

Office of the Secretary of Defense

§ 58.4

AUTHORITY: 10 U.S.C. 113.

SOURCE: 56 FR 15281, Apr. 16, 1991, unless otherwise noted.

§ 58.1 Purpose.

This part supersedes Deputy Secretary of Defense Memorandum, "Policy on Identification, Surveillance, and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV)," August 4, 1988, Deputy Secretary of Defense Memorandum, "Recommendations for Revision of DoD Human Immunodeficiency Virus (HIV) Policies," March 8, 1988, Assistant Secretary of Defense (Health Affairs) Memorandum, "Policy on Clinical Evaluation, Staging and Disease Coding of Military Personnel Infected with Human Immunodeficiency Virus (HIV)," September 11, 1987, Assistant Secretary of Defense (Health Affairs) Memorandum, "The DoD HTLV-III Testing Program," December 5, 1985, Assistant Secretary of Defense (Health Affairs) Memorandum, "Military Implementation of Public Health Service Provisional Recommendations Concerning Testing Blood and Plasma for Antibodies to HTLV-III," July 17, 1985, to update policy, responsibilities, and procedures on identification, surveillance, and administration of civilian and military personnel infected with HIV-1.

§ 58.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments (including their Reserve components), the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

§ 58.3 Definitions.

(a) *Human Immunodeficiency Virus-1 (HIV-1)*. The virus most commonly associated with the Acquired Immune Deficiency Syndrome (AIDS) in the United States.

(b) *HIV-1 and/or AIDS Education Program*. Any combination of information, education, and behavior-change strate-

gies designed to facilitate behavioral alteration that will improve or protect health. Included are those activities intended to support or influence individuals in managing their own health through lifestyle decisions and self-care. Operationally, such programs include community, worksite, and clinical aspects using appropriate public health education methodologies.

(c) *Serologic Evidence of HIV-1 Infection*. A reactive result given by a Food and Drug Administration (FDA)-approved enzyme-linked immunosorbent assay (ELISA) serologic test that is confirmed by a reactive and diagnostic immunoelectrophoresis test (Western blot (WB)) test on two separate samples.

(d) *Host Nation*. A foreign nation to which DoD U.S. civilian employees are assigned to perform their official duties.

(e) *DoD Civilian Employees*. Current and prospective DoD U.S. civilian employees, including appropriated and nonappropriated fund personnel. This does not include members of the family of DoD civilian employees, employees of, or applicants for, positions with contractors performing work for the Department of Defense, or their families.

(f) *Epidemiological Assessment*. The process by which personal and confidential information on the possible modes of transmission of HIV-1 are obtained from an HIV-1 infected person. This information is used to determine if previous, present, or future contacts of the infected individual are at risk for infection with HIV-1 and to prevent further transmission of HIV-1.

§ 58.4 Policy.

It is DoD policy to:

(a) Deny eligibility for appointment or enlistment for Military Service to individuals with serologic evidence of HIV-1 infection.

(b) Screen active duty (AD) and Reserve component military personnel periodically for serologic evidence of HIV-1 infection.

(c) Refer AD personnel with serologic evidence of HIV-1 infection for a medical evaluation of fitness for continued service in the same manner as personnel with other progressive illnesses,

as specified in DoD Directive 1332.18.¹ Medical evaluation shall be conducted in accordance with the standard clinical protocol, as described in the Standard Clinical Protocol.² Individuals with serologic evidence of HIV-1 infection who are fit for duty shall not be retired or separated solely on the basis of serologic evidence of HIV-1 infection. AD personnel with serological evidence of HIV-1 infection or who are ELISA repeatedly reactive, but WB negative or indeterminate, shall be advised to refrain from donating blood.

(d) Deny eligibility for extended AD (duty for a period of more than 30 days) to those Reserve component members with serologic evidence of HIV-1 infection (except under conditions of mobilization and on the decision of the Secretary of the Military Department concerned). Reserve component members who are not on extended AD or who are not on extended full-time National Guard duty, and who show serologic evidence of HIV-1 infection, shall be transferred involuntarily to the Standby Reserve only if they cannot be utilized in the Selected Reserve.

(e) Retire or separate AD or Reserve Service members infected with HIV-1 who are determined to be unfit for further duty, as implemented in DoD Directive 1332.18.

(f) Ensure the safety of the blood supply through policies of the Head of the Armed Services Blood Program Office, the FDA guidelines, and the accreditation requirements of the Head of the American Association of Blood Banks.

(g) Comply with applicable statutory limitations on the use of the information obtained from a Service member during, or as a result of, an epidemiologic assessment interview and the results obtained from laboratory tests for HIV-1, as provided in this part.

(h) Control transmission of HIV-1 through an aggressive disease surveillance and health education program.

(i) Provide education and voluntary HIV-1 serologic screening for DoD

healthcare beneficiaries (other than Service members).

(j) Comply with host-nation requirements for HIV-1 screening of DoD civilian employees, as described in appendix B to this part.

§ 58.5 Responsibilities.

(a) The Assistant Secretary of Defense (Health Affairs), in coordination with the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)), the General Counsel of the Department of Defense (GC, DoD), and the Assistant Secretary of Defense (Reserve Affairs), is responsible for establishing policies, procedures, and standards for the identification, surveillance, and administration of personnel infected with HIV-1. The Assistant Secretary of Defense (Health Affairs) (ASD(HA)) shall provide overall policy guidance and approval for the HIV-1 and/or AIDS education and information efforts and shall establish the HIV-1 and/or AIDS Information and Education Coordinating Committee.

(b) The Secretaries of the Military Departments shall establish Service policies, procedures, and standards for the identification, surveillance, education, and administration of personnel infected with HIV-1, based on and consistent with all sections of this part.

(c) The Assistant Secretary of Defense (Force Management and Personnel) shall establish and revise policies governing HIV-1 screening of DoD civilian employees assigned to, performing official travel in, or deployed on ships with ports of call at host nations, in coordination with the ASD(HA), the Assistant Secretary of Defense (International Security Affairs), and the GC, DoD.

(d) The Assistant Secretary of Defense (International Security Affairs) shall identify or confirm host-nation HIV-1 screening requirements for DoD civilians, transmit this information to the ASD(FM&P), and coordinate requests for screening with the Secretary of State.

(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:

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

²Forward requests for copies to the Office of the Assistant Secretary of Defense (Health Affairs), the Pentagon, Washington, DC 20301-1200.