

Office of the Secretary of Defense

§ 79.7

§ 79.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense and the Departments of the Army and the Air Force.

(b) Its provisions establish terms and conditions governing Federal and employee contributions for National Guard technicians who have elected participation in a State-sponsored employee retirement program not later than January 1, 1969. An eligible State employee retirement program may extend to disability and survivor benefits.

§ 79.3 Definitions.

(a) *National Guard.* The Army and Air National Guard of a State.

(b) *State.* A State or territory of the United States, including the Commonwealth of Puerto Rico.

(c) *Technician.* A Federal employee of the National Guard, consistent with title 26, U.S.C. section 3111, exclusive of National Guard Bureau employees.

§ 79.4 Policy.

It is the policy of the Department of Defense to: (a) Negotiate agreements with States for Federal employees' contributions to a State or State-sponsored contributory retirement program; and (b) cooperate and process agreements with each State requesting a withholding agreement covering technicians of the National Guard for a State-sponsored retirement program.

§ 79.5 Procedures.

(a) Section 6(a) of Public Law 90-486 requires technicians who elected to continue coverage under a State retirement plan to make such an election by January 1, 1969. If a technician filed a valid election to remain covered by an employee retirement system sponsored by a State, the U.S. Government may pay the amount of the employer's contribution and withhold the employee's designated share for deposit to the State program that becomes due for the period beginning on or after January 1, 1969.

(b) The Federal share of payments, including employer's taxes imposed by 26 U.S.C. 3111, may not exceed the amount that the employing agency

otherwise would contribute on behalf of the technician to the Civil Service Retirement and Disability Fund under 5 U.S.C. 8334.

(c) A person covered under a State-sponsored program shall not concurrently earn credits toward retirement or receive an annuity under 5 U.S.C. 8334.

(d) A person who retires under a State retirement program shall not be eligible for any rights, benefits, or privileges to which retired civilian employees of the United States may be entitled.

(e) Agreements with States shall comply with the standards contained in § 79.7.

§ 79.6 Responsibilities.

(a) The *Assistant Secretary of Defense (Comptroller)* shall establish policy and procedures regarding State retirement programs for National Guard technicians and shall update agreements with authorized State officials for the Secretary of Defense.

(b) The *Secretary of the Army* shall (1) implement the provisions of this Directive; (2) coordinate actions with the Secretary of the Air Force; and (3) designate the National Guard Bureau as the responsible agent for maintaining existing agreements with States and for coordinating administrative actions, to include preparing updated agreements.

§ 79.7 Standards for contribution agreements with State retirement programs for National Guard technicians.

Each agreement between the Secretary of Defense and the Governor, or other authorized State official, for employer and employee contributions to a State retirement program for National Guard technicians shall be completed within 120 days of receipt of a State request. Provided, that—

(a) State law provides for payment of employee contributions to a State-sponsored employee retirement system by withholding sums from the employee's compensation and making payment to the official designated to receive sums withheld.

(b) The program is limited to technicians of the National Guard.

(c) Each agreement is consistent with this Directive and contains a clause that subjects the agreement to any statutory amendments occurring after the effective date of the agreement.

(d) The agreement shall comply with the requirements of State law that specify who is eligible for such State-sponsored retirement programs.

(e) The commencement date for contributions must be specified.

(f) Contribution procedures, filing requirements, and payment instructions conform, when practicable, to the usual fiscal practices of the Department of the Army and the Department of the Air Force.

(g) The agreement does not impose requirements on the Department of Defense that are more burdensome than those requirements imposed on departments, agencies, or subdivisions of the State concerned.

(h) Except to the extent that an agreement may be inconsistent with this Directive, it shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

PART 80—PROVISION OF EARLY INTERVENTION SERVICES TO ELIGIBLE INFANTS AND TODDLERS WITH DISABILITIES AND THEIR FAMILIES, AND SPECIAL EDUCATION CHILDREN WITH DISABILITIES WITHIN THE SECTION 6 SCHOOL ARRANGEMENTS

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APPENDIX A TO PART 80—PROCEDURES FOR THE PROVISION OF EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS WITH DISABILITIES, AGES 0-2 (INCLUSIVE), AND THEIR FAMILIES

APPENDIX B TO PART 80—PROCEDURES FOR SPECIAL EDUCATIONAL PROGRAMS (INCLUDING RELATED SERVICES) AND FOR PRESCHOOL CHILDREN AND CHILDREN WITH DISABILITIES (3-21 YEARS INCLUSIVE)

APPENDIX C TO PART 80—HEARING PROCEDURES

AUTHORITY: 20 U.S.C. 1400 et seq.; 20 U.S.C. 241; 20 U.S.C. 241 note.

SOURCE: 59 FR 37680, July 25, 1994, unless otherwise noted.

§ 80.1 Purpose.

This part:

(a) Establishes policies and procedures for the provision of early intervention services to infants and toddlers with disabilities (birth to age 2 inclusive) and their families, and special education and related services to children with disabilities (ages 3-21 inclusive) entitled to receive special educational instruction or early intervention services from the Department of Defense under Pub. L. 81-874, sec. 6, as amended; Pub. L. 97-35, sec. 505(c); the Individuals with Disabilities Education Act, Pub. L. 94-142, as amended; Pub. L. 102-119, sec. 23; and consistent with 32 CFR parts 285 and 310, and the Federal Rules of Civil Procedures (28 U.S.C.).

(b) Establishes policy, assigns responsibilities, and prescribes procedures for:

(1) Implementation of a comprehensive, multidisciplinary program of early intervention services for infants and toddlers ages birth through 2 years (inclusive) with disabilities and their families.

(2) Provision of a free, appropriate education including special education and related services for preschool children with disabilities and children with disabilities enrolled in the Department of Defense Section 6 School Arrangements.

(c) Establishes a Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children and Children with Disabilities, and a DoD Coordinating Committee on Domestic Early Intervention, Special Education and Related Services.

(d) Authorizes the publication of DoD Regulations and Manuals, consistent with DoD 5025.1-M,¹ and DoD forms consistent with DoD 5000.12-M² and DoD Directive 8910.1³ to implement this part.

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

²See footnote 1 to § 80.1(c).

³See footnote 1 to § 80.1(c).