

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 non-appropriated 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, § 4359; renumbered § 7459, Pub. L. 115-232, div. A, title VIII, § 808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 4359 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

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 [now 7459, 8478, and 9459] of title 10, United States Code, shall apply only with respect to funds appropriated for fiscal years after fiscal year 2004.”

§ 7460. 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, § 4360; renumbered § 7460, Pub. L. 115-232, div. A, title VIII, § 808(c)(1), Aug. 13, 2018, 132 Stat. 1839.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 4360 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 7461. 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 vio-

lence 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.

(3)(A) The Secretary of Defense may postpone the conduct of an assessment under this subsection if the Secretary determines that conducting such assessment is not practicable due to a war or national emergency declared by the President or Congress.

(B) The Secretary of Defense shall ensure that an assessment postponed under subparagraph (A) is conducted as soon as practicable after the end of the period of war or national emergency concerned, or earlier if the Secretary determines appropriate.

(C) The Secretary of Defense shall notify Congress of a determination under subparagraph (A) not later than 30 days after the date on which the Secretary makes such determination.

(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 and the leadership of the Academy in response to sexual harassment and sexual violence involving cadets or other Academy personnel during the program year.

(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(4)(A) The Secretary of the Army shall transmit to the Secretary of Defense, and to the Board of Visitors of the Academy, each report received by the Secretary under this subsection, together with the Secretary's comments on the report.

(B) The Secretary of Defense shall transmit each such report, together with the Secretary's

comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(e) CONSIDERATION OF REQUEST FOR TRANSFER OF A CADET WHO IS THE VICTIM OF A SEXUAL ASSAULT OR RELATED OFFENSE.—(1) The Secretary of the Army shall provide for timely consideration of and action on a request submitted by a cadet appointed to the United States Military Academy who is the victim of an alleged sexual assault or other offense covered by section 920, 920c, or 930 of this title (article 120, 120c, or 130 of the Uniform Code of Military Justice) for transfer to another military service academy or to enroll in a Senior Reserve Officers' Training Corps program affiliated with another institution of higher education.

(2) The Secretary of the Army shall prescribe regulations to carry out this subsection, within guidelines provided by the Secretary of Defense that—

(A) provide that the Superintendent of the United States Military Academy shall ensure that any cadet who has been appointed to the United States Military Academy and who is a victim of an alleged sexual assault or other offense referred to in paragraph (1), is informed of the right to request a transfer pursuant to this section, and that any formal request submitted by a cadet is processed as expeditiously as practicable through the chain of command for review and action by the Superintendent;

(B) direct the Superintendent of the United States Military Academy, in coordination with the Superintendent of the military service academy to which the cadet requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the cadet;

(ii) to approve such request for transfer unless there are exceptional circumstances that require denial of the request; and

(iii) upon approval of such request, to take all necessary and appropriate action to effectuate the transfer of the cadet to the military service academy concerned as expeditiously as possible; and

(C) direct the Superintendent of the United States Military Academy, in coordination with the Secretary of the military department that sponsors the Senior Reserve Officers' Training Corps program at the institution of higher education to which the cadet requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the cadet;

(ii) subject to the cadet's acceptance for admission to the institution of higher education to which the cadet wishes to transfer, to approve such request for transfer unless there are exceptional circumstances that require denial of the application; and

(iii) to take all necessary and appropriate action to effectuate the cadet's enrollment in the institution of higher education to which the cadet wishes to transfer and to

process the cadet for participation in the relevant Senior Reserve Officers' Training Corps program as expeditiously as possible.

(3) If the Superintendent of the United States Military Academy denies a request for transfer under this subsection, the cadet may request review of the denial by the Secretary of the Army, who shall take action on such request not later than 72 hours after receipt of the formal request for review.

(4) The Secretary concerned shall ensure that all records of any request, determination, transfer, or other action under this subsection remain confidential, consistent with applicable law and regulation.

(5) A cadet who transfers under this subsection may retain the cadet's appointment to the United States Military Academy or may be appointed to the military service academy to which the cadet transfers without regard to the limitations and requirements set forth in sections 7442, 8454, and 9442 of this title.

(Added Pub. L. 109-364, div. A, title V, § 532(a)(1), Oct. 17, 2006, 120 Stat. 2200, § 4361; renumbered § 7461, Pub. L. 115-232, div. A, title VIII, § 808(c)(1), Aug. 13, 2018, 132 Stat. 1839; amended Pub. L. 116-92, div. A, title V, § 555(a), Dec. 20, 2019, 133 Stat. 1388; Pub. L. 116-283, div. A, title V, § 552(b)(1), Jan. 1, 2021, 134 Stat. 3632.)

Editorial Notes

AMENDMENTS

2021—Subsec. (c)(3). Pub. L. 116-283 added par. (3).
2019—Subsec. (e). Pub. L. 116-92 added subsec. (e).
2018—Pub. L. 115-232 renumbered section 4361 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d)(4)(B) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

POLICY FOR MILITARY SERVICE ACADEMIES ON SEPARATION OF ALLEGED VICTIMS AND ALLEGED PERPETRATORS IN INCIDENTS OF SEXUAL ASSAULT

Pub. L. 116-283, div. A, title V, § 539, Jan. 1, 2021, 134 Stat. 3606, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretaries of the military departments and the Superintendent of each military service academy, prescribe in regulations a policy under which a cadet or midshipman of a military service academy who is the alleged victim of a sexual assault and a cadet or midshipman who is the alleged perpetrator of such assault shall, to the extent practicable, each be given the opportunity to complete their course of study at the academy without—

“(1) taking classes together; or
“(2) otherwise being in close proximity to each other during mandatory activities.

“(b) ELEMENTS.—The Secretary of Defense shall ensure that the policy developed under subsection (a)—

“(1) permits an alleged victim to elect not to be covered by the policy with respect to a particular incident of sexual assault;

“(2) protects the alleged victim as necessary, including by prohibiting retaliatory harassment;

“(3) minimizes the prejudicial impact of the policy, to the extent practicable, on both the alleged victim and the alleged perpetrator, and allows the alleged victim and the alleged perpetrator to complete their course of study at the institution with minimal disruption;

“(4) protects the privacy of both the alleged victim and the alleged perpetrator by ensuring that information about the alleged sexual assault and the individuals involved is not revealed to third parties who are not specifically authorized to receive such information in the course of performing their regular duties, except that such policy shall not preclude the alleged victim or the alleged perpetrator from making such disclosures to third parties; and

“(5) minimizes the burden on the alleged victim when taking steps to separate the alleged victim and alleged perpetrator.

“(c) SPECIAL RULE.—The policy developed under subsection (a) shall not preclude a military service academy from taking other administrative or disciplinary action when appropriate.

“(d) MILITARY SERVICE ACADEMY DEFINED.—In this section, the term ‘military service academy’ means the following:

- “(1) The United States Military Academy.
- “(2) The United States Naval Academy.
- “(3) The United States Air Force Academy.
- “(4) The United States Coast Guard Academy.”

DEVELOPMENT OF RESOURCE GUIDES REGARDING SEXUAL ASSAULT FOR THE MILITARY SERVICE ACADEMIES

Pub. L. 115-232, div. A, title V, § 545, Aug. 13, 2018, 132 Stat. 1764, provided that:

“(a) DEVELOPMENT.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], each Superintendent of a military service academy shall develop and maintain a resource guide for students at the respective military service academies regarding sexual assault.

“(b) ELEMENTS.—Each guide developed under this section shall include the following information with regards to the relevant military service academy:

“(1) PROCESS OVERVIEW AND DEFINITIONS.—

“(A) An explanation of prohibited conduct, including examples.

“(B) An explanation of consent.

“(C) Victims' rights.

“(D) Clearly described complaint process, including to whom a complaint may be filed.

“(E) Explanations of restricted and unrestricted reporting.

“(F) List of mandatory reporters.

“(G) Protections from retaliation.

“(H) Assurance that leadership will take appropriate corrective action.

“(I) References to specific policies.

“(J) Resources for survivors.

“(2) EMERGENCY SERVICES.—

“(A) Contact information.

“(B) Location.

“(3) SUPPORT AND COUNSELING.—Contact information for the following support and counseling resources:

“(A) The Sexual Assault Prevention and Response Victim Advocate or other equivalent advocate or counselor available to students in cases of sexual assault.

“(B) The Sexual Harassment/Assault Response and Prevention Resource Program Center.

“(C) Peer counseling.

“(D) Medical care.

“(E) Legal counsel.

“(F) Hotlines.

“(G) Chaplain or other spiritual representatives.

“(c) DISTRIBUTION.—Each Superintendent shall provide the current guide developed by that Superintendent under this section—

“(1) not later than 30 days after completing development under subsection (a) to each student who is enrolled at the military service academy of that Superintendent on the date of the enactment of this Act;

“(2) at the beginning of each academic year after the date of the enactment of this Act to each student who enrolls at the military service academy of that Superintendent; and

“(3) as soon as practicable to a student at the military service academy of that Superintendent who reports that such student is a victim of sexual assault.”

APPLICABILITY OF SEXUAL ASSAULT PREVENTION AND RESPONSE AND RELATED MILITARY JUSTICE ENHANCEMENTS TO MILITARY SERVICE ACADEMIES

Pub. L. 113-291, div. A, title V, §552(a), Dec. 19, 2014, 128 Stat. 3377, provided that: “The Secretary of the military department concerned shall ensure that the provisions of title XVII of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 127 Stat. 950) [see Tables for classification], including amendments made by that title, and the provisions of subtitle D [subtitle D (§§531-547) of title V of div. A of Pub. L. 113-291, see Tables for classification], including amendments made by such subtitle, apply to the United States Military Academy, the Naval Academy, and the Air Force Academy, as applicable.”

PREVENTION OF SEXUAL ASSAULT AT MILITARY SERVICE ACADEMIES

Pub. L. 113-66, div. A, title XVII, §1746, Dec. 26, 2013, 127 Stat. 983, provided that: “The Secretary of Defense shall ensure that the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy include a section in the curricula of that military service academy that outlines honor, respect, and character development as such pertain to the issue of preventing sexual assault in the Armed Forces. Such curricula section shall include a brief history of the problem of sexual assault in the Armed Forces, a definition of sexual assault, information relating to reporting a sexual assault, victims’ rights, and dismissal and dishonorable discharge for offenders. Training in such section in the curricula shall be provided within 14 days after the initial arrival of a new cadet or midshipman at that military service academy and repeated annually thereafter.”

FURTHER INFORMATION FROM CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES ON SEXUAL ASSAULT AND SEXUAL HARASSMENT ISSUES

Pub. L. 109-364, div. A, title V, §532(b), Oct. 17, 2006, 120 Stat. 2205, provided that:

“(1) USE OF FOCUS GROUPS FOR YEARS WHEN SURVEY NOT REQUIRED.—In any year in which the Secretary of a military department is not required by law to conduct a survey at the service academy under the Secretary’s jurisdiction on matters relating to sexual assault and sexual harassment issues at that Academy, the Secretary shall provide for focus groups to be conducted at that Academy for the purposes of ascertaining information relating to sexual assault and sexual harassment issues at that Academy.

“(2) INCLUSION IN REPORT.—Information ascertained from a focus group conducted pursuant to paragraph (1) shall be included in the Secretary’s annual report to Congress on sexual harassment and sexual violence at the service academies.

“(3) SERVICE ACADEMIES.—For purposes of this subsection, the term ‘service academy’ means the following:

“(A) The United States Military Academy.

“(B) The United States Naval Academy.

“(C) The United States Air Force Academy.”

§ 7462. Support of athletic programs

(a) AUTHORITY.—

(1) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary of the Army may enter into contracts and cooperative agreements with the Army West Point Athletic Association for the purpose of supporting the athletic programs of the Academy. Notwithstanding section 3201(e) of this title, the Secretary may enter such contracts or cooperative agreements on a sole source basis pursuant to section 3204(a)(5) of this title. Notwithstanding chapter 63 of title 31, a cooperative agreement under this section may be used to acquire property or services for the direct benefit or use of the Academy.

(2) FINANCIAL CONTROLS.—(A) Before entering into a contract or cooperative agreement under paragraph (1), the Secretary shall ensure that such contract or agreement includes appropriate financial controls to account for Academy and Association resources in accordance with accepted accounting principles.

(B) Any such contract or cooperative agreement shall contain a provision that allows the Secretary, at the Secretary’s discretion, to review the financial accounts of the Association to determine whether the operations of the Association—

(i) are consistent with the terms of the contract or cooperative agreement; and

(ii) will not compromise the integrity or appearance of integrity of any program of the Department of the Army.

(3) LEASES.—Section 2667(h) of this title shall not apply to any leases the Secretary may enter into with the Association for the purpose of supporting the athletic programs of the Academy.

(b) SUPPORT SERVICES.—

(1) AUTHORITY.—To the extent required by a contract or cooperative agreement under subsection (a), the Secretary may provide support services to the Association while the Association conducts its support activities at the Academy. The Secretary may provide support services described in paragraph (2) only if the Secretary determines that the provision of such services is essential for the support of the athletic programs of the Academy.

(2) SUPPORT SERVICES DEFINED.—(A) In this subsection, the term “support services” includes utilities, office furnishings and equipment, communications services, records staging and archiving, audio and video support, and security systems in conjunction with the leasing or licensing of property.

(B) Such term includes—

(i) housing for Association personnel on United States Army Garrison, West Point, New York; and

(ii) enrollment of dependents of Association personnel in elementary and secondary schools under the same criteria applied to dependents of Federal employees under section 2164(a) of this title, except that educational services provided pursuant to this clause shall be provided on a reimbursable basis.

(3) NO LIABILITY OF THE UNITED STATES.—Any such support services may only be provided without any liability of the United States to the Association.