



Chapter One: Department of Defense Responsibility to Military Families with Special Needs

The Department of Defense (DoD) has a long-standing commitment to support the families of service members, most recently articulated in the publication, “A New Social Compact: A Reciprocal Partnership between the Department of Defense, Service Members, and Families.” DoD accepts the social compact with the understanding that families, as well as service members, contribute to the readiness and strength of the American military. The compact will be upheld through continuous efforts to improve quality of life and accommodate the evolving needs of military families. One piece of the social compact extends beyond the boundaries of a reciprocal partnership into the realm of a moral and legal obligation. That piece is the responsibility of the Services to care for and protect the rights of disabled members of military families.

DoD defines a disabled family member as any child or adult “who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.” It then directs all DoD activities to implement programs and services to which these family members are legally entitled and need in order to have a quality of life comparable to their disabled peers in American society. Throughout this document, military family members who are disabled may be referred to as “exceptional family members” or as individuals with “special needs.” Their families will be identified as “special needs families” given the fact that the disability of one member of a family touches every other member and influences the needs of the family as a unit.

1.1 Features of the Military Special Needs Community

Military special needs families reflect the diversity of the special needs community throughout the country. They represent all racial and ethnic groups, ages, and ranks/income levels. Their exceptional family members (EFM) also represent a range of functional abilities, from those who are rarely affected by their conditions to those who are severely impaired. But unlike their counterparts in the larger American society, military special needs families share the added challenges of the military way of life. There was a time when an absence of comprehensive services and a general lack of support from the chain of command made it impossible for many of them to serve and be together as a family. Some service members went to extraordinary lengths to keep the disabled family member out of sight—to the detriment of everyone in the family. Today the situation is very different. Special needs families have responded to the commitments made by DoD and each of the Services to give service members the opportunity to pursue assignments important to the

mission and to their careers while ensuring the family's special needs can be met. Active duty personnel enrollment in the Services' programs for special needs is near 100,000, and in significant numbers, they choose career military service over civilian employment.

1.2 Background of Military Programs and Services for Special Needs Families

There have always been military families with special needs, and the Services have historically made sporadic efforts to support them through compassionate assignments and special programs for children in some locations. As early as 1978, the Army had a Handicapped Dependents Program, which attempted to coordinate assignments on a strictly voluntary basis. Installation family support and spouses organizations occasionally sponsored camps and activities for special needs children. In the past, support that the military may have provided for these families did not alter the fact that having a disabled dependent could be detrimental to a service member's career. But during the 1980s, limited programs for EFMs evolved into a full-scale commitment, beginning with the direction taken by DoD that schools would fully comply with the law requiring free, appropriate education and related services. It then became necessary for military medical departments to be involved in providing medically related services, and for military personnel operations to begin managing assignments of sponsors with an EFM.

Today, the DoD commitment to special needs families is an all-inclusive and many-sided approach that requires the collaboration of military commands, installation support programs, educational activities, medical services, housing, and personnel management activities. Service members may be confident that they can enroll in their Services' special needs program without harming their career or putting their family in jeopardy. And they can be assured that an accompanied tour overseas will be to a location where services needed by their EFMs will be available. Because the needs of the military will always supercede the needs of the family to be together, service members with EFMs still must accept the reality that an accompanied tour may not always be possible for some special needs families.

1.3 Legislation and DoD Policy Governing Civil Rights of Exceptional Family Members

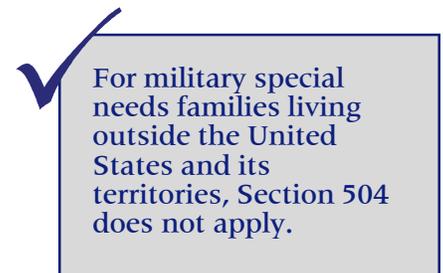
In the United States, minority groups are protected by laws that prohibit discrimination against them and confer equal rights with the majority population. Laws that address the civil rights of disabled persons have their roots in the Civil Rights Act of 1964, which led to dramatic changes in the freedom and access experienced by millions of Americans in minority racial and ethnic groups. The legislation described in this section had the same impact on the lives of disabled Americans. Civil rights legislation requires all the branches of government to develop implementing policy; thus, the DoD policy on rights of the disabled is also described in this section.

1.3.1 Rehabilitation Act of 1973 – Section 504

Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112) prohibits discrimination on the basis of disability in programs and activities, public and private, that receive federal funding, including the Department of Defense. Under this law, individuals with disabilities are defined as persons with a physical or mental impairment that substantially limits one or more major life activities. People who have a history of or are regarded as having such impairment are also covered. Section 504 protects people with disabilities from discrimination in

- employment by government agencies and organizations that receive federal funding
- education in public schools or private schools receiving federal funding (disabled students can receive accommodation and related services even if they do not qualify for special education)
- access to higher education in colleges and universities
- access to programs and services that receive federal funding including health care facilities, public institutions, social service agencies, state and local government offices, and recreation facilities

“Reasonable accommodation” is the term used in the legislation to require employers and service providers to make adjustments for a person’s disability except in cases where it would cause undue hardship. Section 504 also provides procedural safeguards for cases of non-compliance, but it does not provide funding to



implement requirements. For military special needs families living outside the United States and its territories, Section 504 does not apply. DoD facilities and programs overseas are subject to the laws of the host nation.

1.3.2 DoD Directive 1020.1

DOD Directive 1020.1, entitled “Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense,” implements Section 504. It directs all organizations under the Secretary of Defense to

- make all services and facilities accessible to people with disabilities (includes schools, chapels, commissaries, medical treatment facilities, child and youth services, etc.)
- ensure nondiscrimination in employment of DoD personnel
- establish procedures to file and manage complaints so they are resolved in a timely manner

1.3.3 Americans with Disabilities Act (ADA)

Signed into law in 1990, the Americans with Disabilities Act (Public Law 101-336) is a wide-ranging legislation intended to make American society more accessible to people with disabilities. It addresses five areas of discrimination.

- Employment—businesses must provide reasonable accommodations to protect the rights of individuals with disabilities in all aspects of employment.
- Public services—state and local government instrumentalities cannot deny services to people with disabilities, and public transportation systems must be accessible to them.
- Public accommodations—all new construction and modifications must be accessible to individuals with disabilities, and existing barriers to services must be removed from public places such as restaurants, grocery stores, retail stores, etc.
- Telecommunications—companies offering services to the general public must have telephone relay service for individuals who use telecommunication devices for the deaf.
- Miscellaneous—among other items, people are prohibited from coercing/ threatening or retaliating against the disabled or those attempting to aid people with disabilities in asserting their ADA rights.

The ADA did not have as great an impact on DoD and the armed forces as did the legislation prohibiting discrimination in government-funded activities, and it did not require implementing policy. However, the ADA has benefited military special needs families by removing barriers and opening doors in their communities, helping to make their lives easier and the American way of life more accessible.

1.4 Legislation and DoD Policy Governing Education of Exceptional Family Members

Before the enactment of legislation requiring free and appropriate public education for all children and young adults with disabilities, the future for many of them was likely to be dim. Thousands of children with mental retardation and mental illness lived in institutions that provided only minimal food, clothing, and shelter. Children with significant physical disabilities rarely left the homes or institutions where they lived. Even young people with excellent potential for educational and vocational success were merely accommodated rather than assessed, educated, and rehabilitated. According to the US Department of Education, it was not until the 1950s and 60s that the federal government, with strong support and advocacy of family associations, began to develop and validate practices for children with disabilities and their families. Early legislation focused on the training of special education teachers and supported programs for disability categories such as retardation, deafness, and blindness. This section describes key legal foundations for the public education of disabled persons today and DoD policy implementing the requirements of the law where it is responsible for educating the children of service members.

1.4.1 Individuals with Disabilities Education Act (IDEA)

Congress enacted the Education for All Handicapped Children Act (Public Law 94-142) in 1975. It was a landmark law to provide federal assistance to state and local education agencies to improve access to education by children with disabilities. Having been strengthened and broadened through six revisions/reauthorizations and a name change, the Individuals with Disabilities Education Act, or IDEA, is today one of the United States' most comprehensive laws. Part A covers general provisions. Part B addresses requirements for the education of children with disabilities. Part C addresses early intervention to identify, assess, and provide services to infants and toddlers at risk for developmental delay. Part D provides for national activities to

improve education of children with disabilities. At the heart of IDEA are six principles that school systems must fully adopt. The description of each principle is courtesy of the National Information Center for Children and Youth with Disabilities.

Free, appropriate public education (FAPE): FAPE means special education and related services that

- have been provided at public expense under public supervision and direction
- meet the standards of the state educational agency
- include an appropriate preschool, elementary, or secondary school education in the state involved
- are provided in conformity with an individualized education program

Appropriate evaluation: Evaluation activities should include gathering information related to enabling the school-age child to be involved in and progress in the general curriculum and the preschool child to participate in appropriate activities.

Individualized education program (IEP): An IEP is a written statement for each child with a disability that is developed, reviewed, and revised according to specific standards detailed in the legislation.

Least restrictive environment (LRE): The principle of LRE presumes that children with disabilities are most appropriately educated with their nondisabled peers. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Parent and student participation in decision making: “The Congress finds the following: ...Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by...strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home.”
{IDEA 97 Finding}

Procedural safeguards: Safeguards must be in place to ensure that

- the rights of children with disabilities and their parents are protected
- students with disabilities and their parents are provided with the information they need to make decisions about the provision of FAPE
- procedures and mechanisms exist to resolve disagreements between parties

Chapter three details how the requirements of IDEA have been implemented by state and local education agencies and DoD schools.

1.4.2 DoD Instructions 1342.12 and 1010.13

First published in 1981 to implement the requirements of the Defense Dependents' Education Act of 1978, DoD Instruction 1342.12 established policy and procedures to bring DoD schools in line with the requirements of Public Law 94-142. The current instruction, entitled "Provision of Early Intervention and Special Education Services to Eligible DoD Dependents," December 16, 2003, established policy for early intervention services and FAPE in the least restrictive environment in DoD schools, and it assigns responsibility for early intervention and some related services to Military Medical Departments. DoD Instruction 1010.13 further established policies and procedures for Military Medical Departments to provide related services in support of DoD schools overseas. These two instructions guarantee that children with special needs who attend or, except for their age, would attend a DoD school have the same educational rights as their peers in state and local school systems, and that the standards set for their education are as high or higher than those required under IDEA.

1.4.3 Vocational and Technical Education Act of 1998

The Carl D. Perkins Vocational and Technical Education Act of 1998 (Public Law 105-332) is a basic federal grant that funds secondary and post-secondary vocational and technical programs. It seeks to improve the academic and occupational competence of all segments of vocational students with emphasis on special populations. Special populations include, but are not limited to, students with disabilities and students who are academically or economically disadvantaged. Perkins Act funds may be used to provide vocational education services required in an IEP under IDEA and services necessary to meet the requirements of Section 504 of the Rehabilitation Act. Funds from this federal grant may be used for leasing, purchasing, or adapting equipment, mentoring, and providing support services to help students, including special populations, complete course work in order to get a job.

1.5 Service Programs for Special Needs

Each branch of service has policies and procedures implementing the requirements of DoD policy. But there are differences among the Services in how programs are defined and what activities they encompass. All of the Services have a mandatory personnel function that

- identifies family members with special medical and/or educational needs
- documents services they require
- considers needs during the personnel assignment process

Family support services may or may not be included with the personnel function in a comprehensive program. How each of the services organizes and manages mandatory enrollment processes is covered in the next chapter. The table below shows how each branch defines its program and where to find more information.

Branch	Program Name	Policy Document	Functions	Coordinator Locations
Army	Exceptional Family Member Program	AR-608-75	Personnel Family Support	Army Community Service Center
www.armycommunityservice.org/vacs_efm/home.asp				
Navy	Exceptional Family Member Program	SECNAVINST 1745.5 OPNAVINST 1754.2B	Personnel	Medical Treatment Facility
www.npc.navy.mil/CommandSupport/ExceptionalFamilyMember/				
Marine Corps	Exceptional Family Member Program	SECNAVINST 1745.5 MCO P1754.4A	Personnel Family Support	Marine Corps Community Service Centers
www.usmc-mccs.org/efmp/				
Air Force	Special Needs Identification and Assignment Coordination	(AFI pending)	Personnel	Medical Treatment Facility
www.afspecialneeds.org/home.asp				

Note: The US Coast Guard also provides support and assistance to families with special needs and requires them to enroll in the USCG Special Needs Program. As a component of the Department of Homeland Security, the Coast Guard is not included in this DoD document. For information on services for Coast Guard families with special needs, contact the Dependent Resource Coordinator with the nearest Coast Guard Work-Life Staff.