

## § 192.4

## 32 CFR Ch. I (7–1–11 Edition)

*Minorities.* All persons classified as black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, or American Indian or Alaskan native.

*Relief for the complainant.* Action taken by a commander for the benefit of a complainant.

*Restrictive sanctions.* Actions taken by a commander to prevent military personnel from moving to, or entering into a rental, lease, or purchase arrangement with, a housing facility, when its agent has been found to have discriminated against DoD personnel. Restrictive sanctions are effective against the agent and the facility.

*Survey.* The procedure by which the HRS identifies housing resources to ascertain the availability of housing facilities for occupancy by DoD personnel.

*Verifiers.* Volunteers used by the commander during the course of a housing discrimination investigation to determine if, in fact, housing discrimination is being practiced by an agent, as alleged. Verifiers are not required to be prospective tenants.

### § 192.4 Policy.

It is DoD policy that under DoD Directive 1350.2<sup>1</sup> the Department of Defense is fully committed to the goal of obtaining equal treatment for all DoD personnel. Specific guidance on off-base housing and fair housing enforcement is as follows:

(a) *National Housing Policy.* Federal law prohibits discrimination in housing in the United States against any person because of race, color, religion, sex, age, national origin, handicap, or familial status.

(1) Title VIII of P.L. 90-284 contains the following:

(i) The fair housing provisions.

(ii) Outlines the responsibilities of the Secretary of Housing and Urban Development (HUD) with regard to Public Law 90-284.

(iii) Requires all Executive Departments and Agencies to administer housing and urban development programs and activities under their juris-

diction in a manner that shall reflect “affirmatively” the furthering of title VIII.

(2) Title IX of Public Law 90-284 makes it a crime to intimidate willfully or interfere with any person by force or threat because of that person’s activities in support of fair housing.

(3) Title 42 U.S.C. 1982 prohibits discrimination in housing in the United States. This statute protects DoD personnel.

(4) Public Law 100-430 amends title VIII of Public Law 90-284 by revising the procedures for the enforcement of fair housing requirements and adding protected classes of individuals.

(5) Title VIII of Public Law 90-284, as amended by Public Law 100-430, does not limit the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Additionally, provisions of such title VIII regarding familial status do not apply with respect to housing intended for, and solely occupied by, persons 62 years of age or older or intended and operated for occupancy, but at least one person 55 years of age or older. For guidance regarding housing occupied by those 55 years of age or older, use the statutory provision at section 805 b(2)(c), 102 Stat. 1623, of Public Law 100-430.

(b) *DoD Fair Housing Policy.* The Department of Defense intends that Federal fair housing law shall be supported and that DoD personnel shall have equal opportunity for available housing regardless of race, color, religion, sex, age, national origin, handicap, or familial status.

(1) That policy includes the objective of eliminating discrimination against DoD personnel in off-base housing. That objective is not achieved simply by finding a place to live in a particular part of town or in a particular facility for a specific person.

(2) The intent is achieved when a person meeting the ordinary standards of character and financial responsibility is able to obtain off-base housing equally as any other person anywhere in the area surrounding a military installation, without suffering discrimination based on race, color, religion,

<sup>1</sup>Copies of all DoD issuances listed in this part may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

sex, age, national origin, handicap or familial status.

(i) The accomplishment of this objective shall not be hampered by requiring the submission of a formal complaint of discrimination. A suspected discriminatory act, with or without the filing of a formal complaint, is a valid basis for investigation and, if discrimination is substantiated, imposition of restrictive sanctions.

(ii) On substantiation that an agent practiced discrimination, restrictive sanctions shall be imposed for a minimum of 180 days.

(iii) The fact that Public Law 90-284, 42 U.S.C. 1982, and Public Law 100-430 may or may not provide a remedy in a given case of discrimination affecting DoD personnel does not relieve a commander of the responsibility to ensure equal treatment and equal opportunity for such personnel or to impose restrictive sanctions against the agent and/or facility, when appropriate.

(iv) Military installations shall develop information programs to apprise Service members of the DoD policy and program for equal opportunity in off-base housing. Commanders should use local community resources, such as civil rights organizations, religious and service groups, and local information media, in support of their programs.

[55 FR 6248, Feb. 22, 1990. Redesignated and amended at 56 FR 32964, July 18, 1991]

#### § 192.5 Responsibilities.

The *Secretaries of the Military Departments* shall:

(a) Ensure nondiscrimination in referring DoD personnel to off-base housing facilities.

(b) Continue efforts (as described in DoD 4165.63-M<sup>2</sup> to identify and solicit nondiscriminatory assurances for housing facilities within the commuting area, which are considered to be suitable for occupancy by Service members.

(c) Ensure that an office and staff required by DoD 4165.63-M are available in conjunction with the cognizant staff judge advocate or other legal authority to advise Service members on the following:

(1) The procedures in this part.

<sup>2</sup>See footnote 1 to § 192.4.

(2) The application of Public Law 90-284, 42 U.S.C. 1982, and Public Law 100-430 in specific situations.

(3) The rights of individuals to pursue remedies through civilian channels, without recourse and in addition to the procedures prescribed in this part, including the right to:

(i) Make a complaint directly to the Department of HUD and/or to the Department of Justice (DoJ) in the United States.

(ii) Bring a private civil action in any court of competent jurisdiction.

(d) Periodically review off-base housing procedures and policies to ensure effectiveness and compliance with this part. (Appendix A to this part is a checklist to help commanders with this review.)

(e) Cooperate with other Government Agencies investigating housing discrimination complaints filed by Service members.

(f) Ensure that each Military Service reports any housing discrimination cases and their results in the Annual Military Equal Opportunity Assessment Report required by DoD Instruction 1350.3.

[55 FR 6248, Feb. 22, 1990. Redesignated and amended at 56 FR 32964, July 18, 1991]

#### § 192.6 Procedures.

(a) Appendix B to this part contains the detailed procedures for assisting Service members, investigating housing complaints, and reporting requirements for housing discrimination complaints.

(b) The complaint and investigative report required in section B., appendix B to this part is exempt from formal approval and licensing under DoD 7750.5-M.<sup>3</sup>

[55 FR 6248, Feb. 22, 1990. Redesignated and amended at 56 FR 32965, July 18, 1991]

#### APPENDIX A TO PART 192—CHECKLIST FOR COMMANDERS

A. Are all assigned personnel informed of the Equal Opportunity in Off-Base Housing Program requirements before obtaining housing off base?

B. Is there an effective information program ensuring equal opportunity in off-base housing information program?

<sup>3</sup>See footnote 1 to § 192.4.