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(e) The Heads of the DoD Components shall implement HIV–1 screening policies and procedures for DoD civilian employees identified in §58.5(c) and shall take the following actions:

(1) Report newly established host-nation HIV–1 screening requirements to the ASD(FM&P) and provide sufficient background information to support a decision. This reporting requirement is exempt from licensing, in accordance with DoD 7750.5–M,[3] paragraph E.4.b.

(2) Develop and distribute policy implementing instructions.

(3) Establish procedures to notify individuals who are evaluated as HIV–1 seropositive and provide initial counseling to them.

§ 58.6 Procedures.

(a) Applicants for Military Service and, periodically, AD and Reserve component military personnel shall be screened for serologic evidence of HIV–1 infection. Testing and interpretation of results shall be in accordance with the procedures in HIV–1 Testing and Interpretation of Results.[4] Test results shall be reported to the Reportable Disease Data Base, as described in the ASD(HA) Memorandum.

(b) Applicants for enlisted service shall be screened at the Military Entrance Processing Stations or the initial point of entry to Military Service. Applicants who enlist under a delayed enlistment program, but before entry on AD and who exhibit serologic evidence of HIV–1 infection, may be discharged due to erroneous enlistment.

(c) Officer candidates shall be screened during their preappointment and/or precontracting physical examination. The disposition of officer applicants who are ineligible for appointment due to serologic evidence of HIV–1 infection shall be in accordance with the procedures in appendix A of this part.

(d) Applicants for Reserve components shall be screened during the normal entry physical examinations or in the preappointment programs established for officers. Those individuals with serologic evidence of HIV–1 infection who are required to meet accession medical fitness standards to enlist, or be appointed, are not eligible for Military Service with the Reserve components.

(e) Initial testing and periodic retesting of AD and Reserve component personnel shall be accomplished in the priority listed in Disease Surveillance and Health Education.[5]

(f) AD personnel (including Active Guard and/or Reserve) who exhibit serologic evidence of HIV–1 infection shall receive a medical evaluation. Guard and Reserve personnel, not on extended AD, must obtain a medical evaluation from a civilian physician.

(g) The Head of each Military Service shall appoint an HIV–1 and/or AIDS education program coordinator to serve as the focal point for all HIV–1 and/or AIDS education program issues and to integrate the educational activities of the medical and personnel departments.

(h) An HIV–1 and/or AIDS Information and Education Coordinating Committee shall be established to enhance communication among the Heads of the Military Services, recommend joint education policy and program actions, review education program implementation, and recommend methodologies and procedures for program evaluation. That committee shall be chaired by a representative of the ASD(HA). Members shall include two representatives from the Office of the ASD(FM&P) (OASD(FM&P)), and the HIV–1 and/or AIDS education program coordinator from each Military Service. Additional members shall represent the Armed Services Blood Program Office and, on an ad hoc basis, the Office of the ASD(HA). Policy and program proposals shall be coordinated with the Secretaries of the Military Departments.

(i) The Head of each Military Service shall prepare a plan for the implementation of a comprehensive HIV–1 and/or AIDS education program that includes specific objectives with measurable action steps. The plan shall address information, education, and behavior-change strategies, as described in Disease Surveillance and Health Education.

[3] See footnote 1 to §58.4(c)

[4] See footnote 2 to §58.4(c)

[5] See footnote 2 to §58.4(c).

(j) Civilians may not be mandatorily tested for serologic evidence of HIV–1 infection except as necessary to comply with valid host-nation requirements for screening of DoD employees. Procedures for mandatory screening of DoD civilians shall be in accordance with appendix B of this part.

(k) The medical assessment of each exposure to, and/or case of, HIV–1 infection seen at a military medical treatment facility (MTF) shall include an epidemiological assessment of the potential transmission of HIV–1 to other persons at risk of infection, including sexual and other intimate contacts and family of the patient, and transfusion history. The occurrence of HIV–1 infection or serologic evidence of HIV–1 infection may not be used as a basis for any disciplinary action against an individual, except as described in Limitations on the Use of Information.[6]

(l) Each Head of a military medical service shall ensure conduction of an ongoing clinical evaluation of each AD Service member with serological evidence of HIV–1 infection at least annually. CD4 lymphocyte percentages or counts shall be monitored at least every 6 months. Appropriate preventive medicine counseling shall also be provided to all individual patients, and public health education materials shall be made available to that medical services' beneficiary population. Each Head of a military medical service shall ensure conduction of longitudinal clinical evaluations of AD Service members with serologic evidence of HIV–1 infection and shall ensure preparation of internal reports to facilitate timely review and reassessment of current policy guidelines.

(m) All Heads of the military MTFs shall notify promptly the cognizant military health authority, when there is clinical or laboratory evidence indicative of infection with HIV–1, in accordance with appendix C of this part.

(n) The Secretary of each Military Department shall ensure that a mechanism is established to gather data on the epidemiology of HIV–1 infection of its members. Such epidemiological research shall be accomplished to ensure appropriate protection of information given by the Service member on the means of transmission.

(o) The Secretary of the Army, as the Head of the lead Agency for infectious disease research within the Department of Defense, shall budget for and fund tri-Military Department DoD HIV–1 research efforts, in accordance with guidance provided by the ASD(HA). The research program shall focus on the epidemiology and natural history of HIV–1 infections in military and military associated populations; on improving the methods for rapid diagnosis and patient evaluation; and on studies of the immune response to HIV–1 infection, including the potential for increased risk in the military operational environment.

(p) Service members with serologic evidence of HIV–1 infection shall be assigned within the United States, including Alaska, Hawaii, and Puerto Rico, due to the high priority assigned to the continued medical evaluation of military personnel. The Secretaries of the Military Departments may restrict such individuals to nondeployable units or positions for purposes of force readiness. To protect the health and safety of Service members with serologic evidence of HIV–1 infection and of other Service members (and for no other reason), the Secretaries of the Military Departments may, on a case-by-case basis, limit assignment of HIV–1-infected individuals on the nature and location of the duties performed in accordance with operational requirements.

(q) AD and Reserve component personnel with serologic evidence of HIV–1 infection shall be retained or separated in accordance with Retention and Separation.[7]

(r) The ASD(HA), in coordination with the Heads of the Military Services, shall revise Standard Clinical Protocol, HIV–1 Testing and Interpretation of Results, Disease Surveillance and Health Education, Procedure for Evaluating T-Helper Cell Count, as appropriate. The ASD(FM&P) shall revise appendix B to this part, as appropriate, through publication in the FEDERAL

[6] See footnote 2 to § 58.4(c).

[7] See footnote 2 to § 58.4(c).

Register. Revisions under this paragraph shall be in coordination with the GC, DoD.

APPENDIX A TO PART 58—ADMINISTRATION OF OFFICER APPLICANTS

Administration of officer applicants who are ineligible for appointment, due to serologic evidence of HIV–1 infection, shall be in accordance with the following provisions:

A. Enlisted members who are candidates for appointment through Officer Candidate School (OCS) or Officer Training School (OTS) programs shall be disenrolled immediately from the program. If OCS and/or OTS is the individual's initial entry training, the individual shall be discharged. If the sole basis for discharge is serologic evidence of HIV–1 infection, an honorable or entry-level discharge, as appropriate, shall be issued. A candidate who has completed initial entry training during the current period of service before entry into candidate status shall be administered in accordance with Service regulations for enlisted personnel.

B. Individuals in preappointment programs, such as Reserve Officer Training Corps (ROTC) and Health Professions Scholarship Program participants, shall be disenrolled from the program. However, the Head of the Military Service concerned, or the designated representative, may delay disenrollment to the end of the academic term (i.e., semester, quarter, or similar period) in which serologic evidence of HIV–1 infection is confirmed. Disenrolled participants shall be permitted to retain any financial support through the end of the academic term in which the disenrollment is effected. Financial assistance received in these programs is not subject to recoupment, if the sole basis for disenrollment is serologic evidence of HIV–1 infection.

C. Service academy cadets, midshipmen, and personnel attending the Uniformed Services University of the Health Sciences (USUHS) shall be separated from the respective Service academy or USUHS and discharged. The Head of the Military Service concerned, or the designated representative, may delay separation to the end of the current academic year. A cadet or midshipman granted such a delay in the final academic year, who is otherwise qualified, may be graduated without commission and, thereafter, discharged. If the sole basis for discharge is serologic evidence of HIV–1 infection, an honorable discharge shall be issued.

D. Commissioned officers in DoD-sponsored professional education programs leading to appointment in a professional military specialty (including, but not limited to, medical, dental, chaplain, and legal and/or judge advocate) shall be disenrolled from the program at the end of the academic term in which serologic evidence of HIV–1 infection is confirmed. Disenrolled officers shall be administered in accordance with Service regulations. Except as specifically prohibited by statute, any additional Service obligation incurred by participation in such programs shall be waived, and financial assistance received in these programs shall not be subject to recoupment. Periods spent by such officers in these programs shall be applied fully toward satisfaction of any preexisting Service obligation.

E. All personnel disenrolled from officer programs who are to be separated shall be given appropriate counseling, to include preventive medicine counseling and advice to seek treatment from a civilian physician.

APPENDIX B TO PART 58—HIV–1 TESTING OF DOD CIVILIAN EMPLOYEES

A. Requests for authority to screen DoD civilian employees for HIV–1 shall be directed to the ASD(FM&P). Only requests that are based on a host-nation HIV–1 screening requirement shall be accepted. Requests based on other concerns, such as sensitive foreign policy or medical healthcare issues, shall not be considered under this part. Approvals shall be provided in writing by the ASD(FM&P). Approvals shall apply to all of the Heads of the DoD Components that may have activities located in the host nation.

B. Specific HIV–1 screening requirements may apply to DoD civilian employees currently assigned to positions in the host nation, and to prospective employees. When applied to prospective employees, HIV–1 screening shall be considered as a requirement imposed by another nation that must be met before the final decision to select the individual for a position or before approving temporary duty or detail to the host nation. The Secretary of Defense has made no official commitment, for positions located in host nations with HIV–1 screening requirements, to those individuals who refuse to cooperate with the screening requirement or to those who cooperate and are diagnosed as HIV–1 seropositive.

C. DoD civilian employees who refuse to cooperate with the screening requirement shall be treated, as follows:

1. Those who volunteered for the assignment, whether permanent or temporary, shall be retained in their official position without further action and without prejudice to employee benefits, career progression opportunities, or other personnel actions to which those employees are entitled under applicable law or regulation.

2. Those who are obligated to accept asssignment to the host nation under the terms of an employment agreement, regularly scheduled tour of duty, or similar and/or prior obligation may be subjected to an appropriate adverse personnel action under