

acceptance and processing of filings made in electronic format. Filers should consult the Filer Manual in conjunction with the Commission's rules governing mandated electronic filing when preparing documents for electronic submission.<sup>2</sup>

A power outage that occurred at 4:30 a.m. on March 21, 1997 prevented system implementation on March 24, 1997. The Commission, therefore, is postponing the implementation of the Filer Manual from March 24, 1997 to April 14, 1997.

An incorrect page reference in the March 24th issue is being corrected for § 232.301.

#### Need for Correction

As published, the correction to the final regulations contains an error which may prove to be misleading and is in need of clarification.

#### Correction of Publication

Accordingly, the publication of March 24, 1997 of the final regulations, which were the subject of FR Doc. No. 97-7340, is corrected as follows:

#### § 232.301 [Corrected]

On page 13821, second column, in the amendatory instruction to § 232.301, first line, page "8876" is corrected to read "8878".

Dated: April 2, 1997.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-8874 Filed 4-7-97; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 216

[DoD Directive 1322.13]

RIN 0790-AG42

#### Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education

**AGENCY:** Office of the Secretary, Department of Defense.

**ACTION:** Interim rule.

**SUMMARY:** The Department of Defense adopts this interim rule to implement the National Defense Authorization Act of 1995, National Defense Authorization Act for Fiscal Year 1996, and the Omnibus Consolidated Appropriations Act, 1997 which state that no funds available under appropriations acts for any fiscal year for the Departments of Defense, Transportation (with respect to recruiting), Labor, Health and Human Services, Education, and Related Agencies may be provided by contract or grant (including a grant of funds to be available for student aid) to a covered school that has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents, the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses, access to students on campuses, access to directory information on students or that has an anti-ROTC policy. The rule implements the law. The Department invites the public to comment on this interim rule. It will consider these comments in issuing the final rule.

**DATES:** This interim rule is effective March 29, 1997. Comments must be received by July 7, 1997.

**ADDRESSES:** Forward comments to the Director for Accession Policy, Office of the Assistant Secretary of Defense for Force Management Policy, 4000 Defense Pentagon, Washington, DC 20301-4000.

**FOR FURTHER INFORMATION CONTACT:** William J. Carr, (703) 697-8444.

**SUPPLEMENTARY INFORMATION:** The Secretary is interested in establishing sound procedures to implement current statutes, while keeping the regulatory burden to the minimum necessary to carry out the congressional intent.

To that end, the Department developed this rule in consultation with other Federal agencies, including the Departments of Education, Labor, Transportation, and Health and Human Services. Informal discussions were held with a variety of education associations, and advocates of

institutions of higher education. This rule incorporates many of the comments and suggestions offered by those organizations and entities. Agencies affected by this rule will continue to coordinate as they implement its provisions.

The part defines the criteria for determining whether an institution of higher education has a policy or practice prohibiting or preventing the Secretary of Defense from maintaining, establishing, or efficiently operating a Senior ROTC unit; or has a policy of denying military recruiting personnel entry to campuses, access to students on campuses, or access to directory information on students. Current statutes establish that institutions of higher education having such policies or practices are ineligible for certain Federal funding. The statutes are the National Defense Authorization Act of 1995, 10 U.S.C. 983, and the Omnibus Consolidated Appropriations Act, 1997.

The determination of the ability to 'efficiently' operate an ROTC unit generally refers to an expectation that the ROTC Department would be treated on a par with other academic departments; as such, it would not be singled out for actions that would unreasonably impede access to students (and vice versa) or unreasonably restrict its operations.

The part also defines the procedures that would be followed in evaluating recommendations for such a determination. When a component of the Department of Defense (DoD component) believes that policies or practices of an institution of higher education might require such a determination, that component is required to confirm the institution's policy in consultation with the institution. If that exchange suggests that the policy or practice would trigger a denial of funding, as required by law, the supporting facts would be forwarded through Department of Defense channels to the decision authority, who is the Assistant Secretary of Defense for Force Management Policy (ASD(FMP)).

The Department has provided definitions to which it especially invites attention, since those definitions are intended to inform the reader of the specific meaning of significant words used in this rule.

More specifically, in carrying out their customary activities, DoD components must identify any institutions of higher education that, by policy or practice, deny military recruiting personnel entry to the campus(es) of those schools, access to their students, or access to student

<sup>2</sup> See Release Nos. 33-6977 (February 23, 1993) [58 FR 14628], IC-19284 (February 23, 1993) [58 FR 14848], 35-25746 (February 23, 1993) [58 FR 14999], and 33-6980 (February 23, 1993) [58 FR 15009] for a comprehensive treatment of the rules adopted by the Commission governing mandated electronic filing. See also Release No. 33-7122 (December 19, 1994) [59 FR 67752], in which the Commission made the EDGAR rules final and applicable to all domestic registrants and adopted minor amendments to the EDGAR rules; Release No. 33-7394, in which the Commission adopted the most recent update to the Filer Manual; and Release No. 33-7369 (December 5, 1996) [61 FR 65440], in which the Commission proposed additional minor technical amendments to the EDGAR rules.

directory information. When repeated requests to schedule recruiting visits or to obtain directory information are unsuccessful, the component concerned must seek written confirmation of the school's present policy from the head of the school through a letter of inquiry. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments to accompany the submission to the ASD(FMP), and shall be provided 30 days to offer such clarifying comments.

Similarly, in carrying out their customary activities, DoD components must identify any institutions of higher education that, by policy or practice, deny establishment, maintenance, or efficient operation of a unit of the Senior ROTC; or deny students permission to participate, or effectively prevent students from participating in a unit of the Senior ROTC at another institution of higher education. The DoD component concerned must seek written confirmation of the school's policy from the head of the school through a letter of inquiry. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments to accompany the submission to the ASD(FMP), and shall be provided 30 days to offer such clarifying comments.

The recommendation of the DoD component then must be reviewed by the Secretary of the Military Department concerned, who shall evaluate responses to the letter of inquiry, and other such information obtained in accordance with this part, and submit to the ASD(FMP) the names and addresses of covered schools that are believed to be in violation of current law. Full documentation must be furnished to the ASD(FMP) for each such covered school, including the school's formal response to the letter of inquiry, documentation of any oral response, or evidence showing that attempts were made to obtain either written confirmation or an oral statement of the school's policies.

Following any determination by the ASD(FMP) that policies or practices of an institution of higher education require a determination of ineligibility

for certain Federal funding, as required by law, the ASD(FMP) would:

- Disseminate to Federal entities affected by the decision, including the DoD components and the General Services Administration (GSA), the names of the affected institutions. The ASD(FMP) also would notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.
- Publish in the **Federal Register** each such determination, and publish in the **Federal Register** once every six months a list of all institutions currently determined to be ineligible for contracts and grants by reason of such determinations.
- Inform the affected institution that its funding eligibility may be restored if the school provides sufficient new information that the basis for the determination no longer exists.

This rule contains procedures under which funding can be restored. Not later than 45 days after receipt of a school's request to restore funding eligibility, the ASD(FMP) must determine whether the funding status of the covered school should be changed, and notify the applicable school of such a determination. Concurrently, entities of the Federal governments affected by the decision, including the DoD components and the GSA, would be notified of the change in funding status.

#### Other Matters

In the event of any determination of ineligibility by the ASD (FMP), the Federal agencies affected by the decision will determine what funds provided by grant or contract to the covered school are affected and take appropriate action. As a result of this division of responsibility and also due to the large number of Federal agencies affected, this rule does not detail what funds are affected by any determination of ineligibility.

The Department of Education intends to communicate separately regarding the impact on programs of federal student financial assistance under Title IV of the Higher Education Act of 1965, as amended (HEA). However, due to present confusion over the language in 110 Stat. 3009 concerning "(including a grant of funds to be available for student aid)", the Secretary of Education has requested that DoD include in this preamble the following clarification: The Secretary of Education has determined that funds under the Federal Pell Grant Program (Title IV, Part A, Subpart 1), the Federal Family Education Loan Program (Title IV, Part B), and the Federal Direct Student Loan

Program (Title IV, Part D) are not affected because funds under these programs are not provided by grant or contract to a covered school, but are funds provided to the student recipients. The impact of 110 Stat. 3009 on funds provided under the Federal Supplemental Educational Opportunity Grant Program (Title IV, Part A, Subpart 3), the Federal Work-Study Program (Title IV, Part C), and the Federal Perkins Loan Program (Title IV, Part E) (collectively the Campus-Based Programs) is still under review. In any event, no funds under the Campus-Based Programs would be affected prior to July 1, 1997. Campus-Based awards prior to July 1, 1997 are funded from the FY 1996 appropriation; 110 Stat. 3009 affects only FY 1997 and later year appropriations. In light of the July 1, 1997 date for release of FY 1997 Campus-Based funds, the Secretary of Education will separately communicate as soon as possible on whether the Campus-based programs are affected.

#### Justification for an Interim Rule

The Omnibus Consolidated Appropriations Act, 1997 (Pub. L. 104-208, section 514) requires that the statute become effective not later than 180 days following its enactment. The statute also calls for promulgation of rules consistent with this effective date. Because final rules are necessary to implement the statute, it is impracticable to provide for public notice and comment on a proposed rule prior to this statutory deadline. Accordingly, the Department issues this interim rule and invites public comment. Public comments must be received by July 7, 1997. The Department will carefully consider these comments in issuing a final rule.

In light of the March 29, 1997 statutory effective date, the 30-day delay of the effective date after publication of a final rule under the Administrative Procedures Act is hereby waived.

#### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that this interim rule is a significant regulatory action for OMB review.

#### Public Law 96-354, "Regulatory Flexibility Act" [5 U.S.C. 601]

This interim rule will not have a significant adverse impact on a substantial number of small entities.

#### Public Law 96-511, "Paperwork Reduction Act" [44 U.S.C. Chapter 35]

This interim rule will not impose any additional reporting or record keeping

requirements under the Paperwork Reduction Act.

#### List of Subjects in 32 CFR Part 216

Armed forces; Colleges and universities.

Accordingly, 32 CFR part 216 is revised to read as follows:

#### PART 216—MILITARY RECRUITING AND RESERVE OFFICER TRAINING CORPS PROGRAM ACCESS TO INSTITUTIONS OF HIGHER EDUCATION

Sec.

216.1 Purpose.

216.2 Applicability.

216.3 Definitions.

216.4 Policy.

216.5 Responsibilities.

216.6 Information requirements.

Appendix A of part 216—ROTC Sample

Letter of Inquiry

Appendix B of part 216—Military Recruiting

Sample Letter of Inquiry

**Authority:** 10 U.S.C. 983.

#### § 216.1 Purpose.

This part:

(a) Implements the National Defense Authorization Act of 1995 (108 Stat. 2663),

(b) Implements 10 U.S.C. 983, and

(c) Implements the Omnibus Consolidated Appropriations Act, 1997 (110 Stat. 3009).

(d) Updates policy and responsibilities relating to the management of covered schools that have a policy of either denying, or effectively preventing military recruiting personnel entry to their campuses, access to their students, or access to student directory information.

(e) Updates policy and responsibilities relating to the management of covered schools that have an anti-ROTC policy.

#### § 216.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”). The policies herein also affect the Departments of Transportation, Labor, Health and Human Services, Education, and Related Agencies. The term “Military Services,” as used herein, refers to the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard. The term “Related Agencies,” as used herein, refers to the Armed Forces Retirement Home, the Corporation for National and Community Service, the

Corporation for Public Broadcasting, the Federal Mediation and Conciliation Service, the Federal Mine Safety and Health Review Commission, the National Commission on Libraries and Information Science, the National Council on Disability, the National Education Goals Panel, the National Labor Relations Board, the National Occupational Safety and Health Review Commission, the Physician Payment Review Commission, the Prospective Payment Assessment Commission, the Social Security Administration, the Railroad Retirement Board and the United States Institute of Peace.

#### § 216.3 Definitions.

**Anti-ROTC policy.** A policy or practice whereby a covered school prohibits or in effect prevents the Secretary of Defense from maintaining, establishing, or efficiently operating a unit of the Senior ROTC at the covered school; or prohibits or in effect prevents a student at the covered school from enrolling in a Senior ROTC unit at another institution of higher education.

**Covered school.** An institution of higher education, or a subelement of an institution of higher education, subject to the following clarifications:

(1) In the event of a determination (§ 216.5) affecting only a subelement of a parent institution (see § 216.3(d)), the limitations on the use of funds (§ 216.4 (a) and (b)) shall apply only to the subelement and not to the parent institution as a whole.

(2) The limitations on the use of funds (§ 216.4 (a) and (b)) shall not apply to any individual institution of higher education that is part of a single university system that does not prevent entry to campus, access to students, or access to student information by military recruiters, or have an anti-ROTC policy, even though another campus of the same system is affected by a determination under § 216.5(a).

**Directory information on students.** The student's name, address, telephone listing, date and place of birth, level of education, academic major, degrees received, and the educational institution in which the student most recently was enrolled.

**Institution of higher education.** A domestic college, university, or subelement thereof providing postsecondary school courses of study, including foreign campuses of such domestic institutions. The term includes junior colleges, community colleges, and institutions providing courses leading to undergraduate and postgraduate degrees. The term does not include entities that operate exclusively

outside the United States, its territories, and possessions. A subelement of an institution of higher education is a discrete (although not necessarily autonomous) organizational entity that may establish policies or practices affecting military recruiting and related actions (e.g., an undergraduate school, a law school, a medical school, or other graduate schools). For example, the School of Law of XYZ University is a subelement of its parent institution (XYZ University).

**Student.** An individual who is 17 years of age or older and is enrolled at a covered school.

#### § 216.4 Policy.

It is policy that:

(a) Under 108 Stat. 2663 and 110 Stat. 3009, no funds available under appropriations acts for any fiscal year for the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and Related Agencies may be provided by contract or by grant (including a grant of funds to be available for student aid) to a covered school if the Secretary of Defense determines that the covered school has a policy or practice (regardless of when implemented) that either prohibits or in effect prevents the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses, access to students on campuses, or access to directory information on students.

(b) Under 110 Stat. 3009, no funds available under appropriations acts for any fiscal year for the Departments of Labor, Health and Human Services, Education, and Related Agencies may be provided by contract or grant (including a grant of funds to be available for student aid) to a covered school that has an anti-ROTC policy or practice (regardless of when implemented). Additionally, under 10 U.S.C. 983, no funds appropriated or otherwise available to the Department of Defense may be made obligated by contract or by grant to a covered school that has such a policy or practice.

(c) The limitations established in paragraph (a) of this section, shall not apply to a covered school if the Secretary of Defense determines that the covered school:

(1) Has ceased the policies or practices defined in paragraph (a) of this section;

(2) Has a long-standing policy of pacifism based on historical religious affiliation;

(3) Excludes all employers from recruiting on the premises of the covered school;

(4) When not providing any directory information on students, certifies that such information is not collected by the covered school;

(5) When not providing directory information for specific students, certifies that each student concerned has formally requested the covered school to withhold this information from third parties;

(6) Permits employers to recruit on the premises of the covered school only in response to an expression of student interest, and the covered school;

(i) Provides the Military Services with the same opportunities to inform the students of military recruiting activities as are available to other employers; or

(ii) Certifies that too few students have expressed an interest to warrant accommodating military recruiters, applying the same criteria that are applicable to other employers; or

(7) Is prohibited by the law of any State, or by the order of any State court, from allowing Federal military recruiting on campus (this exemption is terminated effective March 29, 1998, in accordance with 110 Stat. 3009).

However, this exemption does not apply to funds available to the Department of Defense, in accordance with 108 Stat. 2663.

(d) The limitations established in paragraph (b) of this section, shall not apply to a covered school if the Secretary of Defense determines that the covered school:

(1) Has ceased the policies or practices defined in paragraph (b) of this section;

(2) Has a long-standing policy of pacifism based on historical religious affiliation;

(3) Is prohibited by the law of any State, or by the order of any State court, from allowing Senior Reserve Officer Training Corps activities on campus (this exemption is terminated effective March 29, 1998, in accordance with 110 Stat. 3009). However, this exemption does not apply to funds available to the Department of Defense, in accordance with 10 U.S.C. section 983.

(e) an evaluation to determine whether a covered school maintains a policy or practice covered by paragraph (a) of this section shall be undertaken when:

(1) Military recruiting personnel cannot gain entry to campus, cannot obtain access to students on campus, or are denied access to directory information on students (however, military recruiting personnel shall accommodate a covered school's reasonable preferences as to times and places for scheduling on-campus recruiting); or

(2) The covered school is unwilling to declare in writing, in response to an inquiry from a DoD Component, that the covered school does not have a policy of denying, and that it does not effectively prevent, the Secretary of Defense from obtaining for military recruiting purposes entry to campuses, access to students on campuses, or access to student directory information.

(f) An evaluation to determine whether a covered school has an anti-ROTC policy covered by paragraph (b) of this section shall be undertaken when:

(1) A Secretary of a Military Department or designee cannot obtain permission to establish, maintain, or efficiently operate a unit of the Senior ROTC; or

(2) Absent a Senior ROTC unit at the covered school, students cannot obtain permission from a covered school to participate, or are effectively prevented from participating, in a unit of the Senior ROTC at another institution of higher education.

#### **§ 216.5 Responsibilities.**

(a) The Assistant Secretary of Defense for Force Management Policy, under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Not later than 45 days after receipt of the information defined in paragraph (d)(3) of this section:

(i) Make a final determination under 108 Stat. 2663, 10 U.S.C., section 983; and 110 Stat. 3009 and/or this part, and notify any affected school of that determination along with the basis, and that it is therefore ineligible to receive prescribed funds as a result of that determination.

(ii) Disseminate to Federal agencies affected by 110 Stat. 3009, to the DoD Components, and to the General Services Administration (GSA) the names of covered schools identified under paragraph (a)(1)(i) of this section, and the basis of the determination.

(iii) Disseminate the names of covered schools identified under paragraph (a)(1)(i) of this section, to the Secretary of Education and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(iv) Publish in the **Federal Register** each determination of the Secretary of Defense that a covered school is ineligible for contracts and grants made under 108 Stat. 2663, 10 U.S.C., section 983, and 110 Stat. 3009 and/or this part.

(v) Publish in the **Federal Register** once every six months a list of covered schools that are ineligible for contracts and grants by reason of a determination of the Secretary of Defense under 108

Stat. 2663, 10 U.S.C., section 983, and 110 Stat. 3009 and/or this part.

(vi) Inform the applicable school identified under paragraph (a)(1)(i) of this section, that its funding eligibility may be restored if the school provides sufficient new information that the basis for the determination under paragraph (a)(1)(i) of this section no longer exists.

(2) Not later than 45 days after receipt of a covered school's request to restore its eligibility:

(i) Determine whether the funding status of the covered school should be changed, and notify the applicable school of that determination.

(ii) Notify the parties reflected in paragraphs (a)(1) (ii) and (iii) of this section when a determination of funding ineligibility (paragraph (a)(1)(i) of this section) has been rescinded.

(b) The Secretaries of the Military Departments shall:

(1) Identify covered schools that, by policy or practice, deny military recruiting personnel entry to the campus(es) of those schools, access to their students, or access to student directory information. When repeated requests to schedule recruiting visits or to obtain directory information are unsuccessful, the Military Service concerned shall seek written confirmation of the school's present policy from the head of the school through a letter of inquiry. A letter similar to that shown in Appendix A of this part shall be used, but it should be tailored to the situation presented. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments to accompany the submission to the ASD(FMP), and shall be provided 30 days to offer such clarifying comments.

(2) Identify covered schools that, by policy or practice, deny establishment, maintenance, or efficient operation of a unit of the Senior ROTC; or deny students permission to participate, or effectively prevent students from participating in a unit of the Senior ROTC at another institution of higher education. The Military Service concerned shall seek written confirmation of the school's policy from the head of the school through a letter of inquiry. A letter similar to that shown in appendix B of this part shall be used, but it should be tailored to the situation presented. If written confirmation cannot be obtained, oral policy statements or attempts to obtain such

statements from an appropriate official of the school shall be documented. A copy of the documentation shall be provided to the covered school, which shall be informed of its opportunity to forward clarifying comments to accompany the submission to the ASD(FMP), and shall be provided 30 days to offer such clarifying comments.

(3) Evaluate responses to the letter of inquiry, and other such evidence obtained in accordance with this part, and submit to the ASD(FMP) the names and addresses of covered schools that are believed to be in violation of policies established in § 216.4. Full documentation shall be furnished to the ASD(FMP) for each such covered school, including the school's formal response to the letter of inquiry, documentation of any oral response, or evidence showing that attempts were made to obtain either written confirmation or an oral statement of the school's policies.

(c) The Heads of the DoD Components shall:

(1) Provide the ASD(FMP) with the names and addresses of covered schools identified as a result of evaluation(s) required under §§ 216.4 (e) and (f).

(2) Take immediate action to deny obligations of DoD Funds to covered schools identified under paragraph (a)(1)(i) of this section, and to restore eligibility of covered schools identified under paragraph (a)(2) of this section.

#### § 216.6 Information requirements.

The information requirements identified at §§ 216.5 (b) and (c)(1) have been assigned Report Control Symbols DD-P&R (SA) 1386 and DD-P&R (SA) 1640, respectively, in accordance with DoD 8910.1-M.<sup>1</sup>

#### Appendix A of Part 216—ROTC Sample Letter of Inquiry

(Tailor letter to situation presented).

Dr. Jane Smith,  
President, ABC College, Anywhere, USA  
12345-9876.

Dear Dr. Smith: I understand that ABC College has [refused a request from a Military Department to establish a Senior ROTC unit at your institution] [refused to continue existing ROTC programs at your institution] [prevented students from participation at a Senior ROTC program at another institution] by a policy or practice of the College. Current law<sup>1</sup> prohibits funds by grant or contract (including a grant of funds to be available for student aid) from appropriations of the Departments of Defense, Labor, Health and Human Services, Education, and Related Agencies to schools that have a policy or

practice prohibiting or preventing the Secretary of Defense from maintaining, establishing, or efficiently operating a Senior ROTC unit. Those statutes also bar agency funds for schools that prohibit or prevent a student from enrolling in an ROTC unit at another institution of higher education. Department of Defense Directive 1322.13 implements<sup>2</sup> those statutes.

This letter provides you an opportunity to clarify your institution's policy regarding ROTC access on the campus of ABC College. In that regard, I request, within the next 30 days, a written statement of the institution with respect to [define the problem area(s)].

Based on this information, Department of Defense officials will make a determination as to your institution's eligibility to receive funds by grant or contract. That decision will affect eligibility for funding from appropriations of the Departments of Defense, Labor, Health and Human Services, Education, and Related Agencies. Should it be determined that ABC College is in violation of the aforementioned statutes, such funding would be stopped, and the school would be ineligible to receive such funds in the future.

I regret that this action may have to be taken. Successful officer procurement requires that the Department of Defense maintain a strong ROTC commissioning program. I hope it will be possible to [define the correction to the aforementioned problem area(s)]. I am available to answer any questions.

Sincerely,

#### Appendix B of Part 216—Military Recruiting Sample Letter of Inquiry

(Tailor letter to situation presented).

Dr. John Doe,  
President, ABC College, Anywhere, USA  
12345-9876.

Dear Dr. Doe: I understand that military recruiting personnel [are unable to recruit on the campus of ABC College] [have been refused directory information on ABC College students for military recruiting] by a policy or practice of the College. Current law<sup>1</sup> prohibits funds by grant or contract (including a grant of funds to be available for student aid) from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and Related Agencies to schools that have a policy of denying military recruiting personnel entry to campuses, access to students on campuses, or access to directory information on students. Department of Defense Directive 1322.13 implements<sup>2</sup> those statutes.

This letter provides you an opportunity to clarify your institution's policy regarding military recruiting on the campus of ABC

<sup>2</sup> DoD Directive 1322.13, "Military Recruiting and Reserve Officers Training Corps Program Access to Institutions of Higher Education" (available on the worldwide web at <http://www.dtic.dla.mil/defenselink/>).

<sup>1</sup> 108 Stat. 2663 and 110 Stat. 3009

<sup>2</sup> DoD Directive 1322.13, "Military Recruiting and Reserve Officers Training Corps Program Access to Institutions of Higher Education" (available on the worldwide web at <http://www.dtic.dla.mil/defenselink/>).

College. In that regard, I request, within the next 30 days, a written policy statement of the institution with respect to access to campus and students, and to student directory information<sup>3</sup> by military recruiting personnel. Your response should highlight any difference between access for military recruiters and access for recruiting by other potential employers.

Based on this information, Department of Defense officials will make a determination as to your institution's eligibility to receive funds by grant or contract. That decision will affect eligibility for funding from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and Related Agencies. Should it be determined that ABC College is in violation of the aforementioned statutes, such funding would be stopped, and the school would be ineligible to receive such funds in the future.

I regret that this action may have to be taken. Successful recruiting requires that Department of Defense recruiters have reasonable access to students on the campuses of colleges and universities, and at the same time have effective relationships with the officials and student bodies of those institutions. I hope it will be possible to [define the correction to the aforementioned problem area(s)]. I am available to answer any questions.

Sincerely,

Dated: March 28, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97-8610 Filed 4-7-97; 8:45 am]

BILLING CODE 5000-04-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

33 CFR Parts 5, 26, 27, 95, 100, 110, 130, 136, 138, 140, 151, 153, 177

### 46 CFR Part 2

[CGD 96-052]

RIN 2105-AC63

### Civil Money Penalties Inflation Adjustments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** In accordance with the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, this final rule incorporates inflation adjustments for civil money penalties.

<sup>3</sup> Directory information refers to a student's name, address, telephone listing, date and place of birth, level of education, academic major, degrees received, and the educational institution in which the student most recently was enrolled.

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

<sup>2</sup> 10 U.S.C. 983 and 110 Stat. 3009.