

## § 75.8

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will be governed by the applicant's general military record and the pertinent provisions of part 41 of this title. The Director of the Selective Service System will be promptly notified of the discharge of those who have served less than one hundred and eighty (180) days in the Armed Forces. Pending separation, the applicant will continue to be assigned duties providing the minimum practicable conflict with his professed beliefs and will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which he is assigned. Applicants may be disciplined for violations under the Uniform Code of Military Justice while awaiting discharge.

(b) Applicants requesting assignment to noncombatant duties who are determined to be class 1-A-O conscientious objectors by the military department shall be (1) assigned to noncombatant duty as defined in § 75.3, or (2) discharged from military service or released from active duty, at the discretion of the military department. Each applicant will be required to execute the statement in § 75.11.

(c) Persons who are assigned to noncombatant duties, and persons who are assigned to normal military duties by reason of disapproval of their applications, will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which they are assigned. Violations of the Uniform Code of Military Justice by these members will be treated as in any other situation.

### § 75.8 Claims of erroneous induction.

(a) This section applies to any individual who claims that he is a conscientious objector and was either erroneously inducted, or erroneously assigned to combatant training or duty, for any of the following reasons:

(1) Although determined to be a conscientious objector by a local board or appellate agency of the Selective Service System, his records failed to reflect classification as such.

(2) He was denied a significant procedural right in the classification process by the Selective Service System.

(3) Despite actual classification as a conscientious objector properly reflected in his records, he was neverthe-

less erroneously inducted, or assigned to combatant training or duty.

Claims based on alleged erroneous determinations made on the merits of the case by the Selective Service System are not covered by this section. (See § 75.4.)

(b) Claims covered by paragraph (a) of this section will be referred to the Selective Service System without delay for investigation and ascertainment of the facts. Communication will be transmitted to the National Headquarters, Selective Service System, Washington, DC 20435.

(1) If the Selective Service System advises that induction was in fact erroneous under paragraph (a)(1) or (a)(3) of this section, the claimant will be separated or assigned to noncombatant duties depending upon whether he was classified 1-O or 1-A-O.

(2) If the Selective Service System advises that there was in fact a denial of a right or a significant procedural error in the evaluation of a claim under paragraph (a)(2) of this section, the induction will be considered erroneous and the individual discharged.

(3) If the Selective Service System advises that any claim under paragraph (a) of this section is unfounded or makes a final determination adverse to any claim, the claimant will be so informed and returned to general duty.

(c) Pending investigation and resolution of all claims covered by this section, a claimant will be assigned to duties which conflict as little as practicable with his asserted beliefs, insofar as is consistent with the effectiveness and efficiency of the military forces.

### § 75.9 Required information to be supplied by applicants for discharge or noncombatant service.

Each person seeking release from active service from the Armed Forces, or assignment to noncombatant duties, as a conscientious objector, will provide the information indicated below as the minimum required for consideration of his request. This in no way bars the military departments from requiring such additional information as they desire. The individual may submit such other information as desired.

(a) *General information concerning applicant.* (1) Full name.

(2) Military serial number; and social security account number.

(3) Selective service number.

(4) Service address.

(5) Permanent home address.

(6) 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.).

(7) 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.

(8) All former addresses (after age 16) and dates of residence at those addresses.

(9) Parents' names and addresses. Indicate whether they are living or deceased.

(10) The religious denomination or sect of both parents.

(11) Was application made to the Selective Service System (local board) for classification as a conscientious objector prior to entry into the Armed Forces? To which local board? What decision was made by the Board, if known?

(12) When the applicant has served less than one hundred and eighty (180) days in the military service, a statement by him as to whether he is willing to perform work under the selective service civilian work program for conscientious objectors, if discharged as a conscientious objector. Also, a statement of the applicant as to whether he consents to the issuance of an order for such work by his 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 military service or assignment to noncombatant training and duty for reasons of conscience.

(2) An explanation as to how his 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 devel-

opment 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 lifestyle has changed as a result of his beliefs and what future actions he plans to continue to support his beliefs.

(6) An explanation as to what in applicant's opinion most conspicuously demonstrates the consistency and depth of his beliefs which gave rise to his 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 his present term of service. If so, the name and address of such organization will be given together with reasons why he became a member.

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

(i) The name of the sect, and the name and location of its governing body or head, if known.

(ii) When, where, and how the applicant became a member of said sect or organization.

(iii) The name and location of any church, congregation or meeting which the applicant customarily attends, and the extent of the applicant's active participation therein.

(iv) The name, title, and present address of the pastor or leader of such church, congregation or meeting.

(v) A description of the creed or official statements, if any, and if they are known to him, of said religious sect or organization in relation to participation in war.

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

(d) *References.* Any additional information, such as letters of reference or

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official statements of organizations to which the applicant belongs or refers in his application, that the applicant desires to be considered by the authority reviewing his application. The burden is on the applicant to obtain and forward such information.

### § 75.10 Statement (counseling concerning Veterans Administration benefits).

I have been advised of the provisions of 38 U.S.C. 3103 concerning possible nonentitlement to benefits administered by the Veterans Administration 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 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 Veterans Administration except my legal entitlement (if any) to any war risks, government (converted) or National Service Life Insurance.

### § 75.11 Statement (counseling concerning designation as conscientious objector).

I have been counseled concerning designation as a conscientious objector. Based on my religious training and belief, I consider myself to be a conscientious objector within the meaning of the statute 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. 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.

## PART 77—PROGRAM TO ENCOURAGE PUBLIC AND COMMUNITY SERVICE

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APPENDIX A TO PART 77—DD FORM 2580, OPERATION TRANSITION DEPARTMENT OF DEFENSE OUTPLACEMENT AND REFERRAL SYSTEM/PUBLIC AND COMMUNITY SERVICE INDIVIDUAL APPLICATION

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APPENDIX B TO PART 77—DD FORM 2581, OPERATION TRANSITION EMPLOYER REGISTRATION

APPENDIX C TO PART 77—DD FORM 2581-1, PUBLIC AND COMMUNITY SERVICE ORGANIZATION VALIDATION

AUTHORITY: 10 U.S.C. 1143 (c).

SOURCE: 59 FR 40809, Aug. 10, 1994, unless otherwise noted.

### § 77.1 Purpose.

This part implements Pub. L. 102-484, Section 4462 and Pub. L. 103-160, Section 561 by establishing policy, assigning responsibilities, and prescribing procedures to:

(a) Encourage and assist separating Service members, Service members retiring with 20 or more years of service, DoD civilian personnel leaving the Government, and spouses to enter public and community service employment.

(b) Encourage and assist Service members requesting retirement with fewer than 20 years of service to register for public and community service employment.

### § 77.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, and the Defense Agencies (hereafter referred to collectively as “the DoD Components”). The term “Military Services,” as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

(b) All active duty Service members and former members under Pub. L. 102-484, Section 4462 and Pub. L. 103-160, Section 561, and DoD civilian personnel leaving the Government, and their spouses.

### § 77.3 Definitions.

(a) *Community service employment.* Work in nonprofit organizations that provide or coordinate services listed in paragraphs (d) (1) through (12) of this section. “Nonprofit” is defined as having been recognized by the Internal Revenue Service as having a tax-exempt status under 26 U.S.C. 501 (c)(3) or (c)(4). These organizations shall not be administered by businesses organized