

THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA
21 DEC 1993

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
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ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR OF ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Implementation of DoD Policy on Homosexual Conduct in the Armed Forces

The purpose of this memorandum is to provide guidance and announce changes to DoD directives relating to the issue of homosexual conduct in the Armed Forces. As I discussed in my July 19, 1993 memorandum, these changes reflect DoD policy that the suitability of persons to serve in the Armed Forces will be judged on the basis of conduct.

Accession policy is provided in a new DoDD 1304.26, "Qualification Standards for Enlistment, Appointment, and Induction." The directive makes clear that no one will be asked about his or her sexual orientation as part of the accession process, although homosexual conduct may be a basis for rejection for enlistment, appointment and induction. All applicants will be briefed on all of the grounds for administrative separation.

Revisions have been made to the policy pertaining to separation for homosexual conduct reflected in DoDD 1332.14, "Enlisted Administrative Separations," and DoDD 1332.30, "Separations of Regular Officers," to emphasize that DoD judges the suitability of persons to serve in the Armed Forces on the basis of conduct to distinguish sexual orientation, which is personal and private, from homosexual acts and from statements that reflect an intent or propensity to engage in homosexual acts; and to make clear the procedural rights of a servicemember proposed for separation as a result of a statement that he or she is a homosexual. Corresponding changes should be made by the Military Departments with regard to Reserve Officers, Warrant Officers, and Service Academy and ROTC cadets. A new enclosure on the proper use of commander-directed fact-finding inquiries is added to clarify how commanders should respond to allegations of homosexual conduct.

Criminal investigations policy is reflected in the addition of DoDI 5505.8, "Investigations of Sexual Misconduct by the Defense Criminal Investigative

Organizations and other DoD Law Enforcement Organizations.” This instruction establishes policy regarding the initiation of criminal investigations of certain sexual conduct; prohibits criminal investigations solely to determine sexual orientation; establishes a requirement that there be credible information that a criminal violation has occurred before any investigation may be conducted; and specifies that the information must be deemed credible by the relevant Defense Criminal Investigative Organization commander or director as well as by the servicemember’s commander. It also provides that criminal investigative resources will not normally be devoted to the investigation of consensual- adult private sexual misconduct where such misconduct is the only offense involved in the absence of aggravating factors or a specific request by the commander of the servicemember as to whom an allegation of such misconduct has been made. Finally, this instruction provides that investigations into sexual misconduct will be conducted in an evenhanded manner, without regard to whether the alleged misconduct involves homosexual or heterosexual conduct.

Personnel security policy is clarified via a memorandum from the Deputy Secretary of Defense and a revision to DIS Manual 20-1, “Manual For Personnel Security Investigations.” The changes narrow the nature and scope of the areas of inquiry to be pursued by a DIS investigator when confronted with credible information of homosexual conduct to ensure that inquiries are directed only to those issues necessary to evaluate a potential security concern. The changes also make clear that the purpose of such inquiries is to assess security concerns, not to evaluate suitability to serve.

Finally, DoDD 1322.18, “Military Training,” has been revised to add a requirement for individual training that explains the conduct that is necessary to maintain high standards of combat effectiveness and unit cohesion, and to brief servicemembers on applicable laws and regulations governing sexual conduct by members of the Armed Forces. A training plan designed for personnel involved in policy implementation and administration, with detailed hypotheticals, is also provided.

These policy changes are effective February 5, 1994. However, DoDD Directive 1332.14, January 28, 1982, and DoDD Directive 1332.30, February 12, 1986, will continue to be used for administrative separation proceedings initiated before February 5, 1994 unless the Secretary of the Service concerned determines that the new separation procedures should be applied in a particular case in which proceedings were initiated before that date. The interim procedural guidance in my February 3, 1993, memorandum is hereby canceled effective February, 5 1994.

Secretaries of the Military Departments shall, within 30 days, submit appropriate implementing documents to the Assistant Secretary of Defense for Personnel & Readiness for review and coordination within the Office of the Secretary of Defense

/Signed/
Les Aspin

cc: Secretary of Transportation

