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(ii) To the DoD Executive Agent, in the case of requests for firefighting assistance received by the Defense Supply Agency.

(iii) To the JCS, in the case of requests received by organizations or installations over which the commanders of the unified and specified commands exercise command authority.

(2) Reports received by the military department headquarters and JCS will be transmitted to the DoD Executive Agent, who, in turn, will transmit information copies of all approved requests for Groups One and Two military resources to the General Counsel of the DoD and the Deputy Attorney General of the United States.

(3) In addition, a weekly summary report of all requests will be compiled by the DoD Executive Agent, showing action taken (approved, denied, or pending) and submitted to the General Counsel of the DoD, the Assistant Secretary of Defense (Installations and Logistics), and the Deputy Attorney General of the United States. Negative summary reports are required.

(4) The reporting requirements prescribed herein are assigned Report Control Symbol DD-A(AR)1112.

§215.10 Funding.

(a) Reporting requirements to provide for financing costs associated with civil disturbance operations, to include reimbursement of military department expenditures, will be in accordance with DoD Instruction 7200.9, "Financing and Reporting Costs of Military Resources Used in Civil Disturbances," January 26, 1970,⁴ and DoD Executive Agent implementing instructions.

(b) Military assistance (Groups One, Two, and Three military resources) provided to civil authorities, under the provisions of §215.9, will be on a reimbursable or reclaimable basis as appropriate.

⁴Although this resolution has been placed in the Statutes at Large as Pub. L. 90-331, 82 Stat. 170, it has not been codified; it is set out in the notes to 18 U.S.C. 3056.

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

Sec.

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APPENDIX A OF PART 216—MILITARY RECRUITING SAMPLE LETTER OF INQUIRY

APPENDIX B OF PART 216—ROTC SAMPLE LETTER OF INQUIRY

AUTHORITY: 10 U.S.C. 983.

SOURCE: 73 FR 16527, Apr. 28, 2008, unless otherwise noted.

§216.1 Purpose.

This part:

(a) Implements 10 U.S.C. 983.

(b) Updates policy and responsibilities relating to the management of covered schools that have a policy of denying or effectively preventing military recruiting personnel access to their campuses or access to students on their campuses in a manner that is at least equal in quality and scope to the access to campuses and to students provided to any other employer, or access to student-recruiting information. The term "equal in quality and scope" means the same access to campus and students provided by the school to the any other nonmilitary recruiters or employers receiving the most favorable access. The focus is not on the content of a school's recruiting policy, but instead on the result achieved by the policy and compares the access provided military recruiters to that provided other recruiters. Therefore, it is insufficient to comply with the statute (10 U.S.C. 983) if the policy results in a greater level of access for other recruiters than for the military.

(c) 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 (including the Coast Guard

when it is operating as a Military Service in the Navy), 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”). This part also applies, by agreement with the Department of Homeland Security (DHS), to the Coast Guard at all times, including when it is a service in the Department of Homeland Security. The policies herein also affect the Departments of Transportation, Homeland Security, Energy (National Nuclear Security Administration), the Central Intelligence Agency, and any department or agency in which regular appropriations are made in the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. The term “Military Services,” as used herein, refers to the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard, including their Reserve or National Guard Components. 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 Mediation Board, the Occupational Safety and Health Review Commission, the Social Security Administration, the Railroad Retirement Board and the United States Institute of Peace.

§216.3 Definitions.

(a) *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.

(b) *Covered funds.* “Covered funds” is defined in 10 U.S.C. 983 as any funds

made available for the Departments of Defense, Transportation, Homeland Security, or National Nuclear Security Administration of the Department of Energy, the Central Intelligence Agency, or any department or agency in which regular appropriations are made in the Departments of Labor, Health and Human Services, and Education, as well as in Related Agencies Appropriations Act (excluding any Federal funds provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance).

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

(1) A determination (§216.5(a)) affecting only a subelement of a parent institution (see §216.3(f)) effects a limitation on the use of funds (see §216.4 (a)) applicable to the parent institution as a whole, including the institution’s offending subelement and all of its subelements, if any.

(2) When an individual institution of higher education that is part of a single university system (*e.g.*, University of (State) at (City)—a part of that state’s university system) has a policy or practice that prohibits, or in effect prevents, access to campuses or access to students on campuses in a manner that is at least equal in quality and scope to the access to its campus and students as it provides to any other employer, or access to student-recruiting information by military recruiters, or has an anti-ROTC policy, as defined in this rule, it is only that individual institution within that university system that is affected by the loss of Federal funds. This limited effect applies even though another campus of the same university system may or may not be affected by a separate determination under §216.5 (a). The funding of a subelement of the offending individual institution of a single university system, if any, will also be withheld as a result of the policies or practices of that offending individual institution.

(d) *Enrolled.* Students are “enrolled” when registered for at least one credit hour of academic credit at the covered

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school during the most recent, current, or next term. Students who are enrolled during the most recent term, but who are no longer attending the institution, are included.

(e) *Equal in quality and scope.* The term means the same access to campus and students provided by the school to the any other nonmilitary recruiters or employers receiving the most favorable access. The focus is not on the content of a school's recruiting policy, but instead on the result achieved by the policy and compares the access provided military recruiters to that provided other recruiters. Therefore, it is insufficient to comply with the statute if the policy results in a greater level of access for other recruiters than for the military. The U.S. Supreme Court further explained that "the statute does not call for an inquiry into why or how the 'other employer' secured its access * * * We do not think that the military recruiter has received equal 'access' [when a law firm is permitted on campus to recruit students and the military is not]—regardless of whether the disparate treatment is attributable to the military's failure to comply with the school's nondiscrimination policy."

(f) *Institution of higher education.* A domestic college, university, or other institution (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 post-graduate 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, other graduate schools, or a national laboratory connected or affiliated with that parent institution). For example, the School of Law of XYZ University is a subelement of its parent institution (XYZ University).

(g) *Military recruiters.* Personnel of DoD whose current assignment or de-

tail is to a recruiting activity of the DoD.

(h) *Pacifism.* Opposition to war or violence, demonstrated by refusal to participate in military service.

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

(j) *Student-recruiting information.* For those students currently enrolled, the student's name, address, telephone listing, age (or year of birth), place of birth, level of education (e.g., freshman, sophomore, or degree awarded for a recent graduate), most recent educational institution attended, and current major(s).

§216.4 Policy.

It is DoD policy that:

(a) Under 10 U.S.C. 983, no covered funds may be provided by contract or grant (to include payment on such contracts or grants previously obligated) to a covered school if the Secretary of Defense determines that the covered school:

(1) Has a policy or practice (regardless of when implemented) that either prohibits or in effect prevents the Secretary of Defense or Secretary of Homeland Security from obtaining, for military recruiting purposes, access to campuses or access to students on campuses that is at least equal in quality and scope, as defined in §216.3(d), to the access to campuses and to students provided to any other employer, or access to directory information on students;

(2) Has failed to disseminate military visit information or alerts at least on par with nonmilitary recruiters since schools offering such services to nonmilitary recruiters must also send e-mails, post notices, etc., on behalf of military recruiters to comply with the Solomon Amendment;

(3) Has failed to schedule visits at times requested by military recruiters that coincide with nonmilitary recruiters' visits to campus if this results in a greater level of access for other recruiters than for the military (e.g., offering non-military recruiters a choice of a variety of dates for on-campus interviews while only offering the military recruiters the final day of interviews), as schools must ensure that

their recruiting policies operate such that military recruiters are given access to students equal to that provided to any other employer;

(4) Has failed to provide military recruiters with a mainstream recruiting location amidst nonmilitary employers to allow unfettered access to interviewees since military recruiters must be given the same access as recruiters who comply with a school's nondiscrimination policy;

(5) Has failed to enforce time, place, and manner policies established by the covered school such that the military recruiters experience an inferior or unsafe recruiting climate, as schools must allow military recruiters on campus and must assist them in whatever way the school assists other employers;

(6) Has through policy or practice in effect denied students permission to participate, or has prevented students from participating, in recruiting activities; or

(7) Has an anti-ROTC policy or practice, as defined in this rule, regardless of when implemented.

(b) 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 (see §216.3(j)) based on historical religious affiliation;

(3) When not providing requested access to campuses or to students on campus, certifies that all employers are similarly excluded from recruiting on the premises of the covered school, or presents evidence that the degree of access by military recruiters is the same access to campuses or to students on campuses provided to the nonmilitary recruiters;

(4) When not providing any student-recruiting information, certifies that such information is not maintained by the covered school; or that such information already has been provided to the Military Service concerned for that current semester, trimester, quarter, or other academic term, or within the past 4 months (for institutions without academic terms); or

(5) When not providing student-recruiting information for a specific student certifies that the student concerned has formally requested, in writing, that the covered school withhold this information from all third parties.

(c) A covered school may charge military recruiters a fee for the costs incurred in providing access to student-recruiting information when that institution can certify that such charges are the actual costs, provided that such charges are reasonable, customary and identical to fees charged to other employers.

(d) An evaluation to determine whether a covered school maintains a policy or practice covered by paragraphs (a)(1) through (a)(6) of this section shall be undertaken when:

(1) Military recruiting personnel are prohibited, or in effect prevented, from the same access to campuses or access to students on campuses provided to nonmilitary recruiters, or are denied access to student-recruiting information;

(2) Information or alerts on military visits are not distributed at least on par with nonmilitary recruiters since schools offering such services to nonmilitary recruiters must also send e-mails, post notices, etc., on behalf of the military recruiter to comply with the Solomon Amendment;

(3) Military recruiters are prohibited from scheduling their visits at requested times that coincide with nonmilitary recruiters' visits to its campus if this results in a greater level of access for other recruiters than for the military as schools must ensure their recruiting policy operates in such a way that military recruiters are given access to students equal to that provided to any other employer;

(4) Military recruiters do not receive a mainstream recruiting location amidst nonmilitary employers to allow unfettered access to interviewees since military recruiters must be given the same access as recruiters who comply with the school's nondiscrimination policy;

(5) The school has failed to enforce time, place, and manner policies established by that school such that military recruiters experience an unsafe recruiting climate, as schools must allow

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military recruiters on campus and must assist them in whatever way the school chooses to assist other employers;

(6) Evidence is discovered of an institution-sponsored policy or practice that in effect denied students permission to participate, or prevented students from participating in recruiting activities.

(7) The costs being charged by the school for providing student-recruiting information are believed by the military recruiter to be excessive, and the school does not provide information sufficient to support a conclusion that such are the actual costs, provided that they are reasonable and customary, and are identical to those costs charged to other employers; or

(8) The covered school is unwilling to declare in writing, in response to an inquiry from a representative of a DoD Component or a representative from the Department of Homeland Security, that the covered school does not have a policy or practice of prohibiting, or in effect preventing, the Secretary of a Military Department or Secretary of Homeland Security from the same access to campuses or access to students on campuses provided to nonmilitary recruiters, or access to student-recruiting information by military recruiters for purposes of military recruiting.

(e) An evaluation to determine whether a covered school has an anti-ROTC policy covered by paragraph (a)(7) 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 PDUSD(P&R), under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Not later than 45 days after receipt of the information described in

paragraphs (b)(3) and (c)(1) of this section:

(i) Inform the Office of Naval Research (ONR) and the Director, Defense Finance and Accounting Service that a final determination will be made so those offices can make appropriate preparations to carry out their responsibilities should a covered school be determined ineligible to receive federal funds.

(ii) Make a final determination under 10 U.S.C. 983, as implemented by this part, and notify any affected school of that determination and its basis, and that the school is therefore ineligible to receive covered funds as a result of that determination.

(iii) Disseminate to Federal entities affected by the decision, including the DoD Components and the GSA, and to the Secretary of Education and the head of each other department and agency the funds of which are subject to the determination, the names of the affected institutions identified under paragraph (a)(1)(ii) of this section.

(iv) Notify the Committees on Armed Services of the Senate and the House of Representatives of the affected institutions identified under paragraph (a)(1)(ii) of this section.

(v) Inform the affected school identified under paragraph (a)(1)(ii) 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)(ii) 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)(i), (a)(1)(iii), and (a)(1)(iv) of this section when a determination of funding ineligibility (paragraph (a)(1)(ii) of this section) has been rescinded.

(3) Publish in the FEDERAL REGISTER each determination of the PDUSD(P&R) that a covered school is ineligible for contracts and grants made under 10 U.S.C. 983, as implemented by this part.

(4) Publish in the FEDERAL REGISTER at least once every 6 months a list of covered schools that are ineligible for contracts and grants by reason of a determination of the Secretary of Defense under 10 U.S.C. 983, as implemented by this part.

(5) Enter information into the Excluded Parties List System¹ about each covered school that the PDUSD(P&R) determines to be ineligible for contracts and grants under 10 U.S.C. 983 and/or this part, generally within 5 days of making the determination.

(6) Provide ONR with an updated list of the names of institutions identified under paragraph (a)(1)(ii) of this section whenever the list changes due to an institution being added to or dropped from the list, so that ONR can carry out its responsibilities for post-award administration of DoD Components' contracts and grants with institutions of higher education.

(7) Provide the Office of the Deputy Chief Financial Officer, DoD, and the Director, Defense Finance and Accounting Service with an updated list of the names of institutions identified under paragraph (a)(1)(ii) of this section whenever the list changes due to an institution being added or dropped from the list, so those offices can carry out their responsibilities related to cessation of payments of prior contract and grant obligations to institutions of higher education that are on the list.

(8) Publish in the FEDERAL REGISTER the list of names of affected institutions that have changed their policies or practices such that they are determined no longer to be in violation of 10 U.S.C. 983 and this part.

(b) The Secretaries of the Military Departments and the Secretary of Homeland Security shall:

(1) Identify covered schools that, by policy or practice, prohibit, or in effect prevent, the same access to campuses or access to students on campuses pro-

vided to nonmilitary recruiters, or access to student-recruiting information by military recruiters for military recruiting purposes.

(i) When requests by military recruiters to schedule recruiting visits are unsuccessful, the Military Service concerned, and the Office of the Secretary of Homeland Security when the Coast Guard is operating as a service in the Department of Homeland Security, 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 within 30 days to accompany the submission to the PDUSD(P&R).

(ii) When a request for student-recruiting information is not fulfilled within a reasonable period, normally 30 days, a letter similar to that shown in appendix A shall be used to communicate the problem to the school, and the inquiry shall be managed as described in §216.5.(b)(1)(ii). Schools may stipulate that requests for student-recruiting information be in writing.

(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, and the Office of the Secretary of Homeland Security when the Coast Guard is operating as a service in the Department of Homeland Security, 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

¹The Excluded Parties List System (EPLS) is the system that the General Services Administration maintains for Executive Branch agencies, with names and other pertinent information of persons who are debarred, suspended, or otherwise ineligible for Federal procurement and/or covered non-procurement transactions.

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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 within 30 days to accompany the submission to the PDUSD(P&R).

(3) Evaluate responses to the letter of inquiry, and other such evidence obtained in accordance with this part, and submit to the PDUSD(P&R) 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 PDUSD(P&R) 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 and Secretary of Homeland Security shall:

(1) Provide the PDUSD(P&R) with the names and addresses of covered schools identified as a result of evaluation(s) required under §216.4(d) and (e).

(2) Take immediate action to deny obligations of covered funds to covered schools identified under paragraph (a)(1)(ii) 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 Symbol DD-P&R-(AR)-2038 in accordance with DoD 8910.1-M².

APPENDIX A OF PART 216—MILITARY RECRUITING SAMPLE LETTER OF INQUIRY

(Tailor letter to situation presented)

Dr. John Doe,

*President, ABC University, Anywhere,
USA 12345-9876.*

Dear Dr. Doe: I understand that military recruiting personnel [have been unable to recruit or have been refused

student-recruiting information³ at (subelement of) ABC University)] by a policy or practice of the school. Specifically, military recruiting personnel have reported [here state policy decisions or practices encountered]. [If preliminary information coming to the attention of a Military Service indicates that other Military Services' recruiting representatives have been similarly informed of the policy or experienced a similar practice affecting their ability for military recruiting purposes to have the access or information require, so state.]

Current Federal law (10 U.S.C. 983) denies the use of certain Federal funds through grants or contracts, to include payment on such contracts or grants previously obligated, (excluding any Federal funding to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance) from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and related agencies to institutions of higher education (including any subelements of such institutions) that have a policy or practice of denying military recruiting personnel access to campuses or access to students on campuses, in a manner that is at least equal in quality and scope (as explained in §216.3 of Title 32, Code of Federal Regulations, Part 216), as it provides to nonmilitary recruiters, or access to student recruiting information. Implementing regulations are codified at Title 32, Code of Federal Regulations, Part 216.

This letter provides you an opportunity to clarify your institution's policy regarding military recruiting on the campus of [University]. 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 by military recruiting personnel. Your response should highlight any difference between access for

³Student-recruiting information refers to a student's name, address, telephone listing, age (or year of birth), level of education (e.g., freshman, sophomore, or degree awarded for a recent graduate), and major(s).

²Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

military recruiters and access for recruiting by other potential employers.

Based on this information and any additional facts you can provide, Department of Defense officials will make a determination as to your institution's eligibility to receive funds by grant or contract. That decision may 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 [University] as an institution of higher education (or any subelement of the institution) is in violation of the aforementioned statutes and regulations, such funding would be stopped, and the institution of higher education (including any subelements of the institution) would remain ineligible to receive such funds until and unless the Department of Defense determines that the institution has ceased the offending policies and practices.

I regret that this action may have to be taken. Successful recruiting requires that Department of Defense recruiters have equal access to students on the campuses of colleges and universities [and student-recruiting information], and at the same time, have effective relationships with the officials and student bodies of those institutions. I hope it will be possible to identify and correct any policies or practices that inhibit military recruiting at your school. [My representative, (name), is] [I am] available to answer any of your questions by telephone at [telephone number]. I look forward to your reply.

Sincerely,

APPENDIX B TO PART 216—ROTC
SAMPLE LETTER OF INQUIRY

(Tailor letter to situation presented)

Dr. Jane Smith,

*President, ABC University, Anywhere,
USA 12345-9876.*

Dear Dr. Smith: I understand that ABC University 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 University.

Current Federal law (10 U.S.C. 983) denies the use of certain Federal funds through grants or contracts, to include payment on such contracts or grants previously obligated, (excluding any Federal funding to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance) from appropriations of the Departments of Defense, Transportation, Labor, Health and Human Services, Education, and related agencies to institutions of higher education (including any subelements of such institutions) that have a policy or practice of prohibiting or preventing the Secretary of Defense from maintaining, establishing, or efficiently operating a Senior ROTC unit. Implementing regulations are codified at Title 32, Code of Federal Regulations, Part 216.

This letter provides you an opportunity to clarify your institution's policy regarding ROTC access on the campus of ABC University. 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 the above-referenced funds by grant or contract. That decision may 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 [University] as an institution of higher education (or any subelement of the institution) is in violation of the aforementioned statutes and regulations, such funding would be stopped, and the institution of higher education (including any subelements of the institution) would remain ineligible to receive such funds until and unless the Department of Defense determines that the institution has ceased the offending policies and practices.

I regret that this action may have to be taken. Successful officer procurement requires that the Department of

Defense maintain a strong ROTC program. I hope it will be possible to [define the correction to the aforementioned problem area(s)]. [My representative, (name), is] [I am] available to answer any of your questions by telephone at [telephone number]. I look forward to your reply.

Sincerely,

PART 218—GUIDANCE FOR THE DETERMINATION AND REPORTING OF NUCLEAR RADIATION DOSE FOR DOD PARTICIPANTS IN THE ATMOSPHERIC NUCLEAR TEST PROGRAM (1945-1962)

Sec.

218.1 Policies.

218.2 General procedures.

218.3 Dose reconstruction methodology.

218.4 Dose estimate reporting standards.

AUTHORITY: Pub. L. 98-542, 98 Stat. 2725 (38 U.S.C. 354 Note.)

SOURCE: 50 FR 42521, Oct. 21, 1985, unless otherwise noted.

§218.1 Policies.

(a) Upon request by the Veterans Administration in connection with a claim for compensation, or by a veteran or his or her representative, available information shall be provided by the applicable Military Service which shall include all material aspects of the radiation environment to which the veteran was exposed and shall include inhaled, ingested and neutron doses. In determining the veteran's dose, initial neutron, initial gamma, residual gamma, and internal (inhaled and ingested) alpha, beta, and gamma shall be considered. However, doses will be reported as gamma dose, neutron dose, and internal dose. The minimum standards for reporting dose estimates are set forth in §218.4.

(b) The basic means by which to measure dose from exposure to ionizing radiation is the film badge. Of the estimated 220,000 Department of Defense participants in atmospheric nuclear weapons tests, about 145,000 have film badge dose data available. The information contained in the records has been reproduced in a standard format and is being provided to each military service, which can use the film badge

dose data to obtain a radiation dose for a particular individual from that service. This is done upon request from the individual, the individual's representative, the Veterans Administration, or others as authorized by the Privacy Act. Upon request, the participant or his or her authorized representative will be informed of the specific methodologies and assumptions employed in estimating his or her dose. The participant can use this information to obtain independent options regarding exposure.

(c) From 1945 through 1954, the DoD and Atomic Energy Commission (AEC) policy was to issue badges only to a portion of the personnel in a homogeneous unit such as a platoon of a battalion combat team, Naval ship or aircraft crew. Either one person was badged in a group performing the same function, or only personnel expected to be exposed to radiation were badged. After 1954, the policy was to badge all personnel. But, some badges were unreadable and some records were lost or destroyed, as in the fire at the Federal Records Center in St. Louis. For these reasons the Nuclear Test Personnel Review (NTPR) Program has focused on determining the radiation dose for those personnel (about 75,000) who were not issued film badges or for whom film badge records are not available.

(d) In order to determine the radiation dose to individuals for whom film badge data are not available, alternative approaches are used as circumstances warrant. All approaches require investigation of individual or group activities and their relationship to the radiological environment. First, if it is apparent that personnel were not present in the radiological environment and had no other potential for exposure, then their dose is zero. Second, if some members of a group had film badge readings and others did not—and if all members had a common relationship with the radiological environment—then doses for unbadged personnel can be calculated. Third, where sufficient badge readings or a common relationship to the radiological environment does not exist, dose reconstruction is performed. This