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COUNSELING THE SELECTIVE SERVICE REGISTRANT*

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INTRODUCTION

There has been a significant increase in draft counseling in recent years. The majority of the counseling of registrants has been done by volunteers on college and university campuses and by a small number of attorneys. While both groups have made attempts to reach all registrants, the overall effect of these programs has been to provide effective counseling to upper and middle income registrants. This shifts the burden of draft liability to members of minority groups and low income registrants who cannot afford to pay for counseling, or are unaware that these programs are available. It is hoped that this handbook will serve both as a guide for the draft counselor and a vehicle through which more effective advice may be made available to minority and low income registrants.

The Selective Service System is an organization established to execute a policy of involuntary service in the Armed Forces of the United States. A major portion of its effort is expended administering a complex body of rules designed to determine who should be inducted, and in what order.

It cannot be overemphasized that a large portion of the complexity of the system is due to authority to administer the rules being vested in some 4,100 independent local boards, and the fact that these rules are almost constantly being revised. This handbook is an attempt to present the rules in such a manner that a counselor or registrant with no legal training will be able to determine the applicability of any particular rule to a specific individual's circumstances, and to plan a course of action on that determination.¹

The appendix to this handbook includes an information questionnaire, the format of which may be used by counselors to obtain all necessary information from the registrant; sample letters which may be used as a guide for the registrant in his correspondence with the Selective Service System; a budget checklist which will aid those seeking a hardship deferment in

¹ For a discussion of the legal status of the lay draft counselor see Comment, *Counseling Draft Resistance*, 78 YALE L.J. 1008 (1969).

presenting a thorough claim; and a medical checklist which is intended to help the registrant avoid overlooking medical problems.

Certain problems of highly limited applicability have been omitted in the interest of clarity and brevity. For the most part these concern groups which are already well educated in the procedures applicable to their specific situations.

A great number of young men who are inducted each year against their wishes could have avoided or postponed military service if they had access to competent counseling. The most important single piece of advice to be given to young men is to follow procedural requirements of the selective service law. If the local board makes a mistake it may usually be corrected. If the registrant makes a mistake he may find himself precluded from challenging a determination of the Selective Service System due to his failure to exhaust his remedies.²

The order of classifications are as follows:

- I-A Available for military service. Reg. 1622.10.
- I-A-O Conscientious Objector available for noncombatant military service only. Reg. 1622.11.
- I-O Conscientious Objector available for civilian work, contributing to the maintenance of the national health, safety or interest. Reg. 1622.14.
- I-S High school or college student deferred by statute. Reg. 1622.15.
- I-Y Registrant not eligible for a lower class who would be qualified for military service in time of war or national emergency. Reg. 1622.17.
- II-A Occupational deferment. Reg. 1622.22.
- II-C Agricultural deferment. Reg. 1622.24.
- II-S College student deferment. Reg. 1622.25, 1622.26.
- I-D Member of reserve component or student taking military training. Reg. 1622.13.
- III-A Registrant deferred by reason of extreme hardship to dependents. Reg. 1622.30.
- IV-B Officials deferred by law. Reg. 1622.41.
- IV-C Aliens. Reg. 1622.42.
- IV-D Minister of religion or divinity student. Reg. 1622.43.
- IV-F Registrant not qualified for any military service. Reg. 1622.44.
- IV-A Registrant who has completed service, or sole surviving son. Reg. 1622.40.
- V-A Registrant over the age of liability for military service. Reg. 1622.50.

² Tigar, *Selective Service: Some Certain Problems and Some Tentative Answers*, 37 GEO. WASH. L. REV. 510, 531-32 (1969). *E.g.*, in the past a registrant's failure to report for induction limited his defenses in a criminal prosecution. 50 U.S.C. § 460(b)(3) (Supp. V 1965-69). This rule was relaxed in *United States v. McKart*, 395 U.S. 185, 2 SSLR 3023 (1969), where the Court held that a registrant who had failed to report

- I-W Conscientious objector performing civilian work contributing to the maintenance of the national health, safety or interest. Reg. 1622.16.
- I-C Member of the Armed Forces of the United States, the Environment Science Services Administration, or the Public Health Service. Reg. 1622.12.

Registrants seeking any classification other than I-A should observe the following rules scrupulously:³

1. Keep copies of everything sent to your local board. Keep everything you receive from your local board.
2. Make all requests, appeals, etc., in writing. Protect yourself further by using certified mail, return receipt requested. Staple the receipt to your copy of the communication.
3. Accept no oral promises from draft board clerks or members. Follow printed instructions on forms and notices explicitly; secure competent counsel if you do not understand the instructions, or if you cannot conscientiously follow them.
4. Present as full a case as possible to your draft board, even if you think it is hopelessly hostile to you and intends to disregard whatever you or your witnesses may say. Do not omit any relevant points in hearings or correspondence with your board. They may later prove to be the basis for setting aside an action of the board.
5. Observe deadlines, especially on appeals. Report changes of address promptly, lest you miss a notice which may have to be appealed. Appeal everything you find unacceptable, even if you do not seem to have grounds at the time. It is sufficient if you merely write the date on a piece of paper and the words "I request a personal appearance" or "I appeal" and sign your name. Such evidence of an appeal may mean the difference between losing and winning a case.
6. If away from home (as on vacation) arrange either to have your mail forwarded promptly or opened for you. More appeals and hearings are for-

for induction could raise a procedural defense if he was entitled to a statutory deferment. Further, in *United States v. Prescott*, 301 F. Supp. 1116, 2 SSLR 3172 (1969) the court declared that the defense could be raised in a conscientious objector claim, even though the registrant had failed to report for induction. *See also* *United States v. Lemmens*, 430 F.2d 619, 3 SSLR 3185 (7th Cir. 1970). It should be noted that these cases turn on their facts and no general rule can yet be stated as to what defenses will be permitted for failure to report for induction. For a discussion of refusing induction see SSLR Practice Manual ¶ 2402-04. *The Selective Service Law Reporter* is a compilation of documents and cases dealing with all aspects of Selective Service law, and is available at all law libraries.

³ Adapted from CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS, *HANDBOOK FOR CONSCIENTIOUS OBJECTORS* 7-8 (10th ed. 1970). The *Handbook* can be obtained from CCCO, 2016 Walnut Street, Philadelphia, Pennsylvania 19103 for \$1.00.

feited through delayed forwarding or opening of mail than for any other reason. If abroad, give your board an address.

7. If in doubt, get help.

I. DUTY TO REGISTER

Every male who attains the age of eighteen years, and is not yet twenty-six, has a duty to register within five days at a local board having jurisdiction over his permanent home or in whose jurisdiction he may happen to be on any of the days fixed for his registration.⁴

Failure to register is a serious offense and is punishable by a prison term of up to five years.⁵ This article does not purport to deal with the advisability of knowingly failing to register, nor with the risks involved in such a plan.

II. FORM 100 QUESTIONNAIRE

A registrant is entitled to the lowest classification which he can claim, with I-A-O considered the highest and I-C the lowest.⁶ The burden of proving eligibility for a deferment falls upon the registrant, since he will always be classified I-A (available for induction) unless he establishes his right to a lower classification.⁷

After registration, the registrant will be required to fill out SSS Form 100 Classification Questionnaire. The information called for on this form will be used by the local board in determining the registrant's classification.⁸ Each section of the Questionnaire contains questions designed to establish whether the registrant is entitled to a specific deferment or exemption. In some cases the board bases its determination solely on the information provided by Form 100, and in others, supplementary questionnaires are necessary.

Series I: Identification.

The questions in this series are self-explanatory. The most important question deals with the registrant's current mailing address. The registrant must use an address at which he is certain to receive mail promptly. In many cases it is most convenient for the registrant to receive mail at his

⁴ 32 C.F.R. § 1611.1 (1970). Presidential Proclamation No. 2799, 2 U.S. CODE CONG. SERV. 2577, 80th Cong., 2d Sess., 1948.

⁵ Military Selective Service Act of 1967 § 12(a), 50 U.S.C. § 462(a) (Supp. V 1965-69). The Supreme Court, however, has held that a person who has failed to register may be prosecuted for that offense only until he is twenty-three years and six days of age. *United States v. Toussie*, 397 U.S. 112, 2 SSLR 3451 (1970). In a 5-3 decision the Court held that failure to register for the draft is a complete crime five days after the registrant turns 18. After the fifth day the statute of limitations runs for five years. The concept of a continuing crime was rejected. The dissent suggested that the crime is a continuing one until the registrant turns 26, and that the statute of limitations runs for another five years until the registrant is 31 years old.

⁶ 32 C.F.R. § 1623.2 (1970).

⁷ 32 C.F.R. §§ 1622.10, 1623.2 (1970).

⁸ 32 C.F.R. § 1623.1(b) (1970).

parents' address until he establishes a residence which is likely to be more permanent than theirs. He must notify his local board whenever his mailing address changes.⁹

Series II: Military Record.

Normally in a counseling situation the registrant doesn't have a military record. If he does, the questions should be answered.

Series III: Marital Status and Dependents. Series IV: Registrant's Family.

These two sections may be conveniently considered together. The answers the registrant provides may be used as the foundation for a hardship deferment claim. The registrant is asked his marital status; all relevant information should be noted. He should list every person who is dependent upon him. If he runs out of space he should not hesitate to attach additional papers as necessary. He should list all of his children whether or not they are legitimate. If the registrant intends to request a hardship deferment he should ask the board to send him Form 118 Dependency Questionnaire. Instructions on how to fill out Form 118 are given in this article at section IV(C)(1).

Series V: Occupation. Series VI: Agricultural Occupation.

Occupational and agricultural deferments have been abolished for all new registrants.¹⁰ Thus, for all practical purposes men registering for the draft at eighteen will be unable to qualify for II-A occupational or II-C agricultural deferments. However, this amendment does not preclude registrants from claiming II-A deferments if they are in apprenticeship or technical training programs, or enrolled in community or junior colleges.¹¹ If the registrant is enrolled in such a training program he should attach proof. Series V & VI should be filled out in any event if the registrant intends to seek a hardship deferment.

Series VII: Minister or Student Preparing for the Ministry.

Those registrants attending divinity school will usually be advised of their rights by the school. However, the deferment is not limited only to ministers of orthodox faiths, nor is it limited to ministers who practice and preach in an orthodox manner.¹² Door to door and street corner preaching have

⁹ 32 C.F.R. § 1641.3 (1970).

¹⁰ Exec. Order No. 11527, 35 Fed. Reg. 6571 (1970).

¹¹ *Id.*

¹² *Dickinson v. United States*, 346 U.S. 389 (1953) (Jehovah's Witness). See generally Comment, *Ministerial Exemption from Selective Service System*, 19 SYRACUSE L. REV. 996 (1968); Comment, *Discrimination Caused by Lack of Standards in Student Ministerial Draft Classifications*, 1969 UTAH L. REV. 239.

been held to be included within the definition of a minister.¹³ The registrant need not have had orthodox training nor attended seminary or divinity school.¹⁴ To be qualified for the IV-D deferment he must teach and preach the principles of his sect, as well as conduct public worship in some form.¹⁵

In order to qualify, the registrant's religious activities must be his vocation.¹⁶ There is no definite standard as to the number of hours per month he must spend in ministry. Cases have held that 100 hours per month should be spent in his ministerial activities.¹⁷ A registrant, however, is not required to derive his sole financial support from his ministry.¹⁸

To document his claim the registrant should obtain letters from members of his church or sect. Letters from such people as the president of his church should be written on the church's letterhead, if possible. The registrant should also supply any evidence in the form of affidavits, certificates and supporting letters which he can obtain.

Series VIII: Conscientious Objection to Participation in War in Any Form.

For many this is the most difficult question to answer on the form. It requires a registrant to formulate a position that will affect his entire life.

If the registrant feels that he may be a conscientious objector, he should sign Series VIII. The board will then send him SSS Form 150,¹⁹ which is the basic form used in claiming conscientious objector status.²⁰ If the registrant does not sign Series VIII he may still request Form 150 at a later date, but the board will consider any such request as a late claim, and will tend to regard it suspiciously. The registrant should not be deterred from making his views known on Form 150 at age eighteen, since he may add to his file at any time, allowing him to refine and strengthen his claim.²¹

¹³ *United States v. Cheeks*, 159 F. Supp. 328 (D. Md. 1958) (Jehovah's Witness); *Pate v. United States*, 243 F.2d 99 (5th Cir. 1957) (Jehovah's Witness).

¹⁴ *United States v. Stepler*, 258 F.2d 310 (3d Cir. 1958) (Jehovah's Witness); *Pate v. United States*, 243 F.2d 99 (5th Cir. 1957) (Jehovah's Witness); *Niznik v. United States*, 184 F.2d 972 (6th Cir. 1950) (Jehovah's Witness); *United States v. Kezmes*, 125 F. Supp. 300 (W.D. Pa. 1954) (Jehovah's Witness). Cf. *Barr v. Weise*, 412 F.2d 338 (1969) (Minister of Church of Scientology granted Army discharge).

¹⁵ *Dickinson v. United States*, 346 U.S. 389, 395 (1953) (Jehovah's Witness).

¹⁶ 32 C.F.R. § 1622.43(b) (1970).

¹⁷ *Pate v. United States*, 243 F.2d 99 (5th Cir. 1957). But see *United States v. Kenstler*, 250 F. Supp. 833 (W.D. Pa. 1966), *aff'd* 377 F.2d 559 (3d Cir. 1967) (suggested 160 hours a month, or 40 hours a week). See also *Wiggins v. United States*, 261 F.2d 113 (5th Cir. 1958) (40 hours a month approved for IV-D classification).

¹⁸ *Dickinson v. United States*, 346 U.S. 389 (1953); *Hacker v. United States*, 215 F.2d 575 (9th Cir. 1954).

¹⁹ 32 C.F.R. § 1621.11 (1970).

²⁰ Details for filling out the Form 150 can be found in *The Handbook for Conscientious Objectors*.

²¹ While it is nowhere specifically stated in the Regulations, a registrant may send material relevant to his classification to his local board for inclusion in his file at any time.

The registrant's conscientious objector claim will not be considered until his other deferments run out,²² and early filing may help to create a favorable impression of the registrant's sincerity.²³ Conscientious objection is discussed more fully in the Deferments section of this handbook.

Series IX: Education.

The information the registrant provides in this series will be used to determine whether the registrant is entitled to a I-S, II-S, or II-A deferment as a high school, junior college, or college student, or as an enrollee in a qualified apprenticeship or training program. For the specific qualifications necessary for these deferments, refer to the Deferments section of this handbook.

Series X: Aliens.

Unless he is within a small category of exempted aliens, every male alien who is between eighteen and twenty-six years old must register within six months from the date of his arrival, or if entry is made before his eighteenth year, within five days after he reaches eighteen.²⁴ The exempted category includes aliens in the United States on student visas, aliens connected with embassies in the United States and certain other foreign representatives.²⁵

Permanent resident aliens and temporary visa aliens who have spent more than one cumulative year in the United States will be classified and inducted on the same basis as citizens.²⁶ Temporary visa aliens who have not spent one cumulative year in the United States will be classified IV-C, which is a deferred category.²⁷

Temporary visa aliens who have spent more than one cumulative year in the United States may file SSS Form 130 with their local board and receive a IV-C classification.²⁸ In addition, permanent resident aliens from certain countries may now file Form 130 and receive a IV-C deferment,²⁹ how-

²² 32 C.F.R. § 1623.2 (1970).

²³ HANDBOOK FOR CONSCIENTIOUS OBJECTORS, *supra* note 3.

²⁴ 32 C.F.R. §§ 1611.1, 1611.5 (1970).

²⁵ 32 C.F.R. § 1611.2(a)(9), (b) (1970). This section should be checked carefully to determine if the exception exists, however from a counseling standpoint they are of little importance.

²⁶ 32 C.F.R. § 1622.42(a) (1970).

²⁷ *Id.*

²⁸ 32 C.F.R. § 1622.42(b) (1970).

²⁹ Local Board Memorandum [hereinafter L.B.M.] 16 ¶ 6(e) (1968). L.B.M.'s may be found in the SSLR. *Iztcovitz v. Selective Service Board Number 6*, 301 F. Supp. 168, 2 SSLR 3255 (S.D.N.Y. 1969), *appeal dismissed*, 422 F.2d 828 (2d Cir. 1970), settled a controversy between the Selective Service System and the Attorney General over whether permanent resident aliens could be exempted from military training and service by completing Form 130. The court held that the opinion of the Attorney General, 42 OP. ATT'Y GEN. NO. 28 (1968), was correct and that aliens could be exempted if they came from a treaty country contained in L.B.M. 16, notwithstanding the fact that

ever the consequences of filing Form 130 must be noted. An alien who files Form 130 is thereafter ineligible for United States citizenship.³⁰ Alien registrants are advised not to rely on filing Form 130 in order to obtain a deferment due to the rather harsh consequences which may follow.

Alien registrants from certain countries which have mutual defense arrangements with the Department of State are eligible for a IV-A classification if they have served in the armed forces of their own country for at least eighteen months.³¹ The countries are listed in Local Board Memorandum No. 76, and include Mexico and many Latin American countries.³² An alien registrant who leaves the United States will be classified IV-C, but may be prosecuted on his return and reclassified if he is in violation of selective service law.³³ Persons with a IV-C classification are not otherwise subject to induction.³⁴ Aliens who do not receive IV-A or IV-C classifications are eligible for all other classifications on the same basis as citizens.³⁵

Series XI: Physical Condition.

The registrant should use this series to note any disease or physical defect which he feels may disqualify him from classification in class I-A. Before answering the questions in this section the registrant should study the Army Regulation on physical and mental fitness.³⁶ The counselor can help the registrant by questioning him, using the Medical Checklist provided in the appendix.³⁷

When answering the questions as to physical condition the registrant should be as specific as possible. If he knows the medical description of a condition from which he suffers, he should explain it in medical terms. This focuses attention on the specific problem and provides a strong record on which to later challenge a determination of physical fitness.

Series XII: Court Record.

The registrant must list all crimes and other offenses of which he has been

L.B.M. 16 held that they could not. The countries listed in L.B.M. 16 include Argentina, Costa Rica, Honduras, Paraguay, Ireland and China.

³⁰ 8 U.S.C. § 1426(a) (1964). *Lapnieks v. Immigration and Naturalization Service*, 389 F.2d 343, 1 SSLR 3076 (9th Cir. 1968). *See also* *Loos v. Immigration and Naturalization Service*, 407 F.2d 651, 2 SSLR 3258 (7th Cir. 1969). *But see* *Moser v. United States*, 341 U.S. 41 (1951).

³¹ 32 C.F.R. § 1622.40(a)(4) (1970).

³² L.B.M. 76 (1963).

³³ 32 C.F.R. § 1622.42(c) (1970).

³⁴ 32 C.F.R. § 1622.42 (1970).

³⁵ 32 C.F.R. § 1622.42(a) (1970).

³⁶ AR 40-501, ch. 2 (1969). Army Regulations may be found in the *Selective Service Law Reporter*, and can also be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

³⁷ Counselors should also check L.B.M. 78 (1970) which lists obvious medical disqualifying conditions.

convicted. Those convicted of certain classes of crimes will be given a IV-F classification and disqualified from military service unless the disqualification is waived by the Army.³⁸

A registrant who has been convicted by a non-military court, or who has had a record of adjudication adverse to him by a juvenile court, of a felony is normally unacceptable for service.³⁹ If the maximum confinement under local law exceeds one year, the offense will normally be treated as a felony.⁴⁰

A record of misdemeanors may disqualify a registrant for military service.⁴¹ The Regulations specify that he will not be disqualified "solely on the basis of conviction or adjudication for such offenses."⁴² In such cases the registrant may be approved or disapproved for induction by the U. S. Army Recruiting District Commander. If the registrant demonstrates "frequent difficulties with law enforcement agencies, criminal tendencies, a history of antisocial behavior, alcoholism, drug addiction, sexual misconduct, questionable moral character, or traits of character which make him unfit to associate with other men" he will be found unacceptable.⁴³ These defects, however, may also be waived by the District Commander.

Registrants on parole, probation, suspended sentence, or conditional release from any terms of confinement are disqualified.⁴⁴ If it is an unconditional suspended sentence or unconditional probation the defect may be waived.⁴⁵ Cases of unconditional suspended sentence or unsupervised unconditional probation for minor traffic offenses or minor non-traffic offenses require no waivers.⁴⁶ Almost any offense may be waived by the Army Command, resulting in the registrant being found acceptable for service.⁴⁷ Furthermore, it appears that the registrant has little control over this procedure, since determinations are made largely on the basis of public records. He should therefore not rely on a criminal record alone as a basis for disqualification.

Series XIII: Sole Surviving Son.

The registrant must state whether he

is the sole surviving son of a family of which the father or one of more sons or daughters were killed in action or died in line of duty while serving in the Armed

³⁸ AR 601-270 ¶ 3-9a, SSLR Practice Manual 2240 (1969).

³⁹ *Id.*

⁴⁰ For a list of felonies see AR 601-270, Appendix W-4, SSLR Practice Manual 2300:4 (1969).

⁴¹ AR 601-270 ¶ 3-9(b), SSLR Practice Manual 2240 (1969).

⁴² AR 601-270 ¶ 3-9(b)(2), SSLR Practice Manual 2240-41 (1969).

⁴³ AR 601-270 ¶ 3-9(b)(1), SSLR Practice Manual 2240 (1969).

⁴⁴ AR 601-270 ¶ 3-9(d)(1), SSLR Practice Manual 2241 (1969).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Hearings on S. 39 Before the Subcomm. on Administrative Practice and Procedure of the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess., App. I-A at 601.

Forces of the United States, or subsequently died as a result of injuries received or disease incurred during such service.⁴⁸

A registrant who qualifies as a sole surviving son is entitled to a IV-A exemption.

The question remains as to the registrant's status when his mother remarries. Even if male children are born of this marriage some authorities take the view that the registrant's status should not change, because the registrant remains the sole surviving son of his natural parents.⁴⁹ The Selective Service System, however, takes the position that if male children are born of the new marriage, the registrant is no longer the sole surviving son; this ruling also states, however, that the existence of a step-brother from a prior marriage would not change the registrant's status as a sole surviving son.⁵⁰ A registrant who already qualifies for an exemption as a sole surviving son does not lose his exemption because his other parent dies.⁵¹

It should also be noted that the registrant must claim his status as a sole surviving son prior to induction. Failure to state his claim before induction may amount to a waiver of that claim.⁵²

III. THE RIGHT TO APPEAL

The registrant starts his journey in the appeal process when he receives his SSS Form 110 Notice of Classification⁵³ and SSS Form 217 Advice of Right to Personal Appearance and Appeal. The registrant will be classified by his local board on the basis of the information in his file.⁵⁴ Thus, the importance of filling out SSS Form 100 carefully and of providing supporting evidence cannot be overemphasized.

In the typical case, the registrant will be classified I-A by his board. He has thirty days in which to initiate the appellate process.⁵⁵ The thirty day period begins on the date of mailing stamped on the SSS Form 110.⁵⁶ Correspondence with the Selective Service should be sent in on the next to the last day possible if the registrant feels that it will be to his advantage to delay the determination of his case. Delay is often desirable since a subsequent court decision may alter selective service policy to his benefit or he may reach age twenty-six before receiving an induction order.

⁴⁸ 32 C.F.R. § 1622.40(a)(10) (1970).

⁴⁹ 2 COUNTERDRAFT 4 (1970). Counterdraft is a newsletter for draft counselors, and may be obtained from P.O. Box 74881, Los Angeles, Calif. 90004.

⁵⁰ See generally *Id.* at 4, where a letter by Colonel Charles R. Fox, Chief Communications and Record Division of the National Headquarters of the Selective Service System to a registrant claiming to be a sole surviving son is discussed.

⁵¹ *McKart v. United States*, 395 U.S. 185, 2 SSLR 3023 (1969).

⁵² *Pickens v. Cox*, 282 F.2d 784 (10th Cir. 1960).

⁵³ 32 C.F.R. § 1623.4 (1970).

⁵⁴ 32 C.F.R. § 1623.1(b) (1970).

⁵⁵ 32 C.F.R. §§ 1624.1(a), 1626.2 (1970).

⁵⁶ L.B.M. 72 (1962).

The registrant has an opportunity to appear personally before his board after he has received an adverse classification.⁵⁷ On or before the thirtieth day from the date of mailing the registrant must send his request for a personal appearance and appointment with a government appeal agent (see Letter #1 in the appendix) to his board by certified mail, return receipt requested, and keep a copy for his own use. After receipt of the request for personal appearance, the board should notify the registrant of the date and time of his appointment with a government appeal agent and the date and time of his scheduled appearance.⁵⁸ The copy and receipt can be used to show that the registrant complied with the law. In the event his board loses or misplaces his request, he will have proof of his actions, thus protecting his rights.

A. *The Government Appeal Agent*

The registrant is entitled to the services of a government appeal agent.⁵⁹ The agent's duty is to advise the registrant of his rights, and he may appeal on behalf of the registrant.⁶⁰ The registrant should keep in mind that the agent has what is legally known as a dual fiduciary obligation. He must serve both the registrant and the Selective Service System, and this situation may lead to a conflict of interests.⁶¹ This means that the registrant must be careful in what he discusses with the agent. He should not disclose confidential information or draft counseling tactics.

When the registrant sees the agent, he should discuss the requisite elements of the classification he is trying to obtain. After the interview, the registrant should *immediately* write down all the information that was given to him and what was discussed with the agent. "Immediately" means before the registrant starts to go home from the interview.

When the registrant gets home he should revise his notes into a neat summary. This summary should be mailed to the board soon afterward for inclusion in his file.

⁵⁷ 32 C.F.R. § 1624.1(a) (1970).

⁵⁸ Selective Service Form 218. Many boards have begun to allow registrants to make appointments with government appeal agents themselves, instead of assigning the dates and times.

⁵⁹ L.B.M. 82 (1967). L.B.M. 82 was rescinded November 2, 1970, leaving unclear the extent of the registrant's rights to consult with a government appeal agent. Registrants should continue to request this service in any event. For the period that L.B.M. 82 was in effect failure to notify a registrant of his right to the services of a government appeal agent is a valid defense to a charge of refusing induction. *United States v. Davis*, 413 F.2d 148, 2 SSLR 3170 (4th Cir. 1969).

⁶⁰ 32 C.F.R. § 1604.71(d)(1)-(3) (1970).

⁶¹ See *United States v. Weller*, 309 F. Supp. 50, 56, n.4 (N.D. Cal.) *appeal docketed*, 39 U.S.L.W. 3019 (U.S. July 14, 1970) (No. 1082, 1969 term; renumbered No. 77, 1970 term).

B. *The Personal Appearance*

After meeting with the government appeal agent, the registrant may appear before his local board. The registrant has an unqualified right to a personal appearance.⁶² At this appearance the registrant should be prepared to present his claim. The regulations provide that a registrant may not be represented by counsel at a personal appearance.⁶³ He may find himself appearing before an individual member, some members, or all the members of the board.⁶⁴ The regulations provide that the registrant may request that a friend be allowed to appear with him or in his behalf. Approval is discretionary with the board.⁶⁵ If the registrant cannot speak English, he may bring an interpreter.⁶⁶ It is important that all documents pertaining to the registrant are in his file when the board reviews his case. The registrant should bring with him any additional letters or documents which might influence the board's decision.

When the registrant appears before the member(s) of the board, he should introduce himself and ask their names so he will be able to respond to them personally. He should have a brief summary of his case to give each member. There is no guarantee that the members of the board will have read, or will be familiar with his file. The summary should list all the main points of his claim, including any past history of appearances before the board and the facts on which he is basing his claim.

The board may ask questions, or may expect the registrant to do most of the talking. To prepare himself for the experience the registrant should have his counselor or friends assume the role of the draft board members and ask him hypothetical questions based on his claim before the date of his personal appearance.

The board will not usually inform the registrant of its decision on his claim while he is appearing before them. He will be notified by mail as to a favorable or unfavorable classification. As the registrant will normally not know what the decision will be, he must make a summary of the appearance immediately after he finishes seeing the board, much the same as he does with the appeal agent. This summary should be included in his file as soon as possible.

⁶² 32 C.F.R. § 1624.1(a) (1970). The registrant is not under a duty to attend the personal appearance. 32 C.F.R. § 1624.2(a) (1970). Absence without explanation, however, should be avoided.

⁶³ *But see* United States v. Weller, 309 F. Supp. 50 (N.D. Cal. 1970). Weller dealt with the question of whether a registrant had the right to bring counsel with him to a personal appearance. The local board denied the request, relying on 32 C.F.R. § 1624.1(b) (1970). The court concluded that to deny the registrant the right to bring counsel to the personal appearance would be a denial of due process. *See also* Note, 10 WM. & MARY L. REV. 721 (1969).

⁶⁴ 32 C.F.R. § 1624.1(a) (1970).

⁶⁵ 32 C.F.R. § 1624.1(b) (1970).

⁶⁶ *Id.*

After the personal appearance, a majority of the board must decide on the registrant's claim.⁶⁷ In either event the local board is required to send the registrant a "Notice of Classification".⁶⁸

If the registrant misses his appointment with a government appeal agent or an appearance before the local board for a legitimate reason, his board may postpone the appointment or, in some cases, reschedule the personal appearance. The chances of the latter are not very good. Past experience in California indicates that boards will usually reschedule an appointment with a government appeal agent, but will not reschedule a personal appearance with the board unless a compelling reason can be shown.

If the registrant is unable to reschedule his personal appearance and fails to appear, the board will usually send him a "Notice of Classification" as if the personal appearance took place.⁶⁹

C. *The State Appeal Board*

The next step taken by the unsuccessful registrant is to appeal the decision of his local board to the state appeal board.⁷⁰ The registrant is allowed no personal appearance before the state appeal board. This is a *de novo* review.⁷¹ The state board goes over the registrant's file and determines the registrant's proper classification.⁷²

Within thirty days after the date of mailing stamped on the "Notice of Classification" the registrant must request an appeal and should request another appointment with the government appeal agent.⁷³ A request to speak to the agent affords the registrant an opportunity to make sure all the information necessary for his claim is contained in the file. Further, he can use the interview to clear up any points in his file that might seem, to the state appeal board, to be unfavorable. The registrant can also ask the agent to write a letter in support of his claim. A letter by the government appeal agent in support of the registrant's claim will be very helpful in urging the

⁶⁷ 32 C.F.R. § 1604.56 (1970).

⁶⁸ 32 C.F.R. § 1624.2(d) (1970).

⁶⁹ There is no procedure in the Regulations for the local board to consider the registrant's claim if he does not attend his personal appearance.

⁷⁰ 32 C.F.R. §§ 1626.1-1626.61 (1970).

⁷¹ *United States v. Verbeek*, 423 F.2d 667 (9th Cir. 1970).

⁷² 32 C.F.R. §§ 1626.23, 1626.26(a) (1970).

⁷³ 32 C.F.R. § 1626.2 (1970). Letter #4 in the appendix may be used for this purpose. Some boards have taken the position that the registrant is only entitled to see the appeal agent once. This position would seem to be in conflict with the notice on the back of Form 110 Notice of Classification which tells the registrant that the appeal agent is "available to advise you of your rights . . ." The registrant should be aware of the possibility that his board may refuse to grant a second appointment with the appeal agent.

state appeal board to reverse the local board's decision.⁷⁴

There is no formal provision for postponing mailing of the file to the state appeal board until the registrant has discussed the appeal with the agent, however it is a good idea to request such a delay because it will ultimately delay final disposition of the registrant's claim, and delay usually works to the benefit of the registrant.

After the registrant receives his new I-A following his personal appearance, he should appeal and request to see his file before it is sent to the state appeal board in order to determine the reasons his local board turned him down.⁷⁵ A carefully documented rebuttal should be written setting forth, point-by-point, how the board "erred".⁷⁶ By including his summary and rebuttal in the file, the state appeal board will be placed on notice of a possible erroneous classification.⁷⁷ It has been held that this summary and rebuttal could be considered as competent evidence at a later trial.⁷⁸

It cannot be overemphasized that the state appeal board looks only at what is in the file. Any information supporting the registrant's claim must be in the file before it is sent to the state appeal board.

D. The Presidential Appeal Board

Last in the chain of appellate boards is the presidential appeal board. To be permitted to appeal directly to the presidential appeal board the registrant must have had a dissenting vote from one member of his state appeal board.⁷⁹ For all practical purposes this problem rarely arises since the state appeal board usually "rubber stamps" the local board's decisions without dissent. As a practical matter, appeals may also reach this board as a result of pressure from state or national Directors of Selective Service,⁸⁰ members of Congress and others.

E. Preinduction and Postinduction Reopening

When all of his appellate rights are exhausted there is still another possible avenue for the unsuccessful registrant.

In *Mulloy v. United States*⁸¹ the Supreme Court of the United States held that the local board must reopen the registrant's classification when the registrant presents a nonfrivolous claim of facts not previously considered by

⁷⁴ 32 C.F.R. § 1626.2(b) (1970).

⁷⁵ 32 C.F.R. § 1670.8 (1970).

⁷⁶ 32 C.F.R. § 1626.12 (1970).

⁷⁷ For an informative discussion of the importance of the registrant's summary, see J.B. Tietz, *Selective Service Litigation*, 16 AM. JUR. TRIALS § 52 (1969).

⁷⁸ *O'Brien v. Resor*, 423 F.2d 594, 2 SSLR 3567 (4th Cir. 1970).

⁷⁹ 32 C.F.R. § 1627.3 (1970).

⁸⁰ 32 C.F.R. § 1627.1(a) (1970).

⁸¹ *Mulloy v. United States*, 398 U.S. 410, 3 SSLR 3011 (1970).

his local board which, if true, would warrant a new classification. To be considered, the facts must not be conclusively refuted by the other information contained in the registrant's file. Though *Mulloy* applied to preinduction reopenings, a few courts have extended the application to postinduction reopenings.⁸² It should be stressed that information submitted to the board does not have to be completely new, but may merely show an aggravation of circumstances which were considered at the time of the board's previous decision. For example, if the registrant's father or mother died after he had lost his appeal for a student or apprenticeship deferment, and he then became responsible for the support of the family, he could request the board to reopen and consider this information in a request for a hardship deferment. If the registrant originally sought a hardship deferment, but his case was not strong enough, later developments which strengthen the claim could be used to request a reopening.

In the event the registrant is under an induction order, the changes must have resulted from circumstances over which he had no control in order to be sufficient to reopen the classification.⁸³ In a hardship case, death of a parent, serious illness in the family, or reduction in family income or support would qualify as circumstances over which the registrant had no control.⁸⁴ Such a change would require the board to reopen the classification if the registrant's claim on its face met the qualifications of the deferment or exemption.⁸⁵

Once the local board has reopened the registrant's classification, the appeal process begins anew.⁸⁶

F. Transferring the Personal Appearance and Appeal

A problem frequently encountered is that of a registrant who registers in one area and later moves to another area. While it is possible to transfer an appeal, a personal appearance may not be transferred.⁸⁷

If the registrant is living outside his board's jurisdiction when he is classified I-A he should send his local board a letter in order to safeguard his right to appeal. Letter #2 in the appendix may be used for this purpose. This form requests a personal appearance before the board, an appeal, and an appointment with a government appeal agent. When the board schedules an appointment with the agent and the personal appearance, the registrant should send letter #3 to his board. The letter asks his board to grant a

⁸² *Scott v. Commanding Officer*, 431 F.2d 1132 (3rd Cir. 1970); *Lubben v. Local Board No. 27*, 316 F. Supp. 230 (D. Mass. 1970); *Lane v. Local Board No. 17*, 315 F. Supp. 1355 (D. Mass. 1970). See also 3 SSLR 20,22.

⁸³ 32 C.F.R. § 1625.2 (1970).

⁸⁴ See, e.g., *Lane v. Allen*, 307 F. Supp. 881, 2 SSLR 3129 (N.D. Ohio 1969).

⁸⁵ *Id.*

⁸⁶ 32 C.F.R. § 1625.13 (1970).

⁸⁷ L.B.M. 52(2)(a) (1967).

"courtesy interview" with the board in whose jurisdiction he is currently living.⁸⁸

An alternative to the courtesy interview is to have a friend or relative appear in one's behalf on the date scheduled for the personal appearance to state the registrant's claim for him. This procedure is discretionary with the board.⁸⁹

Letter #3 requests the board to postpone the personal appearance. The postponement is not a right granted by the regulations, but the board decides the time and place for the personal appearance.⁹⁰ Thus, if it is convinced of the necessity for the delay, the board could reschedule the appearance.

The last paragraph of letter #3 renews the registrant's request for an appeal, thus ensuring his right to one.⁹¹ It is not necessary to include all of these requests when using the form letter. Only the requests that are most advantageous to the registrant's particular case should be included.

The method of transferring a personal appearance has already been covered by using letter #3, but there also exists in extremely narrow situations a provision which allows the state Director of Selective Service to transfer a personal appearance.⁹² This procedure can only be utilized when the registrant can show the state Director that his personal appearance should be transferred "in order to assure equitable administration of the selective service law."⁹³

The transferring provision has probably never been successfully used because it is simply too difficult to prove such circumstances to a state Director. However, the registrant at a future time may hope to show that his board was biased. His letter requesting such a transfer may provide early documentation of that claim.

Use letter #5 in the appendix in requesting that the state Director transfer the personal appearance, and attach the reasons why the transfer is necessary. This letter should be sent after letter #2 (out of state request for personal appearance) with enough time to allow the state Director to consider the registrant's request before the date of the personal appearance.

If the registrant has had a personal appearance, but has now moved to another state he may request his local board to transfer his appeal to the state in which he now resides. All that is necessary to transfer an appeal is

⁸⁸ The term "courtesy interview" is not defined in the Regulations, and such interviews are rarely granted. The registrant's personal appearance will, of course, be before another board if his classification has been transferred due to his original board's disqualification of conflict of interest. 32 C.F.R. § 1623.9 (1970). Such transfers are rare.

⁸⁹ 32 C.F.R. § 1624.1(b) (1970).

⁹⁰ 32 C.F.R. § 1624.2(a) (1970).

⁹¹ 32 C.F.R. § 1626.2 (1970).

⁹² 32 C.F.R. § 1623.9(c) (1970).

⁹³ *Id.*

a request to the local board that the appeal be submitted to the state appeal board having jurisdiction over the area in which the registrant is currently residing.⁹⁴ The form suggested in letter #6 in the appendix may be used for this purpose. The advantages of transferring to a different appeal board are (1) it delays the whole procedure and (2) some appeal boards have a higher rate of reversal than others.⁹⁵

IV. DEFERMENTS

The classifications which registrants may be entitled to receive are listed at the beginning of this handbook. The registrant is entitled to the lowest classification for which he is eligible.⁹⁶

Only those deferments which present peculiar problems to the registrant which were not sufficiently discussed in the section dealing with Form 100 will be discussed below.

A. I-O & I-A-O Conscientious Objector

This is perhaps the most difficult area of selective service law to explain to the registrant. The emphasis in this section will be on analyzing the concepts involved. The registrant must keep in mind the broad meanings that the term conscientious objector embraces. I-A-O and I-O classifications are, of course, not actually deferments. Registrants holding these classifications will be called in the same order as if they were I-A.⁹⁷

The basis for the conscientious objector claim is found in the 1967 Selective Service Act which requires the registrant, because of his religious training and belief, to be conscientiously opposed to participation in war in any form.⁹⁸

Two types of conscientious objection are recognized. A conscientious objector who is opposed to bearing arms will be classified I-A-O⁹⁹ and upon induction will serve in a non-combatant role. The conscientious objector who is opposed to any service in the armed forces will be classified I-O¹⁰⁰ and will be ordered in lieu of induction to perform two years of alternative service in a civilian capacity. This service may consist of working for the government, a charitable organization, or an organization carrying out a

⁹⁴ 32 C.F.R. § 1626.11(c) (1970).

⁹⁵ NATIONAL ADVISORY COMMISSION ON SELECTIVE SERVICE, IN PURSUIT OF EQUITY: WHO SERVES WHEN NOT ALL SERVE?, 110-11 (Feb. 1967) [Supt. of Documents, Washington, D.C. 20402].

⁹⁶ 32 C.F.R. § 1623.2 (1970).

⁹⁷ 32 C.F.R. §§ 1660.20(a), 1631.7 (1970).

⁹⁸ Universal Military Training and Service Act, § 6(j), 50 U.S.C. App. § 456(j) (1958).

⁹⁹ 32 C.F.R. § 1622.11 (1970).

¹⁰⁰ 32 C.F.R. §§ 1622.14, 1660.21(d) (1970).

program for the improvement of the public health or welfare.¹⁰¹

The term "religious training and belief" requires a brief historical definition. Prior to *United States v. Seeger*¹⁰² and *Welsh v. United States*¹⁰³ religious training and belief had been defined as a "belief in a relation to a Supreme Being involving duties superior to those arising from any human relation."¹⁰⁴ In *Seeger* the test was held to be whether the opposition of the claimant to war stems from a "sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualified for the exemption"¹⁰⁵

Therefore belief in an organized religion or in God is no longer necessary; simply a parallel belief of the same magnitude as that held by one believing in God. This concept was broadened in *Welsh*, where the court stated:

If an individual deeply and sincerely holds beliefs that are purely ethical or moral in source and content but that nevertheless impose upon him a duty of conscience to refrain from participating in any war at any time, those beliefs certainly occupy in the life of that individual 'a place parallel to that filled by . . . God' in traditionally religious persons.¹⁰⁶

This ruling means that an opposition to war not based on religious training or belief does not disqualify a registrant. If he is against war, though his background is not religious, he can now press his claim unless it is not a deeply held belief, or unless his objection rests solely upon considerations of policy, pragmatism, or expediency.¹⁰⁷ Where a registrant bases his opposition on essentially political motives his views will not qualify.¹⁰⁸

The conscientious objector need not be committed to nonviolence in all situations. Courts have specifically recognized that a conscientious objector may be "opposed to war in any form" while willing to fight in a theocratic war or in self defense.¹⁰⁹ Furthermore, most conscientious objectors are willing to distinguish between the use of violence by an army and the use of force by domestic police. Whatever distinctions the registrant makes, he

¹⁰¹ 32 C.F.R. § 1660.1 (1970).

¹⁰² 380 U.S. 163 (1965).

¹⁰³ 398 U.S. 333, 3 SSLR 3001 (1970).

¹⁰⁴ Universal Military Training and Service Act, § 6(j), 50 U.S.C. App. § 456(j) (1958).

¹⁰⁵ 380 U.S. at 176.

¹⁰⁶ 398 U.S. at 340, 3 SSLR at 3002.

¹⁰⁷ *Id.* at 342-43, 3 SSLR at 3003.

¹⁰⁸ *Id.*

¹⁰⁹ *Sicurella v. United States*, 348 U.S. 385 (1955) (participation in a theocratic war was not contemplated by Congress when it created the right of individuals to exempt themselves from military service for opposition to war in any form); *United States v. Balderrama*, 304 F. Supp. 822 (W.D. Tex. 1969) ("A willingness to use force in defense of one's self, or family, or religious co-workers, has repeatedly been held not to be inconsistent with conscientious objection."). See Dawley, *Special Problems of Black Draftees*, 26 THE GUILD PRACTITIONER, 107, 109 (1967).

must be able to articulate them. He should remember that he need not convince the local board that he is correct, but only that he is sincere in his beliefs. He should therefore be able to give thoughtful answers to the less than thoughtful questions he may be asked.

As stated above, the registrant must be opposed to war in any form. Until the question of selective opposition is decided,¹¹⁰ a registrant should claim conscientious objector status even if his opposition is only against a particular war, provided he meets the *Welsh* requirements.¹¹¹

The key element the registrant must prove to the board, and perhaps the most difficult, is his sincerity.¹¹² It is up to the board to determine whether the registrant's objections and beliefs are sincerely held. Character refer-

¹¹⁰ The selective conscientious objector is one who objects, not to "war in any form" or to all wars, but to either a particular war or for some particular reason. The concept was raised in *United States v. McFadden*, 309 F. Supp. 502, 2 SSLR 3472 (N.D. Cal.), *appeal docketed* No. 422, July 20, 1970. McFadden applied for C.O. status on the grounds that he believed the war in Vietnam was an "unjust" war and that it would violate his conscience to submit for induction. His convictions were based on his training and belief in the Catholic religion and his schooling at a seminary college. The issues as the court viewed them were:

(1) Was the free exercise clause of the First Amendment violated by Section 6(j) of the Selective Service Act exempting from military service only those persons whose religious beliefs forbid them to participate in "war in any form?"

(2) Does Section 6(j) violate the constitutional requirement of equal protection of the laws by favoring those who are opposed to all wars on religious grounds over those who are opposed to a particular war on religious grounds?

(3) Does section 6(j) violate the establishment clause of the First Amendment in that it favors pacifist over non-pacifist religions?

The court reached the following conclusions:

(1) Directing an individual to act against his religious beliefs cannot be permitted in a society composed of men of all religious persuasions.

(2) The statute clearly was discriminatory between those who are opposed to all wars on religious grounds and those opposed to particular wars on religious grounds.

(3) No compelling state interest would justify such discrimination against Catholic selective objectors. *Contra*, *Gillette v. United States*, 420 F.2d 298 (2d Cir. 1970) *cert. granted*, 399 U.S. 925, 90 S. Ct. 2236 (1970).

¹¹¹ For a more extended discussion of this area see Comment, *Selective Conscientious Objection*, 1 Loy. U. of L.A. L. Rev. 113 (1968).

¹¹² The ultimate question in conscientious objector cases is the sincerity of the registrant's objection on religious, moral or ethical grounds to participation in war in any form. In *Witmer v. United States*, 348 U.S. 375 (1955) the Court stated "In conscientious objector cases . . . any fact which casts doubt on the veracity of the registrant is relevant." *Id.* at 381-382. *Accord*, *United States v. Verbeek*, 423 F.2d 667, 2 SSLR 3579 (9th Cir. 1970); *United States v. Shevenell*, 310 F. Supp. 1069 (D. Me. 1970); *United States v. Prince*, 310 F. Supp. 1161 (D. Me. 1970). It should be noted that the addition of moral or ethical grounds to the traditional "religious grounds" concept stems from *United States v. Welsh*, 398 U.S. 333, 3 SSLR 3001 (1970). It is therefore extremely important that the registrant who wishes to claim conscientious objector status be aware that inconsistent statements, improperly filled out forms, or any material facts that would tend to cast doubt upon his sincerity may seriously damage his chances of receiving the desired classification. *See also* L.B.M. 107 (1970).

ences, papers written in college or high school, letters from professors, ministers, and community leaders are important in establishing the registrant's sincerity. The only guidelines the board has are those used in everyday life.

The process for obtaining conscientious objector status starts with the registrant requesting SSS Form 150 from his board if he has not signed Series VIII on SSS Form 100.¹¹³ A registrant who is in doubt as to whether he will wish to pursue a conscientious objector claim should file Form 150 with as much supporting evidence as he can, since early filing is often a major factor in the board's determination of sincerity. The claim may later be abandoned if he changes his mind.

The filing of Form 150 has the effect of reopening the registrant's classification anytime before an induction order is mailed if the Form shows on its face (*prima facie*) a claim of conscientious objection.¹¹⁴ In the event the induction order was mailed before Form 150 was filed, the classification may nevertheless be reopened if the registrant's request for Form 150 reached the board prior to the mailing of the induction order and stated a *prima facie* claim to conscientious objector status.¹¹⁵

If the registrant first claims conscientious objector status after his induction order has been mailed he must present evidence that the change was "from circumstances over which the registrant had no control".¹¹⁶ There is a current conflict in the courts over whether becoming a conscientious objector is beyond the registrant's control.¹¹⁷ Until this conflict is resolved, it is advisable that the registrant base his postinduction claim on external events that made him realize he was a conscientious objector. For example, having a friend killed in battle might be considered such an external event.

Registrants have achieved significant delay in the classification process by filing Form 150 while a claim for another deferment or exemption is being appealed. By periodically requesting to see his file, the registrant may determine when it has been sent to the state appeal board, and file his Form 150 immediately thereafter. Delay in filing the Form until the state appeal board has acted on his original claim may result in untimely induction if the local board includes an induction order along with an unfavorable reclas-

¹¹³ 32 C.F.R. § 1621.11 (1970).

¹¹⁴ *Mulloy v. United States*, 398 U.S. 410, 3 SSLR 3011 (1970); *United States v. Freeman*, 388 F.2d 246, 1 SSLR 3012 (7th Cir. 1967).

¹¹⁵ *Mizrahi v. United States*, 409 F.2d 1219, 2 SSLR 3042 (1969); *United States v. Moyer*, 307 F. Supp. 613, 2 SSLR 3478 (S.D.N.Y. 1969).

¹¹⁶ 32 C.F.R. § 1625.2(b) (1970).

¹¹⁷ See *Ehlert v. United States*, 422 F.2d 332, 2 SSLR 3495 (9th Cir.), *cert. granted*, 398 U.S. 1074 (1970). The court held that a crystallization of or a change in a registrant's views on conscientious objection is not a change in his status resulting from circumstances over which he has no control, within the meaning of 32 C.F.R. § 1625.2. But see *United States v. Gearey*, 368 F.2d 144 (2d Cir. 1966), *on remand*, 266 F. Supp. 161 (S.D.N.Y.), *aff'd*, 379 F.2d 915 (2d Cir.), *cert. denied*, 389 U.S. 959 (1967).

sification. A registrant seriously seeking a conscientious objector classification should file as early as possible. Delay will usually be at the expense of his ability to demonstrate sincerity in his claim.

The questions asked the registrant in Form 150 concern the basis of his claim and the background of his beliefs. Since the questions deal largely with opinions, not facts, the registrant should compose his answers carefully. He should not limit himself to the space provided on the Form. The references he provides for the board should include those who know of his opposition to war, and who have known the registrant for a long period of time.¹¹⁸

The appeal procedure on a conscientious objector claim is the same as with any other appeal.¹¹⁹

B. I-S, II-S & II-A Education & Apprenticeship

1. I-S (H)—High school students.

A registrant will be allowed to stay in high school until he is twenty years of age if he has not graduated and is satisfactorily pursuing a course of instruction.¹²⁰ This deferment gives a time advantage to registrants who are in special or remedial programs in school. It is especially useful in preventing the draft from taking students who are slow learners but wish to complete high school.

2. II-S—College students.

The qualifications for obtaining and maintaining an undergraduate II-S deferment are that the registrant be pursuing a full time course of instruction at a junior college or university which leads to a baccalaureate degree in the normal time allotted.¹²¹ Thus, the registrant must be careful not only to maintain a full time course of instruction, but also to graduate on time. Failure to meet one of these requirements could result in a reclassification to I-A. It is the registrant's duty to keep his local board informed of his progress in school.¹²² The registrant must request and return SSS Form 104 Request for Undergraduate Deferment to his board. This form need only be filed with the board once. The school must be requested to send SSS Form 109 Student Certificate to his board each year.¹²³

The registrant will lose his II-S deferment if he fails to pursue a full

¹¹⁸ Further details on filling out Form 150 may be obtained from the HANDBOOK FOR CONSCIENTIOUS OBJECTORS, *supra* note 3.

¹¹⁹ 32 C.F.R. § 1626 (1970) applies to appeal procedures for all classifications.

¹²⁰ 32 C.F.R. § 1622.15(a) (1970).

¹²¹ 32 C.F.R. § 1622.25 (1970).

¹²² 32 C.F.R. § 1622.25(d) (1970).

¹²³ L.B.M. 84 (1967). See also SSLR Practice Manual ¶ 1057 at 1054.

time course of instruction, reaches age twenty-four, or completes the requirements for his baccalaureate degree.¹²⁴

The regulations define "satisfactorily pursuing a course of instruction" as completing a specific portion of the degree each year.¹²⁵ For example, if it is a four year degree, then one fourth of it must be completed every year to retain the II-S deferment. If it is a five year program, such as an architectural program, then one fifth of the program must be completed each year.¹²⁶ In the event the registrant does not fulfill his proportional share of units during any period, he may still make them up during the summer, since the regulations define an "academic year" as a twelve month period from the beginning of the registrant's course of study.¹²⁷

The registrant should be aware that Congress has proposed elimination of all educational deferments. Registrants enrolled prior to April 23, 1970 will be allowed to continue under the same rules until completion of their courses of study, and the elimination of such deferments will only apply to those seeking them after the April date if Congress passes the proposals in their present form.¹²⁸

3. I-S (C)—Students deferred by statute.

If the registrant loses his II-S deferment and is ordered to report for induction during an academic year, he will be allowed to finish the year unless he ceases to satisfactorily pursue his course of instruction.¹²⁹ The registrant is not entitled to this I-S (C) classification if he has ever received it before or has received a baccalaureate degree.¹³⁰ Graduate students who have not had an undergraduate II-S deferment since July 1, 1967 are, however, entitled to a I-S (C) classification.¹³¹

4. II-A—Technical training and apprenticeship.

If the registrant decides not to go to college but to a community or jun-

¹²⁴ 32 C.F.R. § 1622.25(a) (1970).

¹²⁵ 32 C.F.R. § 1622.25(c) (1970). *But see* Coleman v. Tolson, No. 14,702 (4th Cir., Dec. 18, 1970) (registrant entitled to II-S classification even though failed to maintain normal progress under the regulations because the registrant's college informed the local board that he could still graduate on time).

¹²⁶ 32 C.F.R. § 1622.25(a), (c) (1970).

¹²⁷ 32 C.F.R. § 1622.25(b) (1970).

¹²⁸ N.Y. Times, April 24, 1970, at 1, Col. 8. *See* H.R. 17314, 91st Cong., 2d Sess. (1970); 2 SSLR 59.

¹²⁹ 32 C.F.R. § 1622.15(b) (1970).

¹³⁰ *Id.*

¹³¹ L.B.M. 87 (1968). *See* Armendariz v. Hershey, 295 F. Supp. 1351, 1 SSLR 3323 (W.D. Tex.) *appeal dismissed*, 413 F.2d 1006, 2 SSLR 3109 (1969) petition for rehearing denied. If the registrant is enrolled in a professional school and is inducted during the school term he "shall be considered for a postponement until the end of the academic year." L.B.M. 112 (1970).

ior college or technical school to seek training or instruction in a field that does not require a baccalaureate degree, he will be deferred for study and training.¹³² The regulations were amended in 1970 so as to place those in technical schools in the same overall category as those in college.¹³³

The II-A, unlike the II-S, has no age restriction.¹³⁴ Therefore, it may be possible to combine a II-S and II-A consecutively to extend the educational deferment. The regulations seem to indicate that the granting of a II-A classification is mandatory if the registrant fulfills the qualifications, regardless of any prior II-S classification.¹³⁵ The Selective Service System, however, has suggested that the test for allowing a II-A is whether it will "permit a student to complete a bona fide educational program pursued in good faith to its conclusion" in a reasonable time.¹³⁶

The requirements for an apprenticeship program are contained in the regulations.¹³⁷ They require that the program consist of 4000 hours of on the job training for an occupation which is commonly recognized within the industry, having at least 144 hours of organized trade instruction, and that the skill must be useful to more than one employer. It cannot be a program involving distributing, selling, managerial or clerical occupations; a semi-professional or professional occupation requiring a college level education; or agricultural occupation.¹³⁸

The problem is not whether the program qualifies; it is in finding a program. Traditionally semi-skilled and skilled union apprenticeship programs have discriminated against people of color. The existing federal regulation designed to prevent discrimination in such programs have met with limited success. If the minority registrant is not currently participating in a qualified program he should be aware that gaining entrance to one may be difficult.¹³⁹

A list of apprenticeship programs may be obtained from the state Director of Selective Service. Approved programs may vary from state to state.¹⁴⁰ This list contains the names and addresses of employers and unions which qualify. The types of jobs which have apprenticeship programs are surpris-

¹³² 35 Fed. Reg. 6571 (1970). L.B.M. 105. Occupational deferments have been eliminated for registrants applying on or after April 23, 1970. *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ 32 C.F.R. § 1622.22(b) (1970).

¹³⁶ SSS Operations Bulletin No. 338 IV(1)(a), (b) (May 20, 1970).

¹³⁷ 32 C.F.R. § 1622.23a(a)-(d) (1970).

¹³⁸ *Id.*

¹³⁹ For a thorough discussion of these problems see generally Kovarsky, *Apprentice Training Programs and Racial Discrimination*, 50 IOWA L. REV. 755 (1965); Rosen, *The Law and Racial Discrimination in Employment*, 53 CALIF. L. REV. 729 (1965); Strauss & Ingerman, *Public Policy and Discrimination in Apprenticeship*, 16 HASTINGS L.J. 285, 301-06 (1965).

¹⁴⁰ 32 C.F.R. § 1622.23a(e) (1970).

ingly varied.¹⁴¹ Once the registrant has determined the program to which he wishes to apply and is accepted, his next step will be to comply with the requirements set forth in the regulations to secure his II-A classification.¹⁴²

If the registrant has been accepted in an apprenticeship program before his registration with the Selective Service System he should answer the questions in Series V-Occupation on his Form 100. He should fill out question #1 explaining that he has been accepted in an apprenticeship program. In addition to filling out the Form he must supply the board with a copy of SSS Form 171 Apprentice Deferment Request, which is a certificate from the sponsor of the program. If the program requires the registrant to enroll in a trade or vocational school before apprenticeship this should be indicated in Series IX-Education on Form 100. In the event the registrant has already registered with the board, he will have to submit SSS Form 171 to the board with an explanation of his current activities regarding the apprenticeship programs.

By following these suggestions, the counselor should be able to help the registrant determine whether he wants to enter apprenticeship training and how to secure the deferment.

C. III-A Hardship

1. Form 118—Selective Service Dependency Questionnaire.

One of the most difficult deferments to obtain is the hardship deferment. A registrant is entitled to a III-A classification if his induction would result in extreme hardship to certain of his dependents.¹⁴³ For the purposes of this classification dependents are the registrant's wife, di-

¹⁴¹ See 2 COUNTERDRAFT 3 (1970). For example: Architect; Air Conditioning; Appliance repair; Artillery repair; Asbestos worker; Baker; Barber; Beveler; Blacksmith; Boat builder; Bookbinder; Bridge builder; Brick layer; Cabinet maker; Cable splicer; Carpenter; Carpet-Linoleum; Cash register repair; Chandelier maker; Composer; Cook; Coppersmith; Dental Technician; Drapery worker; Electroplater; Engraver; Engineer; Farm Equipment; Fire control; Foundryman; Floor layer; Instrument maker, repairer; Jig maker; Linesman; Locksmith; Loftsmen; Linotypist; Lithographer; Machinist-Millwright; Metal Buffer; Neon sign and tube maker; Ophthalmic worker; Orthopedic appliances; Paper Hanger; Pattern maker; Pipe fitter; Pipe installer; Plasterer; Plate maker; Plumber-Radiator repair; Spring coils: makers, rewinders, repair; Radio repair; Radio technician; Rubber plate maker; Rigger; Roofer; Sailmaker; Shoe repair; Sprinkler repair; Steamfitter; Sound technician; Tile layer; Typographer; Upholsterer: auto, furniture; Watchmaker; Steelworker; T.V. technician; Aircraft: fixtures, builder, radio, radar, mechanic, tool and die maker, jig maker; Butcher: fish, meat, jobbing, slaughter house, cutter, boxer; Draftsman: architectural, electrical, engineering, estimating; Glass: glazier, mold maker, blower, art glass, auto repair; Mechanic: auto, truck, industrial equipment, diesel, farm equipment; Iron Worker: ornamental, reinforcing, structural.

¹⁴² 32 C.F.R. § 1622.23a(f) (1970).

¹⁴³ 32 C.F.R. § 1622.30(b) (1970).

vorced wife, child, parent, grandparent, and brother or sister who are dependent upon him for support. In addition, a person under eighteen years of age or a person of any age who is physically or mentally handicapped whose support the registrant has assumed in good faith may qualify as such a dependent.¹⁴⁴

The key word in the statute is "extreme". The induction of almost any registrant will cause some disruption to the registrant and his family. When applying for a hardship deferment the registrant must show that his dependents will suffer a hardship significantly greater than that experienced by dependents of other inductees.

The only objective guidance the board has at its disposal is Local Board Memorandum 17, in conjunction with the regulations.¹⁴⁵ The regulations provide that although dependents may receive an allowance from the army if the registrant is inducted, this fact does not conclusively dispose of the hardship claim.¹⁴⁶ While most hardship claims are based largely on financial considerations, other circumstances may be asserted.¹⁴⁷ Local Board Memorandum 17 merely sets forth the military pay and allowance rates for inductees and their dependents.¹⁴⁸

The registrant who feels he has a hardship claim should request SSS Form 118 Selective Service Dependency Questionnaire from his local board at the time he files Form 100 or as soon thereafter as possible. The board will usually require that Form 118 be returned within ten days. The Form and as much supporting material as is available should be filed within that time, and other supporting documents may be added as they become available.

The Dependency Questionnaire calls for the registrant to set forth information concerning his marital status and dependents, his employment and any other pertinent facts. In addition the Questionnaire provides for a statement by the dependents of the registrant as to the hardship. The registrant should not limit himself or his dependents to the space provided on the Form. He should attach additional sheets for his extended answers and letters in support of the claim. Letters from dependents, friends, relatives, ministers, social workers, and doctors who are familiar with the circumstances of the registrant are helpful.

When listing dependents on the Form, children yet unborn and illegitimate children should not be omitted. Medical proof of pregnancy must be shown when the registrant claims an unborn dependent.

Series III of the Dependency Questionnaire requires that members of

¹⁴⁴ *Id.*

¹⁴⁵ L.B.M. 17 (1969); 32 C.F.R. § 1622.30 (1970).

¹⁴⁶ 32 C.F.R. § 1622.30(d) (1970).

¹⁴⁷ See *Brede v. Allen*, 311 F. Supp. 599 (N.D. Ohio 1969) (emotional dependency).

¹⁴⁸ L.B.M. 17 (1969).

the registrant's family other than dependents be listed. The registrant must also state whether each member is able to contribute to the support of his dependents. All answers to this question should be accompanied by letters from the family members indicating the amount of support, if any, and reasons for their ability, inability or unwillingness to contribute or increase their contribution to the registrant's dependents. If letters cannot be obtained the registrant should explain the circumstances of this omission.

The registrant must provide details as to his employment status in Series IV of the Questionnaire. If he is unemployed he should so state, but should also list his recent employment, skills, and efforts at obtaining a job. It can easily be seen that the registrant will have difficulty demonstrating hardship to his dependents living on military pay if he is unemployed. If the registrant is enrolled in a job training or apprenticeship program, however, this information should be included along with probable date of completion and expected income upon employment in that field. Thus the registrant's II-A deferment request, demonstrating his efforts to secure gainful employment through technical training, may be helpful in supporting a hardship claim on a financial basis.

Series V of the Questionnaire calls for information on the financial condition of the registrant. If induction would cause the registrant to be unable to continue payments on his home, this should be explained. If he owns a car he should explain any non-pleasure uses to which it is put. In addition to answering the questions listed in Series V the registrant should submit a monthly budget which explains the specific items on which his income is spent. Copies of check stubs and bills may be included to verify his expenses and those of his dependents. A budget checklist is provided in the appendix. Use of this checklist will help the registrant present the necessary information in a complete and concise manner.

In conjunction with this budget the registrant should enclose a projected budget, showing his probable expenses after induction, and comparing them with the military pay he would receive. This should be done in such a way as to demonstrate to the local board those expenses which would continue or increase in the absence of the registrant or his present income. Attached to these budgets he may wish to include Census Bureau charts which show the poverty level for the registrant's locality.¹⁴⁹ If the registrant's induction would force his family below the accepted poverty level, or force his family to receive welfare payments in order to survive, this should be specifically noted. The registrant must be sure to note in Series VI if there is any reason why his wife will be unable to continue working after his induction.

¹⁴⁹ Census Bureau charts and related information may be found in most public libraries.

No hard and fast rules have been developed by the courts to determine the extent of the evidence required to qualify a registrant for a III-A classification. Because of its very nature, few registrants who claim hardship are in a position to pursue the claim beyond the appeal procedures within the Selective Service System itself. For this reason the registrant must be certain to send all relevant information to his local board as soon as possible after filing the original application. Even when the basis for the claim is financial hardship, any evidence which shows possible physical or psychological hardship to his dependents due to his induction should be included.

While it has been judicially recognized that sufficient psychological hardship alone to the registrant's dependents may qualify him for a III-A classification,¹⁵⁰ evidently no case has yet found sufficient hardship. In any event, no rational arguments in support of a hardship claim should go unmentioned.

2. Appeal.

If the registrant has not been previously classified and the local board denies his request for III-A classification based on his Form 118, he should appeal the decision to the local board within thirty days and request a personal appearance. If the registrant has been classified I-A within thirty days but has not yet appealed, he may file Form 118 with his local board and ask for a personal appearance and reclassification on the basis of his hardship claim in addition to appealing.¹⁵¹

If the registrant files Form 118 before an induction order is issued in order to reopen his classification after exhausting his appeal on another classification, the local board must reopen unless the claim is frivolous or unless it is conclusively refuted by other information in the registrant's file.¹⁵²

D. I-Y & IV-F Physical

Although college, frequently followed by occupational, Reserve, or National Guard deferments introduce a strong economic bias into conscription, low income registrants may gain some compensation from the fact that so

¹⁵⁰ *Brede v. Allen*, 311 F. Supp. 599 (1969) (dictum).

¹⁵¹ The registrant may use the format provided in Letter #1 in the appendix for this purpose.

¹⁵² *See Mulloy v. United States*, 398 U.S. 410, 3 SSLR 3011 (1970), where the Court severely limited the local boards' discretion.

Where a registrant makes nonfrivolous allegations of facts that have not been previously considered by his board, and that, if true, would be sufficient . . . to warrant granting the requested reclassification, the board must reopen the registrant's classification unless the truth of these new allegations is conclusively refuted by other reliable information in the registrant's file. *Id.* at 416.

many of them fail the physical and mental examinations.¹⁵³ Information submitted by the Department of Defense indicates that two in five of all Negro draftees tested at pre-induction examinations are found acceptable compared to two in three of all Caucasians.¹⁵⁴

Medical or psychiatric unfitness entitles the registrant to a I-Y or IV-F classification.¹⁵⁵ The standards for placement in these classes are determined by the Surgeon General of the Army¹⁵⁶ and are found in the Army Regulations.¹⁵⁷

The registrant must not leave it to the Army to find his disqualifying defects. Military service files include many cases in which it was later discovered that men suffering from severe physical abnormalities had been drafted.¹⁵⁸ Among the reasons for these errors are ignorance of the medical regulations on the part of the civilian doctors at the examination stations and the large number of registrants going through the examination procedure.¹⁵⁹ Furthermore, the registrant often fails to provide either the Selective Service System or the examining physicians with pertinent information on disqualifying medical defects, and even when such information is provided it is often felt to be "of questionable validity".¹⁶⁰

Many low-income registrants suffer from untreated medical problems for economic and cultural reasons, and it is therefore often impossible for such registrants to document their health history or current medical defects. The low-income registrant might well be inducted while the better educated, better cared for, middle-income registrant with the same medical defects is disqualified.¹⁶¹

1. The medical claim.

The purpose of the medical standards are to insure that each inductee is:

¹⁵³ Dolbeare & Davis Jr., *Little Groups of Neighbors—American Draft Boards*, TRANSACTION, Mar. 1969, at 34.

¹⁵⁴ U.S. BUREAU OF LABOR STATISTICS, DEPT. OF LABOR, REP. NO. 332, SOCIAL AND ECONOMIC CONDITIONS OF NEGROES IN THE UNITED STATES 82 (1967).

¹⁵⁵ Class I-Y: registrant not eligible for a lower class would be qualified for military service in time of war or national emergency. 32 C.F.R. § 1622.17 (1970). Class IV-F: Registrant not qualified for any military service, 32 C.F.R. § 1622.44 (1970).

¹⁵⁶ The Selective Service System does not handle the physical qualification examinations. All examinations for men entering the armed service as inductees are handled by the Recruiting Command of the United States Army. AR 601-270 (1969). Army Regulations may be found in the Selective Service Law Reporter and can also be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

¹⁵⁷ AR 40-501, Ch. 2.

¹⁵⁸ COMPTROLLER GENERAL OF THE UNITED STATES, DISCHARGE OF MILITARY ENLISTED PERSONNEL BECAUSE OF PRESERVICE PHYSICAL DEFECTS 26-27 (1970).

¹⁵⁹ *Id.* at 15, 17-18.

¹⁶⁰ *Id.* at 23.

¹⁶¹ *Rx for Draft Dodging*, NEWSWEEK, Aug. 3, 1970, at 43.

1. Capable of completing the necessary training and performing general military duties without restriction of assignment.
2. Not likely to be discharged, absent from duty for excessive periods, or a burden on the medical service, as a result of some medical condition existing at the time of induction.
3. Not likely to become a beneficiary of the government as a result of the aggravation of some pre-existing condition by military service.
4. Free of conditions which might endanger the health of his military associates.¹⁶²

The list of medical standards set forth in the Army Regulations¹⁶³ may be helpful to some registrants, but the technical language limits its usefulness. For this reason a Medical Checklist has been provided in the appendix which may be used to call the registrant's attention to his disqualifying medical conditions. The counselor should also be aware of a Local Board Memorandum which lists obvious medical conditions that will disqualify a registrant for active duty in the military.¹⁶⁴ By becoming familiar with the listed defects, intelligent questioning of the registrant may be conducted. This will save the counselor, the registrant and eventually the doctor time by pinpointing disqualifying problems.

Some registrants will already be aware of their disqualifying conditions. In such cases all that is needed is documentation of the relevant medical history by, for example, having the registrant's physician write a letter to the Selective Service System, addressed to the registrant's local board, explaining the medical problem. It should be noted that the local board is provided with subpoena power to direct any person to produce records whenever such information will assist it in determining the registrant's classification.¹⁶⁵

The great majority of registrants, however, believe themselves to be in perfect health. Careful interview on the basis of the Medical Checklist may focus the registrant's attention on physical problems which either alone or cumulatively will disqualify him for induction. A long list of relatively minor defects, if not spurious, may convince an examining physician that the registrant is unacceptable for induction, especially if the physician is faced with a large volume of examinations.

If disqualifying medical defects or conditions are indicated from the registrant's medical history or answers to questions based on the Medical Checklist, the registrant should have a complete physical examination before his regular preinduction physical examination by the Army. Under certain conditions, and with a strong showing of probable medical disqualification, the registrant may be able to qualify for a "medical inter-

¹⁶² *Hearings on S. 39, supra* note 47, at 598.

¹⁶³ AR 40-501, ch. 2 (1970).

¹⁶⁴ L.B.M. 78 (1970).

¹⁶⁵ 32 C.F.R. § 1621.15 (1970).

view" by a medical advisor appointed by the local board.¹⁶⁶ A request for such an interview cannot hurt, but will usually be denied in the absence of letters from physicians stating the existence of disqualifying defects. The indigent registrant may be able to find a private doctor who will donate his time for a physical examination.

It is important that the private doctor conducting the registrant's physical examination show no strong biases in his report. Demonstration of a prejudice against the registrant's claim may mean that the registrant didn't receive a fair examination, while demonstrable prejudice in favor of the registrant's claim may lead the local board or Army Medical Examiner to discount the findings of the examination.¹⁶⁷

If the examining doctor finds that the registrant suffers from a disqualifying medical condition, a letter stating his findings should be sent to the local board, and a copy sent to the registrant. The letter should follow the form suggested in the appendix.

In order to guard against the possibility that the letter will not be properly forwarded to the registrant's examining station at his Army preinduction physical examination, copies of the letter should be taken by the registrant to the examination.

2. Appealing from an acceptable physical.

If the registrant is found acceptable at the Armed Forces Examining Station, and his random selection (lottery) number has been reached, there is a great likelihood that he will be inducted shortly thereafter. However, if the registrant feels that there was some physical defect not given proper consideration at the examination station he should ask for a reexamination through his Congressman or United States Senator. The suggested procedure for the appeal through Congress is shown in Letter #8 in the appendix.

If the member of Congress to whom the registrant writes his letter acts on the request he will notify the Army Recruiting Command of the request and ask that it be investigated. The Army Recruiting Command will then postpone the induction until the registrant can be reexamined on the basis of his claim.¹⁶⁸ The findings of the partial reexamination are then reviewed by the Army Recruiting Command, and a decision is

¹⁶⁶ Exec. Order No. 11553, 35 Fed. Reg. 13719 (1970), amending 32 C.F.R. § 1628.2 (1970).

¹⁶⁷ See Franck, *Medical and Psychiatric Unfitness for Military Duty*, 26 THE GUILD PRACTITIONER 76 (1967).

¹⁶⁸ Armed Forces Entrance and Examination Station Commanders are authorized to delay induction of a registrant upon learning that his physical qualification is being challenged by any member of the United States Congress. SSS OPERATIONS BULLETIN No. 326 (1968), amending 32 C.F.R. § 1632.16 (1967). The physicians will examine the registrant only for this one particular defect, no others will be considered. Of

made as to the registrant's medical claim. If the registrant is found unacceptable, he will be classified either I-Y or IV-F.

3. Postponing the physical examination.

In addition to effecting a transfer, the registrant may also be able to postpone his physical examination. The local board may postpone the physical examination if it is necessary due to "extreme emergency beyond the registrant's control."¹⁶⁹

If the registrant has new evidence concerning his medical claim, one court has recently held that the local board must reopen his classification.¹⁷⁰

4. Transferring a preinduction physical examination.

Any registrant desiring to transfer his physical examination must immediately report to the local board having jurisdiction over the area in which he is located at the time.¹⁷¹ He must show that board his Order to Report for Physical Examination and apply for a transfer by completing the Selective Service form provided by that board.¹⁷²

There is often good reason for a registrant wanting to transfer his physical examination in addition to the inconvenience and expense of traveling a great distance to comply with the order: the quality of the examination given at different examination stations may vary significantly. Though the Army says that there is no difference in the quality of examinations given at any station, the statistics do not warrant such remarks.¹⁷³ Thus, if at all possible, the registrant should consider taking his examination at a

course any late developed defect may be brought up at any time during the process. In the past approximately 50% of all registrants seeking a legitimate medical deferment have been disqualified at this panel review.

¹⁶⁹ 32 C.F.R. §§ 1628.12, 1632.2 (1970).

¹⁷⁰ The Court of Appeals in *United States v. Ford*, 431 F.2d 1310 (1st Cir. 1970) relied on *Mulloy v. United States*, 398 U.S. 410 (1970). The court required local boards to reopen the classification if the criteria set forth in *Mulloy* are met. See discussion of *Mulloy*, note 152 *supra*.

¹⁷¹ A list of Armed Forces Entrance and Examining Stations may be obtained by requesting a copy of AR 601-25 (*Flow of Selective Service Registrants and Army Applicants to Armed Forces Examining and Entrance Stations*) from U.S. Army Recruiting Command, Hampton, Virginia 23369.

¹⁷² For requirements of transfer, see discussion § V(B) *infra*.

¹⁷³ For example, in the Sixth Recruiting District (California Pacific Area), the Fresno, California station examined 6,624 registrants and found 1,851 medically disqualified; about 27%. Phoenix, Arizona, on the other hand, examined 7,840 registrants and found 3,172 medically disqualified, about 40%. Thus, there may be some advantage to have an examination at Phoenix and it may be of some advantage for the registrant to have his physical examination transferred. OFFICE OF THE SURGEON GENERAL DEPT. OF THE ARMY, RESULTS OF THE EXAMINATION OF YOUTHS FOR MILITARY SERVICE 82 (1969) (Supplement to HEALTH OF THE ARMY). 32 C.F.R. § 1628.12 (1970).

station where there is a greater chance of being found disqualified.

An additional method which the registrant may use to transfer his examination to a more favorable examining station is to volunteer for his physical examination.¹⁷⁴ If a registrant has a disqualifying condition or wishes to take his preinduction physical at a different examining station he may volunteer to take it if he has not yet had one.¹⁷⁵

The board is required to notify the registrant of the scheduling of his voluntary physical within 60 days of his request.¹⁷⁶ If the registrant wishes to take his preinduction physical at a different examining station then he must follow the procedure outlined below.

First, prior to the receipt of his notice of a preinduction physical the registrant should report a change of mailing address to his local board. To establish a new mailing address the registrant must use a mailing address in the area in which he wishes to transfer. Usually this will be the address of friends or relatives, and should be addressed in care of them to insure that his mail will reach him. The regulations do not require that the registrant's permanent address also be his mailing address, only that it be an address at which he can "expect to receive important communications".¹⁷⁷

After establishing the new mailing address he should write to his board explaining that he wishes to volunteer for his preinduction physical and that he wishes to take it at his new address. The board notified of such a request will probably grant the request, not knowing that the registrant's real intention is to be examined at a more favorable examining station.

This technique may also be utilized in transferring a medical reexamination.¹⁷⁸ The registrant must first change his mailing address and notify his board of the change after an unfavorable finding at his preinduction physical as discussed above. Next he should write his Congressman or Senator requesting that he be reexamined at the examining station located in the area of his current mailing address. A copy of this letter should be sent to his local board. When and if he is ordered for a reexamination it will then be at the examining station in the area he has chosen. This procedure may prevent the registrant from being reexamined at a station at which he has already been found qualified or which has a high pass rate on reexaminations.

V. REQUIREMENTS FOR INDUCTION

The following are the qualifications necessary for induction: The regis-

¹⁷⁴ 3 COUNTERDRAFT 34 (1970).

¹⁷⁵ Exec. Order No. 11527, 35 Fed. Reg. 6571 (1970), *amending* 32 C.F.R. § 1628.11 (1970).

¹⁷⁶ *Id.*

¹⁷⁷ 32 C.F.R. § 1613.12(a), (b) (1970).

¹⁷⁸ 3 COUNTERDRAFT 32 (1970).

trant must usually have taken a preinduction physical and been found qualified. Having passed the physical the board must send him a DD Form 62, Statement of Acceptability. The induction must be scheduled no sooner than twenty-one days after the mailing of the DD Form 62.¹⁷⁹ In addition, the date scheduled for induction must be ten days later than the date of mailing printed on the induction order.¹⁸⁰ If a registrant has for any reason failed to take the preinduction physical examination he may be inducted without it.¹⁸¹ This must be considered by registrants who have refused or plan to refuse to undergo a physical examination.

A. Lottery

The Lottery System and Order of Call.

Although most men are required to register with their local boards at the age of eighteen, there is little chance of induction before the registrant reaches the age of nineteen.¹⁸² The lottery system is intended to ensure that initially every registrant who is eligible has an equal chance of being ordered for induction. Near the end of each year a drawing is held which determines the random sequence for the coming calendar year. The numbers drawn correspond to the birthdates of registrants who will reach the age of twenty during the coming calendar year.¹⁸³ Thus, registrants who were born during 1951 are subject to the random sequence for 1971 (which is drawn in 1970); registrants born during 1952 are subject to the 1972 random sequence, and so on. The registrant, therefore, becomes subject to call on the basis of his random sequence number on January 1 at the age of 19 (or 20, if that's his birthday) and will usually remain subject until he reaches age 26. He retains his number as long as he is subject to call on the basis of random sequence. Classification and deferment procedures are not affected. Eligible registrants are called on the basis of their numbers from 1 to 366.¹⁸⁴

¹⁷⁹ Exec. Order No. 11537, 35 Fed. Reg. 9991 (1970), *amending* 32 C.F.R. § 1631.7 (a) (1970).

¹⁸⁰ 32 C.F.R. § 1632.1 (1970). For a case holding that failure to follow the procedure outlined will invalidate the induction order see *United States v. McClintock*, Crim. No. 42539 RFP, 2 SSLR 3685 (N.D. Cal. April 15, 1970). Although the requirement of the pre-induction physical examination and the mailing of DD Form 62 is no longer essential in some circumstances, the case still stands for the proposition that the board must follow the procedural regulations.

¹⁸¹ Exec. Order No. 11537, 35 Fed. Reg. 9991 (1970), *amending* 32 C.F.R. § 1631.7.

¹⁸² Exec. Order No. 11563, 35 Fed. Reg. 15435 (1970), *amending* 32 C.F.R. § 1631.7. Registrants between 18½ and 19 years old will be called only in extreme national emergency.

¹⁸³ 32 C.F.R. § 1631.5 (1970).

¹⁸⁴ Exec. Order No. 11563, 35 Fed. Reg. 15435 (1970), *amending* 32 C.F.R. § 1631.7 (1970).

The order of call is set forth in the regulations.¹⁸⁵ Nonvolunteer registrants are placed in priority selection groups. The First Priority Selection Group consists of registrants who are I-A or I-A-O and fit either of two descriptions: first, those "who prior to January of . . . such calendar year have attained the age of 19 years but not of 20 years . . ."; and second, those who are 19 but not yet 26 on January 1 and who become I-A or I-A-O during the year (usually due to loss of a deferment).¹⁸⁶ Registrants who were in any other priority selection group at the time they received a deferment will, upon loss of the deferment, return to the priority selection group they were in at the time they received the deferment.¹⁸⁷

In addition, registrants who were married on or before August 26, 1965, and who maintain a bone fide family relationship in their homes will be inducted in their random sequence order, but only after all other registrants in the First Priority Selection Group have been inducted.¹⁸⁸

All registrants in the First Priority Selection Group whose random sequence number has not been reached at the end of the calendar year will be placed in the Second Priority Selection Group during the next calendar year. Those in the Second Priority Selection Group will be placed in the Third, and so on.¹⁸⁹ It should be noted that registrants in priority selection groups other than the Extended and the First are not likely to be inducted in the absence of a national emergency.

The Extended Priority Selection Group was introduced in late 1970 to correct flaws in the existing order of call.¹⁹⁰ Its purpose is to subject to draft exposure registrants whose numbers had been reached but who were not able to be inducted during the calendar year for any reason.¹⁹¹ Such circumstances occur when the registrant has not yet exhausted the appellate process, has not been ordered to report for a pre-induction physical examination, and other such circumstances which prevent the local board from issuing an induction order. Registrants in the Extended Priority Selection Group are ranked according to their random sequence number, and are ordered for induction in that order¹⁹² during the first three months of the next year.¹⁹³ In the event that such a registrant's number is not reached by April 1, he will be placed in the Second Priority Selection Group for the remainder of the year.¹⁹⁴ When the Extended Priority

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ Exec. Order No. 11563, 35 Fed. Reg. 15435 (1970).

¹⁹¹ See OFFICE OF PUBLIC INFORMATION, NATIONAL HEADQUARTERS, SELECTIVE SERVICE SYSTEM News Release No. 70-11 (Sept. 30, 1970) [SSS News Release].

¹⁹² Exec. Order No. 11563, 35 Fed. Reg. 15435 (1970).

¹⁹³ *Id.*

¹⁹⁴ *Id.*

Selection Group is either exhausted or the first three months of the year have elapsed, registrants in the First Priority Selection Group will be inducted in their random sequence order.¹⁹⁵

In 1970 the National Director announced that registrants will be allowed to drop their deferments and be reclassified I-A upon request. Thus a registrant may drop his deferment only after it is clear that his number will not be reached during the calendar year. He will then be moved to a lower priority selection group at the beginning of the next calendar year.¹⁹⁶

B. Postponement and Transferring of Induction

An induction may be postponed if there has been a death or serious emergency involving the registrant's immediate family. This is also true in cases of serious illness of the registrant or other "extreme emergency beyond the registrant's control."¹⁹⁷ The induction may be postponed for two consecutive sixty day periods by the local board or the state director may postpone the induction until such time as he deems advisable.¹⁹⁸ An induction may also be transferred if the registrant is so far from his own board that it would work a hardship to require him to return.¹⁹⁹

An important requirement before transferring the induction is to establish a good reason for the transfer, since the board to which the transfer is made must approve it.²⁰⁰ This can be accomplished by moving the registrant's residence to a city which is served by a different Armed Forces Entrance and Examining Station. In an effort to prevent the transferring of inductions and pre-induction physicals, L.B.M. 116 requires that the registrant present to the transferring board evidence that his move will be of a semi-permanent nature. To insure the transfer, the registrant should

¹⁹⁵ *Id.* If a registrant reaches 26 before an induction order is issued, he is no longer subject to random selection.

Medical, dental and allied specialist available for induction (I-A) are subject to the lottery if they are under twenty-six. 32 C.F.R. § 1631.7(a)(b) (1970). There is a separate procedure used by the Secretary of Defense for the drafting of such specialists. 32 C.F.R. § 1631.4(a) (1970).

¹⁹⁶ SSS News Release No. 70-12 (Oct. 26, 1970); L.B.M. 117 (1970).

¹⁹⁷ 32 C.F.R. § 1632.2(a) (1970).

¹⁹⁸ If the local board purporting to act under the authority of the regulations, postpones a registrant's induction more than two sixty day periods, the board's action has the effect of cancelling the induction order. The postponement is computed from the date the registrant was to report for induction and not from the date of mailing of the order to report. See *United States v. Lonidier*, 427 F.2d 30 (9th Cir. 1970). However, where the local board postpones the induction for more than 120 days and then reissues a new induction order, or where the local board does not purport to act under the regulation in postponing the induction, the board's action does not cancel the induction order. *United States v. Evans*, 425 F.2d 302 (9th Cir. 1970).

¹⁹⁹ 32 C.F.R. § 1632.9 (1970).

²⁰⁰ 32 C.F.R. § 1632.9(c) (1970).

instruct the transferring board how long he will be living in the area.

If the registrant is going to live with someone he should give his address in care of the person with whom he is living. If he is going to live by himself, a letter addressed and postmarked to him will establish his residence in the new location. The move does not have to be permanent so long as the registrant was so far from his board that it would be a hardship for him to comply with the order to report. A transfer or postponement of induction may be used to allow the registrant time for a post-induction reopening or medical reevaluation. It should be noted that the transferring board must approve the transfer.

VI. SUMMARY

By utilizing the regulations, tactics, and forms outlined above the registrant will be afforded maximum flexibility in dealing with the Selective Service System.

The effect of a registrant exercising his rights under selective service law may result in the board committing prejudicial error which can be used against them if his case should ever go to court. As one attorney concluded: "Indeed, a board can always be 'sandbagged' into committing some reversible error by a knowledgeable attorney if they haven't already done so before the attorney became involved."²⁰¹

²⁰¹ Cihlar, *Protecting Rights Under the Draft*, TRIAL MAGAZINE, Vol. 6, No. 3, April/May 1970, at 52-3.

APPENDIX

A. COUNSELOR'S INITIAL INTERVIEW QUESTIONNAIRE

Name_____ Age_____ Date of Birth____/____/____

Address_____ Lottery #_____

City_____ State_____ Zip_____ Phone_____

Selective Service No.____/____/____/____/____ Present Classification:

_____ Date Issued_____ Date Expired_____

Have you appealed?_____ What classification are you seeking?_____

Local Board No. and Address_____

Have you been ordered for induction?_____ If yes, when?____/____/____

Where? _____

Can induction be: () transferred? Reg. 1626.11 (c)

() postponed? Reg. 1632.2

() cancelled?

PHYSICAL, MENTAL, ADMINISTRATIVE (I-Y, IV-F)

Have you ever had a preinduction physical? If yes, where and when?_____

Do you have a physical scheduled?_____ If yes when?____/____/____

Do you have any physical or psychological condition which you think should disqualify you for military service? (Refer to Medical Check List).

Describe _____

What evidence do you have from doctors?_____

Have you requested a medical interview?_____

Have you ever been charged with a crime, do you have any criminal trial pending?_____ Have you ever been convicted of a

felony or crime other than minor traffic offenses? If yes, what kind?_____

(See AR 601-270, 3-9 and Appendix W of AR 601-270 to determine if such offense(s) may be waived).

DEPENDENCY (III-A) Reg. 1622.30

Are you, Single ()
 Married ()
 Father ()
 Separated ()
 Divorced ()
 Widowed ()

Do children, relatives or others depend on you for care or financial help?_____ If yes, what evidence have you sent to your board?_____

Could your wife support herself if you were drafted, based on army pay scales?_____

*STUDENTS (I-S, II-S, II-A)**HIGH SCHOOL (I-S)(H). Reg. 1622.15*

Have you graduated from high school?_____ If not, will you graduate by age 20 if you pursue a satisfactorily course of instruction?_____

*TRADE, VOCATIONAL, COMMUNITY OR JUNIOR COLLEGE**II-A, Reg. 1622.22*

Are you pursuing a course of instruction that will *not* lead to a Baccalaureate degree?_____ If yes, are you pursuing a satisfactory course of instruction?

UNDERGRADUATE (II-S), Reg. 1622.25 & 1625.26

Are you a full time student?_____ If yes, where?_____

At what level?_____ How long is your course of study?_____ Are you completing an equal portion of it each year including summer school?_____ If not, can you possibly make it up so as to graduate in the required number of years?_____

STUDENTS DEFERED BY STATUTE (I-S)(C), Reg. 1622.15

Have you received an induction order during this current school year?_____ If yes, are you still pursuing a full time satisfactory course of instruction as an undergraduate?_____

OCCUPATIONAL & APPRENTICESHIP (II-A), (II-C), Reg. 1622.22

Did you obtain or file for an occupational deferment prior to April 23, 1970?_____ If yes, will you be able to have it renewed by your employer? _____ Have you thought about entering an apprenticeship program?_____ If yes, has it been approved by the state director?_____ If yes, have you submitted to your Board SSS Form 171 (Apprenticeship Deferment Request)?_____

ALIENS (IV-C), Reg. 1622.42

Are you an alien who is not a permanent resident alien and have been here less than a year?_____ Have you been here over a year and not a permanent resident alien?_____ Have you served in your country's armed forces for over 18 months?_____ Are you willing to forfeit your right to ever become a United States citizen? _____

MINISTER OR DIVINITY STUDENT (IV-D), Reg. 1622.43

Are you a "regular" or "duly ordained" minister?_____ If no, do you perform acts of a minister and occupy a position of leadership in your church or sect?_____ How many hours per month do you preach and teach the principles of your faith?_____ hrs. If less than 100 hrs., why?_____

Is the ministry your regular and customary vocation?_____ If not, does your church support you or must you seek outside employment?_____

Are you enrolled in a school of divinity or preparing for the Ministry?_____ Is it under the sponsorship of a recognized religious organization?_____ If yes, which one?_____

Address _____

Has the school sent in a verification that you are attending?_____

SOLE SURVIVING SON (IV-A), Reg. 1622.40(a)(10)

Has your father, brother(s) or sister(s) died as a result of combat action or service connected injury or disease?_____ If yes, has the death(s) left you the only surviving son?_____

*RESERVIST OR VETERAN (I-C, I-D, IV-A), Reg. 1622.12
& 1622.13*

Are you or have you been in ROTC, the Reserves (including the National Guard) or any other form of military service?_____ If so, give details.

CONSCIENTIOUS OBJECTOR I-O, I-A-O, Reg. 1622.11, 14

Have you considered C.O.?_____ If yes, are you aware of the two types (I-O, two years alternative civilian service and I-A-O, non-combatant service)?_____ If so, which one do you prefer?_____ Why?

Did you sign SSS Form 100, Series XIII (C.O.)?_____ Have you requested SSS Form 150 (Special Form For Conscientious Objectors)?_____ If yes, which part did you sign, I-O or I-A-O)?_____ If you requested SSS Form 150 when was it mailed?_____ Have you returned it within 30 days as required?_____ If not, why not?_____

Do you base your objection on:

Religious grounds ()

Moral grounds ()

Ethical grounds ()

Some or all of the above ()

What type of training have you had which helped you acquire these beliefs? _____

Are there family, vocational, or other pressures which complicate your decision?_____ If so, what are they? _____

B. SAMPLE LETTERS

The following letters are suggestions as to format. They should be adapted to suit the registrants particular circumstances.

Letter #1

REQUEST FOR PERSONAL APPEARANCE

Gentlemen:

I request a personal appearance before my local draft board. I would like to have an appointment with the government appeal agent before the scheduling of my personal appearance because I am unsure of my rights.

Sincerely yours,
Your name and address
Selective Service number

Letter #2

OUT OF STATE REQUEST FOR PERSONAL APPEARANCE
AND APPEAL

Gentlemen:

I request a personal appearance before my local board. I would like an appointment with the government appeal agent before the scheduling of my personal appearance because I am unsure of my rights.

I appeal my classification.

Sincerely yours,
Your name and address
Selective Service number

Letter #3

TOO FAR TO APPEAR LETTER

Gentlemen:

Due to the expense involved in traveling from my place of residence I will not be able to appear before my local board. If at all possible, please arrange a courtesy interview at a draft board near my place of residence. That draft board could provide you with an advisory opinion on my classification. If a courtesy interview is not possible, I request a friend or relative be permitted to appear in my behalf to explain my reasons for contesting my classification. If neither of the above alternatives is possible, I would like to request that my personal appearance be postponed until _____ at which time I should be able to appear in person.

If none of the above choices are acceptable, as pointed out in my letter of _____ I appeal my I-A classification and I wish that my file be forwarded to the state appeal board for a decision.

Sincerely yours,
Your name and address
Selective Service number

Letter #4

LETTER FOR STATE APPEAL

Gentlemen:

I appeal my I-A Classification. I would like to see a government appeal agent before my file is sent to the state appeal board because I am unsure of my rights.

Sincerely yours,
Your name and address
Selective Service number

Letter #5

LETTER TO STATE DIRECTOR TO TRANSFER PERSONAL
APPEARANCE

Dear Sir:

Would you please intervene on my behalf to transfer my personal appearance and government appeal agent interview from local board number _____ to local board number _____ in whose jurisdiction I now reside.

Based on Reg. 1623.9(c)(2) the state Director may transfer the personal appearance in order to promote "equitable administration of the selective service law." I believe that my circumstances warrant such a transfer. [Write in what your circumstances are.]

Your consideration would be appreciated.

Respectfully yours,
Your name and address
Selective Service number

Letter #6

REQUEST TO TRANSFER AN APPEAL

Gentlemen:

I appeal my I-A classification. I would like to see a government appeal agent before my file is sent to the state appeal board because I am unsure of my rights.

I am now residing in another state. Would you please transfer my state appeal and government appeal agent appointment to the state in which I am now residing.

Sincerely yours,
Your name and address
Selective Service number

Letter #7

MEDICAL ADVISOR REQUEST

Gentlemen:

Under Selective Service Regulation §1628.1, the Surgeon General of the Department of the Army is empowered to approve a list of medical conditions and physical defects that disqualify registrants from service in the Armed Forces.

I have studied the Surgeon General's list, contained in Army Regulation 40-501, and found that a medical condition [or physical defect] from which I suffer disqualifies me for service in the Armed Forces. I have suffered and continue to suffer from [describe condition or defect]; which is found in AR 40-501, Sec.

Attached to this letter you will find copies of my doctor's (or doctors') report(s) which outline the history and nature of my medical condition [or physical defect].

Selective Service Regulation §1628.2(a) states that, "Whenever the local board is of the opinion that a registrant in Class I-A, Class I-A-O, or Class I-O has one or more of the disqualifying medical conditions or physical defects which appear in the list described in section 1628.1, it shall order the registrant to present himself for medical interview at a specified time and place by mailing to such registrant a Notice to Registrant to Appear for Medical Interview (SSS Form 219)."

In light of the requirements of §1628.2(a), I request that the board grant me an interview with its medical advisor and notify me with the appropriate SSS Form No. 219.

Your consideration is appreciated.

Sincerely yours,

Your name and address

Selective Service number

Letter #8

LETTER TO CONGRESSMAN

(Addresses of Senators and Congressmen can be found at most public libraries or by contacting Western Union).

My Dear Congressman (or My Dear Senator):

I had my physical examination on _____, at the Armed Forces Examination Center located at _____ [address and city] _____. I was found acceptable.

I do not feel that I had an adequate physical examination. Enclosed is information which I feel will disqualify me from the military.

I respectfully request that you obtain on my behalf a review of my case from the Surgeon of the U.S. Army Recruiting Command, Hampton, Virginia 23369. I further request that the Surgeon review my case and declare me disqualified from military service or order that I be reexamined. Further, I request that you authorize a delay of my induction [if you have been ordered for induction include date] under the authority of Operations Bulletin Number 326, Selective Service System, until a final determination of my case is reached.

Your consideration is appreciated.

Respectfully yours,

Your name and address

Selective Service number

NOTE: Include your medical reports and a summary of what happened and how you were treated at the Induction Center.

C. BUDGET CHECKLIST

This checklist includes a list of items you should consider sending to your draft board when seeking a deferment based on a hardship claim. This list is illustrative only, not all-inclusive. Add whatever you feel will help your claim for a hardship. Be sure to check the current L.B.M. 17 and 32 C.F.R. §1622.30.

A. INCOME ITEMS

Salary
Wages
Commissions

B. EXPENSE ITEMS

FOOD
Groceries
Meals

EDUCATION
School fees
Tuition
Supplies
Books

MONTHLY EXPENSES
Rent
Mortgage
Gas/Fuel
Electricity
Water
Telephone

INSURANCE
Health
House
Life
Car

INSTALLMENTS
Car
Department stores
Student loans
Others

WARDROBE
Clothing
Laundry
Cleaning

RECREATION
Theaters/Sports
Bars
Vacation
Magazines
Papers
Entertainment
Baby sitters

TRANSPORTATION
Gas/Oil
Maintenance
Bus fare

PERSONAL
Beauty/Barber
Drugs/Sundries

TAX DEDUCTIBLE
ITEMS
Interest payments
Contributions
Child Care
Medical
Dental
Medications

WITHHOLDING FROM
PAY
Fed. Inc. Tax
Soc. Sec.
State or City Taxes
Health Insurance
Life Insurance

SAVINGS

INVESTMENTS

EXTRAORDINARY
EXPENSES

C. OTHER DOCUMENTATION

PAST MONTHS BILLS &
CHECKS

LETTERS FROM
Family members
Priests
Neighbors
Doctors
Social workers
Others

Submit two comparative budgets, one based on army pay, the other based on civilian pay.

D. MEDICAL CHECK LIST

This checklist includes most of the physical defects which may cause temporary or permanent disqualification for service in the Army. Go down the list and ask each question. The number next to the paragraph heading refers you to AR 40-501. For example, if you have something wrong with your neck, see AR 40-501, Chapter 2, Section 2-17.

HEAD (2-16) Have you had any injuries to your head, like a severe concussion, wound or any other damage? Are there any unsightly deformities such as large birth marks, hairy moles or rashes? Have you ever had a skull fracture or been knocked unconscious?

EARS (2-6) Do you have any problems with your hearing? Do loud noises bother you? Any operations on your ears? Do you hear buzzing or ringing sounds? Any known infections of the ears?

EYES (2-13) Do you have any specific eye problems, do you wear glasses, do you know your prescription? Have you ever gotten up in the morning and found that your eyes were so full of puss that you could not open them? Any excessive itching of your eyes?

NOSE (2-28, 2-29, 2-39) Do you have any allergies? Any experience with excessive runny nose? Do you suffer from hay fever (allergic rhinitis), sinusitis, or other breathing problems?

MOUTH (2-27) Do you have any unsightly wounds or burns or other disease of the lips? Any large cyst on the tongue or in the mouth? Do you have a cleft palate?

DENTAL (2-5, 7-12) Any extensive dental work done? Do you have trouble chewing or eating food? Do you have bleeding gums? Do you have, or do you need braces?

NEUROLOGICAL (2-31, 2-32, 2-34) Any severe migraine or prolonged headaches? What medications have you taken for these headaches? Ever lose consciousness for ANY length of time? Ever been knocked out? Anyone in your family suffer from mental illness, alcoholism or drug use? Any problems with bed wetting, stuttering or stammering? Any thyroid problems, ever take any medications for thyroid deficiencies?

NECK (2-17) Any neck rashes? Ever injure your neck? Any uncontrolled twitching of the head, neck or shoulders? Ever been told you have Cervical Ribs (common in young males)?

SKIN (2-35, 2-39, 2-42) Any problems with acne, athlete's foot, rash on outer part of ears or under the armpit or groin regions? Do you have a tendency to over-sweat? Any flaking or scaling of the skin, itching areas or warts? Have you ever been bothered by bee stings? Do any common foods make you break out? Ever have a positive syphilis or VD test?

LUNGS & CHEST WALLS (2-24, 2-25, 2-26) Any lung problems such as emphysema, collapsed lung, a positive TB test, scarring of the lung, bronchitis, pleurisy or pneumonia? On smoggy days are you bothered more than others? Any cases of tuberculosis in your family? What about asthma after childhood?

HEART (2-16, 2-24) Any history of heart problems, shortness of breath, restricted activities as a youth? Any family history of heart problems?

URINARY SYSTEM (2-15) Any kidney, liver or urinary tract infections?

BLOOD (2-4) Any history of anemia, leukopenia, diabetes, hepatitis or mononucleosis? (For Black registrants, any relative have sickle cell anemia?)

ENDOCRINE (2-8) Any diabetes, goiter or gout (Note: 10-15% of the male population effected, gout usually settles in the big toe causing it to appear stiff and hurts when pressure is applied to it.) Any high or low blood pressure?

STOMACH & DIGESTIVE SYSTEM (2-3) Any stomach problems like acid or nervous stomach? Do you have to take any medication for stomach pain, like milk, Roloids, Tums, Maalox? Any intestinal problems such as frequent constipation or diarrhea?

BONES (2-9, 2-36, 2-10, 2-14) Ever have an accident where bone(s) were broken? Any problems with lifting weight or are you restricted in any way in the type of vocation you carry on or sports you can play? Do you suffer from low back pain?

LEG, KNEE, THIGH & HIP (2-10) Ever dislocate or break the cartilage in your knee? Do you experience any pain when running or walking?

FOOT & ANKLE (2-10) Do you know if you have flat feet? Ever see a foot doctor? Any problems with ingrowing toe nail? Ever sprain or break your ankle? Any reason why you could not wear combat boots?

WEIGHT & HEIGHT (2-21) Do you think you may be too tall, short, heavy or thin for the Army? See also Regulation AR 40-501, Appendix III for current weight and height chart.

Ever miss more than a week from work or school because of illness or other medical problems? Ever been hospitalized for any reason such as an auto accident, injury or street fights? Can you obtain medical records from (1) doctors, (2) hospitals, (3) student health services, (4) clinics, (5) psychologists, (6) school counselors, and (7) any individuals who might have knowledge of your medical problems?

Have you ever seen a psychiatrist or psychologist or counselor of any kind for mental, emotional or family difficulties?

COMMENTS: