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August 9, 2018

Mr. Glenn A. Fine
Principal Deputy Inspector General
Performing the Duties of the Inspector General
Department of Defense
4800 Mark Center Drive
Alexandria, VA 22350-1500

Dear Mr. Fine:

We are writing on behalf of military families around the world who need your office's involvement to ensure the Department of Defense ("DOD") is meeting its legal obligations to support our children's special needs. While there has been some attention given to this concern over the past decade, including a recent 2018 General Accountability Office ("GAO") report, we believe DoD's continued failure to follow the law, its history of mismanagement of these critical programs, and the inconsistent approaches across the Services warrants the in-depth type of review and oversight only your office can provide.

I am signing this letter on behalf of 35 others who are active duty members or their spouses who have a child with a disability and/or a special educational need and/or a spouse with a chronic medical condition, commonly referred to as an "Exceptional Family Member." There are also several Coast Guard and retired military families who have endured the impact of inappropriate programing and policies during their service to our country, who also want to see improvements for their fellow military members and for those still serving. Select stories from families impacted by disabilities are included in Attachment A. The other families on whose behalf this letter is submitted would rather not have their names be made public, partially out of fear of retaliation.¹

Military families impacted by special needs face a unique set of challenges as a result of frequent moves and having to find new specialized medical care and new special education services in new communities in this country and overseas. In response to these compelling concerns, Congress created the Office of Special Needs within USD P&R's Office of Military Family Readiness Policy almost a decade ago. During this time, the DoD has notoriously failed to fulfill its responsibilities. As a result, the readiness of our troops has been needlessly impacted and our young children who needed the support in 2010 have become teenagers. Below we outline how Congress has set forth its expectations and how the DoD has failed to meet them. We believe this consistent non-compliance with congressionally-mandated support of military families impacted by special needs warrants your special attention.

¹ These families have given their permission to release their names to the IG on the condition that their anonymity be protected.

Statutory Background

Congress added a provision to Title 10 to detail how DoD is to support military families with special needs. The 2010 National Defense Authorization Act Conference Report² provides a clear statement of Congress' intent in creating what would eventually become 10 U.S.C. § 1781c. In addressing section 563, "Support for military families with special needs," the Conference Reports explains:

...The House recedes with an amendment that would establish an Office of Community Support for Military Families with Special Needs within the Office of the Under Secretary of Defense for Personnel and Readiness, which would have the responsibility to develop and implement a comprehensive policy and program of support for military families with special needs, to establish the capability to provide timely access to information and referral services, and to oversee the expansion of case management and individualized support services provided by the military departments. The amendment would also authorize the Secretary to establish a foundation to enhance the Department of Defense's programs, training, and research.

The conferees agree to an increase of \$50.0 million to be available for this purpose, which is reflected in the tables for this Act. The conferees believe that expanding support for families with special needs is a critical requirement for the all-volunteer force. Regrettably such programs have not been a priority for the Department, as evidenced by its failure to implement requirements for expanded services for autism support as required by section 587 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

The conferees are also concerned that enrollment in the Exceptional Family Member Program, which is crucial to ensuring that the needs of eligible dependents are met, is far lower than necessary to reach the estimated 220,000 family members who are eligible for such enrollment. The conferees expect that implementation of this section will result in substantial improvements in identification and outreach to larger numbers of individuals who need support and coordination of available services, expansion of case management services, more direct training and counseling for parents and families, and timely access to information and referral to both Department of Defense and other federal, State, and local special needs resources and services.

The conferees direct the Secretary to examine ways to mitigate the challenges for families who may be disadvantaged by relocation during their military service, and to ensure that enrollment in the Exceptional Family Member Program, or any successor to that program, is perceived as a positive and necessary family readiness resource. The conferees applaud those who, through their advocacy for families with autism, have illuminated the shortfalls in support for families with all special needs that this section is intended to address.

As enacted, 10 U.S.C. 1781c established the Office of Special Needs.³ Its stated purpose is:

...to enhance and improve Department of Defense support around the world for military families with special needs (whether medical or educational needs) through the development of appropriate policies, enhancement and dissemination of appropriate information throughout the

² 2010 National Defense Authorization Act Conference Report (HR 111-288), page 738.

<https://www.congress.gov/111/crpt/hrpt288/CRPT-111hrpt288.pdf>

³ 10 USC 1781c is set forth in Attachment B.

Department of Defense, support for such families in obtaining referrals for services and in obtaining service, and oversight of the activities of the military departments in support of such families.

The law created significant responsibilities on the Office of Special Needs, including to develop comprehensive policy, identify gaps in services, and to establish, maintain, and oversee:

(1) A program to provide information and referral services on special needs matters to military families with special needs matters on a continuous basis regardless of the location of the member's assignment. The program shall provide for timely access by members of such military families to individual case managers and counselors on matter relating to special needs.

(2) A program for outreach on special needs matters for military families with special needs. The program shall ---

(A) assist military families in identifying whether or not they have a member with special needs; and

(B) provide military families with special needs with information on the services, support, and assistance available through the Department of Defense regarding such members with special needs, including information on enrollment in programs of the military department for such services, support, and assistance.

The law also requires the Office to monitor the programs of the military departments and advise the Secretary of Defense on the adequacy of such programs as well as for the Secretary of Defense to submit a report to Congress by April 30 of each year about the Office's activities.

Most recently, in the 2017 NDAA, Section 578 required GAO to assess and report on 10 elements related to EFMPs not later than December 31, 2017.

Reviews and Deficiencies Over the Years

In the time since the Office of Special Needs was created to develop, implement, and oversee a policy to support families who have a family member with a special need, it has been obvious to us not much has improved. This failure has been documented many times and several reports have been issued within DoD with recommendations for improvement:

- In January 2010, the Air Force Inspector General substantiated three allegations made by 16 Air Force families regarding failure of the Air Force to implement its Air Force Instruction 40-701, "Special Needs Identification and Assignment Coordination". The redacted Report of Investigation is attached.⁴
- Multiple recommendations have been made over the years to the Secretary of Defense from the DoD Military Family Readiness Council⁵. In 2010, one of the recommendations of the Council

⁴ Attachment C.

⁵ DoD Military Family Readiness Council Annual Reports, <http://www.militaryonesource.mil/-/annual-report-of-the-department-of-defense-military-family-readiness-council-1>

was to, “Assess the Issues surrounding the Exceptional Family Member Program (EFMP) to build robust assistance systems for military families with special needs.” Yet, in 2016, the Council was still recommending to, “Continue the Standardization of the Exceptional Family Member Program (EFMP) across all Military Services and strengthen related service delivery components of health care for family members with special needs.” For 2017, one focus area the Council identified was: “EFMP, Health Care and Special Education Components of services which support special needs families.”

- The Defense Health Board’s recent report on Military Pediatrics recognized EFMP varies by Service.⁶ The report noted, “Service-level EFMP’s have a limited case management role, with the exception of the U.S. Marine Corps EFMP” and “Some families experienced a complete absence of case managers at their location and have to identify, research, and contact specialists on their own, sometimes traveling several hours each way to receive care.”⁷
- In the 2013 National Defense Authorization Act, the Congress included a study to be conducted by the USDP&R, commonly referred to as the “TRICARE for Kids Study” (SEC. 735. STUDY ON HEALTH CARE AND RELATED SUPPORT FOR CHILDREN OF MEMBERS OF THE ARMED FORCES). Six of the nine elements dealt specifically with special needs military children. Advocates for military families were not impressed by DoD’s response to the Congressional inquiry: <http://www.usmclife.com/wp-content/uploads/2014/10/TFK-Coordinated-Response-Final.pdf>
- The Air Force conducted an EFMP Rapid Improvement Event in the summer of 2017, the results of which are attached.⁸ Similar reports may exist for the other services. We have also received confirmation the Air Force is holding another such event August 28 and 29, 2018.
- There may be other relevant reports related to the Exceptional Family Member Program we have not seen. For example, our understanding is the Honorable Robert Wilkie, then Acting Under Secretary of Defense for Personnel and Readiness, directed a review in 2017 of the DoD and services’ Exceptional Family Member Programs by Colonel Tammy Hinkston, USAF.

The GAO has also repeatedly been asked by Congress to conduct reviews related to services for military children with special needs:

- “*EDUCATION OF MILITARY DEPENDENT STUDENTS: Better Information Needed to Assess Student Performance*” was published in March 2011.⁹ The purpose of GAO’s review was to review the use of supplemental funds provided to school districts with a high number of military dependent students. School districts surveyed reported issues related to serving military dependent students with special needs was one of the greatest challenges they faced.
- “*Department of Defense Policies on Accommodating Children with Special Needs in Child Care Programs*”, was published in January 2013.¹⁰ GAO reported the Services have different definitions of special needs and data on accommodations to children with special needs is not

⁶ Defense Health Board Report on Military Pediatric Care, December 18, 2017: <https://health.mil/Reference-Center/Reports/2017/12/18/Pediatric-Health-Care-Services-Report>

⁷ *Id.* at Appendix F, p. 152.

⁸ Attachment D.

⁹ GAO Report GAO-11-231, <https://www.gao.gov/products/GAO-11-231>

¹⁰ GAO Report GAO-13-165R, <https://www.gao.gov/products/GAO-13-165R>

kept centrally. It also recognized the Office of Special Needs does not have an oversight role or enforcement authority over DoD child care. The report did not make any recommendations.

- “*Better Oversight Needed to Improve Services for Children with Special Needs*” was published in September 2012.¹¹ GAO found each military branch implements its Exceptional Family Member program differently and they are not always as effective as they could be. The report recognized the Office of Special Needs lacks a strong oversight role and enforcement authority and notes some DoD officials expressed concern about the lack of military leadership’s sustained attention and commitment to EFM programs. It also reported the Office of Special Needs lacked comprehensive benchmarks and performance goals. GAO recommended the Secretary of Defense direct the Office to establish uniform benchmarks and performance goals for the identification/enrollment and assignment coordination components of the military branches’ EFM programs. Another recommendation was to have DoD direct the Office of Special Needs to develop and implement a process to assess the branches’ compliance with DoD-level EFM program policies and requirements and to report noncompliance to senior leadership. In its response to the draft report, DoD anticipated they would be finalizing benchmarks and performance goals in mid-2013 and compliance with the EFM policy (once issued) would be assigned to the Assistant Secretary of Defense for Readiness and Force Management who will direct the military branches to take any corrective action.

GAO’s Most Recent Report

Almost six years after their 2012 report, GAO produced a report in May 2018 required by the 2017 NDAA.¹² The report, entitled “*DOD Should Improve Its Oversight of the Exceptional Family Member Program*” clearly demonstrates DoD’s lack of commitment and progress on this issue over preceding years. The NDAA asked GAO to review 10 elements; not all elements were evaluated by GAO and those missing elements are ripe for DoD IG review and assessment.

The data reported by GAO paints a shocking picture. GAO reported, as of February 2018, the Services’ EFMP’s collectively serve more than 132,500 enrolled military family members with special needs. DoD policy requires each family with special needs have a service plan developed and updated. Yet, the total number of service plans created (as of FY 2016) across all services was less than 6,000. The number of family support personnel at each of the Military Services’ installations is more than disappointing. The Air Force, for example, reported in FY 2016 it had 58 family support providers or related personnel for the 34,855 exceptional family members it is supposed to support. The Service with the best ratio is the Marine Corps, which had 88 personnel at 13 installations serving a special needs population of 9,150.¹³

As it did in 2012, GAO found in 2018 the support to families with special needs varies widely for each branch of the Military Service. As a result, the type, amount, and frequency of assistance families receive varies from Service to Service and when a service member from one Service is assigned to a joint base led by another Service. GAO also notes DoD still does not have performance measures in place, allowing the Office of Special Needs to evaluate the results of the Services’ programs, as it has been required to do since the enactment of 10 U.S.C. 1781c in 2011. And, while the Office of Special Needs

¹¹ GAO Report GAO-12-680, <https://www.gao.gov/products/GAO-12-680>.

¹² Public Law 114-328, December 23, 2016, National Defense Authorization Act for Fiscal Year 2017, Section 578; Attachment E.

¹³ GAO Report, GAO-18-348, at p. 13.

finally issued a policy as required by the law, they did only so as recently as April 19, 2017, and, contrary to law, that policy – DoD Instruction 1315.19 – is missing several of the law’s key requirements. In one example, GAO noted:

“By largely deferring to the Services to design, implement, and monitor their EFMPs’ performance, DOD cannot, as required by the NDAA for Fiscal Year 2010, fully determine the adequacy of the Services’ EFMPs in serving families with special needs, including any gaps in services these families receive, because it has not built a systematic process to do so.” GAO Report at p. 24.

Significant to us is that DoD Instruction 1315.19 was issued before the DoD finalized rulemaking with regard to the EFMP. GAO did not address what has happened to DoD’s proposed regulation on the EFMP that has languished without explanation since the comment period closed on February 9, 2016. Significant input and questions (105 public comments) from a wide assortment of special needs military families and military non-profit organizations made very similar points to the findings in the GAO report and have yet to be answered publicly. Issuing the policy without public acknowledgment or resolution of public comments to the proposed regulation is consistent with DoD’s history of mismanagement of this program.

Finally, the recommendations in GAO’s 2018 report are almost identical to those made by GAO in 2012: (1) that DoD should assess and report to Congress the extent to which each Service provides sufficient family support personnel and services plans; (2) that DoD should develop common performance metrics for assignment coordination and family support; and (3) that DoD should evaluate the results of the Services’ monitoring activities.

A DoD IG Review is Needed

While it may appear based on the above reviews DoD has addressed the issue of support for our families with special needs, there has been very little concrete action. DoD’s repeated commitments to improve have not resulted in any notable progress. It is time for someone to get to the root cause of this failure so our families get more than empty promises. We believe the DoD OIG has a unique ability to hold responsible DoD authorities and military branches accountable for complying with the law. Without your involvement, it is likely GAO’s recent report will be filed away and the same problems will continue.

We note with interest that, pursuant to the Senate Armed Services Committee Report to the FY 2019 NDAA, your office has recently announced an evaluation of the DoD and DoD Education Activity response to serious incidents of student misconduct on military installations. That evaluation relates to our concerns because children with disabilities are three times more likely than children without them to be victims of sexual abuse, and the likelihood is even higher for children with intellectual or mental health disabilities.¹⁴ We encourage you to consider in your current review whether DoD and the Services are properly considering the impact of child victims’ special needs in the reporting and response services that are provided. It could be you will gather valuable research to contribute to the more in-depth review we are suggesting you undertake with regard to DoD’s EFMP and the Office of Special Needs.

¹⁴ See, <https://www.vera.org/publications/sexual-abuse-of-children-with-disabilities-a-national-snapshot>.

Thank you for your consideration of our request.

Sincerely,

Handwritten signatures of Major Matthew and Jennifer Penhale. The signature on the left is for Matthew Penhale and the one on the right is for Jennifer Penhale.

Major Matthew and Jennifer Penhale

US Air Force, jenniferpenhale@yahoo.com

(206) 734-5579

Also on behalf of 24 other families whose names and contact information can be provided separately to the IG.

CC:

Representative Rodney P. Frelinghuysen, Chairman, Committee on Appropriations

Representative Nita M. Lowey, Ranking Member, Committee on Appropriations

Representative Mac Thornberry, Chairman, Committee on Armed Services

Representative Adam Smith, Ranking Member, Committee on Armed Services

Senator Richard C. Shelby, Chairman, Committee on Appropriations

Senator Patrick J. Leahy, Vice Chairman, Committee on Appropriations

Senator John McCain, Chairman, Committee on Armed Services

Senator Jack Reed, Ranking Member, Committee on Armed Services

Select Stories of Military Families Impacted by Disabilities

While the GAO report focused on the DoD's Exceptional Family Member Program, our families have significant issues that span multiple area, including special education, healthcare needs, and accessing community and state resources. Congress has dedicated significant resources in the last decade of NDAA's to address these issues. Unfortunately, we think this article, titled a "[Pattern of Malfeasance](#)", is correct when the author notes,

"Simply put, the absence of sustained and comprehensive leadership oversight of essential medical care and support for military children with special needs has led to a series of public missteps that erode faith in the system and negatively affect outcomes. Families that already shoulder tremendous responsibilities feel assaulted and given the number of threats to their child's continued services, question the Defense Department's intent."

Reviewing not only the following stories from six military families who signed this complaint, I urge you to read the stories collected from families over the last decade; all of which continuously point to issues for these military families:

- [Family Stories Collected for 2012 SASC Hearing](#)
- [EFMP Federal Registry Comments by Parents](#)
- [Military Family Comments for DoD Military Family Readiness Council Feb 2017](#)

Some of our stories.



Figure 1 The Davis Family, US Air Force

Sarah Davis is an Air Force spouse, whose husband is currently deployed to the Middle East. They live in Anne Arundel County, MD with their five children. Their daughter, Lillianne, is a young lady impacted by dyslexia. A story in the Baltimore Post noted how Anne Arundel schools spent over \$31,000 in legal fees to deny Lillianne a special education test that cost less than \$3000.¹⁵ Shortly after going public with their story, the Davis family received a call from Child Protective Services, an anonymous complaint filed against the Davis family for advocating for their child's rights. While the CPS complaint

¹⁵ <https://thebaltimorepost.com/anne-arundel-family-fights-school-system-for-denying-dyslexia-evaluation/>

has been resolved in their favor, it's unfortunate the family had no assistance from the Air Force in this experience.¹⁶



Figure 2 The Carrig Family, US Army

Austin Carrig is an Army spouse who advocates for their daughter, Melanie, as they are stationed in the DC metro area. Their daughter, who happens to have Down's Syndrome, was denied a cochlear implant by their local military treatment facility, being told "the implant cost could be better used for a 'typical' child'." Respite care sorely needed has been unavailable and the local Army EFMP program has been ineffectual.



Figure 3 The Penhale Family, US Air Force

The Penhale's are an Air Force family, who have experienced first-hand the numerous inefficiencies and sluggish improvements (and promised improvements yet to be carried out) with the EFMP (both medical and educational aspects). Last year, they moved from Ft Hood, Texas to MacDill AFB, Florida. As an Air Force family on an Army base, they weren't allowed to access the Army EFMP resources and when it

¹⁶ <https://thebaltimorepost.com/military-mom-and-child-advocate-targeted-by-child-protective-services-after-childs-dyslexia-story-receives-media-attention/>

came time to PCS, had to utilize the Air Force EFMP at Dyess AFB, over two hours away. When they arrived at MacDill AFB, it was apparent this “expedited” Air Force base didn’t have the capabilities, in either medical or educational aspects, their children needed. After a significant fight, they were shortly PCS’d to Washington DC, where they reside today.

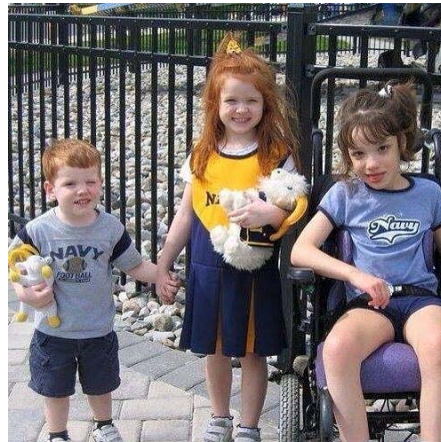


Figure 4 The Samuels Family, US Navy

Mark and Jennifer Samuels, a retired Navy family, had to sue DoD (when they were still active duty) when TRICARE attempted to recoup medically necessary therapy for their daughter, Kaitlyn.¹⁷ They originally used the TRICARE administrative appeals process, paying thousands of dollars out of pocket. The administrative law judge at the last level of appeal agreed with the Samuels family, only to then have DoD dare the family to sue them. Thanks to pro bono legal help, DoD finally settled the claim prior to going to trial.



Figure 5 The Brown Family, US Army

¹⁷ <http://www.dallasobserver.com/news/a-navy-captains-increasingly-absurd-fight-against-military-insurer-to-pay-for-disabled-daughters-physical-therapy-7115423>

Don and Ashley Brown advocate for their son, Bo, who has autism. Their experience living in Hawaii has been one of tremendous disappointment, with the Army respite program ineffective and school system abysmal. Until they were stationed in Hawaii, Bo was an integral part of his family. Because of the lack of school-based educational interventions and inadequate medical care, Bo has been sent off island to a residential treatment facility for the past year, away from his family.



Figure 6 The Norman Family

Cassidy and Michelle Norman are currently living in Virginia Beach, VA with their two children. Their daughter, Marisa, was born at 27 weeks and has multiple diagnoses to include Cerebral Palsy/Right Hemiplegia, Hearing Loss, Auditory Processing Disorder, ADHD, OCD, and Anxiety. After working with the public school for a year, with no reasonable progress, the Normans were forced to sue Virginia Beach City Public Schools (VBCPS) for a denial of a Free and Appropriate Public Education (FAPE). The Normans won in their Due Process hearing, including private placement at a school for students with learning disabilities. The school district appealed the decision and the Normans won again in the Fourth Circuit Court. VBCPS has spent over \$280,000 fighting their family and is still denying an appropriate education.¹⁸ During this 4-year battle, Cassidy, who has served for over 25 years in the US Navy, was deployed for over 2 years as part of the Naval Nuclear Propulsion Program, including an upcoming Commanding Officer tour of the USS MOUNT WHITNEY, qualifying him to be selected to command a nuclear-powered aircraft carrier. The EFMP program was unable to help in any manner - no resources,

¹⁸ <https://www.stripes.com/news/falling-through-the-cracks-military-families-say-their-special-needs-children-are-especially-vulnerable-1.463368>

no information, no advice. The Normans are now preparing for a second due process hearing in case the school once again ignores state and federal law. The Normans continue to carry the additional high workload on their own, a significant emotional and financial burden, as they fight for their daughter's education rights. The impact on family and military readiness and retention is significant.

10 USC §1781c

Office of Community Support for Military Families With Special Needs

(a) Establishment.—There is in the Office of the Under Secretary of Defense for Personnel and Readiness the Office of Community Support for Military Families With Special Needs (in this section referred to as the “Office”).

(b) Purpose.—The purpose of the Office is to enhance and improve Department of Defense support around the world for military families with special needs (whether medical or educational needs) through the development of appropriate policies, enhancement and dissemination of appropriate information throughout the Department of Defense, support for such families in obtaining referrals for services and in obtaining service, and oversight of the activities of the military departments in support of such families.

(c) Director.—(1) The head of the Office shall be the Director of the Office of Community Support for Military Families With Special Needs, who shall be a member of the Senior Executive Service or a general officer or flag officer.

(2) In the discharge of the responsibilities of the Office, the Director shall be subject to the supervision, direction, and control of the Under Secretary of Defense for Personnel and Readiness.

(d) Responsibilities.—The Office shall have the responsibilities as follows:

(1) To develop and implement a comprehensive policy on support for military families with special needs as required by subsection (e).

(2) To establish and oversee the programs required by subsection (f).

(3) To identify gaps in services available through the Department of Defense for military families with special needs.

(4) To develop plans to address gaps identified under paragraph (3) through appropriate mechanisms, such as enhancing resources and training and ensuring the provision of special assistance to military families with special needs and military parents of individuals with special needs (including through the provision of training and seminars to members of the armed forces).

(5) To monitor the programs of the military departments for the assignment of members of the armed forces who are members of military families with special needs, and the programs for the support of such military families, and to advise the Secretary of Defense on the adequacy of such programs in conjunction with the preparation of future-years defense programs and other budgeting and planning activities of the Department of Defense.

(6) To monitor the availability and accessibility of programs provided by other Federal, State, local, and non-governmental agencies to military families with special needs.

(7) To conduct periodic reviews of best practices in the United States in the provision of medical and educational services for children with special needs.

(8) To carry out such other matters with respect to the programs and activities of the Department of Defense regarding military families with special needs as the Under Secretary of Defense for Personnel and Readiness shall specify.

(e) Policy.—(1) The Office shall develop, and update from time to time, a uniform policy for the Department of Defense regarding military families with special needs. The policy shall apply with respect to members of the armed forces without regard to their location, whether within or outside the continental United States.

(2) The policy developed under this subsection shall include elements regarding the following:

(A) The assignment of members of the armed forces who are members of military families with special needs.

(B) Support for military families with special needs.

(3) In addressing the assignment of members of the armed forces under paragraph (2)(A), the policy developed under this subsection shall, in a manner consistent with the needs of the armed forces and responsive to the career development of members of the armed forces on active duty, provide for such members each of the following:

(A) Assignment to locations where care and support for family members with special needs are available.

(B) Stabilization of assignment for a minimum of 4 years.

(4) In addressing support for military families under paragraph (2)(B), the policy developed under this subsection shall provide the following:

(A) Procedures to identify members of the armed forces who are members of military families with special needs.

(B) Mechanisms to ensure timely and accurate evaluations of members of such families who have special needs.

(C) Procedures to facilitate the enrollment of such members of the armed forces and their families in programs of the military department for the support of military families with special needs.

(D) Procedures to ensure the coordination of Department of Defense health care programs and support programs for military families with special needs, and the coordination of such programs with other Federal, State, local, and non-governmental health care programs and support programs intended to serve such families.

(E) Requirements for resources (including staffing) to ensure the availability through the Department of Defense of appropriate numbers of case managers to provide individualized support for military families with special needs.

(F) Requirements regarding the development and continuous updating of an individualized services plan (medical and educational) for each military family with special needs.

(G) Requirements for record keeping, reporting, and continuous monitoring of available resources and family needs under individualized services support plans for military families with special needs, including the establishment and maintenance of a central or various regional databases for such purposes.

(f) Programs.—(1) The Office shall establish, maintain, and oversee a program to provide information and referral services on special needs matters to military families with special needs on a continuous basis regardless of the location of the member's assignment. The program shall

provide for timely access by members of such military families to individual case managers and counselors on matters relating to special needs.

(2) The Office shall establish, maintain, and oversee a program of outreach on special needs matters for military families with special needs. The program shall—

(A) assist military families in identifying whether or not they have a member with special needs; and

(B) provide military families with special needs with information on the services, support, and assistance available through the Department of Defense regarding such members with special needs, including information on enrollment in programs of the military departments for such services, support, and assistance.

(3)(A) The Office shall provide support to the Secretary of each military department in the establishment and sustainment by such Secretary of a program for the support of military families with special needs under the jurisdiction of such Secretary. Each program shall be consistent with the policy developed by the Office under subsection (e).

(B) Each program under this paragraph shall provide for appropriate numbers of case managers for the development and oversight of individualized services plans for educational and medical support for military families with special needs.

(C) Services under a program under this paragraph may be provided by contract or other arrangements with non-Department of Defense entities qualified to provide such services.

(g) Resources.—The Secretary of Defense shall assign to the Office such resources, including personnel, as the Secretary considers necessary for the discharge of the responsibilities of the Office, including a sufficient number of members of the armed forces to ensure appropriate representation by the military departments in the personnel of the Office.

(h) Reports.—(1) Not later than April 30 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the activities of the Office.

(2) Each report under this subsection shall include the following:

(A) A description of any gaps in services available through the Department of Defense for military families with special needs that were identified under subsection (d)(3).

(B) A description of the actions being taken, or planned, to address such gaps, including any plans developed under subsection (d)(4).

(C) Such recommendations for legislative action as the Secretary considers appropriate to provide for the continuous improvement of support and services for military families with special needs.

(i) Military Family With Special Needs.—For purposes of this section, a military family with special needs is any military family with one or more members who has a medical or educational special need (as defined by the Secretary in regulations for purposes of this section), including a condition covered by the Extended Health Care Option Program under section 1079f of this title.

(Added Pub. L. 111–84, div. A, title V, §563(a)(1), Oct. 28, 2009, 123 Stat. 2304; amended Pub. L. 111–383, div. A, title V, §582(a), (b), title X, §1075(b)(24), Jan. 7, 2011, 124 Stat. 4226, 4227, 4370.)

REPORT OF INVESTIGATION (ROI): CATEGORY I
2 December 2009 – 12 January 2010

1. IG Investigator: Major (b)(6) Chief of Intakes, SAF/IGQ

2. Grade and Name of Complainant: Mr. Jeremy Hilton (ACTS # 2009-09299)

3. Authority and Scope:

The Secretary of the Air Force has sole responsibility for the function of The Inspector General of the Air Force (Title 10, United States Code, Section 8014). When directed by the Secretary of the Air Force or the Chief of Staff, The Inspector General of the Air Force has the authority to inquire into and report upon the discipline, efficiency, and economy of the Air Force and performs any other duties prescribed by the Secretary or the Chief of Staff (Title 10, United States Code, Section 8020). Pursuant to AFI 90-301, *Inspector General Complaints Resolution*, authority to investigate IG complaints within the Air Force flows from SAF/IG to IG offices at all organizational levels.

Lieutenant General Marc E. Rogers, The Inspector General of the Air Force, appointed Major (b)(6) on 2 December 2009 to conduct an investigation into Mr. Hilton's allegations. Mr. Hilton filed his complaint with the Department of Defense Inspector General (DoD/IG) Hotline office on 24 September 2009 and the complaint was forwarded to the SAF/IG Office on 13 November 2009. After preliminary analysis, this investigation was conducted from 2 December 2009 to 12 January 2010 at the Office of the Secretary of the Air Force Inspector General Complaints Resolution Directorate (SAF/IGQ), Arlington, Virginia.

4. Background and Allegations:

The objective of this investigation was to determine the facts and circumstances bearing on a complaint submitted by Mr. Jeremy Hilton (on behalf of 16 families) alleging serious discrepancies in the Air Force implementation of its instruction related to the support it provides to special needs families and to review all aspects of the facts and circumstances in the management of the Air Force's Exceptional Family Member Program (EFMP).

In accordance with Air Force Instruction 90-301, *Inspector General Complaints Resolution*, paragraph 2.7, SAF/IGQ took receipt of a complaint Mr. Hilton filed with the DoD/IG Hotline on 13 November 2009. The Air Force IG subsequently appointed an Investigating Officer to conduct an investigation addressing the following allegations. The findings and conclusions for each allegation are listed following each allegation. These findings will be forwarded to Headquarters Air Force, Deputy Chief of Staff, Manpower, Personnel and Services (HAF/A1) and to Headquarters Air Force, Surgeon General (HAF/SG) offices for action.

The complaint centers on the alleged inadequate Air Force support and services to its families with special needs as outlined in Air Force Instruction (AFI) 40-701, *Special Needs Identification and Assignment Coordination (SNLAC)*, dated 8 August 2008.

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AFI 40-701, *SNIAC* implements Air Force Policy Directive (AFPD) 40-7, *Special Needs Identification and Assignment Coordination*, 16 March 2007. It describes the responsibilities of Air Force personnel with regard to the SNIAC process, in Military Treatment Facilities (MTFs), the Air Force Personnel Center (AFPC), and in other agencies that are instrumental to the implementation and operation of the Air Force SNIAC process. The SNIAC process encompasses the medical and educational review functions that support accompanied military assignments, the EFMP, and the Department of Defense's Educational and Developmental Intervention Services (EDIS).

AFI 40-701 supports portions of AFI 36-2110, *Assignments*, 20 April 2005, AFI 36-3020, *Family Member Travel*, 10 June 1994, and AFI 36-2102, *Base-Level Relocation Procedures*, 18 September 2006. AFI 40-701 applies to all military and civilian personnel and their family members entitled to receive medical care in MTFs as specified in AFI 41-115, *Authorized Health Care and Health Care Benefits in the Military Health Services System*, 28 December 2001. It also applies to Department of Defense (DoD) civilian employees seeking information about availability of services overseas for family members with special needs. This directive does not apply to Air National Guard members and traditional Air Force Reserve Component members. Family members of Reserve Component members who are on Active Duty for more than 30 days may be eligible for supportive services upon request, but Reserve Command maintains responsibility for processing accompanied assignments for Reserve Component service members and their family members.

The 16 families listed in the complaint were contacted and each offered an opportunity to submit their personal experiences and interactions with the Air Force EFMP, SNIAC process and their quest for ongoing community support. The Chief Complainant, Mr. Jeremy Hilton (and his wife Major Renae Hilton) was interviewed and electronic mail responses from 11 of the 16 families listed on the complaint were received by the investigating officer as part of the investigation. The families provided their EFMP experiences and consented to release of their information to any agency connected with facilitating positive changes and recommendations to improve the program.

The information gathered from the interviews and exchanges of information from the families, revealed the support provided to Air Force families with special needs has been lacking for years and has been under review by the Air Force for more than a year. A headquarters level Families With Special Needs Integrated Process Team (IPT) was chartered to research the program and make recommendations for improvement. This cross functional team was chaired by SAF/MRM since August 2008 with representatives from AFMOA/SGH, AFMOA/SG3, AFPC/DPAP and AF/A1SA. To complete the investigation for this complaint, the following key members associated with the IPT were interviewed; Ms. (b)(6),(b)(7)(C) (Chairs this ongoing IPT), Lt Col (b)(6),(b)(7)(C) (Program Manager, AF Programs for Families with Special Needs; Educational and Developmental Intervention Services) and Ms. (b)(6),(b)(7)(C) (Chief, Humanitarian/EFMP Assignment Section). This complaint and IPT summary was also discussed with Ms. (b)(6),(b)(7)(C) (Special Assistant to HAF/A1).

The IPT revealed four (4) major findings: (1) No standards (policy) for community support services; (2) No designated staff to coordinate community support services e.g., schools liaison; (3) Lack of adequate respite care services; (4) Current stabilization policy does not address unique needs for longer term assignments for Airmen with exceptional family members. The IPT presented three (3) recommendations for Air Force senior leader approval and implementation; (1) Establish manning at Air Force installations for support services; (2) Allocate funding for respite care services; (3) Revise stabilization policy to permit Airmen with exceptional family members to request longer term assignments (TAB 5).

Through complaint clarification with Mr. Hilton, inputs from 11 of the families listed on the complaint, summary from the IPT and associated interviews, the following allegations were developed and analyzed:

Allegation #1:

Currently, Air Force installations do not have a designated Special Needs Coordinator (SNC) trained and experienced in working with special needs families, community support services (on and off base) and whose primary responsibility is to assist families with special medical and educational needs (currently at or being assigned to the installation). **SUBSTANTIATED.**

Allegation #2: Currently, installations across the Air Force are not following AFI 40-701; *Special Needs Identification and Assignment Coordination (SNLAC)*, para 1.2.2, Family Member Relocation Clearance (FMRC) by not assisting with access to special education services. **SUBSTANTIATED.**

Allegation #3:

Currently the Air Force Exceptional Family Member Program lags behind other DoD services in the support it provides to families with special needs to include but not limited to respite care support. **SUBSTANTIATED.**

Allegation #4:

Currently the Air Force Exceptional Family Member Program lacks the independent oversight to ensure AFI 40-701 is being followed across the service and that special needs families are getting the continuous support they require. **NOT-SUBSTANTIATED.**

5. Findings, Analysis and Conclusions.

Allegation #1:

Currently, Air Force installations do not have a designated Special Needs Coordinator (SNC) trained and experienced in working with special needs families, community support services (on and off base) and whose primary responsibility is to assist families with special medical and educational needs (currently at or being assigned to the installation). **SUBSTANTIATED.**

Finding:

Although AFI 40-701 states there will be an SNC at each installation, there is no specification that this will be their primary responsibility. From reviewing the past 5 years of Health Services Inspection (HSI) data on the SNIAC program, it was determined, installations have identified SNCs. However, the families reported the personnel performing the SNC duties are doing so as additional duties and have limited continuity or experience to assist them adequately.

The interview with Ms. (b)(6) centered around the IPT (b)(6) chaired on this very subject. The IPT summary revealed not having a designated SNC at each installation to be an ongoing concern manifested by there not being a community support service function as part of the Air Force EFMP (as it is in every DoD service component except the Air Force). This point is further corroborated by the personal accounts provided by 11 of the families listed in the complaint. These families reported, most bases had no one for them to turn to and the few bases with an SNC were performing the role as an additional duty. Also, the member assigned as SNC frequently changed during the medical clearance processing. These SNCs were often new to the position, the local area and were not trained or experienced with EFMP matters which resulted in little to no community support services or information provided to the families.

The interview with Lt Col (b)(6) (AFI 40-701 POC) revealed AFI 40-701 was intended to be a reference to clarify roles and responsibilities with regard to the identification of sponsors with special needs families and the medical/educational assignment clearance process without connecting the manpower and funding requirements needed to execute the program as written. Furthermore, while outlining the identification and assignment clearance responsibilities, AFI 40-701 highlights the need to have a community support services type function integrated into the Air Force EFMP.

A community support services type function is what the special needs family is expecting from the SNIAC process when in fact, current staffing is insufficient to meet such a demand. According to results of Health Services Inspections (HSI) reports/findings over the past 5 years, the Air Force SNIAC program (Identification Q-Coding in the assignment system and assignment relocation clearance process) is being accomplished across the Air Force with minimal problems.

ATTACHMENT D

TALKING PAPER ON EXCEPTIONAL FAMILY MEMBER PROGRAM (EFMP)

EFMP is where mission meets compassion. The program synergizes the efforts of three functional components that educate, train, and provide support and services to Airman families with special needs through medical, relocations, and schooling.

PURPOSE: To provide senior leaders an overview of the Air Force (AF) Exceptional Family Member Program; summarize the Rapid Improvement Event (RIE) and obtain VCSAF's approval of proposed RIE recommendations

BACKGROUND:

- The Department of Defense (DoD) executes the EFMP IAW department-wide policy in DoDI 1315.19 to support and determine eligibility for families with special needs
- The AF EFMP is composed of three components with administrative oversight provided by AF/A1SA: (1) Assignments, (2) Medical, and (3) Family Support. Both EFMP-Assignments (EFMP-A) & EFMP-Family Support (EFMP-FS) are located within the Air Force Personnel Center. EFMP-Medical (EFMP-M) is located within the Air Force Medical Operations Agency (AFMOA)
- The three functional components coordinate and collaborate to address the medical, educational, assignment, and family support needs of Air Force families. They meet with AF/A1SA quarterly to ensure program updates are executed and to report outstanding issues affecting all Airmen
- Enrollment in EFMP has doubled since 2009. As of 30 Jun 17, enrollment is 30,481 Airmen (22,514 enlisted airmen and 7,967 officers)
- EFMP-M ensures medical/educational service availability at the Airman's current and gaining location by a process known as Facility Determination Inquiry. EFMP-M also assists with EFMP Reassignments if care is not available at the current location.
- EFMP-A coordinates assignment consideration to assign personnel against valid manning requirements at locations where suitable general medical services, special education, early intervention, or related services are available for the exceptional family member
- EFMP-FS provides coordination of family support services on and off installations through family needs assessments. EFMP-FS also serves as a referral service for local, state and federal resources for families, as well as markets the AF Respite Child Care Program

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DISCUSSION:

- AFPC hosted an EFMP Rapid Improvement Event (RIE)/Summit 7-8 Aug 17 with a cross-functional team comprised of the three components. Each MAJCOM provided an officer, enlisted airman, and provided the opportunity for their spouses to attend. Of the 32 attendees, 21 had PCS'd as EFMP enrollees within the past 24 months. The families provided feedback and perspective regarding their experiences and challenges. All three components of EFMP will use the top findings to propose recommendations to drive possible changes in legislation, policy, and enhance procedures
- EFMP-M top three findings:
 - Lack of standardized training and accountability for base-level EFMP-M personnel
 - Lack of timely transfer/hand-carry of medical records through PCS
 - Lack of TRICARE coordination for continuity of care/treatment during transition
- EFMP-A top three findings:
 - No formal suspense for an Airmen to complete family member clearance process
 - Lack of education on EFMP Reassignment/Deferment process among stakeholders
 - Need to research options to legally allow reassignment based upon disability/condition of a family member if the Airman elects to do so. A second RIE is needed to look deeper into DoDI policy issues and system capabilities
- EFMP-FS top five findings:
 - Lack of Respite Care; OCONUS is still very limited
 - Lack of specialized legal assistance to assist EFMP families
 - Relocation and school transition process not standardized
 - Staff does not provide enough warm hand-off from EFMP-FS to other base agencies
 - EFMP-FS staff lacks training to proactively promote and execute the EFMP program

WAY AHEAD:

- The EFMP RIE cross-functional team needs to aggressively pursue possible changes in legislation and policy as well as IT funding and manpower enhancements in assignments, family support, and medical
- Conduct an RIE to ascertain if an Airman's family member with special needs can be formally considered prior to PCS match
- Develop a plan to track each action item until completion

RECOMMENDATION:

- VCSAF support the recommendations from the RIE to pursue possible legislation, policy changes, IT enhancements, funding for training/TDYs, and manpower as depicted in the attached EFMP Briefing



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ATTACHMENT E

2017 National Defense Authorization Act (NDAA)

SEC. 578. COMPTROLLER GENERAL OF THE UNITED STATES ASSESSMENT AND REPORT ON EXCEPTIONAL FAMILY MEMBER PROGRAMS.

(a) ASSESSMENT AND REPORT REQUIRED.—

(1) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment on the effectiveness of each Exceptional Family Member Program of the Armed Forces.

(2) REPORT.—Not later than December 31, 2017, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the assessment conducted under this subsection.

(b) ELEMENTS.—The assessment and report under subsection (a) shall address the following:

(1) The differences between each Exceptional Family Member Program of the Armed Forces.

(2) The manner in which Exceptional Family Member Programs are implemented on joint bases and installations.

(3) The extent to which military family members are screened for potential coverage under an Exceptional Family Member Program and the manner of such screening.

(4) The degree to which conditions of military family members who qualify for coverage under an Exceptional Family Member Program are taken into account in making assignments of military personnel.

(5) The types of services provided to address the needs of military family members who qualify for coverage under an Exceptional Family Member Program.

(6) The extent to which the Department of Defense has implemented specific directives for providing family support and enhanced case management services, such as special needs navigators, to military families with special needs children.

(7) The extent to which the Department has conducted periodic reviews of best practices in the United States for the provision of medical and educational services to military family members with special needs.

(8) The necessity in the Department for an advisory panel on community support for military families members with special needs.

(9) The development and implementation of the uniform policy for the Department regarding families with special needs required by section 1781c(e) of title 10, United States Code.

(10) The implementation by each Armed Force of the recommendations in the Government Accountability Report entitled “Military Dependent Students, Better Oversight Needed to Improve Services for Children with Special Needs” (GAO–12–680).