

agreement”, with respect to a guarantee of a donor, means an agreement among the donor, the Secretary of the Army, and a major United States investment management firm that—

(A) ensures the availability of sufficient funds or other financial resources to pay the amount guaranteed during the period of the guarantee;

(B) provides for the perfection of a security interest in the assets of the account for the United States for the benefit of the Academy with the highest priority available for liens and security interests under applicable law;

(C) requires the donor to maintain in an account with the investment management firm assets having a total value that is not less than 130 percent of the amount guaranteed; and

(D) requires the investment management firm, at any time that the value of the account is less than the value required to be maintained under subparagraph (C), to liquidate any noncash assets in the account and reinvest the proceeds in Treasury bills issued under section 3104 of title 31.

(4) MAJOR UNITED STATES COMMERCIAL BANK.—The term “major United States commercial bank” means a commercial bank that—

(A) is an insured bank (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

(B) is headquartered in the United States; and

(C) has net assets in a total amount considered by the Secretary of the Army to qualify the bank as a major bank.

(5) MAJOR UNITED STATES INVESTMENT MANAGEMENT FIRM.—The term “major United States investment management firm” means any broker, dealer, investment adviser, or provider of investment supervisory services (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) or section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2)) or a major United States commercial bank that—

(A) is headquartered in the United States; and

(B) holds for the account of others investment assets in a total amount considered by the Secretary of the Army to qualify the firm as a major investment management firm.

(Added Pub. L. 106-65, div. B, title XXVIII, §2871(a)(1), Oct. 5, 1999, 113 Stat. 871; amended Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(17)], Oct. 30, 2000, 114 Stat. 1654, 1654A-291; Pub. L. 108-136, div. A, title X, §1031(a)(54), Nov. 24, 2003, 117 Stat. 1603.)

#### PRIOR PROVISIONS

A prior section 4357, added Pub. L. 103-337, div. A, title V, §556(a)(1), Oct. 5, 1994, 108 Stat. 2774, related to position of athletic director of Academy and to administration of nonappropriated fund account for athletics program of Academy, prior to repeal by Pub. L. 104-106, div. A, title V, §533(a)(1), Feb. 10, 1996, 110 Stat. 315.

#### AMENDMENTS

2003—Subsec. (c). Pub. L. 108-136 inserted before period at end “or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title”.

2000—Subsec. (e)(5). Pub. L. 106-398 inserted a closing parenthesis after “80b-2”.

#### § 4358. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Army may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, award of a qualifying research grant.

(f) REGULATIONS.—The Secretary of the Army shall prescribe regulations for the administration of this section.

(Added Pub. L. 105-261, div. A, title X, §1063(a)(1), Oct. 17, 1998, 112 Stat. 2130.)

#### § 4359. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds

(a) AUTHORITY.—In the case of an Academy mixed-funded athletic or recreational extracurricular program, the Secretary of the Army may designate funds appropriated to the Department of the Army and available for that program to be treated as nonappropriated funds and expended for that program in accordance with laws applicable to the expenditure of nonappropriated funds. Appropriated funds so designated shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) COVERED PROGRAMS.—In this section, the term “Academy mixed-funded athletic or recreational extracurricular program” means an

athletic or recreational extracurricular program of the Academy to which each of the following applies:

- (1) The program is not considered a morale, welfare, or recreation program.
- (2) The program is supported through appropriated funds.
- (3) The program is supported by a nonappropriated fund instrumentality.
- (4) The program is not a private organization and is not operated by a private organization.

(Added Pub. L. 108-375, div. A, title V, §544(a)(1), Oct. 28, 2004, 118 Stat. 1906.)

EFFECTIVE DATE

Pub. L. 108-375, div. A, title V, §544(d), Oct. 28, 2004, 118 Stat. 1907, provided that: "Sections 4359, 6978, and 9359 of title 10, United States Code, shall apply only with respect to funds appropriated for fiscal years after fiscal year 2004."

**§ 4360. Cadets: charges and fees for attendance; limitation**

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

(Added Pub. L. 108-375, div. A, title V, §545(a)(1), Oct. 28, 2004, 118 Stat. 1908.)

**§ 4361. Policy on sexual harassment and sexual violence**

(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of Defense, the Secretary of the Army shall direct the Superintendent of the Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

(2) Procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual violence, including—

(A) if the cadet chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

(B) a specification of any other person whom the victim should contact; and

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(3) Procedures for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel.

(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(5) Required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

(c) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretary of the Army, shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment, to be administered by the Department of Defense, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Secretary of the Army shall conduct a survey, to be administered by the Department of Defense, of Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of Academy personnel of—

(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

(d) ANNUAL REPORT.—(1) The Secretary of the Army shall direct the Superintendent of the Academy to submit to the Secretary a report on sexual harassment and sexual violence involving cadets or other personnel at the Academy for each Academy program year.

(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the program year and, of those reported cases, the number that have been substantiated.

(B) The policies, procedures, and processes implemented by the Secretary of the Army