

APPENDIX A TO PART 47—INSTRUCTIONS
FOR SUBMITTING GROUP APPLICATIONS
UNDER PUBLIC LAW 95–202

A. In Submitting a Group Application: 1. Define the group to include the time period that your group provided service to the U.S. Armed Forces.

2. Show the relationship that the group had with the U.S. Armed Forces, the manner in which members of the group were employed, and the services the members of the group provided to the Armed Forces.

3. Address each of the factors in §47.4.

4. Substantiate and document the application. (The burden of proof rests with the applicant.)

B. Send Completed Group Applications To: Secretary of the Air Force (SAF/MRC), DoD Civilian/Military Service Review Board, Washington, DC 20330–1000.

APPENDIX B TO PART 47—THE DoD CIVILIAN/MILITARY SERVICE REVIEW BOARD AND THE ADVISORY PANEL

A. Organization and Management

1. The board shall consist of a president selected from the Department of the Air Force and one representative each from the OSD, the Department of the Army, the Department of the Navy, the Department of the Air Force, and the U.S. Coast Guard (when the group claims active Coast Guard service). Each member shall have one vote except that the president shall vote only to break a tie. The board's decision is determined by majority vote. The president and two voting members shall constitute a quorum.

2. The advisory panel shall act as a non-voting adjunct to the board. It shall consist of historians selected by the Secretaries of the Military Departments and, if required, by the Secretary of Transportation. The respective Military Departments and the DOT shall ensure that the advisory panel is provided with administrative and legal support.

B. Functions

1. The board shall meet in executive session at the call of the president, and shall limit its reviews to the following:

a. Written submissions by an applicant on behalf of a civilian or contractual group. Presentations to the board are not allowed.

b. Written report(s) prepared by the advisory panel.

c. Any other relevant written information available.

d. Factors established in this part for determining AD service.

2. The board shall return to the applicant any application that does not meet the eligibility criteria established in §47.4(a). The board only needs to state the reasons why

the group is ineligible for consideration under this part.

3. If the board determines that an application is eligible for consideration under §47.4(a), the board shall provide, to the Secretary of the Air Force, a recommendation on the AD service determination for the group and the rationale for that recommendation that shall include, but not be limited to, a discussion of the factors listed in §47.4.

a. No factors shall be established that require automatic recognition. Neither the board nor the Secretary of the Air Force shall be bound by any method in reaching a decision.

b. Prior group determinations made under Public Law 95–202 do not bind the board or the Secretary of the Air Force. The board and the Secretary of the Air Force fully and impartially shall consider each group on its own merit in relation to the factors listed in section D. of this Directive.

PART 49—IMPLEMENTATION OF THE
HAVANA ACT OF 2021

Sec.

49.1 Purpose and authority.

49.2 Definitions.

49.3 Eligibility for payments by the Department of Defense.

49.4 Consultation with the Department of State.

49.5 Procedures.

AUTHORITY: 5 U.S.C. 301; Pub. L. 117–46, 135 STAT. 391; 22 U.S.C. 2680b.

SOURCE: 89 FR 80394, Oct. 3, 2024, unless otherwise noted.

§ 49.1 Purpose and authority.

(a) Under 22 U.S.C. 2680b(i), the Secretary of Defense may provide a payment for a qualifying injury to the brain to a covered employee or covered dependent, as defined in this part, who incurred a qualifying injury to the brain on or after January 1, 2016. The authority to provide such payments is at the discretion of the Secretary of Defense or the Secretary's designees.

(b) These regulations are issued in accordance with 22 U.S.C. 2680b(i)(4) and apply to covered employees of the Department of Defense (current and former employees) and covered dependents.

§ 49.2 Definitions.

For purposes of this part, the following definitions apply:

Covered dependent. A family member, as defined in this section, of a current or former employee of the Department of Defense who, on or after January 1, 2016, accompanies the employee, while an employee of the Department, to an assigned duty location and becomes injured by reason of a qualifying injury to the brain.

Covered employee. A current or former employee of the Department of Defense who, on or after January 1, 2016, becomes injured by reason of a qualifying injury incurred while an employee of the Department of Defense.

Employee. For purposes of this part, “employee” means an individual who has been appointed to a position in the civil service in accordance with 5 U.S.C. 2104(a)(1) or 5 U.S.C. 2105(a)(1), with the exception of employees paid from non-appropriated funds of an instrumentality of the United States under the jurisdiction of the armed forces who are not a citizen or national of the United States.

Family member. for the purposes of determining “covered dependent”, a family member is defined as follows:

(1) Children who at the time of the injury are unmarried and under 21 years of age or, regardless of age, are unmarried and due to mental and/or physical limitations are incapable of self-support. The term “children” includes natural offspring, step-children, adopted children, and those under permanent legal guardianship, or comparable permanent custody arrangement, of the employee, spouse or domestic partner as defined in 5 CFR 875.101 when dependent upon and normally residing with the guardian or custodial party, and U.S. citizen children placed for adoption if a U.S. court grants temporary guardianship of the child to the employee and specifically authorizes the child to reside with the employee in the country of assignment before the adoption is finalized;

(2) Siblings (including stepsiblings, or adoptive siblings) of the employee, or the spouse when at the time of the injury such siblings were at least 51 percent dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, were physically and/or mentally incapable of self-support;

(3) Parents (including stepparents and legally adoptive parents) of the employee or of the spouse or of the domestic partner as defined in 5 CFR 875.101, when normally residing with the employee at the time of the injury; and

(4) Spouse or domestic partner (as defined in 5 CFR 875.01) at the time of the injury.

Other incident. A new onset of physical manifestations that cannot otherwise be readily explained and that is designated under 22 U.S.C. 2680b.

Qualifying injury to the brain. An injury to the brain that occurred in connection with war, insurgency, hostile act, terrorist activity, or other incidents designated under 22 U.S.C. 2680b, and that was not the result of the willful misconduct of the covered employee or covered dependent.

(1) The individual must have an acute injury to the brain such as, but not limited to, a concussion, penetrating injury, or as a consequence of an event that leads to permanent alterations in brain function as demonstrated by confirming correlative findings on imaging studies (to include computed tomography scan (CT) or magnetic resonance imaging scan (MRI)) or electroencephalogram (EEG); or

(2) A medical diagnosis of a traumatic brain injury (TBI) that required active medical treatment for 12 months or more; or

(3) Acute onset of new persistent, disabling neurologic symptoms as demonstrated by confirming correlative findings on imaging studies (to include CT or MRI), or EEG, or physical exam, or other appropriate testing, and that required active medical treatment for 12 months or more.

§ 49.3 Eligibility for payments by the Department of Defense.

(a) The Department may provide a payment to covered employees as defined in this part, if the qualifying injury to the brain was assessed and diagnosed in person by a currently board-certified physician from the American Board of Psychiatry and Neurology (ABPN), the American Osteopathic Board of Neurology and Psychiatry (AOBNP), the American Board of Physical Medicine and Rehabilitation

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(ABPMR), or the American Osteopathic Board of Physical Medicine and Rehabilitation (AOBPMR); occurred on or after January 1, 2016; and occurred while the employee or former employee was a covered employee of the Department.

(b) The Department may provide a payment to a covered dependent, if the qualifying injury to the brain was assessed and diagnosed in person by a currently board-certified physician from the ABPN, AOBPNP, ABPMR, or AOBPMR; occurred on or after January 1, 2016; and occurred while the covered dependent accompanied an employee of the Department at an assigned duty location.

(c) Payment for a qualifying injury to the brain will be a non-taxable, one-time lump sum payment unless a second payment is authorized under paragraph (d)(4) of this section.

(d) The amount of payment is at the Department's discretion. The Department will determine the amount paid to each eligible person based on the following factors:

(1) The responses on; DD Form 3220, "Eligibility Questionnaire for HAVANA Act Payments"; and

(2) Whether the Department of Labor (Workers' Compensation) has determined that the requester has no reemployment potential for an indefinite future; or the Social Security Administration has approved the requester for Social Security Disability Insurance or Supplemental Security Income (SSI) for a disability; or a neurologist or physician certified by the ABPN, AOBPNP, ABPMR, or AOBPMR has certified that the individual requires a full-time caregiver for activities of daily living, as defined by the Katz Index of Independence of Daily Living.

(3) The award thresholds are based on Level III of the Senior Executive Schedule of the year in which the request for payment is approved; Base will be 75 percent of Level III pay, and Base Plus will be 100 percent of Level III pay.

(4) If the requester meets any of the criteria listed in paragraph (d)(2) of this section, the requester will be eligible to receive a Base Plus payment. Requesters whose board-certified physicians confirm that the definition of

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"qualifying injury to the brain" has been met but has not met any of the criteria listed in paragraph (d)(2), will be eligible to receive a Base payment. If a requester who received a Base payment later meets any of the criteria listed in paragraph (d)(2), the requester may apply for an additional payment that will be the difference between the Base and Base Plus payment.

§ 49.4 Consultation with the Department of State.

When a covered employee or covered dependent seeks payment for an incident that occurred overseas under Secretary of State security responsibility, the Department will coordinate with the Department of State as appropriate in evaluating whether the incident is an "other incident" for purposes of establishing a qualifying injury or should be so designated.

§ 49.5 Procedures.

(a) *Application.* (1) A covered employee or covered dependent may apply for a HAVANA Act payment if the covered individual has sustained a qualifying injury to the brain on or after January 1, 2016. To apply for the benefit, the applicant must submit the DD Form 3220, "Eligibility Questionnaire for HAVANA Act Payments," claim form to the appropriate email address set forth in paragraph (a)(2) of this section. The claim form must be completed by a person eligible to file a claim, or by that person's legal guardian, a family member, or another individual authorized to act on behalf of the requestor and must be signed by a currently certified physician as listed in § 49.3(a).

(2) The claim form and any additional documentation must be emailed to the following address: dodhra.mcalex.dcpas.mbx.dod-havana-act@mail.mil.

(3) The applicant must furnish additional documentation upon request provided that the applicant has access to such additional documentation.

(4) Copies of the claim form, as well as the regulations and other information, may be obtained on the Defense Civilian Personnel Advisory Service website, <https://www.dcpas.osd.mil/havana-act-benefits-program>.

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(b) *Other incident.* The Department will determine whether a covered employee or covered dependent has a qualifying injury to the brain as set forth in § 49.2(f)(2), and whether the incident causing the injury was in connection with war, insurgency, hostile act, or terrorist activity. The Department will, as appropriate or necessary, designate “other incidents” under 22 U.S.C. 2680b(j) for employees and dependents who were not, at the time of the incident, under the security responsibility of the Secretary of State or when operational control of overseas security responsibility for such employees or dependents was delegated to the Secretary of Defense. The Department will, as appropriate or necessary, make a recommendation to the Secretary of State that the incident should be deemed an “other incident designated by the Secretary of State” for purposes of 22 U.S.C. 2680b(i)(1)(D) (cross-referencing subparagraph 2680b(e)(4)) for incidents affecting employees or dependents who were, at the time of the incident, under the security responsibility of the Secretary of State.

(c) *Decisions.* For covered employees and covered dependents, the Director, Defense Civilian Personnel Advisory Service, in their discretion may approve payments pursuant to 22 U.S.C. 2680b(i).

(d) *Appeals.* In the event of a decision to deny an application for payment under the HAVANA Act, the Department will notify the applicant in writing. Applicants may direct an appeal via the DoD HAVANA Act mailbox, dodhra.mc-alex.dcpas.mbx.dod-havana-act@mail.mil, to the Deputy Assistant Secretary of Defense for Civilian Personnel Policy, within 60 days of the date of the notification of the denial. However, decisions concerning the amount paid are not subject to appeal. The Department will notify the applicant in writing of the decision on appeal.

PART 50—PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS

GENERAL PROVISIONS

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- 50.5 Responsibilities.
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APPENDIX A TO PART 50—LIFE INSURANCE PRODUCTS AND SECURITIES

APPENDIX B TO PART 50—OVERSEAS LIFE INSURANCE REGISTRATION PROGRAM

AUTHORITY: 5 U.S.C. 301.

SOURCE: 71 FR 38764, July 10, 2006, unless otherwise noted.

GENERAL PROVISIONS

§ 50.1 Purpose.

This part:

(a) Implements section 577 of Public Law No. 109-163 (2006) and establishes policy and procedures for personal commercial solicitation on DoD installations.

(b) Continues the established annual DoD registration requirement for the sale of insurance and securities on DoD installations overseas.

(c) Identifies prohibited practices that may cause withdrawal of commercial solicitation privileges on DoD installations and establishes notification requirements when privileges are withdrawn.

(d) Establishes procedures for persons solicited on DoD installations to evaluate solicitors.

(e) Prescribes procedures for providing financial education programs to military personnel.

§ 50.2 Applicability.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense