, the applicant expressed the reasons why a discharge was sought from the U.S. Marine Corps. The statement was (was not) in consonance with opinions and background provided in enclosure (2). In summary (carefully summarize all evidence and the testimony of each witness, for it is upon this information that the applicant's case will be decided).

8. Opinion and Conclusions. I have arrived at the following opinions and conclusions as a result of the hearing conducted on (date) and based on review of the reference. I consider Lance Corporal _____ (not) to be a Conscientious Objector within the meaning of definition provided in the reference. SET FORTH SPECIFIC RECOMMENDATIONS. EACH RECOMMENDATION SHOULD BE SUPPORTED BY SPECIFIC EVIDENCE OR TESTIMONY CITED ABOVE.

9. Based on the foregoing, I recommend that the applicant's petition for discharge based on conscientious objection be approved/disapproved.

10. I certify that I have, this date, delivered to the applicant a copy of the record of the case, as it now exists, per paragraph 4.d.5 of the reference, and that the applicant has been informed that 7 days from this date a rebuttal of the record must be submitted to the convening authority, if desired. (The convening authority's subsequent forwarding endorsement on the record pursuant to paragraph 4.d.6 of the reference, should include a signed statement from the applicant acknowledging receipt of a copy of the investigating officer's report with either a rebuttal to the report or a statement that no rebuttal will be submitted.)

X. X. XXXXXXXXXXXXX

COUNSELING CONCERNING DESIGNATION AS A CONSCIENTIOUS OBJECTOR

I have been counseled concerning designation as a Conscientious Objector. Based on my religious, moral or ethical training, and/or belief, I consider myself to be a Conscientious Objector within the meaning of statute and regulations governing Conscientious Objectors and am conscientiously opposed to participation in combatant duties for the remainder of my term of service. I fully understand that on expiration of my current term of service I am not eligible for voluntary enlistment, reenlistment, or active service in the Armed Forces.

WITNESS' SIGNATURE

APPLICANT'S SIGNATURE

DATE

SELECTIVE SERVICE PROCEDURES

1. No Marine whose beliefs existed before service is eligible for classification as a Conscientious Objector if they failed to request classification from, or if a request for classification was denied by the Selective Service System.
2. CMC (MM) will be notified when an inducted Marine:
 - a. Claims to have been classified as a Conscientious Objector by the Selective Service System, but records do not so indicate; or
 - b. Claims to have been erroneously denied Selective Service System classification as a Conscientious Objector.
3. In either case, CMC (MM) will contact the Selective Service System to resolve the conflict.
4. Pending this resolution, the commanding general of the recruit depot will assign the Marine to a regular recruit platoon, and the Marine will participate in all recruit training except that about the use or handling of weapons.
5. If the Marine's claim is true, Headquarters Marine Corps will select either separation as an erroneous enlistment or assignment to noncombatant duties based on the specific circumstances of the case.
6. If the claim is untrue, Headquarters Marine Corps will notify the Marine through the commanding general of the recruit depot, and the Marine will return to full training.