

## § 191.3

## 32 CFR Ch. I (7-1-08 Edition)

(d) Covers Federal employment issues under section 504 of the Rehabilitation Act of 1973, as amended, even though DoD Directive 1020.1<sup>2</sup> implements section 504 with respect to programs conducted and assisted by the Department of Defense. The standards established under section 501 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 791, 792, 793, and 795), are to be applied under section 504 of the Act with respect to civilian employees and applicants for civilian employment in Federal Agencies.

[53 FR 30990, Aug. 17, 1988, as amended at 56 FR 10170, Mar. 11, 1991]

### § 191.3 Definitions.

*Affirmative action.* A tool to achieve equal employment opportunity. A program of self-analysis, problem identification, data collection, policy statements, reporting systems, and elimination of discriminatory policies and practices, past and present.

*Age.* A prohibited basis discrimination. For purposes of this Directive, persons protected under age discrimination provisions are those 40 years of age or older, except when a maximum age requirement has been established by statute or the OPM. Aliens employed outside the limits of the United States are not covered by this definition.

*Discrimination.* Illegal treatment of a person or group based on race, color, national origin, religion, sex, age, or disability.

*Equal Employment Opportunity (EEO).* The right of all persons to work and advance on the basis of merit, ability, and potential, free from social, personal, or institutional barriers of prejudice and discrimination.

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

*National origin.* A prohibited basis for discrimination. An individual's place of origin or his or her ancestor's place of origin or the possession of physical, cultural, or linguistic characteristics of a national origin group.

*People with disabilities.* People who have physical or mental impairments

that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment. For purposes of this part, such term does not include any individual who is an alcoholic or drug abuser and whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question, or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or to the safety of others. As used in this paragraph:

(a) *Physical or mental impairment.* Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal and special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(b) *Major life activities.* Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) *Has a record of such impairment.* Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) *Is regarded as having an impairment.* Has:

(1) A physical or mental impairment that does not substantially limit major life activities but is treated by an employer as constituting such a limitation;

(2) A physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment; or

(3) None of the impairments defined above but is treated by an employer as having an impairment.

*Race.* A prohibited basis for discrimination. For purposes of this part, all persons are classified as black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native, and White, as follows:

<sup>2</sup>See footnote 1 to § 191.2(c).

(a) *Black (not of Hispanic origin)*. A person having origins in any of the black racial groups of Africa.

(b) *Hispanic origin*. A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin regardless of race.

(c) *Asian or Pacific Islander*. A person having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

(d) *American Indian or Alaskan Native*. A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(e) *White*. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*Religion*. Traditional systems of religious belief and moral or ethical beliefs as to what is right and wrong that are sincerely held with the strength of traditional religious views. The phrase "religious practice" as used in this part includes both religious observances and practices. DoD Components are expected to accommodate an employee's religious practices unless doing so causes undue hardship on the conduct of the Component's business.

*Sexual Harassment*. A form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or

(b) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(c) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member of civilian employee is engaging in sexual harassment. Similarly, any military

member of civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

*Special Emphasis Program (SEPs)*. Programs established as integral parts of the overall EEO program to enhance the employment, training, and advancement of a particular minority group, women, or people with disabilities.

*Standard-setting agencies*. Non-DoD Federal Agencies authorized to establish Federal Government-wide EEO policy or program requirements. The term includes the EEOC; OPM; DoL, Office of Federal Contract Compliance Programs (OFCCP); and OMB.

[53 FR 30990, Aug. 17, 1988, as amended at 54 FR 15752, Apr. 19, 1989; 57 FR 35755, Aug. 11, 1992]

#### § 191.4 Policy.

It is DoD Policy to:

(a) Recognize equal opportunity programs, including affirmative action programs, as essential elements of readiness that are vital to the accomplishment of the DoD national security mission. Equal employment opportunity is the objective of affirmative action programs.

(b) Develop and implement affirmative action programs to achieve the objective of a civilian work force in which the representation of minorities, women, and people with disabilities at all grade levels, in every occupational series, and in every major organization element is commensurate with the representation specified in EEOC and OPM guidance. Such programs, which shall be designed to identify, recruit, and select qualified personnel, shall be coordinated with the cognizant legal offices.

(c) Ensure that Civilian EEO Program activities for minorities, women, and people with disabilities are integrated fully into the civilian personnel management system.

(d) Assess progress in DoD Component programs in accordance with the affirmative action goals of the Department of Defense.