

## Military Conscientious Objection Current Policy Vs. Proposed Law

	<b>Current Military Policy</b>	<b>Military CO Act</b>
<b>Statutory Right</b>	Current policy can be suspended at any time. This policy was included in the “stop-loss” orders issued in the 1 <sup>st</sup> Gulf War in 1991.	Will be added as law to the United States Code. Pentagon will not have the authority to suspend.
<b>Extended CO Rights</b>	CO is defined as one who opposes “war in any form”	Will include saying, “oppose...to any participation in a particular conflict.” Most major religious bodies subscribe to this viewpoint.
<b>Notice of Intent</b>	If a claimant notifies his/her command of intention of filing a CO claim, he/she can be ordered to prepare and file a claim overnight or within days. Does not allow for the gathering of support statements and witnesses.	Claimant can file a notice of intent at which point he/she has forty-five days to submit a completed CO claim.
<b>Time Frame</b>	There is no set time frame for processing a claim. Process usually takes over six months to one year or more.	If the set guidelines are followed the maximum amount of time to reach a decision will be little over five months. But could take as little as two months.
<b>Burden of Proof</b>	Rests solely on the claimant. Even a valid CO claim can be denied on any basis. The lowest standard of evidence at law, applies.	Rests equally on the claimant and the military. While the claimant has to show clear and convincing evidence of his/her beliefs. The Military also must show clear and convincing evidence of insincerity for denial.
<b>Sincerity and Sanity</b>	The claimant must go through a psychiatric interview to ensure his/her sanity, and a chaplain interview to ensure sincerity.	No such interviews are required, although the claimant may include statements from a chaplain or a psychiatrist. If the claimant’s application meets the standards, the claim will be established as a <i>prima facie</i> case for discharge.

<b>While in Process</b>	“To the extent practicable” the claimant can be assigned to duties that complies the most with his/her beliefs. Claimants can be disciplined for violations of the UCMJ (i.e. disobeying an order to fire a weapon, etc). Also required to comply with active duty or transfer order (i.e. deployment)	Held at the base until claim is decided. If the claim is submitted while in the field, the applicant is returned to the original duty station. The applicant is assigned to duties that do not conflict with the claimed beliefs about participation in war: no weapons training or use, nor involvement in handling or shipping weapons.
<b>Investigating Officer (IO)</b>	Investigating Officer can file a report and a recommendation, the CO file moves through the chain-of-command to headquarters. Even with a positive IO recommendation, the claim can be denied.	If the CO claim is sustained by the IO’s investigation, the IO has the authority to make the decision for discharge or reassignment.
<b>Review Panel</b>	No review panel exists.	If the IO finds clear and convincing evidence that might prove the applicants insincerity, the case is referred to an adjudication panel, which holds final administrative authority.
<b>Review Panel (Members)</b>	No such panel exists.	The panel consists of a military officer, a civilian with a graduate degree in religion, ethics, or philosophy, or who is a member of the clergy with similar training and a civilian administrative law judge, who will chair the panel.
<b>Review Panel (Time Frame)</b>	No such panel exists	The panel has 45 days after the IO's decision to convene a public hearing. After the IO presents evidence to the panel, the applicant has 15 days to provide a rebuttal or submit a waiver. The panel has 30 days to issue a decision.
<b>Access to Federal Courts</b>	A denied claimant can file a writ of <i>habeas corpus</i> for judicial review.	Remains the same.

Prepared by:  
Center on Conscience & War  
Ph: 202-483-2220  
[www.CenterOnConscience.org](http://www.CenterOnConscience.org)