

Office of the Secretary of Defense

§ 46.3

WEST VIRGINIA

Director, Department of Veterans Affairs,
605 Atlas Building, Charleston, WV 25301-
9778.

WISCONSIN

Secretary, Department of Veterans Affairs,
P.O. Box 7843, 77 North Dickinson Street,
Madison, WI 53707.

PART 46—FEDERAL VOTING ASSISTANCE PROGRAM

Sec.

- 46.1 Reissuance and purpose.
- 46.2 Applicability and scope.
- 46.3 Definitions.
- 46.4 Policy.
- 46.5 Organization.
- 46.6 Responsibilities.

AUTHORITY: Pub. L. 296, 84th Congress and
10 U.S.C. 133.

SOURCE: 45 FR 84766, Dec. 23, 1980, unless
otherwise noted.

§ 46.1 Reissuance and purpose.

This rule reissues this part dated September 25, 1963, and implements the Provisions of Executive Order 10646, November 23, 1955, wherein the Secretary of Defense was designated the Federal Coordinator for assigning responsibility and prescribing procedures to implement the absentee voting program authorized by the Federal Voting Assistance Act of 1955 (FVAA) and the Overseas Citizens Voting Rights Act of 1975 (OCVRA). This part assigns responsibility and delegates authority to the Deputy Assistant Secretary of Defense (Administration) to carry out this program on behalf of the Secretary of Defense.

§ 46.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, and the Defense Agencies (hereafter referred to as the "DoD Components").

(b) Other executive departments and agencies shall provide assistance to this program, upon request, as provided by sections 1973cc-11 and 1973cc-13 of FVAA and 1973dd-2b of OCVRA. (Participating departments and agencies shall adopt regulations and procedures

that conform to this part to the extent practicable, consistent with their organization missions.)

§ 46.3 Definitions.

For the purpose of administering the Federal Voting Assistance Program, the following definitions apply:

(a) *Federal Election*. Any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential Elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner from the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands.

(b) *State election*. Any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for any State office, such as, governor, lieutenant governor, or attorney general.

(c) *Local election*. An election which is less than a State election, such as a municipal, county, or township election.

(d) *Military Services*. Refers to the Army, Navy, Air Force, Marine Corps, and the Coast Guard.

(e) *Uniformed Services*. Refers to the Army, Navy, Air Force, Marine Corps, Coast Guard, the Commissioned Corps of the U.S. Public Health Service, and the Commissioned Corps of the National Oceanic and Atmospheric Administration.

(f) *Voter*. A person in any of the following categories who is authorized by law and who is registered to vote in any primary, special, or general election.

(1) Members of the Uniformed Services or Merchant Marine in active service and their spouses and dependents, wherever stationed.

(2) U.S. citizens temporarily residing outside the United States.

(3) Other U.S. citizens residing outside the United States not covered by any other category mentioned above and whose intent to return to their State of last residence may be uncertain.

§ 46.4

(g) *Voting residence.* The legal residence or domicile in which the voter is registered to vote.

§ 46.4 Policy.

(a) To implement and administer the FVAA and OCVRA, as amended/DoD Components and other participating Federal departments and agencies concerned with the voting program shall encourage their eligible voters to participate in the voting process of the Federal, State, and local governments.

(b) The voting program shall be administered in such a manner as to ensure that voters are provided all necessary voting information, including voting age requirements, election dates, officers to be elected, constitutional amendments, other ballot proposals, and absentee registration and voting procedures.

(c) When practicable and compatible with operational conditions, every voter shall be afforded an opportunity to register and vote in any election for which the State of his or her voting residence has established enabling laws and procedures.

(d) Voting in person or by absentee process shall be offered when local conditions allow voters to prepare, send, and receive personal material. However, a determination by those administering the voting program that voting assistance cannot be rendered because it is impractical and incompatible with military or Federal operations shall be conclusive, if this determination is made in good faith. (See section 1973cc-24, FVAA.)

(e) Absentee voting procedures shall be prescribed in such a manner as to safeguard the integrity and secrecy of the ballot. In addition, all necessary steps shall be taken to prevent fraud and to protect voters against coercion of any sort.

(1) No member of the Uniformed Services shall attempt to influence any other member to vote or not to vote for any particular candidate, or to require any member to march to any polling place or place of voting. (See section 1973cc-25 of FVAA.)

(2) However, nothing in § 46.4(e), above, shall be considered to prohibit free discussion regarding political issues or candidates for public office.

32 CFR Ch. I (7-1-98 Edition)

(See enclosure 2 of DoD Directive 1344.10,¹ Political Activities by Members of the Armed Forces, September 23, 1969.)

(3) No person in the Uniformed Services of the United States shall poll any other member to attempt to influence his or her vote before or after he or she votes. (See enclosure 2 of DoD Directive 1344.10.)

(4) The provision in § 46.4(c) above, shall not preclude making surveys for statistical compilations to measure the extent of voting participation of persons covered by the FVAA and OCVRA, as amended.

§ 46.5 Organization.

In accordance with E.O. 10646, authority and responsibility are hereby delegated to the Deputy Assistant Secretary of Defense (Administration) to carry out this program on behalf of the presidential designee, the Secretary of Defense. The Deputy Assistant Secretary of Defense (Administration) is authorized to act for the presidential designee and to coordinate and facilitate such actions as may be required to discharge Federal responsibilities assigned in E.O. 10646, FVAA, and OCVRA.

§ 46.6 Responsibilities.

(a) The *Deputy Assistant Secretary of Defense (Administration)* shall: (1) Manage, coordinate, or perform the tasks assigned to the presidential designee in E.O. 10646, the FVAA, and OCVRA.

(2) Establish and maintain liaison with officials of the State legislatures, and with State and local election law officials.

(3) Be the sole DoD representative for obtaining from each State current voting information and disseminating it to other executive departments, agencies, and DoD Components. In this regard, DoD Components and participating departments and agencies may not contact State voting officials about voting matters.

(4) Encourage and assist States and other U.S. jurisdictions to adopt the

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