U.S. Department of Transportation
United States Coast Guard

Commandant (G-PS)
United States Coast Guard

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COMDTINST 1755.1

20 JUL 1988

COMMANDANT INSTRUCTION 1755.1

Subj: DoD/DoD Dependents Schools (DoDDS) Directives Pertaining To Minor Dependents' Schooling In Overseas Areas

Ref: (a) COMDTINST M1000.6 (series), Personnel Manual, Section 18-E

1. PURPOSE. This instruction promulgates applicable DoD/DoDDS directives pertaining to minor dependents' schooling in overseas areas.

2. DIRECTIVES AFFECTED. This instruction supplements article 18-E-2 of reference (a).

3. BACKGROUND. Effective 1 October 1987, Department of Defense Dependents Schools (DoDDS) assumed full responsibility for the primary and secondary schooling and transportation of minor dependents of uniformed Coast Guard personnel serving on active duty and stationed outside the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island).

4. DISCUSSION.

   a. Coast Guard overseas commands shall comply with DoD/DoDDS guidelines and regulations pertaining to overseas dependent schooling. Each member with dependents will be made fully aware of DoD/DoDDS policy, specifically:

      (1) DoD Directive 1342.12, Education of Handicapped Children in the DoD Dependents Schools, (enclosure (1)).

      (2) DoD Directive 1342.13, Eligibility Requirements for Education of endents in Overseas Areas, (enclosure (2)).

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4. a. (3) DoD Regulation 4500.36-R, Chapter 6, Transportation of Dependent School Children, (enclosure (3)).

(4) DS Regulation 2500.11, DoD Dependents Schools Complaint Management System, (enclosure (4)).

b. Coast Guard personnel with dependents receiving orders overseas shall be informed in writing of the local DoD/DoDDS overseas dependent school programs and policies by the Coast Guard overseas command. The command sponsorship program is an excellent vehicle to meet this requirement. Personnel reporting to other than a Coast Guard overseas command shall be advised to contact the command to obtain this information. Prior to transfer, an appropriate service record entry shall indicate that the member has been informed of local dependent school programs and policies in writing by the overseas command and has acknowledged this action.

c. These directives are not a conclusive listing of DoD/DoDDS directives pertaining to minor dependents' schooling in overseas areas, but are those with which Coast Guard overseas commands must comply.

d. References within these directives to DoD dependents, sponsors of DoD dependents, military installation/community commanders, or similar terms shall be construed to include Coast Guard members, dependents, and unit/commands.

5. ACTION. Overseas unit commanding officers; Commander, CG Activities Europe; and Commander, Far East Section shall comply with the provisions of this instruction.

T. T. MATTESON
Chief, Office of Personnel
and Training

Encl: (1) DoD Directive 1342.12
(2) DoD Directive 1342.13
(3) DoD Regulation 4500.36-R, Chapter 6,
(4) DS Regulation 2500.11

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Department of Defense Instruction

ASD(MRA&L)

SUBJECT: Education of Handicapped Children in the DoD Dependents Schools

References:
(a) Public Law 94-142, "Education for All Handicapped Children Act of 1975," as amended (20 U.S.C. §§1401 et seq. (1976 and Supp. II 1978))
(b) Public Law 95-561, "Defense Dependents' Education Act of 1978" (20 U.S.C. §§921-932 (Supp. II 1978)), as amended by Public Law 96-88
(c) DoD Directive 1342.6, "Department of Defense Dependents Schools," October 17, 1978
(d) DoD Directive 5105.18, "Department of Defense Committee Management Program," April 25, 1975
(e) Memorandum from General Counsel, DoD, "Hearings Required by the Education for All Handicapped Children Act of 1975," April 27, 1981 (hereby canceled)
(f) through (k), see enclosure 1

A. PURPOSE

This Instruction establishes policies and procedures for providing a free appropriate public education to handicapped children receiving or entitled to receive educational instruction from the DoD Dependents Schools (DoDDS) pursuant to references (a) and (b) and in accordance with reference (c); establishes an Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents (National Advisory Panel) consistent with the provisions of reference (d) and a DoD Coordinating Committee on Special Education and Related Services; and cancels reference (e). DS Manual 2500.4 has been canceled by a Memorandum from the Director, DoD Dependents Schools (reference (f)), and is replaced by this Instruction.

B. APPLICABILITY AND SCOPE

1. The provisions of this Instruction apply to the Office of the Secretary of Defense and its field activity, DoDDS and DoDDS constituent elements; the Military Departments; the Organization of the Joint Chiefs of Staff; the Unified

and Specified Commands; and the Defense Agencies (collectively DoD Components).

2. The provisions encompass children receiving or entitled to receive educational instruction from DoDDS, and the parents of those children.

3. The provisions do not apply to schools operated by the Department of Defense within the United States.

C. DEFINITIONS

The terms used in this Instruction are defined in enclosure 2.

D. POLICY

1. All handicapped children receiving or entitled to receive educational instruction from DoDDS shall be provided a free appropriate public education under the provisions of this Instruction.

2. DoDDS shall have the responsibility of providing a free appropriate public education to all handicapped children enrolled in its schools.

3. Handicapped children receiving or entitled to receive educational instruction from DoDDS shall have a free appropriate public education, the same educational opportunities and services offered by DoDDS to nonhandicapped children, and an equal opportunity to participate in school activities.

4. Physical education services, modified or specially designed if necessary, shall be available to every handicapped child receiving a free appropriate public education from DoDDS.

5. When appropriate, a qualified military medical authority shall conduct or verify a medical evaluation and participate with DoDDS personnel in determining whether a child has a handicapping condition requiring special education and related services.

E. RESPONSIBILITIES

1. The Director, Department of Defense Dependents Schools, and his subordinate organizational structure, shall:

a. Ensure that handicapped children receiving educational instruction from DoDDS are provided a free appropriate public education and that the educational needs of handicapped and nonhandicapped children are met comparably, using the procedures established by this Instruction.

b. Ensure that educational facilities and services operated by DoDDS for handicapped children are comparable to DoDDS educational facilities and services for nonhandicapped children.

c. Maintain records on special education and related services provided to handicapped children.

d. Provide any or all special education and related services required by a handicapped child, other than those furnished by the Secretaries of the Military Departments. In fulfilling this responsibility, the Director and his subordinate organizational structure may use interagency, intra-agency, and interservice arrangements, or act through contracts with private parties, when funds are authorized and appropriated.

e. Develop and implement a comprehensive system of personnel development.

f. Monitor compliance with this Instruction.

g. Provide technical assistance.

h. Undertake evaluation activities to ensure compliance with this Instruction.

2. The Secretaries of the Military Departments shall provide those related services that are supplied by a physician or that require professional medical supervision. In general, those services, which are diagnostic and therapeutic in nature, shall be provided to DoDDS by the appropriate military command having responsibility for medical care in the geographical region. The services provided by the Secretaries of the Military Departments include medical services for diagnostic and evaluation purposes, occupational therapy, physical therapy, and audiology as may be required to assist a handicapped child to benefit from special education.

3. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)), in consultation with the Assistant Secretary of Defense (Health Affairs) and the Secretaries of the Military Departments, shall assign specific functions and geographical areas of responsibility for all related services.

4. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), or designee, shall:

a. Chair the DoD Coordinating Committee on Special Education and Related Services, which shall be composed of

representatives of the Secretaries of the Military Departments, the ASD(MRA&L), the Assistant Secretary of Defense (Health Affairs), the General Counsel of the Department of Defense, and DoDDS.

b. Through the Committee, monitor the provision of related services furnished under this Instruction, and ensure that related services and DoDDS special education programs are properly coordinated.

c. Ensure that impartial due process hearings concerning disputes arising under this Instruction are provided in conformity with this Instruction.

5. The National Advisory Panel shall:

a. Consist of members appointed by the Secretary of Defense, or designee. Membership shall include at least one representative from each of the following groups:

(1) Handicapped persons.

(2) DoDDS special education teachers.

(3) DoDDS regular education teachers.

(4) Parents of handicapped children.

(5) DoDDS headquarters.

(6) DoDDS regional offices.

(7) DoDDS special educational program administrators.

(8) Military Departments and overseas commands, including providers of related services.

(9) Other appropriate persons.

b. Meet as often as necessary.

c. Perform the following duties:

(1) Review information regarding improvements in services provided to handicapped students in DoDDS.

(2) Receive and consider the views of various parent, student, and professional groups, and handicapped individuals.

(3) When necessary, establish committees for short-term purposes composed of representatives from parent, student, and professional groups, and handicapped individuals.

(4) Review the findings of fact and decision of each impartial due process hearing conducted pursuant to this Instruction.

(5) Assist in developing and reporting such information and evaluations as may aid DoDDS in the performance of its duties under this Instruction.

(6) Make recommendations, based on program and operational information, for changes in the budget, organization, and general management of the special education program, and in policy and procedure.

(7) Comment publicly on rules or standards regarding the education of handicapped children.

(8) Perform such other tasks as may be requested by the Director.

d. Submit an annual report of its activities and suggestions to the Director, DoDDS, by July 31 of each year. This report is exempt from formal review and licensing pursuant to subsection VII.C. of enclosure 3 to DoD Directive 5000.19 (reference (g)).

F. EFFECTIVE DATE

This Instruction is effective immediately.

Lawrence J. Korb
Assistant Secretary of Defense
(Manpower, Reserve Affairs & Logistics)

Enclosures - 4
1. References
2. Definitions
3. Procedures for Educational Programs and Services for Handicapped Children
4. Hearing Procedures

REFERENCES, continued

(f) Memorandum from Director, DoD Dependents Schools, December 1, 1981, canceling DS Manual 2500.4, "Program Guide for Exceptional Children and Youth"
(g) DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976
(h) DoD Directive 5400.11, "Personal Privacy and Rights of Individuals Regarding Their Personal Records," August 4, 1975
(i) Title 28, United States Code, Federal Rules of Evidence
(j) Title 28, United States Code, Federal Rules of Civil Procedure
(k) DoD Directive 5400.7, "DoD Freedom of Information Act Program," March 24, 1980

DEFINITIONS

1. Child-Find. The ongoing process used by DoDDS and the Military Departments to seek and identify children (from birth to 21 years of age) who show indications that they might be in need of special education and related services. Child-find activities include the dissemination of information to the public and identification, screening, and referral procedures.

2. Consent. This term means that:

a. The parent of a handicapped child has been fully informed, in his or her native language or in another mode of communication, of all information relevant to the activity for which permission is sought.

b. The parent understands and agrees in writing to the implementation of the activity for which his or her permission is sought. The writing must describe that activity, list the child's records that will be released and to whom, and acknowledge that the parent understands consent is voluntary and may be prospectively revoked at any time.

3. Evaluation. Procedures used to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. To qualify as an evaluation, these procedures must be used selectively with an individual child and may not include basic tests administered to, or used with, all children in a school, grade, or class.

4. Free Appropriate Public Education. Special education and related services that:

a. Are provided at no cost to parents or handicapped children and are under the general supervision and direction of DoDDS.

b. Provide appropriate preschool, elementary, or secondary school education.

c. Are provided in conformity with an Individualized Education Program.

d. Meet the requirements of this Instruction.

5. Handicapped Children. Those children, evaluated in accordance with this Instruction, who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped,

seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, or multihandicapped, or have specific learning disabilities, and who because of such impairments need special education and related services.

a. Deaf. A hearing loss or deficit so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, to the extent that his or her educational performance is adversely affected.

b. Deaf-blind. Concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children.

c. Hard of Hearing. A hearing impairment, whether permanent or fluctuating, that adversely affects a child's educational performance but that does not constitute deafness.

d. Mentally Retarded. Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

e. Multihandicapped. Concomitant impairments (such as mentally retarded-blind or mentally retarded-orthopedically impaired), the combination of which causes such severe educational problems that they cannot be accommodated in special educational programs solely for one of the impairments.

f. Orthopedically Impaired. A severe orthopedic impairment that adversely affects a child's educational performance. The term includes congenital impairments (such as clubfoot and absence of some member), impairments caused by disease (such as poliomyelitis and bone tuberculosis), and impairments from other causes (such as cerebral palsy, amputations, and fractures or burns causing contractures).

g. Other Health Impaired. Limited strength, vitality, or alertness due to chronic or acute health problems that adversely affect a child's educational performance, including heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle-cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, or autism.

h. Seriously Emotionally Disturbed. A condition that has been confirmed by clinical evaluation and diagnosis and that, over a long period of time and to a marked degree,

adversely affects educational performance, and that exhibits one or more of the following characteristics:

(1) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(3) Inappropriate types of behavior under normal circumstances.

(4) A tendency to develop physical symptoms or fears associated with personal or school problems.

(5) A general pervasive mood of unhappiness or depression.

The term includes children who are schizophrenic, but does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

i. Specific Learning Disability. A disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language that may manifest itself as an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems that are primarily the result of visual, hearing, or motor handicaps, mental retardation, emotional disturbance, or environmental, cultural, or economic differences.

j. Speech Impaired. A communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child's educational performance.

k. Visually Handicapped. A visual impairment that, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

6. Include; Such As. Not all the possible items are covered, whether like or unlike the ones named.

7. Independent Evaluation. An evaluation conducted by a qualified examiner who is not employed by the DoDDS school with responsibility for educating the child being evaluated.

8. Individualized Education Program (IEP). A written statement for a handicapped child that is developed and implemented in accordance with this Instruction.

9. Native Language. When used with reference to an individual of limited English proficiency, the language normally used by such individual, or in the case of a child, the language normally used by the parent of the child.

10. Non-DoDDS Placement. An assignment by DoDDS of a handicapped child to a non-DoDDS school or facility.

11. Non-DoDDS School or Facility. A public or private school or other institution not operated by DoDDS.

12. Parent. A parent or guardian of a child who is receiving or is entitled to receive educational instruction from DoDDS.

13. Qualified. A person who has met DoDDS requirements and educational standards in the area in which he or she is providing special education or related services to handicapped children.

14. Regional Director. The Regional Director of a DoDDS region, or designee.

15. Related Services. Transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education pursuant to that child's IEP. The term includes speech therapy and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluative purposes. The term also includes school health services, social work counseling services in schools, and voluntary parent counseling.

a. Audiology. This term includes:

(1) Identification of children with hearing loss.

(2) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention designed to ameliorate or correct that loss.

(3) Provision of ameliorative and corrective activities, including language and auditory training, speech-

reading (lip-reading), hearing evaluation, speech conservation, the recommendation of amplification devices, and other aural rehabilitation services.

b. Counseling Services. Services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

c. Early Identification. The implementation of a formal plan for identifying a disability as early as possible in the child's life.

d. Medical Services. Services provided by a licensed physician to determine and diagnose, in conjunction with the Case Study Committee (CSC), whether a child has a medically related handicapping condition that results in the child's need for special education and related services.

e. Occupational Therapy. Services provided or supervised by a qualified occupational therapist.

f. Parent Counseling and Training. Assisting parents in understanding the special needs of their child's development and special education.

g. Physical Therapy. Services provided or supervised by a qualified physical therapist.

h. Psychological Services. This term includes:

(1) Administering psychological and educational tests and other assessment procedures.

(2) Interpreting test and assessment results.

(3) Obtaining, integrating, and interpreting information about a child's behavior and conditions relating to his or her learning.

(4) Consulting with other staff members in planning school programs to meet the special needs of children, as indicated by psychological tests, interviews, and behavioral evaluations.

(5) Planning and managing a program of psychological services, including psychological counseling for children.

i. Recreation. This term includes:

(1) Therapeutic recreational activities.

(2) Recreational programs in schools and community agencies.

j. School Health Services. Services provided by a qualified school nurse or other qualified health professional. The term does not include catheterization, injections, transfusions, or administration of any drug or substance, whether or not prescribed, recommended, or authorized by any physician, nurse, another health professional, or other person. The term also does not include any medical or nonmedical procedure, treatment, or course of treatment necessary to sustain or maintain a child's life, life function, or life support function. Nothing herein shall be construed to preclude a duly trained, certified, or licensed DoDDS employee from performing any of the foregoing activities when authorized or directed by a DoDDS Regional Director.

k. Social Work Counseling Services in Schools. This term includes:

(1) Preparing a social or developmental history on a handicapped child.

(2) Counseling the child and his or her family on a group or individual basis.

(3) Working with those problems in a child's home, school, and community that adversely affect the child's adjustment in school.

(4) Using school and community resources to enable the child to receive maximum benefit from his or her educational program.

l. Speech Therapy. This term includes the:

(1) Identification of children with speech or language disorders.

(2) Diagnosis and appraisal of specific speech or language disorders.

(3) Referral for medical or other professional attention to correct or ameliorate speech or language disorders.

(4) Provision of speech and language services for the correction, amelioration, and prevention of communicative disorders.

(5) Counseling and guidance of children, parents, and teachers for speech and language disorders.

m. Transportation. This term includes the following services rendered pursuant to the IEP of a handicapped child:

(1) Travel to and from school and between schools, including travel necessary to permit participation in educational and recreational activities and related services.

(2) Travel in and around school buildings.

(3) Specialized equipment (including special or adapted buses, lifts, and ramps), if required to provide special transportation for a handicapped child.

16. Separate Facility. A school or a portion of a school, regardless of whether it is operated by DoDDS, that is only attended by handicapped children.

17. Special Education. Specially designed instruction, at no cost to the child or parent, to meet the unique educational needs of a handicapped child, including education provided in a school, at home, in a hospital or in an institution, physical education programs, and vocational education programs.

a. At No Cost. With respect to a child attending a DoDDS school on a nontuition basis, specially designed instruction and related services are provided without charge, but incidental fees that are normally charged to nonhandicapped students or their parents as a part of the regular educational program may be imposed. With respect to a child attending a DoDDS school on a tuition basis, the term does not preclude the imposition of additional charges to reflect the cost of special education and related services.

b. Physical Education. The development of:

(1) Physical and motor fitness.

(2) Fundamental motor skills and patterns.

(3) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

c. Vocational Education. Organized educational programs directly related to the preparation for paid or unpaid employment or for additional training in a career requiring other than a baccalaureate or advanced degree.

PROCEDURES FOR EDUCATIONAL PROGRAMS AND SERVICES FOR HANDICAPPED CHILDREN

A. IDENTIFICATION AND SCREENING

1. DoDDS shall locate, identify, and, with the consent of the child's parent, evaluate all children who are receiving or are entitled to receive an education from DoDDS and who need special education and related services because they are handicapped, as defined in this Instruction.

2. DoDDS shall:

a. Provide screening, by using basic skills tests in reading, language arts, and mathematics, and by reviewing records of all children entering DoDDS schools for the first time, to determine whether a child may be in need of special education and related services.

b. Analyze school health data for those children who demonstrate possible handicapping conditions. Such data shall include:

(1) Results of formal hearing, vision, speech, and language tests.

(2) Reports from physicians and public health service personnel.

(3) Reports from other appropriate professional health personnel as may be necessary to aid in identifying possible handicapping conditions.

c. Analyze other pertinent information, including suspensions, exclusions, withdrawals, and disciplinary actions, compiled and maintained by schools that may aid in identifying possible handicapping conditions.

d. Provide direction and guidelines for child-find activities.

3. Each DoDDS regional office, in cooperation with the Military Departments, shall conduct ongoing child-find activities that are designed to identify all children with possible handicapping conditions who are or will be entitled to receive an education from DoDDS.

4. If an element of DoDDS, a qualified professional authorized to provide related services, or another source determines that a child has a possible handicapping condition, the child shall be referred to the appropriate CSC.

5. A school CSC consists of the participants in the child's IEP meeting as prescribed in subsection C.6, below. In addition, a school CSC shall contain the DoDDS school principal, or designee, and one or more persons selected by the principal from any or all of the following groups:

a. DoDDS or Military Department resource educators, including psychologists, guidance counselors, social workers, reading improvement specialists, school health personnel, occupational therapists, physical therapists, and speech therapists.

b. DoDDS regular classroom teachers.

c. DoDDS special education personnel.

6. Members of a regional CSC shall be appointed by the DoDDS Regional Director and shall include one or more persons belonging to either or both of the following groups: DoDDS or Military Department resource educators, such as psychologists, guidance counselors, social workers, reading improvement specialists, school health personnel, occupational therapists, physical therapists, and speech therapists; and DoDDS special education personnel. The regional CSC shall act in the absence of a school CSC, and members of a regional CSC may be assigned to a school CSC.

7. A school or regional CSC shall assist in identifying handicapped children.

B. EVALUATION PROCEDURES

1. Any child who is receiving or entitled to receive educational instruction from DoDDS and who is referred to a CSC for a possible handicapping condition shall receive a full and comprehensive diagnostic evaluation of his or her educational needs. An evaluation in accordance with this Instruction shall be administered before any action is taken regarding development of the IEP or placement in a special education program.

2. A CSC shall:

a. Assess the nature and extent of the handicapping condition and determine if special education and related services are required.

b. Ensure appropriate involvement of parents.

c. Develop, review, and revise IEPs, and monitor their implementation.

d. Determine whether a handicapped child's conduct that either violates school rules and regulations or disrupts classroom activities results in whole or in part from a handicapping condition.

e. Use all locally available community, medical, and school resources to facilitate the implementation of a child's IEP before the Regional Director with educational responsibility for the child determines that the child's need for special education and related services exceeds local capabilities.

3. Assessment materials, evaluation procedures, and tests shall be:

a. Racially and culturally nondiscriminatory.

b. Administered in the native language or mode of communication of the child, unless it clearly is not feasible to do so.

c. Validated for the specific purpose for which they are used or intended to be used.

d. Administered by qualified personnel, such as a special educator, school psychologist, speech therapist, or a reading improvement specialist, in conformity with the instructions provided by the producers of the testing device.

e. Administered in a manner so that no single procedure is the sole criterion for determining an appropriate educational program for a handicapped child.

f. Selected to assess specific areas of educational need, not merely to provide a single general intelligence quotient.

4. The evaluation shall be conducted by a multidisciplinary team or group of persons, and shall include a teacher or other specialist with knowledge in the area of the suspected disability.

5. The child shall be evaluated in all areas related to the suspected disability. When necessary, the evaluation shall include:

a. The current level of functioning academically, socially, and within the family.

b. Visual and auditory acuity.

c. Observation in an educational environment.

d. Current physical status, including perceptual and motor abilities.

e. Vocational educational assessment.

6. The regional or school CSC shall issue a written report that contains, when necessary:

a. A description of the nature and severity of the child's handicapping condition.

b. A review of the formal and informal diagnostic evaluation findings of the multidisciplinary team.

c. A summary of information from the parents, the child, or other persons having significant previous contact with the child.

d. A description of the child's current academic progress, including a statement of the child's learning style.

7. The appropriate CSC shall meet as soon as practicable after the child's formal evaluation to determine whether he or she is in need of special education and related services. The child's parents shall be afforded the opportunity to participate in such a meeting.

8. A handicapped child shall receive an individual comprehensive diagnostic evaluation every 3 years, or more frequently if conditions warrant. The scope and nature of the reevaluation shall be determined individually, based upon the child's performance, behavior, and needs when the reevaluation is conducted.

C. INDIVIDUALIZED EDUCATION PROGRAM

1. DoDDS shall ensure that an IEP is developed and implemented for each handicapped child enrolled in a DoDDS school or placed in another institution by DoDDS pursuant to this Instruction.

2. Each IEP shall include:

a. A statement of the present levels of educational performance of the child.

b. A statement of annual goals, including short-term instructional objectives.

c. A statement of specific special educational and recreational activities and related services to be provided to the child, and the extent to which the child may be able to participate in regular educational programs.

d. The projected date for the initiation and the anticipated length of such activities and services.

e. Appropriate objective criteria and evaluation procedures and schedules for determining, on an annual basis, whether educational objectives are being achieved.

f. A statement indicating the frequency (number of times per month) and intensity (amount of time each day) of related services.

3. The IEP of each handicapped child shall provide for the opportunity to participate, with adaptations when appropriate, in the regular physical education program available to nonhandicapped children unless:

a. The handicapped child is enrolled full-time in a separate facility; or

b. The handicapped child needs specially designed physical education, as prescribed in the child's IEP.

4. If specially designed physical education services are prescribed in a handicapped child's IEP, DoDDS shall provide such education directly, or shall make arrangements for the services to be provided through non-DoDDS schools or facilities.

5. DoDDS shall ensure that a handicapped child enrolled in a separate facility receives appropriate physical education services in compliance with this Instruction.

6. The IEP for each handicapped child shall be developed, later reviewed, and, if appropriate, revised at least annually in meetings that include the following participants:

a. The child's regular teacher.

b. A teacher of special education.

c. The principal or a representative of the DoDDS school, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

d. One or both of the child's parents.

e. The child, if appropriate.

f. A member of the evaluation team, the child's teacher, or another person knowledgeable about the evaluation procedures used with the child and familiar with the results of the evaluation.

g. Other individuals, at the reasonable discretion of the parents or DoDDS.

7. Each DoDDS school shall:

a. Ensure that an IEP is in effect before a child receives special education and related services. If a child with a current IEP transfers to or from a school within DoDDS, the CSC of the receiving school or region may implement, at its discretion, the current IEP, initiate a meeting to revise the current IEP, or initiate an evaluation of the child.

b. Ensure that an IEP meeting is held following a determination by the school or regional CSC that the child needs special education and related services.

c. Afford the child's parents the opportunity to participate in every IEP meeting concerning their child by:

(1) Providing the parents adequate notice of the time and place of the meeting.

(2) Attempting to schedule the meeting at a mutually agreeable time and place.

8. A meeting may be conducted without a parent in attendance if the school is unable to convince a parent to attend. In this case, the school must have a written record of its attempts to arrange a mutually acceptable time and place.

9. If the parents attend the IEP meeting, the school shall take necessary action to ensure that at least one of the parents understands the proceedings at the meeting, including providing an interpreter for a parent who is deaf or whose native language is other than English.

10. If neither parent can attend the meeting, other methods to promote participation by a parent, such as telephone conversations and letters, shall be used.

11. The school shall give a parent a copy of the child's IEP.

12. Each DoDDS school shall provide special education and related services, in accordance with an IEP, provided that DoDDS, its constituent elements, or its personnel are not accountable if a child does not achieve the growth projected in the IEP.

13. DoDDS shall ensure that an IEP is developed and implemented for each handicapped child whom DoDDS places in a non-DoDDS school or other facility.

D. PLACEMENT PROCEDURES AND LEAST RESTRICTIVE ENVIRONMENT

1. The placement of a child in any special education program by DoDDS shall be effected only pursuant to an IEP after a determination, under this Instruction, has been made that a child is handicapped and needs special education and related services.

2. The appropriate CSC shall meet as soon as is practicable following the development of a handicapped child's IEP to identify the personnel who will provide the child with special education and related services pursuant to the IEP.

3. A placement decision may not be implemented without the consent of a parent of the child, except as otherwise provided herein.

4. The placement decision must be designed to educate a handicapped child in the least restrictive environment so that the child is educated to the maximum extent appropriate with children who are not handicapped. Special classes, separate schooling, or other removal of handicapped children from the regular educational environment shall occur only when the nature or severity of the handicap is such that the child cannot be educated satisfactorily in regular classes with the use of supplementary aids and services.

5. Each handicapped child's educational placement shall be:

a. Determined at least annually by the appropriate CSC.

b. Based on the child's IEP.

c. Located as close as possible to the residence of the parent who is sponsoring the child for attendance in a DoDDS school.

d. Designed to assign the child to the school the child would attend if he or she were not handicapped, unless the IEP requires some other arrangement.

e. Predicated on the consideration of all factors affecting the child's well-being, including the effects of separation from parents.

f. To the maximum extent appropriate, designed such that the child participates in school activities, including meals and recess periods, with children who are not handicapped.

E. HANDICAPPED CHILDREN IN NON-DODDS SCHOOLS

1. Handicapped children eligible to receive instruction in DoDDS who are referred to a non-DoDDS school or facility by DoDDS have all the rights of handicapped children who are enrolled in DoDDS schools.

a. If DoDDS places a handicapped child in a non-DoDDS school or facility as a means of providing special education and related services, the program of that institution, including nonmedical care, room, and board, as set forth in the child's IEP, must be at no cost to the child or the child's parents.

b. DoDDS may place a handicapped child in a non-DoDDS school or facility only if required by an IEP. An IEP for a student placed in a non-DoDDS school is not valid until signed by an authorized DoDDS official. The IEP shall include determinations that:

(1) DoDDS does not currently have an educational program appropriate to meet the needs of the handicapped child.

(2) The non-DoDDS school or facility and its educational program conform to this Instruction.

2. DoDDS is not responsible for the cost of a non-DoDDS placement, unless it is authorized by the appropriate DoDDS regional office in coordination with DoDDS Headquarters pursuant to a valid IEP or is directed by an impartial hearing officer or court of competent jurisdiction.

3. Non-DoDDS placements by DoDDS shall be:

a. In accordance with host nation requirements.

b. Subject to all treaties, executive agreements, and status of forces agreements between the United States and host nations, and all DoD and DoDDS regulations.

c. As close as possible to the DoDDS school that the handicapped child attends or would otherwise attend.

4. Before DoDDS places a handicapped child in a non-DoDDS school or facility, DoDDS shall conduct a meeting in accordance with this Instruction to develop an IEP for the child.

F. PROCEDURAL SAFEGUARDS

1. Parents shall be given written notice before DoDDS proposes to initiate or change, or refuses to initiate or change, either the identification, evaluation, or educational placement of a child receiving or entitled to receive special education and related services from DoDDS, or the provision of a free appropriate public education by DoDDS to the child. The notice shall fully inform a parent of the procedural rights conferred by this Instruction and shall be given in the parent's native language, unless it clearly is not feasible to do so.

2. The consent of a parent of a child who is handicapped or is suspected of having a handicapping condition shall be obtained before any:

a. Initiation of formal evaluation procedures.

b. Initial educational placement.

c. Change in educational placement.

3. If the parent refuses consent to any formal evaluation or initial placement in a special education program, DoDDS may initiate an impartial due process hearing under this Instruction to show cause why an evaluation or placement in a special education program should occur without such consent. If the hearing officer sustains the DoDDS position in the impartial due process hearing, the appropriate DoDDS school may evaluate or provide special education and related services to the child without the consent of a parent, subject to the parent's due process rights.

4. A parent is entitled to an independent evaluation of his or her child at DoDDS expense if the parent disagrees with the findings of an evaluation of the child conducted by the school and the parent successfully challenges the evaluation in an impartial due process hearing.

a. If an independent evaluation is provided at the expense of DoDDS, it must meet the following criteria:

(1) Conform to the requirements of this Instruction.

(2) Be conducted, when possible, within the area where the child resides.

(3) Follow all DoD regulations regarding the host nation.

(4) Meet DoDDS standards governing persons qualified to conduct an educational evaluation.

b. If the final decision rendered in an impartial due process hearing sustains the evaluation of the CSC, the parent has the right to an independent evaluation, but not at DoDDS expense.

5. The parents of a handicapped child shall be afforded an opportunity to inspect and review all educational records concerning not only the identification, evaluation, and educational placement of the child, but also the provision of a free appropriate public education to the child.

6. Upon complaint presented in a written petition, the parent of a handicapped child or DoDDS shall have the opportunity for an impartial due process hearing provided by DoDDS, in accordance with this Instruction.

7. During the pendency of any impartial due process hearing or judicial proceeding regarding the identification, evaluation, or educational placement of a handicapped child receiving an education from DoDDS or the provision of a free appropriate public education to such a child, unless DoDDS and a parent of the child agree otherwise, the child shall remain in his or her present educational placement, subject to the disciplinary procedures prescribed by this Instruction.

8. If a handicapped child who is entitled to receive educational instruction from DoDDS is applying for initial admission to a DoDDS school, the child shall enter the DoDDS system on the same basis as a nonhandicapped child. However, a handicapped child, with the consent of a parent and DoDDS, may receive an initial placement in a special education program comparable to the child's program prior to entering DoDDS, until all due process and judicial proceedings have been completed.

9. The General Counsel of the Department of Defense shall coordinate on modifications to enclosure 4, this Instruction.

10. The parent of a handicapped child or a DoD employee may file a written complaint with the appropriate DoDDS regional office concerning a possible violation of this Instruction or P.L. 94-142 (reference (a)).

G. CONFIDENTIALITY OF RECORDS

DoDDS shall maintain all student records under this Instruction in conformity with DoD Directive 5400.11 (reference (h)).

H. DISCIPLINARY PROCEDURES

1. All regular disciplinary rules and procedures applicable to children receiving educational instruction in DoDDS shall apply to handicapped children who violate school rules and regulations or disrupt regular classroom activities, subject to the provisions of this section.

2. Prior to the suspension or expulsion of a handicapped child, the appropriate CSC or, in the case of a handicapped child in a non-DoDDS school, authorized DoDDS officials shall determine whether the child's conduct is the result of the child's handicapping condition.

3. If the CSC or authorized DoDDS officials determine that the child's conduct results in whole or part from his or her handicapping condition, the child may not be subject to any regular disciplinary rules and procedures, and:

a. The child's parents shall be notified in accordance with this Instruction of the right to have an IEP meeting before any change in the child's educational placement.

b. The CSC or authorized DoDDS officials shall ensure that a meeting is held to determine the appropriate educational placement for the child in consideration of his or her conduct.

4. A handicapped child shall neither be suspended nor expelled, and his or her educational placement shall not otherwise be changed for disciplinary reasons, unless in accordance with this section, except that:

a. This section shall be applicable only to children determined to be handicapped under this Instruction.

b. Nothing contained herein shall preclude the emergency suspension of any handicapped child who endangers or reasonably appears to endanger the health, welfare, or safety of himself or herself, or any other child, teacher, or school personnel, provided that:

(1) The appropriate CSC or authorized DoDDS officials shall immediately meet to determine whether the

child's conduct results from his or her handicapping condition and what change in educational placement is appropriate for the child.

(2) The child's parents shall be notified immediately of the child's suspension, and of the time and location of, and their right to attend the meeting.

(3) The suspension of the child is only effective for the duration of the emergency.

HEARING PROCEDURES

A. PURPOSE

This enclosure establishes adjudicative requirements whereby the parents of handicapped children and DoDDS are afforded impartial due process hearings with respect to the identification, evaluation, and educational placement of, and the free appropriate public education provided to, such children by the Department of Defense, in accordance with P.L. 94-142 (reference (a)) and P.L. 95-561 (reference (b)).

B. ADMINISTRATION

1. The DoDDS Regional Director with responsibility for the handicapped child whose education is at issue shall be responsible for the hearings conducted under this Instruction.

2. This Instruction shall be administered to ensure that the findings, judgments, and determinations made are prompt, fair, and impartial.

3. Impartial hearing officers shall be appointed by the ASD(MRA&L), or designee, and shall be attorneys who are independent of DoDDS and members in good standing of the bar of any state, the District of Columbia, or a territory or possession of the United States.

4. Counsel normally shall appear and represent DoDDS in proceedings conducted under this Instruction. A parent shall have the right to be represented in such proceedings at no cost to the government by counsel or a personal representative.

C. MEDIATION

1. Mediation can be initiated by either a parent or DoDDS in order to resolve informally a disagreement with respect to the identification, evaluation, or educational placement of, or the free appropriate public education provided to, a child. Mediation shall consist of but not be limited to an informal discussion of the differences between the parties in an effort to resolve those differences. The parents and the appropriate school officials may attend mediation sessions.

2. Mediation must be conducted, attempted, or refused in writing by a parent of the handicapped child whose education is at issue before a request for, or initiation of, a hearing authorized by this Instruction. Any request by DoDDS for a hearing under this Instruction shall state how this requirement has been satisfied. No stigma may be attached to the

refusal of a parent to mediate or to an unsuccessful attempt to mediate.

D. PRACTICE AND PROCEDURE

1. Hearing

a. Should mediation be refused or otherwise fail to resolve the issues concerning the provision of a free appropriate public education to a handicapped child or the identification, evaluation, or educational placement of the child, the child's parent or the school principal having jurisdiction over the child may request and shall receive a hearing before a hearing officer to resolve the matter. The parents of a handicapped child whose education is at issue and DoDDS shall be the only parties to a hearing conducted under this Instruction.

b. The party seeking the hearing shall submit a written request, in the form of a petition, setting forth the facts, issues, and proposed relief, to the DoDDS Regional Director who has responsibility for the handicapped child. The petitioner shall deliver a copy of the petition to the opposing party (that is, the parent or, on behalf of DoDDS, the school principal), either in person or by first-class mail, postage prepaid. Delivery is complete upon mailing. When DoDDS petitions for a hearing, it shall inform the other parties of the deadline for filing an answer under paragraph D.1.c., below, and shall provide the other parties with a copy of this Instruction.

c. An opposing party shall submit an answer to the petition to the appropriate Regional Director, with a copy to the petitioner, within 15 calendar days of receipt of the petition. The answer shall be as full and complete as possible, addressing the issues, facts, and proposed relief.

d. Within 10 calendar days after receiving the petition, the Regional Director shall obtain the assignment of a hearing officer, who then shall have jurisdiction over the resulting proceeding. The Regional Director promptly shall forward all pleadings to the hearing officer.

e. The questions for adjudication shall be based on the petition and the answer, provided that a party may amend a pleading if the amendment is filed with the hearing officer and is received by the other parties at least 5 calendar days before the hearing.

f. The Regional Director shall arrange for the time and place of the hearing, and shall provide administrative support. Such arrangements shall be reasonably convenient to the parties.

g. The purpose of a hearing is to establish the relevant facts necessary for the hearing officer to reach a fair and impartial determination of the case. Oral and documentary evidence that is relevant and material may be received. The technical rules of evidence shall be relaxed to permit the development of a full evidentiary record, with the Federal Rules of Evidence (reference (i)) serving as a guide.

h. The hearing officer shall be the presiding officer, with judicial powers to manage the proceeding and conduct the hearing. Those powers shall include the authority to order an independent evaluation of the child at the expense of DoDDS and to call and question witnesses.

i. Those normally authorized to attend a hearing shall be the parents of the child, the counsel and personal representative of the parents, the counsel and professional employees of DoDDS, the hearing officer, and an individual qualified to transcribe or record the proceedings. The hearing officer may permit other persons to attend the hearing, consistent with the privacy interests of the parents and the child, provided the parents have the right to an open hearing upon waiving in writing their privacy rights and those of the child.

j. A verbatim transcription of the hearing shall be made in written or electronic form and shall become a permanent part of the record. A copy of the written transcript or electronic recording shall be made available to a parent upon request and without cost. The hearing officer may allow corrections to the written transcript or electronic recording for the purpose of conforming it to actual testimony after adequate notice of such changes is given to all parties.

k. The hearing officer's decision of the case shall be based on the record, which shall include the petition; the answer; the written transcript or the electronic recording of the hearing; exhibits admitted into evidence; pleadings or correspondence properly filed and served on all parties; and such other matter as the hearing officer may include in the record, provided that such matter is made available to all parties before the record is closed under paragraph D.1.m., below.

l. The hearing officer shall make a full and complete record of a case presented for adjudication.

m. The hearing officer shall decide when the record in a case is closed.

n. The hearing officer shall issue findings of fact and render a decision in a case not later than 50 calendar days after being assigned to the case, unless a discovery request under subsection D.2., below, is pending.

2. Discovery

a. Full and complete discovery shall be available to parties to the proceeding, with the Federal Rules of Civil Procedure (reference (j)) serving as a guide.

b. If voluntary discovery cannot be accomplished, a party seeking discovery may file a motion to accomplish discovery, provided such motion is founded on the relevance and materiality of the proposed discovery to the issues. An order granting discovery shall be enforceable as is an order compelling testimony or the production of evidence.

c. A copy of the written or electronic transcription of a deposition taken by DoDDS shall be made available free of charge to a parent.

3. Witnesses; Production of Evidence

a. All witnesses testifying at the hearing shall be advised that it is a criminal offense knowingly and willfully to make a false statement or representation to a department or agency of the United States Government as to any matter within the jurisdiction of that department or agency. All witnesses shall be subject to cross-examination by the parties.

b. A party calling a witness shall bear the witness' travel and incidental expenses associated with testifying at the hearing. DoDDS shall pay such expenses when a witness is called by the hearing officer.

c. The hearing officer may issue an order compelling the attendance of witnesses or the production of evidence upon his own motion or, if good cause be shown, upon motion of a party.

d. When the hearing officer determines that a person has failed to obey an order to testify or to produce evidence, and such failure is in knowing and willful disregard of the order, the hearing officer shall so certify.

e. The party or the hearing officer seeking to compel testimony or the production of evidence may, upon the certification provided for in paragraph D.3.d., above, file an appropriate action in a court of competent jurisdiction to compel compliance with the hearing officer's order.

4. Hearing Officer's Findings of Fact and Decision

a. The hearing officer shall make written findings of fact and shall issue a decision setting forth the questions presented, the resolution of those questions, and the rationale for the resolution. The hearing officer shall file the findings of fact and decision with the appropriate Regional Director, with a copy to the parents, the school principal, and the Director of DoDDS.

b. The Regional Director shall forward a copy of the hearing officer's findings of fact and decision, with all personally identifiable information deleted, to the National Advisory Panel.

c. The hearing officer shall have the authority to impose financial responsibility for educational placements, evaluation, and related services under his or her findings of fact and decision.

d. The findings of fact and decision of the hearing officer shall become final unless a notice of appeal is filed under subsection F.1., below. DoDDS shall implement a decision as soon as practicable after it becomes final.

E. DETERMINATION WITHOUT HEARING

1. At the request of a parent of the handicapped child whose education is at issue, the requirement for a hearing may be waived, and the case may be submitted to the hearing officer on written documents filed by the parties. The hearing officer shall make findings of fact and issue a decision within the period fixed by paragraph D.1.n., above.

2. DoDDS may oppose a request to waive the hearing. In that event, the hearing officer shall rule on the request.

3. Documents submitted to the hearing officer in a case determined without a hearing shall comply with paragraph D.1.g., above. A party submitting such documents shall provide copies to all other parties.

F. APPEAL

1. A party may appeal the hearing officer's findings of fact and decision by filing a written notice of appeal with the ASD(MRA&L), or designee, within 5 calendar days of receipt of the findings of fact and decision. The notice of appeal must contain the appellant's certification that a copy of the notice of appeal has been provided to all other parties. Filing is complete upon mailing.

2. Within 10 calendar days of filing the notice of appeal, the appellant shall submit a written statement of issues and arguments to the ASD(MRA&L), or designee, with a copy to the other parties. The other parties shall submit a reply or replies to the ASD(MRA&L), or designee, within 15 calendar days of receiving the statement, and shall deliver a copy of each reply to the appellant. Submission is complete upon mailing.

3. The ASD(MRA&L), or designee, shall determine the matter on appeal, including the making of interlocutory rulings, within 20 calendar days of receiving timely submitted replies under subsection F.2., above. The ASD(MRA&L), or designee, may request oral argument at a time and place reasonably convenient to the parties.

4. The determination of the ASD(MRA&L), or designee, shall be a final administrative decision and shall be in written form. It shall address the issues presented and set forth a rationale for the decision reached. A determination denying the appeal of a parent in whole or in part shall state that the parent has the right under P.L. 94-142 (reference (a)) to bring a civil action with respect to the matters in dispute in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

5. No provision of this Instruction or other DoD guidance may be construed as conferring a further right of administrative review. A party must exhaust all administrative remedies afforded by this Instruction before seeking judicial review of a determination made under this Instruction.

G. PUBLICATION AND INDEXING OF FINAL DECISIONS

Final decisions in cases arising under this Instruction shall be published and indexed in accordance with DoD Directive 5400.7 (reference (k)) to protect the privacy rights of the parents and children who are parties in those cases.

July 8, 1982
NUMBER 1342.13

Department of Defense Directive

ASD(MRA&L)

SUBJECT: Eligibility Requirements for Education of Minor Dependents in Overseas Areas

References:
(a) DoD Instruction 1342.10, "Eligibility Criteria for Education of Minor Dependents in Overseas Areas," May 4, 1970 (hereby canceled)
(b) DoD Instruction 1342.4, "Use of Service-Operated Schools and Restriction on Payment of Tuition in Tuition-Fee Schools for Education of Dependents of Department of Defense Personnel in Foreign Areas," November 14, 1957 (hereby canceled)
(c) Title 20, United States Code, Sections 921-932, "Defense Dependents' Education Act of 1978," November 1, 1978
(d) DoD Instruction 1342.12, "Education of Handicapped Children in the DoD Dependents Schools," December 17, 1981
(e) through (k), see enclosure 1

A. PURPOSE

This Directive replaces references (a) and (b), and implements reference (c) to:

1. Update the policy and eligibility requirements for education of DoD dependent students in overseas areas.

2. Authorize the enrollment of other minor dependents in DoD dependents schools conditioned upon available space and payment of tuition.

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

C. DEFINITIONS

The terms used in this Directive are defined in enclosure 2.

D. POLICY

1. It is the policy of the Department of Defense:

a. That, while overseas, DoD dependent students may be enrolled in DoD dependents schools or approved non-DoD dependents schools, or may take correspondence courses at U.S. Government expense, under the conditions prescribed in section E., below.

b. To allow the enrollment of other minor dependents in DoD dependents schools, provided that space is available and that tuition is paid.

2. DoD Instruction 1342.12 (reference (d)) provides guidance concerning the education of handicapped children.

E. ELIGIBILITY REQUIREMENTS

Students may be enrolled in the DoD dependents schools pursuant to subsections E.1. through E.4., below, and in that priority, and pursuant to subsection E.5., below.

1. Space-Required, Tuition-Free

a. Command-sponsored DoD dependent students shall, upon the request of their DoD sponsor, be enrolled in DoD dependents schools on a space-required, tuition-free basis. However, costs for the education of minor dependents of DoD sponsors working for the DoD Security Assistance Program shall be paid from DoD Security Assistance Program funds.

b. If, as determined by the Director, DoD Dependents Schools (DoDDS), or designee, no DoD dependents school is available within the commuting area, command-sponsored DoD dependent students are eligible for education in approved non-DoD dependents schools at U.S. Government expense, usually in that same foreign country, or in DoD dependents schools with dormitories, or through correspondence courses at U.S. Government expense.

c. DoD dependent students may be provided education in approved non-DoD dependents schools or may receive correspondence courses at U.S. Government expense only at locations where DoD dependents schools are not available or are operating at maximum capacity. Only those non-DoD dependents schools with programs considered satisfactory by the Director, DoDDS, or designee, shall be approved to provide education at U.S. Government expense to DoD dependent students. In all cases, the payment of tuition in approved non-DoD dependents schools by the U.S. Government is limited to those DoD dependent students who are authorized transportation at U.S. Government expense to or from an overseas area, if their DoD sponsor is military, and to those DoD dependent students whose DoD sponsor, if civilian, is eligible for a living quarters allowance, as authorized by the Department of State Standardized Regulations (reference (e)) and DoD 1400.25-M (reference (f)).

d. If adequate housing is available within the commuting area of a DoD dependents school and an appropriate educational program is available at that school, tuition will not be authorized for the attendance of DoD dependent students in an approved non-DoD dependents school in that same locality, except as authorized in paragraph E.1.c., above. DoD dependent students who currently are enrolled in an approved non-DoD dependents school and who would be adversely affected by this limitation may, at the discretion of the Director, DoDDS, or designee, be authorized to continue in attendance in that approved non-DoD dependents school through the 1984-85 school year, or until the rotation of the DoD sponsor out of the command, whichever is earlier.

e. Approved non-DoD dependents schools that are available free of charge and that offer instructional programs in English should be used, if feasible, before contracting for education in approved non-DoD dependents schools that charge tuition.

f. If no DoD dependents school within the commuting area of a handicapped DoD dependent student is able to provide an appropriate education to that student, DoDDS may place the student in another DoD dependents school. If no appropriate DoD dependents school is reasonably available, DoDDS then may place the student at U.S. Government expense in an approved non-DoD dependents school overseas. DoDDS may place a handicapped DoD dependent student in an approved non-DoD dependents school in the United States only if no appropriate school is reasonably available overseas. DoDDS may not place a non-DoD dependent student in a non-DoD dependents school at U.S. Government expense.

g. DoD dependent students who are the dependents of a DoD sponsor who is detained by a foreign power or is declared missing in action or otherwise unlawfully detained may remain in a DoD dependents school, or in an approved non-DoD dependents school, at U.S. Government expense for as long as the detention or missing status exists, subject to the approval of the Director, DoDDS, or designee.

h. DoD dependent students who are authorized attendance in a DoD dependents school or an approved non-DoD dependents school may complete the current school year if the DoD sponsor is transferred, dies, or retires during the school year, but subsequently shall lose their eligibility to attend, except on a space-available, tuition-free basis in a DoD dependents school as prescribed in paragraph E.3.b., below.

i. If DoD dependent students are authorized to accompany their DoD sponsor to the country of the sponsor's assignment, such dependent students ordinarily will not be entitled to space-required, tuition-free education in a DoD dependents school in a different overseas country or to education in a non-DoD dependents school at U.S. Government expense in that different country. Any exceptions to this policy must be approved by the Director, DoDDS, or designee.

2. Space-Available, Tuition-Paying (Federally Connected)

Under Section 1404(c) of the "Defense Dependents' Education Act of 1978" (reference (c)), if the Director, DoDDS, or designee, determines that space is

available, consistent with the local military commander's policy concerning access to the installation and agreements with the host nation, other minor dependents in the categories specified in this subsection may be enrolled in a DoD dependents school upon payment of tuition. The amount of tuition shall be determined by the Director, DoDDS, or designee, and may not be less than the rate necessary to cover the average cost of enrollment of children in the DoD dependents schools. Clarification on how tuition rates are determined is contained in DoD Directive 4000.19 and DoD Instruction 7230.7 (references (g) and (h)). Minor dependents in this category may be enrolled in the following priority:

a. Minor dependents of other U.S. Government agency employees stationed overseas.

b. Minor dependents of U.S. citizens who have executed contracts or who are employed by parent organizations that have executed contracts or other agreements with the Department of Defense when the applicable contract or agreement authorizes dependent education on a tuition basis in the DoD dependents schools. A copy of the document authorizing attendance shall be presented to the appropriate DoD dependents school official at the time of enrollment. Examples of individuals whose minor dependents are covered by this paragraph include:

(1) Nonappropriated fund instrumentalities (universal annual) employees.

(2) Defense contractor personnel.

(3) United Services Organizations, Inc., personnel.

(4) American Red Cross personnel.

c. Minor dependents of host-nation or third-country national military or civilian personnel accompanying or serving with the Military Services overseas, when recommended by the major overseas commander and when approved by the Director, DoDDS, or designee.

d. Minor dependents of other sponsors who are serving the national defense interest, as determined by the Director, DoDDS, or designee.

3. Space-Available, Tuition-Free

Under Section 1404(c) of the "Defense Dependents' Education Act of 1978" (reference (c)), the following classes of DoD dependent students may be enrolled, in the priority given below, in DoD dependents schools on a space-available, tuition-free basis:

a. Minor dependents of military DoD sponsors who are stationed in overseas areas to which their dependents are not authorized transportation at U.S. Government expense or minor dependents of civilian DoD sponsors who are not entitled to a living quarters allowance as authorized by the Department of State Standardized Regulations (reference (e)) and DoD 1400.25-M (reference (f)),

when the sponsors elect to transport these dependents at their own expense to overseas areas in which the sponsors are stationed (noncommand-sponsored dependents). If at any time during a DoD sponsor's overseas assignment that sponsor's minor noncommand-sponsored dependents become command-sponsored or the sponsor acquires minor, command-sponsored dependents, those dependents shall be authorized "space-required, tuition-free" status.

b. Students who are dependents of DoD sponsors who die while entitled to compensation or active duty pay.

c. Noncommand-sponsored DoD dependents who are enrolled in a DoD dependents school may remain in a DoD dependents school if their sponsor is declared missing in action or otherwise unlawfully detained for as long as the detention or mission status exists, subject to the approval of the Director, DoDDS, or designee.

4. Space-Available, Tuition-Paying (Nonfederally Connected)

Under Section 1404(c) of the "Defense Dependents' Education Act of 1978" (reference (c)), the following minor dependents may be enrolled in a DoD dependents school upon payment of tuition if the Director, DoDDS, or designee, determines that space is available:

a. Dependents of U.S. citizens residing in overseas areas, including dependents of retired personnel, or of deceased personnel not covered in paragraph E.3.b., above.

b. Dependents of foreign nationals, when there is no objection from the host nation and when such inclusion does not displace or prevent inclusion of U.S. citizen-sponsored minor dependents seeking admission on the same basis at the same time.

5. Education in the Republic of Panama

Eligibility requirements for education in the Republic of Panama are prescribed in enclosure 3.

F. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Manpower, Installations, and Logistics) shall monitor compliance with this Directive.

2. The Heads of DoD Components shall comply with this Directive.

#First Amendment (Ch 1, 12/19/84)

3. The Director, DoD Dependents Schools, or designee, shall:

a. Authorize the attendance of DoD dependent students in DoD dependents schools or approved non-DoD dependents schools, or provide correspondence courses at U.S. Government expense, in accordance with this Directive.

b. Authorize the enrollment of other minor dependents in DoD dependents schools, in accordance with this Directive, and establish priorities among those dependents within an eligibility category.

c. Provide information and guidance to DoD sponsors regarding enrollment in DoD dependents schools, residence in DoD dependents schools' dormitories or approved non-DoD dependents schools' dormitories, enrollment in approved non-DoD dependents schools, and receipt of correspondence courses.

d. Establish, in coordination with the supporting installation or community commander, commuting areas around DoD dependents schools for the purpose of determining eligibility for transportation of DoD dependent students. (See DoD 4500.36-R, reference (i).)

e. Periodically review the educational programs in approved non-DoD dependents schools that are used to educate DoD dependent students to ensure that these programs are satisfactory.

4. Commanders of overseas installations, military communities, or activities shall:

a. Advise incoming and newly assigned personnel about the DoD dependents schools' commuting areas and the extent of pupil transportation service supporting the local DoD dependents schools.

b. Assist incoming and newly assigned personnel in obtaining housing within the commuting area of the local DoD dependents school, if feasible.

c. Advise incoming and newly assigned personnel that, if adequate housing is available within the commuting area of a DoD dependents school and if the DoD sponsor's place of employment is also reasonably accessible from that commuting area, tuition assistance will not be available to provide education in approved non-DoD dependents schools for minor dependents of DoD sponsors who elect to reside beyond the commuting area of a DoD dependents school. (See reference (i).)

d. Inform incoming and newly assigned personnel that they will not be reimbursed for unauthorized enrollments in non-DoD dependents schools.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) within 120 days.

Frank C. Carlucci
Deputy Secretary of Defense

Enclosures - 3
1. References
2. Definitions
3. Eligibility Requirements for Education of Minor Dependents and Other Persons in the Republic of Panama

REFERENCES, continued

(e) Department of State Standardized Regulations (Government Civilians in Foreign Areas), Sections 031.1 and 277.2
(f) DoD 1400.25-M, "DoD Civilian Personnel Manual," Chapter 592, "Overseas Allowances and Differentials," November 9, 1981, authorized by DoD Directive 1400.25, "Department of Defense Civilian Personnel Manual System," January 24, 1978
(g) DoD Directive 4000.19, "Interservice, Interdepartmental, and Interagency Support," October 14, 1980
(h) DoD Instruction 7230.7, "User Charges," June 12, 1979
(i) DoD 4500.36-R, "Management, Acquisition, and Use of Motor Vehicles," July 1981, authorized by DoD Directive 4500.36, "Management, Acquisition, and Use of Motor Vehicles," July 18, 1979
(j) Title 8, United States Code, "Aliens and Nationality"
(k) Public Law 96-70, "Panama Canal Act of 1979," September 27, 1979

DEFINITIONS

1. Approved Non-DoD Dependents Schools. Schools, including dormitory facilities, other than DoD dependents schools, that provide suitable educational programs, usually on a tuition basis. The term includes residence facilities operated by approved non-DoD dependents schools to provide room and board for eligible handicapped dependents when DoD dependents schools cannot provide an appropriate education.

2. Commuting Area. A designated geographical area surrounding a DoD dependents school within which pupil transportation at U.S. Government expense is provided for DoD dependent students, except for those living within walking distance of the school (See DoD 4500.36-R, reference (i)).

3. Correspondence Courses. Home or supplemental instruction courses for DoD dependent students who live in areas where there are no suitable facilities, for handicapped DoD dependent students who cannot attend school, and for the supplementation of course offerings at DoD dependents schools or approved non-DoD dependents schools.

4. DoD Dependents Schools. Schools established by the Department of Defense in overseas areas to provide primary and secondary education for minor dependents of DoD sponsors.

5. DoD Dependents Schools with Dormitories. Residence facilities operated at certain DoDDS schools, usually at the high school level and primarily but not exclusively to provide room and board for DoD dependent students who are authorized to accompany their DoD sponsors to locations where there are no appropriate educational facilities available locally.

6. DoD Dependent Student. A minor dependent who:

a. Is the child, stepchild, adopted child, ward, or spouse of a DoD sponsor, or who is a resident in the household of a DoD sponsor who stands in loco parentis to such individual and who receives one-half or more of his or her support from such sponsor; and

b. Has not completed secondary school and who will reach his or her 5th but not 21st birthday by December 31 of the current school year; or

c. Is handicapped, and is between 3 and 5 years of age by December 31 of the current school year, provided that the Director, DoDDS, or designee, in his or her sole discretion, determines that adequate staff and facilities are available to serve such a handicapped child.

7. DoD Sponsor. A Military Service member serving on active duty and stationed overseas or a civilian employee of the Department of Defense who is employed on a full-time basis, paid from appropriated funds, and stationed overseas, and who is either a U.S. citizen or a person lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the United States immigration laws (8 U.S.C. "Aliens and Nationality," reference (j)).

8. Full-Time Students. Panama Canal College students enrolled in courses for 12 or more credit hours during the fall and spring semesters of one school year.

9. Overseas Area. Any area situated outside the United States (the states, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island)).

10. Part-Time Students. Panama Canal College students enrolled in courses for 11 or fewer credit hours during the fall and spring semesters of one school year, and all students enrolled during the summer session.

11. Space-Required. Pupil accommodations that must be provided by the DoD dependents schools.

12. Space-Available. Pupil accommodations that may be made available in DoD dependents schools if the Director, DoDDS, or designee, determines that a school operated by DoDDS has adequate staff and other resources to permit the enrollment of nonspace-required students.

ELIGIBILITY REQUIREMENTS FOR EDUCATION OF MINOR DEPENDENTS AND OTHER PERSONS IN THE REPUBLIC OF PANAMA

A. The "Panama Canal Act of 1979" (reference (k)) authorizes the extension of primary, secondary, and postsecondary educational services to DoD dependent students and other categories of dependents. Basic eligibility policy is described in section E. of this Directive. Exceptional eligibility requirements for education of dependents in the Republic of Panama are addressed below.

B. Minor dependents may be enrolled in DoD dependents schools or approved non-DoD dependents schools in the Republic of Panama or may receive correspondence courses at U.S. Government expense under the conditions and in the priority indicated below.

1. Space Required, Tuition-Free Education and Education in Approved Non-DoD Dependents Schools

In addition to DoD dependent students entitled to receive space-required, tuition-free education from DoDDS under section E. of this Directive, the following minor dependents in the Republic of Panama are authorized "space-required, tuition-free" status:

a. Minor dependents of host-nation or third-country citizens employed by the Department of Defense and paid from appropriated funds, provided that such dependents were enrolled on a tuition-free basis in schools operated by the former Canal Zone Government on September 30, 1979, as then authorized for residents of the former Canal Zone. This provision applies only for uninterrupted enrollments.

b. Minor dependents of host-nation or third-country citizen employees transferred to the Department of Defense on October 1, 1979, and paid from appropriated funds may attend approved non-DoD dependents schools in the Republic of Panama at U.S. Government expense when such dependents were enrolled in a non-DoD dependents school under the authority and at the expense of the former Canal Zone Government/Panama Canal Company on September 30, 1979. This provision applies only for uninterrupted enrollments.

2. Space-Required, Tuition-Paying Education. Dependents not specifically authorized tuition-free education in subsection B.1., above, or in section E. of this Directive, when such dependents were enrolled in schools operated by the former Canal Zone Government on September 30, 1979, regardless of affiliation or citizenship of sponsors. This provision applies only for uninterrupted enrollments.

C. Persons may be enrolled in the Panama Canal College under the conditions and in the priority listed below:

1. Tuition-Paying, DoD-Sponsored Education. All students at the Panama Canal College attend on a tuition-paying basis. The Department of Defense may assume a portion of the tuition cost for full-time students who are minor dependents of:

a. Military DoD sponsors who are on active duty and stationed in the Republic of Panama.

b. Civilian DoD sponsors stationed in the Republic of Panama who are paid from appropriated funds and who have been lawfully accorded the privilege of residing permanently in the United States as immigrants in accordance with the United States immigration laws (8 U.S.C. "Aliens and Nationality" (reference (j)).

c. Members of the Military Services who are detained by a foreign power or declared missing in action or otherwise unlawfully detained for as long as the detention or missing status continues to exist. Under these circumstances, authorization for the dependents to remain in the College with DoD tuition assistance must be obtained from DoDDS officials and the local military commander.

d. If a sponsor discussed in paragraph C.1.a., b., or c., above, is transferred, retires, or dies during the college semester, the sponsor's dependents may complete the current semester, but subsequently shall lose their eligibility to attend the Panama Canal College.

2. Tuition-Paying - Other. At the discretion of the Director, DoDDS, or designee, and when consistent with the local military commander's policy concerning access to the area of military coordination and agreements with the Republic of Panama, the following categories of persons may be enrolled at the Panama Canal College on a full- or part-time basis, in the priority given below, provided the applicant meets academic admissions requirements.

a. Active duty members of the Military Services who are stationed in Panama and family members living with them (unless authorized DoD-sponsored education under subsection C.1., above).

b. U.S.-citizen employees of the Department of Defense and other U.S. Government agencies, including the Panama Canal Commission, and family members living with them (unless authorized DoD-sponsored education under subsection C.1., above).

c. Host-nation or third-country citizen employees of the Panama Canal Commission or other U.S. Government agency, district dentists, religious workers, and family members living with them, when such persons were enrolled in a Canal Zone school on a tuition-free basis or under the sponsorship of the former Canal Zone Government/Panama Canal Company on September 30, 1979, as was then authorized for residents of the former Canal Zone.

d. Minor dependents of Canal Zone Government/Panama Canal Company host-nation or third-country citizen employees separated through reduction in force action and not reemployed by another U.S. Government agency, when such dependents were enrolled in the former Canal Zone school system on September 30, 1979.

e. U.S. citizens not specifically addressed above who reside in the Republic of Panama.

f. Host-nation and third-country citizens not specifically addressed above who reside in the Republic of Panama when there is no objection from the government of Panama and when such inclusion does not displace or prevent inclusion of U.S. citizens seeking admission on the same basis at the same time.

CHAPTER 6

TRANSPORTATION OF DEPENDENT SCHOOL CHILDREN

6-1. Purpose. This chapter outlines the DoD policy for providing transportation services in support of educating dependents of DoD personnel. Specific policies and procedures are provided for both the United States and overseas areas.

SECTION I. UNITED STATES

6-2. Scope. The policies of this section apply to all DoD dependent students attending schools located in the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States, including the Trust Terrritory of the Pacific Islands and Midway Island.

6-3. Authorities

a. P.L. 81-874, as amended (reference (s)), provides authority and eligibility criteria to extend federal assistance to eligible local education agencies providing education for children residing on federal property, including DoD installations.

(1) In consideration for this assistance, the local education agencies who are providing transportation to school children in their districts must also provide transportation to school children residing on DoD installations which are located within their school district.

(2) Should local education agencies lack the necessary facilities to provide transportation for children residing on DoD installations, transportation may be provided by the DoD. Such services may be reimbursed by the local education agency under current Department of Education policies.

b. The annual Appropriations Acts of the DoD extend to all the Military Departments the authority conferred upon the Department of the Navy by 10 U.S.C. 7204(a)(2) (reference (t)) to provide funds specifically appropriated for the purpose of providing transportation for dependents between the school and the activity when the schools are not accessible by regular means of transportation.

6-4. Policies

a. DoD transportation facilities will be used for transportation of dependent school children only as specifically provided in this regulation.

b. Transportation may be provided to:

(1) Local public schools when the school is not accessible.

(2) Nearby public schools, other than the local public schools when:

(a) The nearby public school is not accessible; and

(b) The Head of the DoD Component concerned has determined that local public schools in which the children would normally be enrolled are unable to provide adequately for their education; that attendance at other public schools (to include public schools for the handicapped) in a local education agency district of residence can be arranged, and that transportation is not available as described in paragraph 6-3a(1) above.

c. Transportation to public schools may be furnished under DoD Appropriations Acts only when the appropriate official of the local education agency advises that school transportation will not be provided by the local education agency (see paragraph 6-3a(2)).

d. Only one trip to the school and one trip from the school per school day is authorized for any one child.

e. When more than one DoD installation is involved, transportation arrangements will be coordinated by the dominant user to minimize required transportation resources.

f. Dependent school children may use available regularly scheduled DoD transportation within and between installations when traveling to and from school in order to make connections with regular means of transportation. Similarly, special transportation may be provided within the installation if this would serve to make schools accessible by regular means of transportation.

g. Where it is necessary for a DoD Component to provide transportation for dependents to public schools, or to schools operated on DoD installations for dependent children, written agreements shall be entered into with the local educational agency as to the services and facilities to be furnished and the arrangements for reimbursement (see paragraph 6-3a(2) above).

h. Reimbursable costs shall be credited to applicable appropriations, and shall consist of all costs incident to operations, maintenance, and depreciation of the equipment, and the compensation costs of the drivers directly engaged in providing the transportation service.

(1) The compensation cost of civilian drivers shall be computed on the basis of their gross payroll compensation, plus a factor of 29 percent of gross payroll compensation for fringe benefits.

(2) The compensation cost of the military drivers shall be computed on the basis of the reimbursement rates for military personnel set forth in applicable regulations of the Military Department concerned.

i. Transportation may be provided to adequate private schools within a reasonable distance when:

(1) The private school is not accessible and private school transportation, either with or without cost to the child, is not available; and

(2) The parent of the child submits a written request for transportation to the head of the installation concerned; and

(3) The head of the installation determines that either:

(a) The public schools, available in the locality are unable to provide adequately for the education of the child concerned; or

(b) The vehicles authorized for transporting dependent school children to public schools have extra space, and can convey those attending private schools without materially deviating from the established route to the public schools.

SECTION II. OVERSEAS AREAS

6-5. Scope. The policies of this section apply to all students attending DoD-operated or non-DoD schools located outside of the United States, as defined in paragraph 6-2 above.

6-6. Authority. 20 U.S.C. 921 (reference (u)) authorizes the Secretary of Defense to establish and operate a program to provide a free public education through secondary schools for dependents in overseas areas, including the provision of necessary services incidental thereto.

6-7. Commuting Area

a. Each school principal, acting in coordination with the supporting installation/community commander, will establish a commuting area for the purpose of determining eligibility for transportation of dependent students. A map and/or narrative description shall be used to identify this commuting area.

b. The commuting area will be based on the availability of housing within the proximity of the school. Elapsed travel time via designated modes of transportation from the farthest point within the commuting area should not normally exceed one hour, except as authorized in paragraph 6-14 below. The area need not be equidistant in all directions from the school, nor need it be as far as one hour commuting time. For example, if adequate housing is available within a closer distance (such as 20 minutes), then that area should be designated as the commuting area. The commuting area will be given widespread publicity during incoming personnel processing, Housing Referral Office visits, or sponsor programs to inform each sponsor of the established area before family housing is obtained.

c. Each incoming sponsor shall be required to certify in writing that he/she has been advised by the installation/community commander of the commuting area and understands that, if family housing is obtained outside this area, transportation of dependent students between their residence and the nearest pickup point within the commuting area or to the school is the sponsor's responsibility.

6-8. Authorized Transportation

a. Daily round trip transportation between family residential areas and schools may be provided for dependent students:

(1) Who reside within, or are transported at their own expense to a pickup point within, the designated commuting area of a DoD-operated school but beyond the established walking distance of the school or designated bus stop.

(a) Only one trip to the school and one trip from the school per school day is authorized for any one child. Transportation will not be provided at lunch time except as provided for field trips (see paragraph 6-8e).

(b) Door-to-door service will not be provided, except as outlined in paragraph 6-8d for handicapped students.

(2) Who reside beyond the walking distance of a non-DoD school and who attend at DoD expense.

(a) Students will use transportation provided or arranged by non-DoD schools when included as part of the tuition.

(b) When non-DoD schools do not provide transportation, or when the cost of providing transportation is charged separately, the cognizant regional director of DoD Dependent Schools (DoDDS), in conjunction with the supporting agency, will determine the appropriate means of transportation consistent with DoD Directive 4500.9 (reference (v)).

b. Non-DoD students may only be transported on a space-available basis and will not be provided with commuter passes instead of transportation in kind.

c. Transportation will not be provided for dependent students of active duty DoD military or civilian personnel who are attending non-DoD schools in overseas areas at no expense to the U.S Government unless such attendance has been approved by the cognizant DoDDS regional director.

d. Special emphasis will be placed on meeting the transportation needs of handicapped students. Even though residing within walking distance of the school or bus stop, these students will be provided transportation for any commuting distance when the nature of their handicap so dictates. Seat belts and other supporting devices will be installed for the safety of handicapped students traveling to/from school.

e. Transportation may be provided for all students participating in school-sponsored educational activities.

f. Co-curricular activities.

(1) These school-sponsored activities are designated to provide opportunities for students to participate, on an individual or group basis, in public events and events at other schools for enjoyment, motivation, and improvement of skills. Usually, student participation is voluntary and credit is not given. Transportation will be provided only for eligible dependent students of active duty DoD personnel under conditions established by the principal and subject to the availability of funds.

(2) Voluntary student activities also take place at school after the normal school day has ended and the regular school-to-home transportation has terminated. In these instances, students of active duty DoD military and civilian personnel may be provided transportation when approved by the principal, subject to the availability of funds.

(3) Transportation to DoDDS co-curricular activities for students of non-DoD personnel shall be provided only on a space-available basis.

6-9. Transportation Resources

a. Students shall be transported at the lowest practicable cost. Such transportation service must be based upon a thorough analysis and periodic review of student demand, routes and schedules

by the installation/community commander in coordination with appropriate DoDDS representatives. Full consideration shall be given to:

(1) Staggering school operating hours to permit vehicles to operate multiple trips per day to/from a given school or group of schools.

(2) Altering school organization plans and establishing flexible school boundaries or walking distances to maximize use of transportation resources.

(3) Planning and/or consolidating school closures for administrative activities (meetings, training, conferences) to avoid half-day sessions and scheduling these activities to coincide with host nations' holidays whenever possible.

(4) Developing routes and schedules to optimize vehicle utilization, seating capacity, total mileage and driving time. Once developed, vehicle utilization shall be reviewed periodically. Large capacity buses will not be assigned to a route in order to pick up students en route who are not otherwise eligible to be transported (students living within the designated walking distance of the school).

(5) Seating students in kindergarten through grade 5 on a three-to-a-seat basis, except for front seats, providing the vehicle trip is not more than 30 minutes. Each student shall be provided a place to sit.

(6) Using consolidated pickup points.

(7) Maximizing utilization of part-time employees where possible.

b. Students in grades 7-12 shall be required to use regular public or DoD transportation at DoDDS expense where available, feasible, and cost-effective.

c. The use of a particular means of transportation for normal daily commuting transportation service does not preclude the use of an alternative means for field trips or co-curricular activities when that means is cost-effective, based on extra costs due to factors such as overtime, mileage, or holidays.

d. Transportation resources shall not be used solely to achieve balance within DoD schools based upon rank of sponsors.

e. When, because of location, more than one school uses the same vehicle service, the dominant user shall be responsible for

consolidating and coordinating requirements and arranging for transportation services to all schools involved.

f. When more than one installation/community provides students to the same school, the dominant military supporting activity shall be required to coordinate all pupil transportation to the school.

g. Normally, military transportation, using part-time drivers, shall be used except when it is more economical to use commercial contract transportation services, based on a comparative cost analysis of in-house versus commercial contract school bus service on a route-by-route basis. Such analyses should be conducted consistent with the provisions of DoD Instructions 4100.33 and 7041.3 (references (p) and (w)), except that many of the cost factors will have to be adjusted to fit the needs of handicapped children and the overseas environment, such as different retirement cost factors and other fringe benefits for local national civilian employees and any other appropriate adjustments. The supporting DoD Component shall perform a comparative cost analysis (see paragraph 6-9a above) under any of the following circumstances:

(1) When arranging for initial transportation services to a new school or before any change from existing military transportation to contract transportation is made.

(2) When the number of contractors is insufficient to ensure competitive bids for transportation services to schools currently served by contract transportation.

(3) When contract bids reflect a significant increase in costs over the previous year's contract costs considering inflationary trends and other pertinent area factors.

(4) When requested by the Director, or a Regional Director, DoDDS.

6-10. Contingency Plans. Installation/community commanders will work with applicable DoDDS officials to develop and publish contingency plans for transporting students.

6-11. Safety. Installation/community commanders are required to conduct periodic safety reviews of school bus vehicles and loading/unloading areas. Contracts with private activities providing school bus services should contain a provision permitting similar safety reviews of contractor vehicles.

6-12. Student Conduct. Installation/community commanders are responsible for development and enforcement of student behavioral standards aboard school buses.

6-13. School Bus Monitors. Except where required by host nation statute, employment of school bus monitors by DoD is not authorized, either directly or indirectly, such as by inclusion in school bus contracts.

6-14. Exceptions. In special situations, a Regional Director of DoDDS may grant exceptions to the commuting area or walking distance criteria after full consideration of circumstances and the evaluation of alternatives. Requests for exception shall be initiated by the installation/community commander, endorsed by the local principal and the DoDDS Education Program Administrator (if applicable) and forwarded to the DoDDS regional director containing the following data:

a. Name of school.

b. Reason for waiver request. Include maps, charts and/or photographs where appropriate. When safety considerations are believed to be a factor, include a statement from the responsible Safety Officer.

c. Statement of available alternatives to eliminate or alter the conditions requiring waiver.

d. Number of students involved.

e. Impact if waiver denied.

f. Budgetary impact if waiver is granted.

g. Comments and recommendations from endorsing officials.

DEPARTMENT OF DEFENSE
OFFICE OF DEPENDENTS SCHOOLS
2461 EISENHOWER AVENUE
ALEXANDRIA, VIRGINIA 22331

EDUCATION

DS Regulation 2500.11
September 7, 1983

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS COMPLAINT MANAGEMENT SYSTEM

References: (a) Public Law 95-561, "Defense Dependents' Education Act of 1978," as amended (20 U.S.C. §§921-932 (Supp. V 1981))

(b) Public Law 94-142, "Education for All Handicapped Children Act of 1975," as amended (20 U.S.C. §§ 1401 et seq. (1976 and Supp. V 1981))

(c) DoD Instruction 1342.12, "Education of Handicapped Children in the DoD Dependents Schools," December 17, 1981

A. PURPOSE

This Regulation establishes a Complaint Management System for the education program of the Department of Defense Dependents Schools (DoDDS). This Regulation also provides guidance to implement enclosure 3, subparagraph F.10., of DoD Instruction 1342.12 (reference (c)), by establishing policies and procedures governing the management of alleged generalized violations of the Instruction or Public Law 94-142 (reference (b)) that do not concern specific children.

B. APPLICABILITY AND SCOPE

The provisions of this Regulation apply to students receiving or entitled to receive educational instruction from DoDDS, their parents and guardians, and DoD employees making a complaint under this Regulation. This Regulation does not itself create any rights or remedies and may not be relied upon by any person, organization, or other entity to allege a denial of any such right or remedy, including the procedural and substantive guarantees of Public Law 94-142, DoD Instruction 1342.12, or any other authority. To the extent that this Regulation conflicts with DoD Instruction 1342.12, the Instruction shall

DISTRIBUTION: X

govern. This Regulation does not cover due process hearings under DoD complaints that are specifically related to the free appropriate education of a handicapped student. In addition, matters covered under another administrative procedure established by law or regulation, other than DoD Instruction 1342.12, including without limitation complaints that are cognizable by the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, a DoDDS negotiated grievance procedure, or the Merit Systems Protection Board, are not covered by this Regulation.

C. POLICIES AND PROCEDURES

1. A complaint must be in writing and may be filed by any individual (hereinafter referred to as "complainant") who believes that any component or employee of DoDDS is in violation of a law of the United States, of a DoD issuance, or of a DoDDS issuance.

2. The complaint should contain all facts that are relevant and material to the alleged violation(s) and a statement of the relief the complainant is seeking.

3. The complaint may be in letter form. The complaint must be addressed as specified in paragraphs C.4. and 5. of this Regulation.

4. If the complaint alleges a violation by a local school that the complainant and the local school have been unable to resolve informally, the complaint must be addressed to the director of the appropriate region through the educational program administrator. The local school or regional office must resolve or otherwise dispose of the complaint in the time periods prescribed in paragraphs C.4.a. and b. of this Regulation. The Director, DoDDS, may grant an extension of time for good cause shown. Within this time period, the following must be accomplished:

a. The regional office has 5 working days, upon receipt of the complaint, to dispatch notification of receipt of the complaint and to furnish a copy of the complaint to the school involved.

b. The school has 25 working days, after receiving the complaint and the notification of receipt, to dispatch a written report to the regional office. The written report shall include:

(1) All facts that are relevant and material to the complaint.

(2) A summary of the procedures employed by the school staff to investigate and, if possible, to resolve the complaint.

(3) A written statement signed by the complainant and a representative of the school explaining the terms upon which the complaint was resolved, if the school and the complainant resolve the complaint.

(4) A recommended disposition of the complaint, if the school and the complainant do not resolve the complaint.

c. If the complaint is not resolved, the regional office has 20 working days from the receipt of the school's report to issue a written

decision regarding the complaint to the complainant and to the school. That decision may affirm, reverse, or modify the school's report. The regional office may conduct its own investigation, including an onsite visit prior to making a decision.

d. The complainant has 10 working days after receiving the regional office's decision to file an appeal with the Office of Dependents Schools (ODS), Washington, D.C. Filing is complete upon mailing.

(1) ODS, upon receipt of the complainant's appeal, shall make a prompt, final, conclusive, and written determination of the complaint.

(2) Copies of the ODS decision will be provided to the complainant, to the school, and to the regional office.

5. If the complaint alleges a violation by ODS or by one or more regional offices, the complaint must be addressed to the Director, Department of Defense Dependents Schools, 2461 Eisenhower Avenue, Alexandria, Virginia 22331.

a. ODS or the regional office or offices, upon receipt of such a complaint, must resolve or dispose of the complaint within the time periods prescribed in paragraphs C.5.(1) and (2) of this Regulation. The Director, DoDDS, may grant an extension of time for good cause shown. Within this time period, the following must be accomplished:

(1) ODS has 10 working days, upon receipt of the written complaint, to dispatch notification of the receipt of the complaint and to furnish a copy of the complaint to the complainant and to the regional office or offices involved.

(2) The regional office or offices involved have 45 working days, after receiving the complaint and the notification of receipt, to dispatch a written report to ODS.

(3) The written report from each region involved shall include:

(a) All facts that are relevant and material to the complaint.

(b) A summary of the procedures employed by the regional office or offices to investigate and, if possible, resolve the complaint.

(c) A written statement signed by the complainant and regional officials explaining the terms on which the complaint was resolved, if the regional office(s), ODS, and the complainant resolve the complaint.

(d) A recommended disposition of the complaint, if the regional office(s), ODS, and the complainant do not resolve the complaint.

(4) If the complaint is not resolved, ODS has 30 working days, upon receipt of the regional offices' reports, to issue a written decision regarding the complaint to the complainant and to the regional offices concerned.

6. The disposition by ODS or by a regional office of a complaint under this Regulation shall be final and conclusive. Neither the complainant nor DoDDS personnel shall have further administrative recourse within DoDDS from such a disposition.

D. EFFECTIVE DATE AND IMPLEMENTATION

This Regulation is effective immediately. Regional and local supplementation is prohibited, except by express written permission of the Director, DoDDS.

Beth Stephens

Beth Stephens, Ph.D.
Director