

member by virtue of an application made by him under this section. A retired member who does not make the additional election provided under this section within the time limits will not be allowed to reduce an annuity or withdraw from participation in the Plan as provided by § 48.406.

(b) Members who have elected and are not yet retired will automatically participate under the provisions of § 48.201.

(c) Elections in effect on August 13, 1968, will remain under the cost tables applicable on the date of the member's retirement.

(d) Any member who has filed an election, modification, or revocation prior to August 13, 1968, may before September 1, 1969, submit a written application to the Secretary concerned requesting that such election, modification, or revocation remain under the time-of-election provisions of the law applicable on the date it was filed.

PART 51—THE DEPARTMENT OF DEFENSE MILITARY EQUAL OPPORTUNITY PROGRAM

Sec.

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APPENDIX A TO PART 51—MILITARY EQUAL OPPORTUNITY REPORTING REQUIREMENTS

APPENDIX B TO PART 51—ORGANIZATIONS AND FUNCTIONS

AUTHORITY: Pub. L. 92-261, sec. 301, 80 Stat. 379 (5 U.S.C. 301, 10 U.S.C. 133).

SOURCE: 54 FR 46227, Nov. 2, 1989, unless otherwise noted.

§ 51.1 Purpose.

This part:

(a) Regulates the Department of Defense Military Equal Opportunity (EO) Program and assigns responsibilities for ensuring DoD-wide compliance with the broad program objectives outlined in DoD Human Goals Charter, March 21, 1988.

(b) Provides for education and training in EO and human relations.

(c) Prescribes the functions of the Defense Equal Opportunity Council

(DEOC), the Defense Equal Opportunity Management Institute (DEOMI), and the Board of Visitors (BOV) to DEOMI.

§ 51.2 Applicability and scope.

This part:

(a) Applies to all military members of the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

(b) Applies to DoD contracted organizations that provide services to military personnel and their families.

(c) Does not apply to civilian personnel, except as noted in paragraph (b) of this section.

§ 51.3 Definitions.

Affirmative Action. Methods used to achieve the objectives of the EO program. Processes, activities, and systems designed to identify, eliminate, prevent, and work to overcome the effects of discriminatory treatment as it affects the upward mobility and quality of life for DoD personnel.

Discrimination. Illegal treatment of a person or group based on handicap, race, color, national origin, age, religion, or gender.

DoD Military Equal Opportunity (EO) Program. The DoD-wide military program of equal opportunity that is accomplished through efforts by DoD Components. It provides an environment in which every member of the total force is ensured an opportunity to rise to as high a level of responsibility as possible in the military profession, dependent only on merit, fitness, and capability.

Equal Opportunity (EO). The right of all persons to participate in and benefit from programs and activities for which they are qualified. These programs and activities shall be free from social, personal, or institutional barriers that prevent people from rising to as high a

level of responsibility as possible. Persons shall be evaluated only on individual merit, fitness, and capability, regardless of race, color, gender, national origin, age, or handicap except as prescribed by statute, or DoD/Service policy.

Ethnic Group. A segment of the population that possesses common characteristics and a cultural heritage based to some degree on the following:

- (a) Common geographic origin;
- (b) Race;
- (c) Language or dialect;
- (d) Religious faith or faiths;
- (e) Shared traditions, values, or symbols;
- (f) Literature, folklore, or music;
- (g) An internal sense of distinctiveness; and/or
- (h) An external perception of distinctiveness.

Ethnic and Racial Categories. The basic racial and ethnic categories for DoD reporting are defined as follows:

(a) *American Indian or Alaskan Native.* A person having origins in the original peoples of North America.

(b) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa.

(c) *Black (Not of Hispanic Origin).* A person having origins in any of the original peoples of Africa.

(d) *Hispanic.* A person having origins in any of the original peoples of Mexico, Puerto Rico, Cuba, or Central or South America, or of other Spanish cultures, regardless of race.

(e) *White (Not of Hispanic Origin).* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

National origin. An individual's or ancestor's place of origin. Also applies to a person who has the physical, cultural, or linguistic characteristics of a national group.

Race. A division of humans identified by the possession of traits that are transmissible by descent and that are sufficient to characterize as a distinctive human type.

Religion. A personal set or institutionalized system of attitudes, moral

or ethical beliefs, and practices that are held with the strength of traditional religious views, characterized by ardor and faith, and generally evidenced through specific religious observances.

Sexual Harassment. A form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or

(b) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(c) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

§ 51.4 Policy.

It is DoD policy to:

(a) Support the military EO program as an integral element in total force readiness, as defined in the Secretary of Defense Memorandum and enforce at all levels of activity the EO provisions of this part in developing operating EO policies and programs.

(b) Use the chain of command to promote, support, and enforce the military EO program. The chain of command is the primary and preferred channel for correcting discriminatory practices and for ensuring that human relations and EO matters are enacted.

(c) Ensure the Military Services (to include the Reserve components) maintain military EO and affirmative action programs. Discrimination that adversely affects persons or groups based on race, color, religion, gender, age, or