

through a grant or cooperative agreement) appropriated by the act. Because these requirements are of limited duration (the period during which a given year's appropriations are available for obligation), and because they can vary from year to year and from one agency's appropriations act to another agency's, the grants officer must know the agency(ies) and fiscal year(s) of the appropriations being obligated by a given grant or cooperative agreement, and may need to consult legal counsel if he or she does not know the requirements applicable to those appropriations.

**§ 22.520 Military recruiting on campus.**

(a) *Purpose.* The purpose of this section is to implement section 558 of the National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103-337), as it specifically affects grants and cooperative agreements (note that section 558 appears as a note to 10 U.S.C. 503). This section thereby supplements DoD's primary implementation of section 558, in 32 CFR part 216, "Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education."

(b) *Definitions specific to this section.* In this section:

(1) *Directory information* has the following meaning, given in section 558(c) of Pub. L. 103-337. It means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

(2) *Institution of higher education* has a different meaning in this section than it does in the rest of this part. The meaning of the term in other sections of this part is given at § 22.105. In this section, "institution of higher education" (IHE) has the following meaning, given at 32 CFR 216.3. The term means a domestic college, university, or subelement thereof providing post-secondary school courses of study, including foreign campuses of such domestic institutions. The term includes junior colleges, community colleges, and institutions providing courses leading to undergraduate and postgraduate degrees. The term does not

include entities that operate exclusively outside the United States, its territories, and possessions. A subelement of an IHE is a discrete (although not necessarily autonomous) organizational entity that may establish policy or practices affecting military recruiting and related actions (e.g., an undergraduate school, law school, medical school, or other graduate school).

(c) *Statutory requirement.* No funds available to the Department of Defense may be provided by grant to any institution of higher education that either has a policy of denying or that effectively prevents the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses or access to students on campuses or access to directory information pertaining to students.

(d) *Policy—(1) Applicability to subordinate elements of institutions of higher education.* 32 CFR part 216, DoD's primary implementation of section 558, establishes procedures by which the Department of Defense identifies institutions of higher education that have a policy or practice described in paragraph (c) of this section. In cases where those procedures lead to a determination that specific subordinate elements of an institution of higher education have such a policy or practice, rather than the institution as a whole, 32 CFR part 216 provides that the prohibition on use of DoD funds applies only to those subordinate elements.

(2) *Applicability to cooperative agreements.* As a matter of DoD policy, the restrictions of section 558, as implemented by 32 CFR part 216, apply to cooperative agreements, as well as grants.

(3) *Deviations.* Grants officers may not deviate from any provision of this section without obtaining the prior approval of the Director of Defense Research and Engineering. Requests for deviations shall be submitted, through appropriate channels, to: Director for Research, ODDR&E(R), 3080 Defense Pentagon, Washington, DC 20301-3080.

(e) *Grants officers' responsibilities.* A grants officer shall:

(1) Not award any grant or cooperative agreement to an institution of higher education that has been identified pursuant to the procedures of 32

CFR part 216. Such institutions are identified on the Governmentwide “List of Parties Excluded from Federal Procurement and Nonprocurement Programs,” as being ineligible to receive awards of DoD funds (note that 32 CFR 25.505(d) requires the grants officer to check the list prior to determining that a recipient is qualified to receive an award).

(2) [Reserved]

(3) Not consent to any subaward of DoD funds to such an organization, under a grant or cooperative agreement to any recipient, if such subaward requires the grants officer’s consent.

(4) Include the clause in paragraph (f) of this section in each grant or cooperative agreement with an institution of higher education. Note that this requirement does not flow down (i.e., recipients are not required to include the clause in subawards).

(5) If an institution of higher education refuses to accept the clause in paragraph (f) of this section:

(i) Determine that the institution is not qualified with respect to the award. The grants officer may award to an alternative recipient.

(ii) Transmit the name of the institution, through appropriate channels, to the Director for Accession Policy, Office of the Assistant Secretary of Defense for Force Management Policy, OASD(FMP), 4000 Defense Pentagon, Washington, DC 20301-4000. This will allow OASD(FMP) to decide whether to initiate an evaluation of the institution under 32 CFR part 216, to determine whether it is an institution that has a policy or practice described in paragraph (c) of this section.

(f) *Clause for award documents.* The following clause is to be included in grants and cooperative agreements with institutions of higher education:

“As a condition for receipt of funds available to the Department of Defense (DoD) under this award, the recipient agrees that it is not an institution of higher education (as defined in 32 CFR part 216) that has a policy of denying, and that it is not an institution of higher education that effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: (A) Entry to campuses or access to students on campuses; or (B) access to directory information pertaining to students. If the recipient is deter-

mined, using the procedures in 32 CFR part 216, to be such an institution of higher education during the period of performance of this agreement, and therefore to be in breach of this clause, the Government will cease all payments of DoD funds under this agreement and all other DoD grants and cooperative agreements to the recipient, and it may suspend or terminate such grants and agreements unilaterally for material failure to comply with the terms and conditions of award.”

#### § 22.525 Paperwork Reduction Act.

Grants officers shall include appropriate award terms or conditions, if a recipient’s activities under an award will be subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3500, et seq.):

(a) Generally, the Act only applies to Federal agencies—it requires agencies to obtain clearance from the Office of Management and Budget before collecting information using forms, schedules, questionnaires, or other methods calling either for answers to:

(1) Identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States.

(2) Questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest.

(b) The Act applies to similar collections of information by recipients of grants or cooperative agreements only when:

(1) A recipient collects information at the specific request of the awarding Federal agency; or

(2) The terms and conditions of the award require specific approval by the agency of the information collection or the collection procedures.

#### § 22.530 Metric system of measurement.

(a) *Statutory requirement.* The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205) and implemented by Executive Order 12770 (3 CFR, 1991 Comp., p. 343), states that:

(1) The metric system is the preferred measurement system for U.S. trade and commerce.