

**§ 59.4 Responsibilities.**

(a) The Assistant Secretary of Defense (Comptroller) shall exercise primary management responsibility for the voluntary military pay allotment program and provide assistance to the Military Departments in the form of instructions, requirements, reviews, and other guidance.

(b) The Secretaries of the Military Departments shall ensure that this part is implemented by the Military Services concerned.

## PART 61—MEDICAL MALPRACTICE CLAIMS AGAINST MILITARY AND CIVILIAN PERSONNEL OF THE ARMED FORCES

Sec.

61.1 Purpose.

61.2 Applicability.

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61.4 Procedures.

AUTHORITY: Pub. L. 94-464, sec. 1(a), 90 Stat. 1985, 10 U.S.C. 1089(f), 2733 and 5 U.S.C. 301.

SOURCE: 43 FR 15148, Apr. 11, 1978, unless otherwise noted.

**§ 61.1 Purpose.**

This Directive: (a) Delegates authority, with the power to redelegate, to the Secretaries of the Military Departments to provide relief to health care personnel of the Department of Defense from personal tort liability in connection with their authorized activities, and (b) establishes procedures to be followed in providing such relief.

**§ 61.2 Applicability.**

The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, and all other Department of Defense Components.

**§ 61.3 Delegation of authority.**

(a) The authority vested in the Secretary of Defense by title 10 U.S.C. section 1089(f) hold harmless or provide liability insurance for Department of Defense health care personnel is hereby delegated to:

(1) The Secretary of each Military Department for military members and

civilian employees of his Department, and

(2) The Secretary of the Army for civilian employees of the Office of the Secretary of Defense and Department of Defense Components other than the Military Departments (see DoD Directive 5515.9).<sup>1</sup>

(b) The authority delegated above may be redelegated as appropriate and necessary to carry out the provisions of title 10, U.S.C., section 1089(f).

**§ 61.4 Procedures.**

(a) In all cases under title 10 U.S.C. section 1089, medical personnel shall be required to:

(1) Promptly forward all process served upon them or attested true copies thereof to the appropriate official designated by the Secretary of the Military Department concerned;

(2) Furnish such other information and documents as the Attorney General may request; and

(3) Comply with the directions of the Attorney General relative to the final disposition of a claim for damages.

(b) The procedures set forth in title 10 U.S.C. section 2733 and regulations issued pursuant thereto shall be utilized in determining costs, settlements, or judgments under title 10 U.S.C. section 1089(f).

## PART 62—ALCOHOL AND DRUG ABUSE BY DoD PERSONNEL

Sec.

62.1 Purpose.

62.2 Applicability.

62.3 Definitions.

62.4 Policy.

62.5 Responsibilities.

AUTHORITY: 5 U.S.C. 301, Pub. L. 92-255, 91-616, 92-129, and 91-513.

SOURCE: 45 FR 61615, Sept. 17, 1980, unless otherwise noted.

**§ 62.1 Purpose.**

(a) This part states the DoD alcohol and drug abuse prevention policy, and implements the standards contained in

<sup>1</sup>Filed as part of original. Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120 Attention: Code 301.

Pub. L. 92-255 (86 Stat 65), as amended, 91-616 (84 Stat 1848), as amended, and 92-129 (85 Stat 361), as amended, and the Federal Personnel Manual (FPM) Supplement 792-2, February 1980.

(b) In addition, this part establishes policy concerning drug abuse paraphernalia.

### § 62.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies. The term "Military Services" includes the Army, Navy, Air Force, and Marine Corps.

### § 62.3 Definitions.

The following definitions are for operational use within the Department of Defense. They do not change definitions in statutory provisions and those regulations and directives that are concerned with determination of misconduct and criminal or civil responsibilities for persons' acts or omissions.

(a) *Alcohol and drug abuse.* The use of alcohol and/or other drugs to an extent that it has an adverse effect on the user's health or behavior, family, community, or the Department of Defense and/or the illegal use of such substances.

(b) *Drug trafficking.* The illegal or wrongful introduction of drugs into a military installation, with the intent of selling or transferring the drugs; or the illegal or wrongful sale, transfer, or distribution of drugs as they are listed in current schedules of the Controlled Substances Act, title II, Comprehensive Drug Abuse and Control Act of 1970 (Pub. L. 91-513) (21 CFR parts 1300-1316).

(c) *Alcohol and drug dependence.* The reliance on alcohol and/or other drugs following administration on a periodic or continuing basis. Dependence may be psychological or physical, or both.

(1) *Psychological dependence.* The craving for the mental or emotional effects of a drug that manifests itself in repeated use and leads to a state of impaired capability to perform normal functions.

(2) *Physical dependence.* An alteration or state of adaptation to a drug after repeated use that results in withdrawal

symptoms when the drug is discontinued abruptly and/or the development of tolerance.

(d) *Drug abuse paraphernalia.* All equipment, products, and materials of any kind that are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act.

### § 62.4 Policy.

(a) It is the goal of the Department of Defense to be free of the effects of alcohol and drug abuse; of the possession of and trafficking in illicit drugs by military and civilian members of the Department of Defense; and of the possession, use, sale, or promotion of drug abuse paraphernalia. Alcohol and drug abuse is incompatible with the maintenance of high standards of performance, military discipline, and readiness. Therefore, it is the policy of the Department of Defense to:

(1) Assess the alcohol and drug abuse and drug trafficking situation in or influencing the Department of Defense.

(2) Not induct persons into the Military Services who are alcohol or drug dependent and not hire persons who are alcohol or drug dependent if that dependency impairs job performance.

(3) Deter and detect alcohol and drug abuse within the Armed Forces and defense community and drug trafficking on installations and facilities under the control of the Department of Defense.

(4) Provide continuing education and training to commanders, supervisors, program personnel, and other military members and civilian employees and their families concerning this policy and effective measures to alleviate problems associated with alcohol and drug abuse.

(5) Treat or counsel alcohol and drug abusers and rehabilitate the maximum feasible number of them.

(6) Discipline and/or discharge drug traffickers and those alcohol and drug

abusers who cannot or will not be rehabilitated, in accordance with appropriate laws, regulations, and instructions.

(7) Work in concert with national alcohol and drug abuse prevention programs, maintaining appropriate relationships with governmental and nongovernmental agencies.

(8) Prohibit members of the Armed Forces, and DoD civilians while on the job, to possess, sell, or use drug abuse paraphernalia.

(9) Prohibit the possession or sale of drug abuse paraphernalia by DoD resale outlets to include military exchanges, open messes, and commissaries, and by private organizations and concessions located on DoD installations.

(b) The Department of Defense encourages DoD Components to use, as guidance and as a legal background in addressing paraphernalia issues, the Model Drug Paraphernalia Act prepared by the Drug Enforcement Administration, at the request of the President (Model Drug Paraphernalia Act, Drug Enforcement, March 1980, Volume 7, No. 1).

(c) Programs and standards of care promulgated in execution of this policy for military personnel shall be in compliance with Pub. L. 92-129.

(d) Programs and standards of care promulgated in execution of this policy for civilian employees shall be in compliance with Pub. L. 92-255, Pub. L. 91-616, and FPM Supplement 792-2.

#### § 62.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Health Affairs) (ASD(HA))*, or designated representative, is responsible for the development, coordination, and supervision of the DoD alcohol and drug abuse prevention program, in accordance with this part and shall:

(1) In coordination with the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (*ASD(MRA&L)*), develop and promulgate policies designed to ensure that the DoD alcohol and drug abuse prevention programs reach military members, their families, DoD civilian employees and, to the extent feasible, their families. Programs and standards of care for family members shall be

consistent with those for the military and civilian components, with accepted practice in the alcohol and drug abuse area, and with applicable laws and jurisdictional limitations.

(2) In coordination with the *ASD(MRA&L)*, issue DoD instructions to implement the DoD alcohol and drug abuse prevention program, with specific attention to the functional areas of assessment, deterrence and detection, treatment and rehabilitation, and education and training.

(3) Act as focal point for the Department of Defense for interagency and nongovernmental coordination of national alcohol and drug abuse prevention programs.

(4) Evaluate and report upon the effectiveness and efficiency of the DoD alcohol and drug abuse prevention program.

(5) Establish a DoD Alcohol and Drug Abuse Advisory Committee to advise on policy and program matters. The Committee shall include representatives of each Military Service, designated by the Military Department concerned, and such other advisors as the *ASD(HA)*, or designated representative, considers appropriate. The Committee charter shall be approved by the *ASD(HA)*.

(b) The *Secretaries of the Military Departments and Directors of Defense Agencies* shall establish and operate programs prescribed by this part and supporting DoD instructions. They may make exceptions to the policy contained in this part only for legitimate medical, educational, and operational purposes. This authority shall not be delegated.

(c) In addition, the *Secretaries of the Military Departments* shall require appropriate commanders to assess the availability of drug abuse paraphernalia in the vicinity of DoD installations through their Armed Forces Disciplinary Control Boards and in conformity with the Armed Forces Disciplinary Control Boards and Off-Installation Military Enforcement Guidance, and take appropriate action, when the availability of drug abuse paraphernalia reveals a threat to the discipline, health, welfare, or morals of the Armed Forces.