



DEPARTMENT OF DEFENSE
HEADQUARTERS, UNITED STATES MILITARY ENTRANCE PROCESSING COMMAND
2834 GREEN BAY ROAD
NORTH CHICAGO, ILLINOIS 60064-3094

Office of the Staff Judge Advocate

DEC 02 2008

American Civil Liberties Union
Attention: Mr. Mike Pheneger
4219 Hollowtrail Drive
Tampa, FL 33624

Dear Mr. Pheneger:

The Commander of Headquarters, United States Military Entrance Processing Command instituted a command policy on November 6, 2008, regarding non-Federal Entity access to our 65 Military Entrance Processing Stations. A courtesy copy is attached your information.

Should you have any questions, please contact me directly at (847) 688-3680, extension 7114.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip W. Jussel".

Philip W. Jussel
Lieutenant Colonel, U.S. Army
Staff Judge Advocate

Enclosures:
As stated



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MCDR

MEMORANDUM FOR SECTOR COMMANDERS
MEPS COMMANDERS
DIRECTORS AND SPECIAL STAFF OFFICERS

SUBJECT: Policy Memorandum 11-2, Operation of non-Federal Entity

References: (a) DoD 5500.7-R, Joint Ethics Regulation
(b) DoD Instruction 1304.28 (August 7, 2007), Guidance for the Appointment of Chaplains for the Military Departments.

PURPOSE. To establish policy regarding non-Federal Entity (NFE) access to Military Entrance Processing Stations (MEPS) for purposes of providing information of a secular or religious nature.

APPLICABILITY. This policy applies to all USMEPCOM units and personnel.

BACKGROUND. Throughout history, the United States Armed Forces have recognized the importance of providing for the spiritual needs of its personnel. The First Amendment to the U.S. Constitution prohibits the enactment of any law "respecting the establishment of religion or prohibiting the free exercise thereof." USMEPCOM must strike a careful balance between accommodating religious practices while avoiding even the appearance of any establishment of religion, endorsing any faith-based organization, or religious favoritism. Faith-based religious organizations will be treated under the same policies as any secular NFE or as required by the Joint Ethics Regulation, DoD 5500.7-R.

DEFINITIONS.

A non-Federal Entity (NFE) is generally a self-sustaining, non-Federal person or organization, established, operated and controlled by any individual(s) acting outside the scope of any official capacity as officers, employees or agents of the Federal Government. A NFE may operate on DoD installations if approved by the installation commander or higher authority under applicable regulations. (DoD 5500.7-R, paragraph 1-221)

"Information of a religious nature" refers to information relating to organized set of beliefs and faith regarding the spiritual or metaphysical world, but does not include information about beliefs rooted in non-theological bases such as culture, heritage, or politics.

POLICY.

a. A NFE may, when authorized in writing by the Military Entrance Processing Station (MEPS) commander, place secular or religious literature (including, but not limited to, pamphlets, tracts, and texts) for applicant use in a location inside the MEPS designated by the MEPS commander.

The literature provided may not include any materials that create the reasonable impression that the government is sponsoring, endorsing or inhibiting religion generally, or favoring or disfavoring a particular religion. The literature provided may not include sales flyers or commercial advertising. The NFE must supply its own equipment to hold the materials and may be allowed periodic access to the MEPS to replenish the literature.

b. All NFEs must be permitted equal access and opportunity to provide secular or religious literature in the MEPS. A commander who accommodates one NFE must be prepared to do the same for every other similar NFE. Should the presence of any provided material become contentious or adversely impact the accomplishment of the mission, the MEPS commander has the discretion to remove all literature that threatens good order and discipline within the MEP Station. This means that no literature of any kind that is critical of another NFE can be placed in the MEPS.

c. NFEs shall not be permitted to post or station a member within the premises of any MEPS, including outdoor areas under the exclusive control of the MEPS, for the purpose of distributing literature.

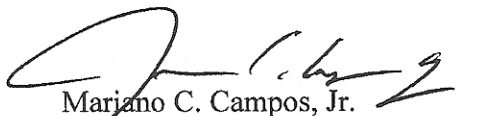
d. Under no circumstances will any member of any NFE be permitted to proselytize, preach, or provide spiritual counseling to, or otherwise communicate information of a religious nature to applicants or federal personnel on MEPS premises. Participation by any NFE member in an official briefing or enlistment ceremony, or perform any type of rite or ceremony, including but not limited to an invocation, benediction, or group prayer, on MEPS premises, must be approved by the USMEPCOM Commander. MEPS commanders will forward requests for such participation to the USMEPCOM Commander for a legal review and approval.

e. NFEs shall not be permitted to solicit applicants or federal personnel for donations while on MEPS premises.

f. Should MEPS be located on a military installation which has in place a more restrictive policy regarding access of NFEs to military premises, the MEPS shall comply with the installation policy.

g. This policy does not apply to religious organizations operating within a MEPS under the auspices of the Chaplaincy of any DoD service or department. All DoD chaplains are tasked to advise commanders on matters of religious accommodations and practice. The POC for religious organizations operating within a MEPS under the auspices of the Chaplaincy of any DoD service or department is Director, Religious Ministries, Navy Region Midwest, 2601A Paul Jones St, Great Lakes, IL 60088-2845, (847) 688-5610. If a DoD chaplain is not available, contact the Headquarters Staff Judge Advocate Office for assistance.

Point of Contact is MJA, (847) 688-3680, ext 7555.


Mariano C. Campos, Jr.
Colonel, USAF
Commanding