

§ 84.39

See 41 U.S.C. 423(h)(1). Any actions taken as the result of the above referrals shall be reported to the DoD component DAEO in accordance with paragraph (b)(3)(i)(A) of this section.

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20030, 20032, Apr. 24, 1995]

§ 84.39 Administrative enforcement procedures.

(a) *Statutory authority.* 10 U.S.C. 2397 and 2397a provide for administrative enforcement action and sanctions imposed by the Secretary of Defense against individuals and non-Federal entities not in compliance with these statutes.

(b) *Procedures for pursuing administrative action.* All recommendations for enforcement of 10 U.S.C. 2397 and 2397a forwarded to the Secretary of Defense shall be initiated, investigated and processed in accordance with the requirements of the Administrative Procedure Act. See 5 U.S.C. 551 *et seq.*

(c) *Hearing examiners.* In accordance with 5 U.S.C. 556, DoD shall appoint hearing examiners from within DoD to preside at the taking of evidence and provide recommendations to DoD as to final action.

(d) *Administrative sanctions.* (1) DoD may take appropriate disciplinary action whenever indicated by the outcome of a case involving violations of 10 U.S.C. 2397 and 2397a by:

(i) Imposing an administrative penalty, not to exceed \$10,000;

(ii) With respect to violations of 10 U.S.C. 2397a, imposing an additional administrative penalty of a particular amount if the individual is determined to have accepted or continued employment with a defense contractor during the ten-year period beginning with the date of separation from Federal Government service.

(2) DoD may take other appropriate disciplinary action when indicated by the outcome of a case in accordance with the laws or regulations violated.

(e) *Judicial review.* Any individual or non-Federal entity found in violation as described, and against whom an administrative sanction is imposed, may seek judicial review of the final administrative determination.

32 CFR Ch. I (7–1–98 Edition)

Subpart K—Training

§ 84.40 Office of Government Ethics regulation.

See 5 CFR part 2638, “Office of Government Ethics and Executive Agency Ethics Program Responsibilities.”

§ 84.41 DoD guidance.

(a) *Initial and annual ethics training.* (1) Overall responsibility for initial and annual ethics training programs rests with the Head of each DoD component acting through his DAEO. The Head of the DoD component shall ensure that adequate resources are available to implement the requirements of this subpart. Support shall be provided by the DoD component legal and personnel offices, as necessary.

(2) In the Military Departments, responsibility for implementation of ethics training programs rests with the heads of DoD component commands or organizations who shall ensure that ethics training is accomplished in accordance with this subpart.

(3) Training shall be accomplished using material authorized by the DoD component DAEO or designee in meeting the requirements of this subpart. Ethics Counselors may augment this material with additional training material needed to address specific ethics issues peculiar to their organization.

(4) DoD component Heads and DoD component DAEOs have the authority to require that DoD employees other than the ones covered by 5 CFR part 2638 receive annual ethics training.

(b) *Procurement integrity training.* (1) Each DoD component shall establish, or insure that its DoD employees have access to, a procurement integrity training program. Such program shall be the responsibility of the DoD component's official in charge of acquisition, with the assistance of the legal and personnel offices, under the overall guidance of the GC, DoD. The procurement integrity training program shall, at a minimum, comply with 48 CFR 3.104–12.

(2) Heads of DoD components shall establish procedures to ensure that DoD employees receive (or have received) procurement integrity training and sign the Option Form (OF) 333,

“Procurement Integrity Training Certificate for Procurement Officials,” or similar certificate. Out-processing procedures shall also be established to ensure that DoD employees who leave an organization verify their status with regard to the restrictions contained in the Procurement Integrity Act (41 U.S.C. 423). An original copy of OF 333 or similar certificate should be placed in the appropriate personnel folder or other permanent file as determined by the DoD component. The individual executive the certificate should also retain a copy.

(3) The following DoD employees should receive procurement integrity training and execute the required certificate:

(i) All DoD employees who are members of the acquisition workforce;

(ii) All DoD employees who are engaged in, or who might become engaged in, procurement official activities, as set forth in 41 U.S.C. 423 and 48 CFR 3.104.

(4) This requirement may be waived if the head of the DoD component command or organization determines that the DoD employee will not act as a procurement official while assigned to the organization.

§ 84.42 Procedures.

(a) *Combined initial and annual ethics training (CIAET) for calendar year 1993.*

(1) By December 31, 1993, all DoD employees, including those required to receive Annual Ethics Training (AET), non-appropriated fund instrumentality employees, and enlisted members, shall receive CIAET.

(2) CIAET shall be accomplished in person by a Qualified Individual or by recording in the presence of a Qualified Individual, subject to the following exceptions:

(i) If the DoD component DAEO determines it is impractical to accomplish CIAET in the presence of a Qualified Individual, DoD employees who are not required to receive AET may be trained by other means within the minimum training requirements set out by OGE in 5 CFR 2638.703 provided that, with the exception of enlisted members, such training was completed by February 3, 1993;

(ii) If the DoD component DAEO determines it is impractical to accomplish CIAET training in the presence of a Qualified Individual, then special Government employees and military officers serving on active duty fewer than 30 consecutive days annually may be trained by other means within the minimum training requirements set out by OGE in 5 CFR 2638.704;

(iii) If the DoD component DAEO makes, with the approval of OGE, a written determination that it is impractical to accomplish CIAET training in the presence of a Qualified Individual, then DoD employees who are required to receive AET may be trained by other means within the minimum training requirement set out by OGE in 5 CFR 2638.704. OGE requires the written determination to identify the particular DoD employees or groups of DoD employees concerned and the specific circumstances that make the presence of a Qualified Individual impractical (mere administrative inconvenience or cost to an agency, standing alone, shall not justify such determination).

(3) The term “immediate office” as used in 5 CFR 2638.703 shall mean the local Ethics Counselor’s.

(4) CIAET shall be a minimum of one hour.

(5) Those DoD employees who are required to receive AET will satisfy their 1993 annual ethics training obligation if they attended CIAET in 1992 or 1993.

(b) *Initial ethics training (IET) for new DoD employees.* (1) Within 90 days of entering on duty, all DoD employees who did not receive CIAET, including those required to receive AET and enlisted members, shall receive IET for new DoD employees.

(2) IET shall be accomplished in person by a Qualified Individual or by recording in the presence of a Qualified Individual, and such IET shall qualify as AET for the year the new DoD employees entered on duty, subject to the following exceptions:

(i) If the DoD component DAEO determines it is impractical to accomplish IET in the presence of a Qualified Individual, DoD employees who are *not* required to receive AET may be trained by other means within the minimum