

Membership Balance Plan  
Defense Advisory Committee for the Prevention of Sexual Misconduct

Agency: Department of Defense (DoD)

1. Authority: The Secretary of Defense, pursuant to section 550B of the National Defense Authorization Act for Fiscal Year 2020 (“the FY 2020 NDAA”) (Public Law 116-92), as amended by sections 533 - 535 of the National Defense Authorization Act for Fiscal Year 2021 (“the FY 2021 NDAA”) (Public Law 116-283), and in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 C.F.R. § 102-3.50(a), established the Defense Advisory Committee for the Prevention of Sexual Misconduct (DAC-PSM) as a non-discretionary advisory committee.
2. Mission/Function: Pursuant to subsection 550B(c)(1) of the FY 2020 NDAA, the DAC-PSM shall provide the Secretary of Defense and the Deputy Secretary of Defense (“the DoD Appointing Authority”), through the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), independent advice and recommendations on the prevention of sexual assault (including rape, forcible sodomy, other sexual assault, and other sexual misconduct (including behaviors on the sexual assault continuum of harm)) involving members of the Armed Forces and the policies, programs, and practices of each Military Department, each Armed Force, and each Military Service Academy for the prevention of sexual assault. Pursuant to section 535 of the FY 2021 NDAA, “Military Service Academy” includes the United States Coast Guard Academy (USCGA).

Pursuant to subsection 550B(c)(2) of the FY 2020 NDAA, as amended by subsections 533(1) and (2) of the FY 2021 NDAA, the DAC-PSM shall review, on an ongoing basis, the following:

- a. Closed cases involving allegations of sexual assault, as defined in subsection 550B(c)(1) of the FY 2020 NDAA;
- b. Efforts of institutions of higher education to prevent sexual assault and sexual harassment among students;
- c. Efforts among private employers to prevent sexual assault and sexual harassment among their employees;
- d. Evidence-based studies on the prevention of sexual assault and sexual harassment in the Armed Forces, institutions of higher education, and the private sector; and
- e. Any other information or matters that the DAC-PSM or the Secretary of Defense considers appropriate.

In accordance with a September 30, 2021 decision by the then-Secretary of Defense, the DAC-PSM will expand its review of the prevention of sexual assault policies, programs, and practices at each Military Service Academy to include reviewing similar matters at all DoD educational institutions and training facilities.

In addition to the reviews required by subsection 550B(c)(2) of the FY 2020 NDAA, for purposes of providing advice to the Secretary of Defense, the DAC-PSM shall also consult and coordinate with the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces on matters of joint interest to the two advisory committees as directed by subsection 550B(c)(3) of the FY 2020 NDAA.

In compliance with section 535 of the FY 2021 NDAA, the DAC-PSM shall advise the Secretary of Homeland Security, during times the U.S. Coast Guard is operating as a part of it, on policies, programs, and practices of the USCGA.

In accordance with subsection 550B(d) of the FY 2020 NDAA, as amended by sections 534 and 535 of the FY 2021 NDAA, not later than March 30<sup>th</sup> of each year, the DAC-PSM shall submit a report on the activities of the DAC-PSM during the preceding year to the DoD Appointing Authority, the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services and Transportation and Infrastructure of the House of Representatives.

3. Points of View: In accordance with subsection 550B(b) of the FY 2020 NDAA, the DAC-PSM shall consist of not more than 20 members, appointed by the Secretary of Defense from among individuals who have an expertise appropriate for the work of the DAC-PSM, including at least one individual with each expertise as

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follows:

- a. The prevention of sexual assault and behaviors on the sexual assault continuum of harm;
- b. Adverse behaviors, including the prevention of suicide and the prevention of substance abuse;
- c. The change of culture of large organizations; or
- d. Implementation science.

In accordance with subsection 550B(b)(2) of the FY 2020 NDAA, individuals appointed to the DAC-PSM may include individuals with experience in sexual assault prevention efforts of institutions of higher education, public health officials, and such other individuals as the Secretary of Defense considers appropriate. As further described in subsection 550B(b)(3) of the FY 2020 NDAA, no active-duty member of the Armed Forces, as defined by 10 U.S.C. § 101(a)(4), shall be appointed as a DAC-PSM member.

DAC-PSM members who are not full-time or permanent part-time federal civilian officers or employees, or active-duty member of the Uniformed Services, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as special government employee (SGE) members. DAC-PSM members who are full-time or permanent part-time Federal civilian officers or employees, or active-duty members of the Uniformed Services (excluding the Armed Forces), shall be designated pursuant to 41 C.F.R. § 102-3.130(a) to serve as regular government employee (RGE) members. The DoD, unless otherwise provided for by statute or Presidential directive, does not use representative members on DoD established or supported advisory committees.

The DoD, in evaluating candidates for DAC-PSM membership, considers the candidate's educational and professional experience concerning the subject matters expected to be handled by the DAC-PSM. The DoD has found that viewing the complex issues facing the DoD through a multidisciplinary advisory committee provides the DoD and, more importantly, the American public with a broader understanding of the issues informing subsequent policy decisions.

Membership shall be fairly balanced in terms of points of view represented and the functions to be performed by the DAC-PSM. The DAC-PSM's membership balance is not static, and the DoD Appointing Authority may change the membership based upon work assigned to the DAC-PSM by the DoD Appointing Authority or the USD(P&R), the DoD Sponsor.

Each member, based upon his or her individual experiences, exercises their own best judgment concerning matters before the DAC-PSM, does not represent any particular point of view, and discusses and deliberates in a manner that is free from conflicts of interest.

4. Other Balance Factors: N/A
5. Candidate Identification Process: The DoD, in selecting potential candidates for the DAC-PSM, accepts nominations from within and suggested nominations through the DAC-PSM's Designated Federal Officer (DFO) from without. The Department reviews the educational and professional credentials of individuals with expertise on matters relating to the prevention of sexual misconduct and bases its selection on this review and the subject matters being handled by the DAC-PSM.

The DAC-PSM's DFO, in consultation with the Director, Sexual Assault Prevention and Response Office, Office of Force Resiliency, Office of the USD(P&R) (OUSD(P&R)) and the Senior Prevention Advisor, Office of Force Resiliency, OUSD(P&R), shall review the credentials of each potential candidate and develop a slate of highly qualified candidates designed to create a multi-disciplinary team reflecting a diversity of background, perspective, and experience. The DFO will forward the slate of candidates to the USD(P&R) for consideration. The USD(P&R), in consultation with the Special Assistant to the Secretary of Defense for White House Liaison,

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reviews the list of potential candidates, and in such review, the USD(P&R) strives to achieve a balance between the professional credentials of the individuals and the near-term subjects to be reviewed by the DAC-PSM to achieve a membership that is diverse and inclusive, both in terms of the points of view to be represented and the functions to be performed by the DAC-PSM.

Before formal nominations are made to the DoD Appointing Authority, the list of potential nominees shall undergo a review by the DoD Office of General Counsel and the DoD Advisory Committee Management Officer (ACMO) to ensure compliance with Federal and DoD governance requirements, including compliance with the DAC-PSM's statute, charter, and membership balance plan. Following this review, the DoD ACMO prepares the appropriate DoD Appointment Approval Instrument for the Director of Administration and Management who submits it to the DoD Appointing Authority for approval.

Following approval by the DoD Appointing Authority, the candidates must complete appointment paperwork and training, to include any financial disclosure or other ethics requirements stipulated by the Office of Government Ethics (OGE) for advisory committee members.

All DAC-PSM members are appointed for a term of service of one-to-four years, with annual renewals. No member, unless approved by the DoD Appointing Authority, may serve more than two consecutive terms of service on the DAC-PSM, including its subcommittees. Membership vacancies for the DAC-PSM will be filled in the same manner as described above.

6. Subcommittee Balance: The DoD, when necessary and consistent with the DAC-PSM's mission and DoD policy and procedures, may establish subcommittees, task forces, task groups, or working groups ("subcommittee") to support the DAC-PSM.

Individuals considered for appointment to any subcommittee of the DAC-PSM may come from members of the DAC-PSM or from new nominees, as recommended by the USD(P&R) and based upon the subject matters under consideration. Pursuant to DoD policy and procedures, the USD(P&R) and DFO shall follow the procedures described above in Section 5 to appoint individuals to a subcommittee.

Subcommittee members shall be appointed for a term of service of one-to-four years, with annual renewals; however, no member will serve more than two consecutive terms of service on a subcommittee unless previously approved by the DoD Appointing Authority. Subcommittee members who are not full-time or permanent part-time Federal civilian officers or employees, or active-duty members of the Uniformed Services, shall be appointed as experts or consultants pursuant to 5 U.S.C. § 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal civilian officers or employees, or active-duty members of the Uniformed Services, shall be designated pursuant to 41 C.F.R. § 102-3.130(a) to serve as RGE members.

7. Other: As nominees are considered for appointment to the DAC-PSM, the DoD adheres to the Office of Management and Budget's Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Committees, and Commissions (79 FR 47482; August 13, 2014) and the rules and regulations issued by OGE.
8. Date Prepared: November 30, 2022.