

Office of the Secretary of Defense

§ 75.1

(6) The number of recommendations to upgrade the characterization of a discharge or dismissal declined by the Secretaries of the Military Departments pursuant to the DARB, to include the most common reasons for such declinations.

(d) The annual reports will be published on a publicly accessible DoD website; the reports can be accessed at https://boards.law.af.mil/OSD_DARB.htm.

PART 74—APPOINTMENT OF DOCTORS OF OSTEOPATHY AS MEDICAL OFFICERS

Sec.

74.1 Purpose.

74.2 Policy.

AUTHORITY: 10 U.S.C. 3294, 5574, 8294.

SOURCE: 25 FR 14370, Dec. 31, 1960, unless otherwise noted.

§ 74.1 Purpose.

The purpose of this part is to implement the provisions of Pub. L. 763, 84th Congress (70 Stat. 608), relating to the appointment of doctors of osteopathy as medical officers.

§ 74.2 Policy.

In the interest of obtaining maximum uniformity, the following criteria are established for the appointment of doctors of osteopathy as medical officers:

(a) To be eligible for appointment as Medical Corps officers in the Army and Navy or designated as medical officers in the Air Force, a doctor of osteopathy must:

(1) Be a citizen of the United States;

(2) Be a graduate of a college of osteopathy whose graduates are eligible for licensure to practice medicine or surgery in a majority of the States, and be licensed to practice medicine, surgery, or osteopathy in one of the States or Territories of the United States or in the District of Columbia;

(3) Possess such qualifications as the Secretary concerned may prescribe for his service, after considering the recommendations for such appointment by the Surgeon General of the Army or the Air Force or the Chief of the Bu-

reau of Medicine and Surgery of the Navy;

(4) Have completed a minimum of three years college work prior to entrance into a college of osteopathy;

(5) Have completed a four-year course with a degree of Doctor of Osteopathy from a school of osteopathy approved by the American Osteopathic Association; and

(6) Have had subsequent to graduation from an approved school of osteopathy 12 months or more of intern or residency training approved by the American Osteopathic Association.

(b) [Reserved]

PART 75—EXCEPTIONAL FAMILY MEMBER PROGRAM (EFMP)

Subpart A—General

Sec.

75.1 Purpose.

75.2 Applicability.

75.3 Definitions.

Subpart B—Policy

75.4 Policy.

Subpart C—Procedures

75.5 DoD criteria for identifying family members with special needs.

75.6 Civilian employees on overseas assignment.

AUTHORITY: 10 U.S.C. 1781c.

SOURCE: 84 FR 3690, Feb. 13, 2019, unless otherwise noted.

Subpart A—General

§ 75.1 Purpose.

This part:

(a) Provides guidance and prescribes procedures for:

(1) Identifying a family member with special needs who is eligible for services as defined in this part.

(2) Processing DoD civilian employees who have family members with special needs for an overseas assignment.

(b) Does not create any rights or remedies in addition to those already otherwise existing in law or regulation, and may not be relied upon by any person, organization, or other entity to allege a denial of such rights or remedies.

§ 75.2 Applicability.

This part applies to:

(a) Service members who have family members with special needs as described in this part.

(b) All DoD civilian employees in overseas locations and selectees for overseas positions who have family members with special needs as described in this part.

§ 75.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purpose of this part.

Assistive technology device. Any item, piece of equipment, or product system, whether acquired commercially off the shelf modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

Assistive technology service. Any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

CONUS. The 48 contiguous states of the United States, excluding Alaska, Hawaii, and U.S. territories or other overseas insular areas of the United States.

Early Intervention Services (EIS). Developmental services for infants and toddlers with disabilities, as defined in 32 CFR part 57, that are provided under the supervision of a Military Department, including evaluation, IFSP development and revision, and service coordination provided at no cost to the child's parents.

Evaluations. Medical, psychological, and educational assessments required to define a medical or educational condition suspected after a screening procedure.

Family member. A dependent as defined by 37 U.S.C. 401, to include a spouse and certain children of a Service member, who is eligible to receive a DoD identification card, medical care in a DoD Military Treatment Facility, and command sponsorship or DoD-sponsored travel. To the extent authorized by law and in accordance with Service implementing guidance, the term may also include other nondependent family members of a Service member. For the purposes of § 75.6 of

this part only, this definition also includes the dependents of a civilian employee on an overseas assignment, or being considered for an overseas assignment, who are, or will be, eligible to receive a DoD identification card during that overseas assignment. To the extent authorized by law and in accordance with Service implementing guidance, the term may also include other nondependent family members of a civilian employee on an overseas assignment, or being considered for an overseas assignment.

Family member travel. Refers to family member permanent change of station authorization that is requested by a Service member or civilian employee for the purposes of § 75.6 of this part only.

Family support services. Encompasses the non-clinical case management delivery of information and referral for families with special needs, including the development and maintenance of an individualized Services Plan (SP).

Individualized Education Program (IEP). A written document that is developed, reviewed, and revised at a meeting of the Case Study Committee, identifying the required components of the individualized education program for a child with a disability.

Individualized Family Service Plan (IFSP). A written document identifying the specially designed services for an infant or toddler with a disability and the family of such infant or toddler.

Overseas. Any location outside of the 48 contiguous United States including Alaska, Hawaii, and all U.S. Territories or other overseas insular areas of the United States.

Related services. Transportation and such developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education under the child's IEP. The term includes services or consults in the areas of speech-language pathology, audiology services, interpreting services, psychological services, physical and occupational therapy, recreation (including therapeutic recreation), social work services, school nurse services designed to enable a child with a disability to receive a Free Appropriate Public Education (FAPE) as described in the

child's IEP, early identification and assessment of disabilities in children, counseling services (including rehabilitation counseling), orientation and mobility services, and medical services for diagnostic or evaluative purposes.

Related services assigned to the military medical departments overseas. Services provided by Educational and Developmental Intervention Services to Department of Defense Dependent School students for the development or implementation of an IEP, which are necessary for the student to benefit from special education. Those services may include medical services for diagnostic or evaluative purposes, social work, community health nursing, nutrition, occupational therapy, physical therapy, audiology, ophthalmology, and psychological testing and therapy.

Responsible military department. The Military Department responsible for providing EIS or related services in the geographic areas assigned under 32 CFR part 57.

Special education. Specially designed instruction (including instruction in physical education) provided at no cost to the parent to meet the unique needs of a child with a disability, conducted in the classroom, in the home, in hospitals and institutions, and in other settings.

Special needs. Includes special medical and educational needs of family members who meet the DoD criteria for enrollment in the EFMP as found in § 75.5 of this part.

Specialty care. Specialized health care required for health maintenance and provided by a physician whose training focused primarily in a specific field, such as neurology, cardiology, rheumatology, dermatology, oncology, orthopedics, or ophthalmology.

Subpart B—Policy

§ 75.4 Policy.

It is DoD policy that:

(a) The EFMP identifies family members with special needs, enrolls sponsors in the program, and participates in the coordination of assignments for active duty Service members in order for the special needs of family members to be considered during the assignment process.

(b) Active duty Service members whose families include a member with special needs must enroll in the EFMP to ensure their family member's special needs are considered during the assignment process.

(c) The special needs of a civilian employee's family member will not be considered in the selection of a civilian for an overseas position.

Subpart C—Procedures

§ 75.5 DoD criteria for identifying family members with special needs.

(a) *Special medical needs.* Individuals who meet one or more of the criteria in this section will be identified as a family member with special medical needs:

(1) Potentially life-threatening conditions or chronic (duration of 6 months or longer) medical or physical conditions requiring follow-up care from a primary care manager (to include pediatricians) more than once a year or specialty care.

(2) Current and chronic (duration of 6 months or longer) mental health conditions (such as bi-polar, conduct, major affective, thought, or personality disorders); inpatient or intensive (greater than one visit monthly for more than 6 months) outpatient mental health service within the last 5 years; or intensive mental health services required at the present time. This includes medical care from any provider, including a primary care manager.

(3) A diagnosis of asthma or other respiratory-related diagnosis with chronic recurring symptoms that involves one or more of the following:

(i) Scheduled use of inhaled or oral anti-inflammatory agents or bronchodilators.

(ii) History of emergency room use or clinic visits for acute asthma exacerbations or other respiratory-related diagnosis within the last year.

(iii) History of one or more hospitalizations for asthma, or other respiratory-related diagnosis within the past 5 years.

(4) A diagnosis of attention deficit disorder or attention deficit hyperactivity disorder that involves one or more of the following:

(i) Includes a co-morbid psychological diagnosis.

(ii) Requires multiple medications, psycho-pharmaceuticals (other than stimulants) or does not respond to normal doses of medication.

(iii) Requires management and treatment by a mental health provider (e.g., psychiatrist, psychologist, social worker or psychiatric nurse practitioner).

(iv) Requires the involvement of a specialty consultant, other than a primary care manager, more than twice a year on a chronic basis.

(v) Requires modifications of the educational curriculum or the use of behavioral management staff.

(5) A chronic condition that requires:

(i) Adaptive equipment (such as an apnea home monitor, home nebulizer, wheelchair, custom-fit splints/braces/orthotics (not over-the-counter), hearing aids, home oxygen therapy, home ventilator, etc.).

(ii) Assistive technology devices (such as communication devices) or services.

(iii) Environmental or architectural considerations (such as medically required limited numbers of steps, wheelchair accessibility, or housing modifications and air conditioning).

(b) *Special educational needs.* Family members of active duty Service members (regardless of location) and civilian employees appointed to an overseas location eligible for enrollment in a DoDEA school on a space-required basis will be identified as having special educational needs if they have, or are found eligible for, either an IFSP or an IEP under 32 CFR part 57.

§ 75.6 Civilian employees on overseas assignment.

(a) *Vocabulary.* Section 75.3 provides definitions of “family member” that apply only to this section.

(b) *Employee rights.* (1) The DoD Components must select civilian employees for specific positions based on job requirement and merit factors in accordance with 5 U.S.C. 2302, and 29 U.S.C. 791 through 794d. Selection for an overseas position must not be influenced by the special needs of a civilian employee’s family member(s), or any other prohibited factor.

(2) The civilian employee or selectee will be given comprehensive medical, dental, and educational information

about the overseas community where the position is located to help the employee make an informed choice about accepting the position.

(3) Refer to the Joint Travel Regulations (available at <https://www.defensetravel.dod.mil/Docs/perdiem/JTR.pdf>) for PCS travel and transportation allowances for eligible civilian employees and their family members.

(4) Civilian employees or selectees assigned to positions overseas are generally responsible for obtaining medical and dental services and paying for such services, except services provided pursuant to 32 CFR part 57. Their family members may have access to the MHS on a space-available, reimbursable basis only, except for services pursuant to 32 CFR part 57.

(i) DoDEA and the Military Medical Department responsible for the provision of related services to support DoDEA at the duty station are required to evaluate school-aged children (ages 3 through 21 years, inclusive) eligible for enrollment in a DoDEA school on a space-required basis and provide them with the special education and related services included in their IEPs in accordance with 32 CFR part 57.

(ii) The Military Departments are required to provide infants and toddlers (from birth up to 3 years of age, inclusive) eligible for enrollment in a DoDEA school on a space-required basis with the EIS identified in the IFSPs in accordance with 32 CFR part 57.

(c) *Processing a civilian employee for an overseas position.* (1) When recruiting for an overseas position, DoD human resources representatives will:

(i) Provide information on the requirements of this part related to civilian employees or applicants for employment, including employee rights provided in DoD Instruction 1315.19.

(ii) Provide information on the availability of medical and educational services, including a point of contact for the applicant to ask about specific special needs. This information must be contained in any document used for recruitment for overseas positions.

(iii) Include the following statements in recruitment information:

(A) If an employee brings a child to an overseas location and that child is

entitled to attend a DoD school on a space-required basis in accordance with DoDEA Regulation 1342.13 (available at [http://www.dodea.edu/aboutDoDEA/upload/1342 13.pdf](http://www.dodea.edu/aboutDoDEA/upload/1342%2013.pdf)), DoDEA and the Military Department responsible for providing related services will ensure that the child, if eligible for special education, receives a free appropriate public education, including special education and related services pursuant to 32 CFR part 57.

(B) If an employee brings an infant or toddler (up to 3 years of age) to an overseas location, and that infant or toddler, but for the child's age, is entitled to attend the DoDEA on a space-required basis in accordance with DoDEA Regulation 1342.13, then the Military Department responsible for EIS will provide the infant or toddler with the required EIS in accordance with the eligibility criteria consistent with 32 CFR part 57.

(C) If an employee brings a family member to an overseas location who requires medical or dental care, then the employee will be responsible for obtaining and paying for such care. Access for civilian employees and their families to military medical and dental treatment facilities is on a space-available and reimbursable basis only.

(2) When the gaining human resources representatives process a civilian for an overseas position where family member travel is authorized at government expense, then they must ask the selectee to determine whether a family member has special needs, using the criteria provided in § 75.5 of this part. All selectees must be asked only after they have been notified of their selection in accordance with 29 U.S.C. 791 through 794d, and 29 CFR 1630.14. If the selectee indicates that a family member has special needs:

(i) The DoD civilian human resources representatives may not coerce or pressure the selectee to decline the job offer in light of that information.

(ii) The selectee may voluntarily forward to the civilian human resources representative completed DD Forms 2792 or 2792-1 for each family member with special needs to provide information on the availability of medical and educational services. DD Form 2792-1 must be submitted if the selectee in-

tends to enroll his or her child in a school funded by the DoD or a school in which DoD is responsible for paying the tuition for a space-required family member.

(3) The gaining human resources activity will coordinate with the appropriate military medical and educational personnel on availability of services and inform the selectee in writing of the availability of medical, educational, and early intervention resources and services to allow the civilian employee to make an informed choice whether to accept the position. The notice will include:

(i) Comprehensive medical, dental, and educational information on the overseas community where the position is located.

(ii) A description of the local DoDEA facility and programs, specifying the programs for children with special education needs.

(iii) A description of the local EIS available for infants and toddlers with disabilities.

(iv) A statement indicating that the lack of EIS or special education resources (including related services assigned to the military medical departments) cannot serve as a basis for the denial of family travel at government expense and required services will be provided even if a local program is not currently established in accordance with 32 CFR part 57.

(d) *Use of EFMP Family Support Services.* Civilian employees may utilize EFMP family support services on a space-available basis.

PART 79—CHILD DEVELOPMENT PROGRAMS (CDPs)

Sec.

79.1 Purpose.

79.2 Applicability.

79.3 Definitions.

79.4 Policy.

79.5 Responsibilities.

79.6 Procedures.

AUTHORITY: 10 U.S.C. 1783, 1791 through 1800, 2809, and 2812.

SOURCE: 79 FR 28409, May 16, 2014, unless otherwise noted.

§ 79.1 Purpose.

This part: