

(6) Take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable law and regulations.

(b) This part does not prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory council, committees, or organizations.

(c) This part does not prevent any civilian employed at a military installation from joining or being a member of an organization that engages in representational activities with respect to terms or conditions of civilian employment.

#### § 143.6 Responsibility.

(a) *Heads of DoD Components* shall:

(1) Ensure compliance with this part and with the guidelines contained in enclosure 1.

(2) Establish procedures to ensure that any action initiated under this part is reported immediately to the Head of the DoD Component concerned.

(3) Report any action initiated under this part immediately to the Secretary of Defense.

(b) *The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall serve as the administrative point of contact in the Office of the Secretary of Defense for all matters relating to this part.

#### § 143.7 Definitions.

(a) *Member of the Armed Forces.* A member of the armed forces who is serving on active duty, or a member of a Reserve component while performing inactive duty training.

(b) *Military labor organization.* Any organization that engages in or attempts to engage in:

(1) Negotiating or bargaining with any civilian officer or employee, or with any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of military service of such members in the armed forces;

(2) Representing individual members of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with

any grievance or complaint of any such member arising out of the terms or conditions of military service of such member in the armed forces; or

(3) Striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the Government of the United States and which is intended to induce any civilian officer or employee, or any member of the armed forces, to:

(i) Negotiate or bargain with any person concerning the terms or conditions of military service of any member of the armed forces,

(ii) Recognize any organization as a representative of individual members of the armed forces in connection with complaints and grievances of such members arising out of the terms or conditions of military service of such members in the armed forces, or

(iii) Make any change with respect to the terms or conditions of military service of individual members of the armed forces.

(c) *Civilian officer or employee.* An employee, as defined in 5 U.S.C. 2105.

(d) *Military installations.* Includes installations, reservations, facilities, vessels, aircraft, and other property controlled by the Department of Defense.

(e) *Negotiation or bargaining.* A process whereby a commander or supervisor acting on behalf of the United States engages in discussions with a member or members of the armed forces (purporting to represent other such members), or with an individual, group, organization, or association purporting to represent such members, for the purpose of resolving bilaterally terms or conditions of military service.

(f) *Terms or conditions of military service.* Terms or conditions of military compensation or duty including but not limited to wages, rates of pay, duty hours, assignments, grievances, or disputes.

#### § 143.8 Guidelines.

The guidelines for making certain factual determinations are as follows:

(a) In determining whether an organization is a military labor organization, whether a person is a member of a military labor organization, or whether such person or organization is

in violation of any provision of this Directive, the history and operation of the organization (including its constitution and bylaws, if any) or person in question may be evaluated, along with evidence on the conduct constituting a prohibited act.

(b) In determining whether the commission of a prohibited act by a person can be imputed to the organization, examples of factors that may be considered include: the frequency of such act; the position in the organization of persons committing the act; whether the commission of such act was known by the leadership of the organization; whether the commission of the act was condemned or disavowed by the leadership of the organization.

(c) Any information about persons and organizations not affiliated with the Department of Defense needed to make the determinations required by this Directive shall be gathered in strict compliance with the provisions of DoD Directive 5200.27<sup>1</sup>, "Acquisition of Information Concerning Persons and Organizations not Affiliated With the Department of Defense," January 7, 1980, and shall not be acquired by counterintelligence or security investigative personnel. The Organization itself shall be considered a primary source of information.

## PART 144—SERVICE BY MEMBERS OF THE ARMED FORCES ON STATE AND LOCAL JURIES

Sec.

- 144.1 Purpose.
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- 144.7 Effective date and implementation.

AUTHORITY: 10 U.S.C. 982.

SOURCE: 53 FR 23759, June 24, 1988, unless otherwise noted.

### § 144.1 Purpose.

This part implements 10 U.S.C. 982 to establish uniform Department of De-

<sup>1</sup>Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

fense policies for jury service by members of the Armed Forces on active duty.

### § 144.2 Applicability.

The provisions of this part apply to active-duty members of the Armed Forces.

### § 144.3 Definitions.

(a) *Armed Forces*. The Army, Navy, Air Force, Marine Corps, and the Coast Guard when it is operating as a Service in the Navy.

(b) *State*. Includes the fifty United States, U.S. Territories, District of Columbia, and the Commonwealth of Puerto Rico.

(c) *Active duty*. Full-time duty in the active military service of the United States. Includes full-time training duty, annual training duty, active duty for training, and attendance, while in the active military service, at a school designated as a Service school by law or by the Secretary of the Military Department concerned.

(d) *Operating forces*. Those forces whose primary mission is to participate in combat and the integral supporting elements thereof.

### § 144.4 Policy.

It is DoD policy to permit members of the Armed Forces maximally to fulfill their civic responsibilities consistent with their military duties. For service members stationed in the United States, servicing on a State or local jury is one such civic obligation. Service members are exempt from jury duty, when it unreasonably would interfere with performance of their military duties or adversely affect the readiness of a unit, command, or activity.

### § 144.5 Responsibilities.

The *Secretaries of the Military Departments*, or designees, in accordance with regulations prescribed by the Secretary concerned, shall determine whether Service members shall be exempt from jury duty. This authority may be delegated no lower than to commanders authorized to convene special courts-martial.