

regardless of race, color, gender, national origin, age, or handicap except as prescribed by statute, or DoD/Service policy.

*Ethnic Group.* A segment of the population that possesses common characteristics and a cultural heritage based to some degree on the following:

- (a) Common geographic origin;
- (b) Race;
- (c) Language or dialect;
- (d) Religious faith or faiths;
- (e) Shared traditions, values, or symbols;
- (f) Literature, folklore, or music;
- (g) An internal sense of distinctiveness; and/or
- (h) An external perception of distinctiveness.

*Ethnic and Racial Categories.* The basic racial and ethnic categories for DoD reporting are defined as follows:

(a) *American Indian or Alaskan Native.* A person having origins in the original peoples of North America.

(b) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa.

(c) *Black (Not of Hispanic Origin).* A person having origins in any of the original peoples of Africa.

(d) *Hispanic.* A person having origins in any of the original peoples of Mexico, Puerto Rico, Cuba, or Central or South America, or of other Spanish cultures, regardless of race.

(e) *White (Not of Hispanic Origin).* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*National origin.* An individual's or ancestor's place of origin. Also applies to a person who has the physical, cultural, or linguistic characteristics of a national group.

*Race.* A division of humans identified by the possession of traits that are transmissible by descent and that are sufficient to characterize as a distinctive human type.

*Religion.* A personal set or institutionalized system of attitudes, moral or ethical beliefs, and practices that are held with the strength of traditional religious views, characterized by

ardor and faith, and generally evidenced through specific religious observances.

*Sexual Harassment.* A form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or

(b) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(c) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

#### § 51.4 Policy.

It is DoD policy to:

(a) Support the military EO program as an integral element in total force readiness, as defined in the Secretary of Defense Memorandum and enforce at all levels of activity the EO provisions of this part in developing operating EO policies and programs.

(b) Use the chain of command to promote, support, and enforce the military EO program. The chain of command is the primary and preferred channel for correcting discriminatory practices and for ensuring that human relations and EO matters are enacted.

(c) Ensure the Military Services (to include the Reserve components) maintain military EO and affirmative action programs. Discrimination that adversely affects persons or groups based on race, color, religion, gender, age, or national origin, and that is not supported legally, is contrary to good

order and discipline, and is counter-productive to combat readiness and mission accomplishment. Discrimination of this nature shall not be condoned or tolerated.

(d) Provide education and training in EO and human relations at installation and fleet unit commands, Military Service accession points, and throughout the professional military education (PME) system, as part of the overall effort to achieve equal opportunity.

(e) Provide for an environment that is free from sexual harassment by eliminating this form of discrimination in the Department of Defense.

(f) Ensure that all on-base activities and, to the extent of the ability of DoD, any off-base activities available to military personnel are open to all military personnel and their authorized family members regardless of race, color, religion, age, physical or mental handicap, gender, or national origin, as called for by the DoD Human Goals Charter.

(1) Organizations or activities that do not meet this requirement shall be denied the use of military facilities and resources in accordance with 32 CFR part 237. This policy applies equally to those organizations that may discriminate based on the content of their constitutions, bylaws, rules or regulations, as well as to those which, in the judgment of the responsible commander(s), are engaging in de facto discrimination regardless of the content of their constitutions, bylaws, rules or regulations.

(2) Organizations that use on-base facilities, whether on a reimbursable basis or otherwise, must satisfy the responsible area or activity commander that they do not discriminate through their actual membership practices or in any of their activities.

(g) Oppose discrimination in off-base housing directed against military personnel and their authorized family members. Each commander shall take actions to overcome such discrimination and to impose off-limits sanctions in housing cases, as required by 32 CFR part 301.

(h) Impose, as required, the off-limits sanction according to the Armed Forces Disciplinary Control Board as stated in the Joint Regulation, in cases of discrimination involving places of

public accommodations outside military installations.

#### § 51.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Force Management and Personnel)* (ASD(FM&P)) shall:

(1) Represent and advise the Secretary of Defense in military EO matters consistent with 32 CFR part 384.

(2) Chair the Defense Equal Opportunity Council.

(3) Provide guidance on developing all DoD programs to ensure equal opportunity for military personnel in the total force.

(4) Develop, execute, and monitor the effectiveness of military EO policies in support of national security objectives.

(5) Ensure that DoD Components fulfill the requirements of this part.

(6) Provide policy direction to DEOMI and select the Commandant of DEOMI from Military Service nominations.

(7) Establish categories and monitor specific goals to be included in the affirmative action programs and annual military EO assessments of each DoD Component.

(8) Review and act on (or refer to appropriate Military Service) all complaints of discrimination arising under this part (to include sexual harassment) referred to the Secretary of Defense.

(9) Ensure fair, impartial and timely investigation, resolution, and follow-up of all complaints of discrimination arising under this part.

(10) Establish a program to recognize individuals and organizations for outstanding achievement in one or more of the major EO areas covered by this part.

(b) The *Heads of DoD Components* shall be responsible for equal opportunity within their respective jurisdictions (to include their Reserve components) and shall:

(1) Ensure that all DoD EO policies and programs are understood and executed at all levels of military command.

(2) Establish affirmative action programs that identify and resolve EO