

§ 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