

July 5, 2007

Federal Docket Management System Office
1160 Defense Pentagon
Washington, DC 20301-1160

RE: Department of Defense
Office of the Secretary
32 CFR Part 216
[DoD-2006-OS-0136]
RIN 0790-AI15
Military Recruiting and Reserve Officer Training Corps Program
Access to Institutions of Higher Education
AGENCY: Department of Defense
ACTION: Proposed Rule

Dear Sir or Madam:

Founded in 1988 by a group of lesbian, gay, bisexual, and transgender (LGBT) attorneys, the National Lesbian and Gay Law Association (NLGLA) is the only national nonprofit organization comprised of lawyers, judges, and other legal professionals, law students and affiliated LGBT bar associations. NLGLA represents LGBT law student organizations from over 130 law schools across the country and presents the only national LGBT career fair, Lavender Law, featuring over 125 recruiters and over 400 law student candidates.

NLGLA endorses fair and nondiscriminatory access in legal recruitment and mandates that each of its recruiters at its career fair include sexual orientation as a protected class in their non-discrimination statements. Over 70% of the recruiters also include gender identity/expression in their nondiscrimination statements. In its role as the national voice for LGBT law students, NLGLA opposes the proposed rule regarding 10 U.S.C. § 983 (the “Solomon Amendment”) and supports the revisions endorsed by the National Association for Law Placement (NALP).

The Pentagon’s suggested provision of “most favorable access” has no tangible application in the on-campus recruiting process. Proposed § 216.3(e). “Most favorable access” is vague and generic; adherence to its standard would prove to be an unreasonable strain on law school career services offices.

Moreover, this new designation is wholly symbolic. The U.S. military is the only employer that – supported by the Federal law and Supreme Court ruling – is allowed to transgress against law schools’ nondiscrimination statements. The U.S. military already appears to possess access more favorable than any public or private sector counterpart.

The provision requiring schools to enforce “time, place and manner policies” is equally vague and unreasonable. Proposed § 216.4(a)(5). Again, assuming career placement officials could even determine how to comply, adherence to this standard would create excessive strain on law schools. Mandating such provisions, which carry harsh penalties for noncompliance, would remove law school career services professionals from their purpose: connecting students with suitable employers and employers with qualified

students. Since the language of “time, place and manner policies” is indistinct, schools that attempt, but do not have the logistical, financial, or human resources to enforce said policies may be found in breach and face dire, unfair consequences.

In conclusion, NLGLA opposes the proposed rule regarding the Solomon Amendment and agrees with NALP’s endorsed revisions. The current regulations provide military recruiters with access that is already equal in quality and scope to the access received by other employers. Any proposed change to most favorable recruiter access is not necessary. Further, it would be too difficult for law schools to enact and enforce, and may subject schools to severe and unfair penalties for noncompliance.

Respectfully Submitted,

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