

## SUBCHAPTER M—MISCELLANEOUS

### PART 191—THE DOD CIVILIAN EQUAL EMPLOYMENT OPPOR- TUNITY (EEO) PROGRAM

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AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 113.

SOURCE: 53 FR 30990, Aug. 17, 1988, unless otherwise noted.

#### § 191.1 Purpose.

This part:

(a) Implements the DoD Humans Goals Charter; 29 U.S.C. 791, 792, 793, and 795; guidance from the Equal Employment Opportunity Commission (EEOC); guidance from the Office of Personnel Management (OPM); Executive Order 11830; General Services Administration Order ADM 5420.71A; Executive Orders 11141; 11246 Part II, 11375, and 12086; Office of Management and Budget (OMB) Circular No. A-11; 42 U.S.C. 2000E-16; Executive Order 11478; 38 U.S.C. 2014; 29 U.S.C. 631(b) and 633a; 5 U.S.C. chapters 43 and 72; Secretary of Defense Policy on Sexual Harassment, July 17, 1981; Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) Multiple Addressee Memorandum, August 16, 1981; and 29 U.S.C. 206(d) by establishing the Civilian Equal Employment Opportunity (EEO) Program, to include affirmative action programs, consistent with guidance from the Equal Employment Opportunity Commission (EEOC), Office of Personnel Management (OPM), and the DoD Human Goals Charter.

(b) Consolidates in a single document provisions of Secretary of Defense Multiple Addressee Memorandum, June 23, 1981; DoD Directive 1100.11, DoD Directive 1450.1, DoD Directive 5120.46, and DoD Directive 1100.15, therefore canceling each document.

(c) Authorizes, as an integral part of the Civilian EEO Program, the establishment of Special Emphasis Programs (SEPs) entitled the Federal Women's Program (FWP), the Hispanic Employment Program (HEP), and the Program for People with Disabilities (PPD), the Asian/Pacific Islander Employment Program (AEP), the American Indian/Alaskan Native Employment Program (AIEP), and the Black Employment Program (BEP).

(d) Establishes the Defense Equal Opportunity Council (DEOC), the Civilian EEO Review Board, the SEP Boards.

(e) Authorizes the issuance of DoD Instructions and Manuals to implement this part and guidance from standard-setting agencies such as EEOC and OPM, consistent with DoD 5025.1-M.

[53 FR 30990, Aug. 17, 1988, as amended at 56 FR 10170, Mar. 11, 1991; 57 FR 35755, Aug. 11, 1992]

#### § 191.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD) and activities supported administratively by OSD, the Military Departments, the Organization of the Joint Chiefs of Staff (as an element of the OSD for the purposes of this program), the Unified and Specified Commands, the Defense Agencies, the Army and Air Force Exchange Service, the National Guard Bureau, the Uniformed Services University of the Health Sciences, the Office of Civilian Health and Medical Programs of the Uniformed Services, and the DoD Dependents Schools (hereafter referred to collectively as "DoD Components").

(b) Applies worldwide to all civilian employees and applicants for civilian employment within the Department of Defense in appropriated and non-appropriated fund positions.

(c) Does not apply to military personnel, for whom equal opportunity is covered by DoD Directive 1350.2<sup>1</sup>.

<sup>1</sup>Copies may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

(d) Covers Federal employment issues under section 504 of the Rehabilitation Act of 1973, as amended, even though DoD Directive 1020.1<sup>2</sup> implements section 504 with respect to programs conducted and assisted by the Department of Defense. The standards established under section 501 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 791, 792, 793, and 795), are to be applied under section 504 of the Act with respect to civilian employees and applicants for civilian employment in Federal Agencies.

[53 FR 30990, Aug. 17, 1988, as amended at 56 FR 10170, Mar. 11, 1991]

### § 191.3 Definitions.

*Affirmative action.* A tool to achieve equal employment opportunity. A program of self-analysis, problem identification, data collection, policy statements, reporting systems, and elimination of discriminatory policies and practices, past and present.

*Age.* A prohibited basis discrimination. For purposes of this Directive, persons protected under age discrimination provisions are those 40 years of age or older, except when a maximum age requirement has been established by statute or the OPM. Aliens employed outside the limits of the United States are not covered by this definition.

*Discrimination.* Illegal treatment of a person or group based on race, color, national origin, religion, sex, age, or disability.

*Equal Employment Opportunity (EEO).* The right of all persons to work and advance on the basis of merit, ability, and potential, free from social, personal, or institutional barriers of prejudice and discrimination.

*Minorities.* All persons classified as black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, and American Indian or Alaskan Native.

*National origin.* A prohibited basis for discrimination. An individual's place of origin or his or her ancestor's place of origin or the possession of physical, cultural, or linguistic characteristics of a national origin group.

*People with disabilities.* People who have physical or mental impairments

that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment. For purposes of this part, such term does not include any individual who is an alcoholic or drug abuser and whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question, or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or to the safety of others. As used in this paragraph:

(a) *Physical or mental impairment.* Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal and special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(b) *Major life activities.* Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) *Has a record of such impairment.* Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) *Is regarded as having an impairment.* Has:

(1) A physical or mental impairment that does not substantially limit major life activities but is treated by an employer as constituting such a limitation;

(2) A physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment; or

(3) None of the impairments defined above but is treated by an employer as having an impairment.

*Race.* A prohibited basis for discrimination. For purposes of this part, all persons are classified as black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native, and White, as follows:

<sup>2</sup>See footnote 1 to § 191.2(c).