

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE

Section applicable only with respect to funds appropriated for fiscal years after fiscal year 2004, see section 544(d) of Pub. L. 108-375, set out as a note under section 7459 of this title.

§ 9460. Cadets: charges and fees for attendance; limitation

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

(Added Pub. L. 108-375, div. A, title V, §545(c)(1), Oct. 28, 2004, 118 Stat. 1908, §9360; renumbered §9460, Pub. L. 115-232, div. A, title VIII, §806(a)(3), Aug. 13, 2018, 132 Stat. 1832.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 9360 of this title as this section.

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§ 9461. Policy on sexual harassment and sexual violence

(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of Defense, the Secretary of the Air Force shall direct the Superintendent of the Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

(2) Procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual violence, including—

(A) if the cadet chooses to report an occurrence of sexual harassment or sexual violence,

a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

(B) a specification of any other person whom the victim should contact; and

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(3) Procedures for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel.

(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(5) Required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

(c) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretary of the Air Force, shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment, to be administered by the Department of Defense, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Secretary of the Air Force shall conduct a survey, to be administered by the Department of Defense, of Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of Academy personnel of—

(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

(3)(A) The Secretary of Defense may postpone the conduct of an assessment under this subsection if the Secretary determines that conducting such assessment is not practicable due to a war or national emergency declared by the President or Congress.

(B) The Secretary of Defense shall ensure that an assessment postponed under subparagraph (A) is conducted as soon as practicable after the end of the period of war or national emergency concerned, or earlier if the Secretary determines appropriate.

(C) The Secretary of Defense shall notify Congress of a determination under subparagraph (A) not later than 30 days after the date on which the Secretary makes such determination.

(d) ANNUAL REPORT.—(1) The Secretary of the Air Force shall direct the Superintendent of the Academy to submit to the Secretary a report on sexual harassment and sexual violence involving cadets or other personnel at the Academy for each Academy program year.

(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the program year and, of those reported cases, the number that have been substantiated.

(B) The policies, procedures, and processes implemented by the Secretary of the Air Force and the leadership of the Academy in response to sexual harassment and sexual violence involving cadets or other Academy personnel during the program year.

(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(4)(A) The Secretary of the Air Force shall transmit to the Secretary of Defense, and to the Board of Visitors of the Academy, each report received by the Secretary under this subsection, together with the Secretary's comments on the report.

(B) The Secretary of Defense shall transmit each such report, together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(e) CONSIDERATION OF REQUEST FOR TRANSFER OF A CADET WHO IS THE VICTIM OF A SEXUAL ASSAULT OR RELATED OFFENSE.—(1) The Secretary of the Air Force shall provide for timely consideration of and action on a request submitted by a cadet appointed to the United States Air Force Academy who is the victim of an alleged sexual assault or other offense covered by section 920, 920c, or 930 of this title (article 120, 120c, or 130 of the Uniform Code of Military Justice) for transfer to another military service academy or to enroll in a Senior Reserve Officers' Training Corps program affiliated with another institution of higher education.

(2) The Secretary of the Air Force shall prescribe regulations to carry out this subsection, within guidelines provided by the Secretary of Defense that—

(A) provide that the Superintendent of the United States Air Force Academy shall ensure that any cadet who has been appointed to the United States Air Force Academy and who is a victim of an alleged sexual assault or other offense referred to in paragraph (1), is informed of the right to request a transfer pursuant to this section, and that any formal request submitted by a cadet is processed as expeditiously as practicable through the chain of command for review and action by the Superintendent;

(B) direct the Superintendent of the United States Air Force Academy, in coordination with the Superintendent of the military service academy to which the cadet requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the cadet;

(ii) to approve such request for transfer unless there are exceptional circumstances that require denial of the request; and

(iii) upon approval of such request, to take all necessary and appropriate action to effectuate the transfer of the cadet to the military service academy concerned as expeditiously as possible; and

(C) direct the Superintendent of the United States Air Force Academy, in coordination with the Secretary of the military department that sponsors the Senior Reserve Officers' Training Corps program at the institution of higher education to which the cadet requests to transfer—

(i) to take action on a request for transfer under this subsection not later than 72 hours after receiving the formal request from the cadet;

(ii) subject to the cadet's acceptance for admission to the institution of higher education to which the cadet wishes to transfer, to approve such request for transfer unless there are exceptional circumstances that require denial of the application; and

(iii) to take all necessary and appropriate action to effectuate the cadet's enrollment in the institution of higher education to which the cadet wishes to transfer and to process the cadet for participation in the relevant Senior Reserve Officers' Training Corps program as expeditiously as possible.

(3) If the Superintendent of the United States Air Force Academy denies a request for transfer under this subsection, the cadet may request review of the denial by the Secretary of the Air Force, who shall take action on such request not later than 72 hours after receipt of the formal request for review.

(4) The Secretary concerned shall ensure that all records of any request, determination, transfer, or other action under this subsection remain confidential, consistent with applicable law and regulation.

(5) A cadet who transfers under this subsection may retain the cadet's appointment to the United States Air Force Academy or may be appointed to the military service academy to which the cadet transfers without regard to the

limitations and requirements set forth in sections 7442, 8454, and 9442 of this title.

(Added Pub. L. 109-364, div. A, title V, § 532(a)(3), Oct. 17, 2006, 120 Stat. 2203, § 9361; renumbered § 9461, Pub. L. 115-232, div. A, title VIII, § 806(a)(3), Aug. 13, 2018, 132 Stat. 1832; amended Pub. L. 116-92, div. A, title V, § 555(c), Dec. 20, 2019, 133 Stat. 1390; Pub. L. 116-283, div. A, title V, § 552(b)(3), Jan. 1, 2021, 134 Stat. 3632.)

Editorial Notes

AMENDMENTS

2021—Subsec. (c)(3). Pub. L. 116-283 added par. (3).
 2019—Subsec. (e). Pub. L. 116-92 added subsec. (e).
 2018—Pub. L. 115-232 renumbered section 9361 of this title as this section.

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TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d)(4)(B) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

POLICY FOR MILITARY SERVICE ACADEMIES ON SEPARATION OF ALLEGED VICTIMS AND ALLEGED PERPETRATORS IN INCIDENTS OF SEXUAL ASSAULT

Secretary of Defense to consult with Secretaries of the military departments and Superintendent of each military service academy and prescribe in regulations a policy that allows a cadet or midshipman of a military service academy who is the alleged victim or alleged perpetrator of a sexual assault to complete their course of study at the academy with minimal disruption and does not preclude the academy from taking other administrative or disciplinary action, see section 539 of Pub. L. 116-283, set out as a note under section 7461 of this title.

APPLICABILITY OF SEXUAL ASSAULT PREVENTION AND RESPONSE AND RELATED MILITARY JUSTICE ENHANCEMENTS TO MILITARY SERVICE ACADEMIES

Secretary of the military department concerned to ensure that the provisions of title XVII of Pub. L. 113-66 and subtitle D of title V of div. A of Pub. L. 113-291 apply to the United States Military Academy, the Naval Academy, and the Air Force Academy, as applicable, see section 552(a) of Pub. L. 113-291, set out as a note under section 7461 of this title.

PREVENTION OF SEXUAL ASSAULT AT MILITARY SERVICE ACADEMIES

Secretary of Defense to ensure that military service academy curricula include honor, respect, and character development pertaining to prevention of sexual assault in the Armed Forces; training provided within 14 days after a new cadet or midshipman arrives at the academy and repeated annually, see section 1746 of Pub. L. 113-66, set out as a note under section 7461 of this title.

FURTHER INFORMATION FROM CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES ON SEXUAL ASSAULT AND SEXUAL HARASSMENT ISSUES

Secretary of a military department to provide for focus groups to ascertain information relating to sexual assault and sexual harassment issues in any year in

which the Secretary is not required by law to conduct a survey on such matters at the service academy under the Secretary's jurisdiction and to include such information in the Secretary's annual report to Congress, see section 532(b) of Pub. L. 109-364, set out as a note under section 7461 of this title.

§ 9462. Support of athletic programs

(a) CORPORATION FOR SUPPORT AUTHORIZED.—(1) The Secretary of the Air Force may, in accordance with the laws of the State of incorporation, establish a corporation (in this section referred to as the “corporation”) to support the athletic programs of the Academy. All stock of the corporation shall be owned by the United States and held in the name of and voted by the Secretary of the Air Force.

(2) The corporation shall operate exclusively for charitable, educational, and civic purposes to support the athletic programs of the Academy.

(b) CORPORATE ORGANIZATION.—The corporation shall be organized and operated—

(1) as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986;

(2) in accordance with this section; and

(3) pursuant to the laws of the State of incorporation, its articles of incorporation, and its bylaws.

(c) CORPORATE BOARD OF DIRECTORS.—(1) The members of the board of directors of the corporation shall serve without compensation as members of the board, except for reasonable travel and other related expenses for attendance at meetings of the board.

(2) The Secretary of the Air Force may authorize military and civilian personnel of the Department of the Air Force under section 1033 of this title to serve, in their official capacities, as members of the board of directors of the corporation, but such personnel shall not hold more than one-third of the directorships.

(d) TRANSFERS FROM NONAPPROPRIATED FUND OPERATION.—The Secretary of the Air Force may, subject to the acceptance of the corporation, transfer to the corporation all title to and ownership of the assets and liabilities of the Air Force nonappropriated fund instrumentality whose functions include providing support for the athletic programs of the Academy, including bank accounts and financial reserves in its accounts, equipment, supplies, and other personal property, but excluding any interest in real property.

(e) ACCEPTANCE OF SUPPORT.—

(1) SUPPORT RECEIVED FROM THE CORPORATION.—Notwithstanding section 1342 of title 31, the Secretary of the Air Force may accept from the corporation funds, supplies, equipment, and services for the support of the athletic programs of the Academy.

(2) FUNDS RECEIVED FROM OTHER SOURCES.—The Secretary may charge fees for the support of the athletic programs of the Academy. The Secretary may accept and retain fees for services and other benefits provided incident to the operation of its athletic programs, including fees from the National Collegiate Athletic Association, fees from athletic conferences, game guarantees from other educational institutions, fees for ticketing or licensing, and