

Proposed Rulemaking

Title

Promulgated by:

Title 12. Law Enforcement, Emergency Management, and Military Affairs
Chapter XX. Department of the Military, Generally
Subchapter A. Generally
Part 133. Public-Private Partnerships and Other Forms of Support
Subpart 1. Generally

12 CAR § 133-101. Purpose.

(a) This part establishes the policies and procedures by which the Department of the Military may enter into public-private partnerships and accept support from private entities in order to facilitate the recruiting and retention activities of the department and the Arkansas National Guard.

(b) It is the purpose of public-private partnerships program to enhance the strength and readiness of the Arkansas National Guard and department programs by leveraging voluntary support from private sector partners while maintaining transparency and adherence to all applicable laws and ethical standards.

12 CAR § 133-102. Definitions.

As used in this part:

(1) "Arkansas National Guard" means the Arkansas Army National Guard and the Arkansas Air National Guard, which are components of the organized militia under the Department of the Military;

(2)(A) "Department of the Military" means the cabinet-level department of Arkansas state government with oversight of military and emergency preparedness

affairs, as established by the Military Code of Arkansas, Arkansas Code § 12-60-101 et seq.

(B) "Department of the Military" includes the Arkansas National Guard;

(3)(A) "Joint Budget Committee" means the Joint Budget Committee of the General Assembly, which performs oversight functions when the General Assembly is in session.

(B) These bodies review or receive reports on public-private partnership agreements as specified in 12 CAR §133-107;

1. (4) "Legislative Council" means the Legislative Council, a committee of the General Assembly that provides oversight of state agencies when the General Assembly is not in session;

(5)(A) "Personal property" means any tangible or intangible property, item, or asset including money, equipment, supplies, or materials.

(B) "Personal Property" does not include real property, land, or buildings;

(6) "Personal property or services" means any gift, donation, bequest, or loan of goods, funds, or services offered by a private entity to support the department's recruiting and retention mission;

(7)(A) "Private entity" means any individual, corporation, firm, organization, company, partnership, association, nongovernmental agency, or other entity that is not a part of federal, state, county, or local government.

(B) "Private entity" includes non-profit organizations and private businesses;

(8)(A) "Public-private partnership" means an agreement between the Department of the Military and a private entity to facilitate the activities of the department or the Arkansas National Guard.

(B) Public-private partnerships under this part are intended specifically to support recruiting and retention efforts.

2. (C) Each such partnership shall be documented by a written agreement;

(9)(A) "Secretary" means the Secretary of the Department of the Military, the head of the Department, as established by Military Code of Arkansas, Arkansas Code § 12-60-101 et seq.

(B) The Secretary is the official with authority to act on behalf of the Department under this program including entering agreements and accepting gifts or services as described in this part;

(10) "Voluntary services" means services or labor provided by a private entity to the department without compensation for the purpose of supporting department or National Guard activities.

12 CAR § 133-103. General policy.

(a) In compliance with the law and its mission:

(1) The Department of the Military may enter into public-private partnerships and accept voluntary services or personal property from private entities only:

(A) For the purpose of facilitating recruiting and retention activities of the department or the Arkansas National Guard; and

(B) In accordance with Arkansas Code § 12-60-105 and other applicable laws, rules, and procedures;

(2)(A) All partnerships and support under this public-private partnership program shall be subject to the same laws, regulations, policies, and rules to which the department and the Arkansas National Guard are otherwise subject.

(B) Nothing in this program shall be construed to exempt the department from state laws or ethical standards; and

(3) The department shall not use any partnership or gift to circumvent procurement laws or any other requirements of state law.

(b) The voluntary nature of the support.

(1) Participation by a private entity in this program is voluntary.

(2) A public-private partnership as defined in this part does not constitute a procurement contract but rather a voluntary agreement to support the department's mission.

(3)(A) No financial payment or compensation from the department shall be provided to a private entity for services or personal property provided under a voluntary partnership agreement.

(B) The department's acceptance of such support is itself the consideration for the partnership.

(4) The department may, however, agree to nonmonetary terms such as recognition of the private entity's support or limited use of department facilities as outlined in an agreement, so long as such terms do not contravene Arkansas law or ethics rules.

(c) Written agreements are required:

(1) For each public-private partnership and shall be signed by:

(A) The Secretary of the Department of the Military or the secretary's designee; and

(B) An authorized representative of the participating private entity;

(2) To clearly describe the:

(A) Nature and scope of services to be provided or the personal property to be donated;

(B) Time period of the partnership; and

(C) Responsibilities and expectations of each party; and

(3) To include provisions for modification or termination of the agreement by the department if it is:

(A) In the public interest; or

(B) Required to protect the integrity of department programs.

(d) **The qualified use of accepted support.**

(1) The department is authorized to hold, administer, and utilize any personal property or services accepted under this program for the benefit of the Department's or the Arkansas National Guard's recruiting and retention activities.

(2) Personal property accepted becomes the property of the department, or state property held on behalf of the Department, and may be deployed or distributed to support authorized programs.

(3) Services accepted may be performed by the private entity or its personnel in coordination with department or the Arkansas National Guard personnel without the need for further legislative authorization.

(4) All accepted goods and services shall be used solely:

- (A) For the purposes for which they were offered; or
- (B) As specified in the partnership agreement.

(5) The department shall account for any donated funds or monetize in-kind contributions in compliance with state accounting and property management standards.

(6) Monetary gifts shall be:

(A) Deposited into the appropriate State Treasury fund or fund account designated for the department; and

(B) Expended only for the intended purpose of facilitating recruiting and retention.

(e) No additional authorization required.

(1) Pursuant to Arkansas Code § 12-60-105(d), no additional law or specific legislative act is required to authorize the department's use of services or personal property accepted under this program.

(2) Once an agreement or donation is accepted in accordance with this part and Arkansas Code § 12-60-105, the department may proceed to utilize the support, subject to any required review or reporting as outlined in 12 CAR § 133-107.

12 CAR § 133-104. Responsibilities.

(a)(1) The Secretary of the Department of the Military has overall responsibility for the public-private partnership program.

(2) The secretary, or the secretary's authorized designee, is specifically responsible for:

(A) Evaluating and approving proposed public-private partnerships that further the Department of the Military's or the Arkansas National Guard's recruiting and retention objectives;

(B) Ensuring that:

(i) Each partnership agreement serves a bona fide public purpose consistent with the department's mission; and

(ii) The terms of each agreement comply with this part and state law;

(C)(i) Reviewing offers of voluntary services or personal property from private entities and formally accepting such gifts or donations on behalf of the department when appropriate.

(ii) The secretary shall ensure that a written record of each acceptance, such as a letter of acceptance or memorandum of understanding, is maintained.

(D)(i) Screening each proposed partnership or gift for potential conflicts of interest or issues of propriety.

(ii) The secretary shall not accept or use any gift, service, or partnership if doing so would compromise, or appear to compromise, the:

(a) Integrity of any department or the Arkansas National Guard program; or

(b) Impartiality of any individual involved.

(iii) This includes avoiding partnerships with private entities that are engaged in or seeking business contracts with the department, or those that could use the partnership to obtain unfair advantage or influence.

(iv) The secretary shall consult with legal counsel, State Judge Advocate, or other appropriate counsel to evaluate potential ethical issues before approval;

(E)(i) Issuing any necessary internal policies or guidelines to implement the public-private partnership program.

(ii) This may include:

(a) Designating a public-private partnership program coordinator or office within the department to administer day-to-day activities;

(b) Developing standard form agreements; and

(c) Establishing processes for valuing in-kind contributions and monitoring partnership activities;

(F)(i) Keeping detailed records of all public-private partnership agreements and contributions received.

(ii) This includes documentation of:

(a) The nature and value of services or property provided;

- (b) The identity of the private partner;
- (c) The duration of the partnership; and
- (d) How the support was used.

(iii) The secretary shall ensure that required information is compiled for presentation to the Legislative Council or Joint Budget Committee as described in 12 CAR § 133-107, and for any other reporting requirements, such as annual reports or audit requests;

(G)(i) Coordinating with the Adjutant General of the State of Arkansas and other relevant National Guard leaders to:

(a) Identify needs that could be met through public-private partnerships; and

(b) Ensure that any partnership involving National Guard activities has the concurrence of the appropriate military chain of command.

(ii) The secretary shall also ensure that partnerships do not conflict with federal National Guard regulations or readiness requirements; and

(H)(i) Terminating any public-private partnership agreement or discontinuing the use of any accepted gift or service if:

(a) It is found to be no longer in the department's interest;

(b) If the private entity fails to fulfill its commitments; or

(c) If continued acceptance would violate subdivisions (a)(2)(D) (i) or (a)(2)(D)(ii) of this section or otherwise conflict with law or policy.

(ii) The secretary has the authority to immediately suspend or revoke an agreement in such circumstances, with prompt notification to the private entity and documentation of the reasons.

(b) Department personnel and units, including units of the Arkansas National Guard, have the following responsibilities under the public-private partnership program, as directed by the secretary:

(1) Commanders and officials are encouraged to identify areas in recruiting and retention efforts where private sector support could be beneficial, and to communicate such needs to the department's leadership or designated program coordinator;

(2)(A) When a public-private partnership is in effect, the relevant department or Arkansas National Guard unit shall work in collaboration with the private entity to effectively utilize the provided services or property.

(B) Department personnel shall supervise and direct the use of any volunteers or donated resources to ensure they are used safely, effectively, and only for authorized purposes;

(3)(A) Department and National Guard personnel involved in partnerships must adhere to all standard regulations, including those concerning security, safety, and conduct;

(B) If private entity personnel or representatives are on the Arkansas National Guard premises or interacting with military members, department officials shall ensure:

(i) Appropriate access control,

(ii) Security vetting, if necessary; and

(iii) That the private participants receive any required briefings or supervision;

(4)(A) Units receiving support from a private partner shall monitor the support's effectiveness and promptly report any problems, deficiencies, or concerns through their chain of command to the secretary or public-private partnership program coordinator.

(B) They should also report successes and the outcomes achieved to help in program evaluation and in providing required reports to oversight bodies; and

(5)(A) If a unit takes possession of donated personal property, such as equipment or supplies, it must account for those items in accordance with:

(i) State property management procedures; and

(ii) Any guidance from the department's logistics or fiscal offices.

(B) Likewise, if a private entity's services result in cost savings or other quantifiable benefits, the unit should document these for inclusion in public-private partnership program records.

(c) A private entity that enters into a partnership with the department under this public-private partnership program assumes the following responsibilities, as detailed in the partnership agreement:

(1)(A) The private entity shall deliver the services or property it has committed to provide, in the manner and timeframe agreed upon.

(B) For voluntary services, this means furnishing personnel with the necessary skills or expertise to perform the tasks, at its own expense.

(C) For donations of property or funds, this means transferring the agreed items or monies to the department in accordance with state procedures.

Example: Delivering equipment or transferring funds to the appropriate state account;

(2)(A) The private entity must comply with all terms and conditions set forth in the partnership agreement.

(B) It must also comply with all applicable laws, rules, and regulations while performing any activities on behalf of or in conjunction with the department;

(C) This includes, but is not limited to, laws concerning the security of military installations, the confidentiality of certain military information, and any relevant standards of conduct if interacting with minors or the public in recruiting events;

(3)(A) The private entity shall not expect, and the department shall not offer, any special treatment in governmental matters as a result of entering into the partnership.

(B) The partnership does not constitute endorsement by the department of the entity's products or services, nor does the private entity gain procurement preference for other contracts.

(C) Any use of the department's name or marks by the private entity for publicity must be preapproved in writing by the department and shall be factual and discrete.

Example: Acknowledging that the entity has supported the Arkansas National Guard, without implying official endorsement;

(4)(A) The private entity:

(i) Should disclose any business or personal relationships with department or National Guard officials that could pose a conflict of interest; and
(ii) Must avoid actions that would cause department officials to violate ethical rules;

(B) The private entity's representatives shall work with the Department's designated liaison to ensure mutual understanding of boundaries.

Example: Private entity members will not attempt to direct military personnel or engage in inherently governmental decisions.

(5)(A) The private entity must acknowledge any risks involved in the activities and may be required to sign waivers or provide proof of insurance as appropriate, to protect both parties;

Example: If participating in training or public events on behalf of the Arkansas National Guard.

(B)(i) The entity is responsible for its own personnel's remuneration and benefits.

(ii) They are not considered employees or agents of the state just by virtue of the partnership; and

(6)(A) Upon request, the private entity should furnish information to the department necessary for the department to comply with reporting requirements.

(B) This may include the fair market value of goods or services provided, cost statements, or other relevant data to document the support provided.

(d)(1) The Office of Legal Counsel for the Department of the Military is responsible for reviewing proposed partnership agreements and significant gift acceptances for legal sufficiency.

(2) Counsel shall advise the secretary on any legal risks, ensure that agreements have appropriate clauses, such as termination and indemnification, if needed, and verify that legislative review requirements in 12 CAR § 133-107 are met prior to execution of agreements where applicable.

12 CAR § 133-105. Potential partnerships.

(a) Below is a categorized list of potential partnership ideas —each with the goal for recruiting and retention, potential private partners, nature of the partnership, and real-world examples:

(1) Skilled Trades Career Outreach.

(A)(i) Increase awareness of Arkansas National Guard careers among high school students, especially in vocational trades, to grow the enlistment pipeline.

(ii) Potential partnerships include industry trade organizations or foundations.

(B) Opportunities include sponsoring or co-brands a traveling trades exhibit or career coach program that visits schools, showcasing Arkansas National Guard technical roles (mechanics, electricians, medics, etc.) alongside civilian trade careers to boost Arkansas National Guard “brand awareness” among students considering trades after high school.

(C) Guard recruiters provide information at tour stops, and the public-private partnerships program highlights that many skilled trades (welding, aviation mechanics, etc.) can be pursued within the Arkansas National Guard.

(D) These types of partnerships help students understand where they can fit in the Arkansas National Guard career fields while exploring vocational paths, directly supporting recruiting;

(2) Private college and community college partnerships.

(A) Partnerships of this nature will attract college-bound youth and improve retention of soldiers seeking higher education.

(B) Potential partnerships include private universities and community colleges in Arkansas.

(C) Potential to integrate Arkansas National Guard opportunities with college programs to include the Arkansas National Guard assigning a recruiter on the campus and arranging for guest lectures in classes on leadership and teamwork skills.

(D) Other potential opportunities include awarding college credits for Guard credentials.

(E)(i) The goal of a partnership would be to keep local youth in-state and engaged.

(ii) Students can serve in the Arkansas National Guard with tuition assistance while studying, then apply those skills locally.

(F) These school partnerships help recruitment by offering college pathways with Guard service and retention by making it easier for citizen-soldiers to earn degrees.

(3) **Youth Organization Outreach.**

(A) Inspire and inform teenagers, especially those interested in science, technology, engineering, and mathematics (STEM), leadership, or public service, about opportunities with the Arkansas National Guard.

(B) Potential partnerships include youth organizations such as:

(i) Arkansas 4-H Foundation, Incorporated (4-H);

(ii) Arkansas Future Farmers of America Association (FFA);

(iii) Boys & Girls Clubs;

(iv) Junior Officers' Training Corps (JROTC) programs;

(v) Boy Scouts of America; and

(vi) Girl Scouts of the United States of America.

(C) Other opportunities include youth STEM events such as robotics competitions and cyber academies.

(D) Potential partnerships could include sponsoring programs and mentorship.

(E)(i) The Arkansas National Guard could cosponsor competitions or host workshops with Arkansas National Guard service members serving as mentors or judges and corporate partners donating resources.

(ii) This builds community goodwill and a direct recruiting channel among engaged youth.

(F)(i) The Arkansas National Guard could partner with agricultural companies to sponsor FFA or 4-H events, or team with tech firms to support high school robotics and CyberPatriot teams giving teens hands-on experience and interaction with citizen-soldiers.

(ii) These partnerships align Guard service with youths' interests such as agriculture, STEM, etc., while generating interest in joining the Arkansas National Guard.

(4) Civilian career pipeline and job placement partnerships.

(A) Enhance recruiting appeal and reenlistment by connecting Arkansas National Guard members to good civilian jobs.

(B) Potential partnerships include private employers, especially major Arkansas companies in retail, logistics, finance, and technology firms, and industry councils.

(C) Potential partnerships include securing preferential hiring, internship opportunities, employer-guaranteed interview programs, and hiring networks through agreements with companies who value military experience.

(D) Partnerships could feature career fairs and internship pipelines exclusively for Arkansas National Guard Servicemembers.

(E) Such partnerships benefit all sides by:

(i) Providing service members gaining employment upside;

(ii) Encouraging them to stay in uniform;

(iii) Companies get disciplined, skilled workers; and

(iv) Civilian career opportunities strengthening the Arkansas National Guard's recruiting pitch;

(5) Industry-specific training collaboratives.

(A) Attract recruits in high-demand skill areas and provide advanced training that benefits both the Arkansas National Guard and civilian employers.

(B) Potential partnerships include key Arkansas industries or firms in sectors like:

- (i) Cybersecurity;
- (ii) Technology;
- (iii) Healthcare;
- (iv) Transportation; and
- (v) Skilled trades.

(C) Potential partnerships include cosponsored training programs where a private company or industry group and the Arkansas National Guard jointly develop training courses or certification programs open to Arkansas National Guard members.

(D) Companies gain access to a pool of trained, disciplined candidates, and the possible use of state facilities or instructors for training.

(E) By aligning military occupational training with local industry needs, the Guard can market service as a fast track to reputable civilian careers, boosting recruiting appeal.

(6) Tuition and scholarship sponsorships.

(A) Strengthening education benefits, a top reason for enlistment, beyond what government tuition benefits alone provide, to both attract new recruits and retain current soldiers through degree completion.

(B) Potential partnerships include private colleges and universities, foundations, and corporate scholarship funds.

(C) Potential partnerships could include:

(i) Waiving any remaining tuition not covered by federal and state military tuition assistance; or

(ii) A private foundation endowing scholarships for Arkansas National Guard members in specific fields.

(D) By bolstering the promise of “join the Guard, we’ll get you through college debt-free,” these education-centered partnerships directly address recruiting and help retention;

(7) Guard-friendly employer alliance.

(A) Enhance quality of life and reduce conflicts between civilian work and Arkansas National Guard service, improving retention and making enlistment more feasible for working professionals.

(B) Potential partnerships include private employers and chambers of commerce across Arkansas.

(C) Potential partnerships could include employer support pledges, a program where businesses voluntarily commit to Guard-supportive practices beyond the legal minimum.

(D) This public-private partnership could create a recognition system for companies that offer benefits like:

(i) Continued salary during military training weekends or deployments;

(ii) Flexible scheduling around drill;

(iii) Differential pay; or

(iv) Leave for longer activations.

(E)(i) New enlistees know they can take a civilian job at a partner company without fear of losing income or opportunities when duty calls.

(ii) Guard members who feel supported by their civilian employer are far more likely to stay in the service;

(8) Partners in Care community network.

(A) Support guardsmen's mental, emotional, and practical well-being through community resources, thereby improving resilience and retention.

(B)(i) Potential partnerships include faith-based and nonprofit organizations in local communities.

(ii) Potential partnerships include coordinating with willing organizations to provide free assistance to service members and families in need, beyond what the military can officially offer.

(C)(i) Maryland's Partners in Care program established a statewide network of local congregations that agreed to assist Guard members and families with services like counseling, child care, transportation, home repairs, and peer support, at no charge and with no religious strings attached.

(ii) If Arkansas National Guard service members and families feel supported by their community, they are more likely to stay in the Guard through hardships.

(D)(i) This program’s integrity is maintained by clear guidelines ensuring support is given without proselytizing or strings, simply as goodwill.

(ii) It leverages purely voluntary services.

(9) Private mental health services partnership.

(A) Improve access to professional mental health care for Guard members and veterans to address post traumatic stress disorder, depression, or other service-related stresses to keep soldiers healthy and fit to continue service.

(B) Potential partnerships include:

(i) Private mental health clinics;

(ii) Counseling centers; and

(iii) Nonprofits.

(C) A potential partnership could involve a private hospital network or clinic agreeing to provide a certain number of pro bono therapy hours to Arkansas National Guard service members, or a non-profit could embed a part-time counselor at an armory.

(D) The Arkansas National Guard could partner with a clinic to refer service members for confidential counseling, ensuring they get help outside the chain of command and between drills.

(E) Other potential partnerships could include partnering with tech companies that provide mental wellness applications or teletherapy.

(F)(i) The key is leveraging private sector capacity to supplement military behavioral health resources.

(ii) A soldier who gets timely mental health support is less likely to drop out or be discharged.

(G) Emphasizing these partnerships in recruiting also shows that “Guard takes care of its own,” addressing concerns new recruits, and their parents, might have about stress or trauma.

(H) All such partnerships would follow privacy and quality standards to maintain trust.

(10) Health and wellness lifestyle partnerships.

(A) Encourage healthy lifestyles and reduce barriers to fitness and healthcare for Guard members, contributing to higher retention and readiness.

(B) Potential partnerships include:

(i) Healthcare companies;

(ii) Fitness industry; and

(iii) Wellness nonprofits.

(C) Potential partnerships could include health initiative sponsorships such as partnering with a regional gym chain for free memberships to address the fitness aspect of service.

(D) Additionally, partnerships with healthcare providers could include periodic free health screenings for Guardsmen or priority care access.

(E) Further potential partnerships could include dental care events where members without full dental coverage can get checkups or cleanings.

(F) Another potential partnership could include working with a nutrition or weight-loss program company to offer discounted enrollment for Guard members needing to meet body composition standards.

(G) These types of partnerships include voluntary, corporate-sponsored benefits that incentivize guardsmen to stay healthy and, by extension, stay in service.

(H) For recruiting, it signals that joining the Guard comes with a supportive healthy community.

(11) Community engagement partnerships.

(A) Raising the Guard's profile and appeal in the community through popular events aids recruiting by generating leads and positive branding and retention by instilling pride.

(B) Potential partnerships include event organizers in Arkansas and potentially minor league teams.

(C) By embedding the Arkansas National Guard in beloved community traditions, festivals, county fairs, and sports events, these partnerships generate goodwill and awareness.

(D) The result includes:

(i) More young people seeing the Arkansas National Guard as an active, positive presence in the community and consider joining; and

(ii) current members feel pride seeing their service recognized on big stages;

(12) Community service and volunteerism collaborations.

(A) Enhance the Guard’s community involvement through joint volunteer projects, which boost public perception, help recruitment, and give soldiers meaningful local impact which helps retention by increasing job satisfaction.

(B) Potential partnerships include:

(i) Nonprofits;

(ii) Civic groups;

(iii) Local volunteer fire departments; and

(iv) Corporate volunteer programs.

(C) Potential partnerships include joint service projects, coordinating events where Arkansas National Guard service members and civilian volunteers work side by side, multiplying community readiness, and subtly recruiting volunteers who are inspired by the Arkansas National Guard’s capabilities.

(D) The core idea is to formalize what it means for the Guard to be a community-based organization where not only do Arkansas National Guard service members support their neighbors in crises, but neighbors, including businesses, support the Arkansas National Guard’s mission.

(E)(i) These collaborative projects make news and underscore the Guard’s value, aiding recruiting indirectly.

(ii) They also fulfill soldiers’ desire to serve at home, improving retention and morale;

(13) Public-private facilities sharing.

(A) Leverage private resources to improve Guard training and community integration, with

(i) Retention benefits;

(ii) Better training and amenities; and

(iii) Recruiting visibility.

(B)(i) Potential partnerships include municipalities, private gyms, schools, or companies with facilities .

Examples: Firing ranges, simulators, classrooms.

(ii) These arrangements build strong community bonds.

(C) For instance, an armory could host a jobs and resources fair cosponsored by the chamber of commerce where employers come to the Guard facility to recruit Guard members and veterans for jobs—an event that doubles as a recruiting tool for the Guard itself.

(D) All such partnerships must ensure there is no perception of unfair advantage or endorsement, but with transparent agreements they can greatly enhance the Guard’s capabilities and community support network;

(14) Armed services vocational aptitude battery promotion public-private partnership.

(A) Improve the Arkansas National Guard’s enlistment pipeline by increasing awareness, access, number of individuals who take the Armed Services Vocational Aptitude Battery (ASVAB), and performance on the ASVAB through strategic public-private partnerships.

(B) Potential partners include:

(i) Education technology firms;

(ii) Tutoring providers; and

(iii) Workforce development organizations.

(C) These partnerships could support statewide ASVAB awareness campaigns, including digital outreach and school-based events that emphasize how the test aligns students’ strengths with career pathways in the Arkansas National Guard.

(D) Companies could cosponsor ASVAB study materials, practice platforms, and in-school prep sessions, while Guard recruiters collaborate with educators to host career exploration events tied to ASVAB results.

(E) Additionally, local businesses could provide incentives, such as scholarships or job-shadowing opportunities, for students who complete the ASVAB, reinforcing its value.

(F) These public-private efforts not only raise the visibility of the ASVAB as a planning tool for postgraduation success but also directly link test participation to meaningful Guard career options, increasing recruitment potential across Arkansas high schools.

12 CAR § 133-106. Recruiters and public-private partnerships.

Below outlines specific guidance related to military recruiters involved in public-private partnerships:

(1) Campus education facilities.

(A) A designated area within a campus facility for use by Arkansas National Guard personnel as a career resource center will be utilized in accordance with Department of Defense Instruction 1304.33, Enclosure 3, Paragraph 3.2.2, Arkansas Code § 6-18-2003, Army Regulation 601-1, Chapter 6, Paragraph 6-3, Subparagraph a, and Arkansas Code § 6-17-201.

(B) A career resource center focuses on leadership, scholarships, and career development in the context of the Arkansas National Guard where students can voluntarily seek information and guidance.

(C) The office's primary function is to support students' career goals and provide information about the Arkansas National Guard.

(D) Arkansas National Guard personnel will align the activities of any career resource center with the college's educational mission, offering programs or advising that supports the students' academic and career objectives in accordance with Department of Defense Instruction 1344.10, Enclosure 4, Paragraph 4.1 and Arkansas Code § 6-16-1202.

(2) **Military advisors.** The Arkansas National Guard may identify appropriate personnel to serve as military advisors to assist in the facilitation of courses that focus on subjects such as leadership, occupational skills, and career development in

accordance with Department of Defense Instruction 1344.10, Enclosure 4, Paragraph 4.1, and Arkansas Code § 6-16-1202.

(3) Academic advising or mentorship programs.

(A) Arkansas National Guard personnel may offer academic advising or mentorship programs that integrate National Guard leadership training and career development with the students' academic goals and host workshops or seminars that are open to all students, regardless of their interest in enlisting.

(B) These activities will be conducted in accordance with Department of Defense Instruction 1344.10, Enclosure 4, Paragraph 4.1, and Arkansas Code § 6-16-1202.

(4) Neutral supportive environment.

(A) Arkansas National Guard personnel will maintain a neutral, supportive environment where students can inquire about Arkansas National Guard opportunities without feeling pressured to make immediate decisions.

(B) These activities will be conducted in accordance with Army Regulation 601-208, Chapter 4, Paragraph 4-5, Subparagraph b, and Arkansas Code § 6-18-702.

(5) Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

(A) Arkansas National Guard personnel will ensure all activities conducted at an educational campus comply with the FERPA regulations, particularly regarding the collection of student information.

(B) This requires that any collection of student information be conducted in accordance with federal privacy regulations and that the handling of this data aligns with FERPA and the Solomon Amendment 10 U.S.C. § 983, requirements.

(C) These activities will be conducted in accordance with:

(i) Department of Defense Instruction 1304.33, Enclosure 3, Paragraph 3.2.3; and

(ii) FERPA;

(6) College campus office. Arkansas National Guard personnel will ensure its personnel comply with Title 6 of the Arkansas Code which includes several sections relevant to the operation of an office on a college campus, particularly regarding the

use of educational facilities, equal access, and the conduct of external organizations within the school environment; and

(7) **Arkansas National Guard personnel activities.** Arkansas National Guard personnel, in particular recruiters, will ensure compliance with DoDI 1304.33 and AR 601-1 which provide military-specific guidelines on how recruiters should operate within educational institutions, emphasizing the importance of maintaining an educational focus and respecting the autonomy of the institution and its students.

12 CAR § 133-107. Procedures for acceptance and implementation.

(a) Proposal and review:

(1) Any proposal for a public-private partnership or a significant donation of services or property may be initiated by either

(A) The Department of the Military, identifying a need and seeking potential private support; or

(B) By a private entity offering support.

(2) All such proposals shall be referred to the Secretary of the Department of the Military or the secretary's designee, such as a program coordinator, for initial evaluation.

(3) The Department of the Military may require the proposing private entity to submit a written description of the proposed support, including its nature, scope, estimated value, and any conditions or expectations.

(4) The secretary may also require background information about the private entity to assist in the vetting process.

Example: Information on the entity's principals, business interests, and any prior or pending contracts with the state.

(b) **Evaluation criteria.**

(1) In deciding whether to proceed with a partnership or accept a gift, the Department of the Military shall evaluate:

(A) The relevance of the offered support to the Department of the Military's recruiting and retention objectives;

(B) The bona fides of the offering entity

Example: Reputable standing, no disqualifying conflicts of interest.

(C) The appropriateness and utility of the services or property (ensuring they meet necessary standards and do not create undue future burdens);

(D) Any potential risks or appearance of impropriety; and

(E) Compliance with any applicable state financial or ethical rules.

Example: Whether accepting a gift could trigger any limitations under state ethics laws, notwithstanding the authority granted by Acts 2025, No. 575.

(2) The secretary should favor partnerships that clearly enhance recruiting or retention, or both, and present minimal risk of ethical or legal complications.

(c) Drafting the agreement.

(1)(A) For each approved public-private partnership, the Department of the Military shall prepare a written agreement or memorandum of understanding.

(B) At minimum, the agreement shall include:

(i) The identities of the parties;

(ii) the purpose of the partnership; and

(iii) a detailed description of the support to be provided.

Example: Services, goods, funds, facilities use, etc.

(iv) Any support to be provided by the Department of the Military

Example: Provision of space for an event.

(v) The duration of the agreement, start and end dates, and any options for renewal or extension;

(vi) Provisions addressing modification or termination; and

(vii) Signatures of authorized representatives.

(2) The agreement should also recite that it:

(A) Is entered pursuant to Arkansas Code § 12-60-105 and this part; and

(B) Does not create any fiscal obligation for the Department of the Military beyond what is stipulated, if any.

(3) If the private entity is to use Department of the Military or Arkansas National Guard facilities or assets for example, using an armory to host a jointly sponsored recruiting fair, the agreement shall include appropriate provisions for liability, damage, and compliance with facility use regulations.

(d) Acceptance of gifts or donations.

(1) In cases where the support is a one-time gift or donation, such as a piece of equipment or a sum of money, without an ongoing partnership agreement, the secretary shall formalize the acceptance in writing.

Example: A letter to the donor acknowledging and accepting the gift pursuant to Arkansas Code § 12-60-105(b)(3).

(2) The acceptance document should describe the gift and state any conditions of use.

(3) A copy of the acceptance and details of the gift, including its estimated value, should be recorded in Department of the Military records.

(4) If the donation is monetary, the Department of the Military shall coordinate with the Department of Finance and Administration to ensure proper deposit into the correct fund and appropriation for use.

(5) If the donation is an item of equipment or other tangible property, the Department of the Military's property manager shall ensure it is added to the Department of the Military inventory with an assigned value.

(e) Valuation of support.

(1) The Department of the Military shall determine the total value of the services and property to be received under each public-private partnership agreement, both in terms of an annual value and, if the agreement is multiyear or open-ended, the total projected value over the life of the agreement including any anticipated amendments or extensions.

(2) This valuation shall be documented before the agreement is executed.

(3) For services, the value may be estimated by using comparable market rates or salary equivalents for the type of service provided.

(4) For donated goods or funds, the face value or fair market value should be used.

(5) These valuations are required:

(A) to ascertain the correct oversight procedure, reporting or review as per this section; and

(B) For record-keeping.

(f) Execution and Storage.

(1) Once an agreement is approved, and after any required legislative notification or review under this Section has been completed, the secretary and the private entity's representative shall sign the document.

(2) The department shall retain the original executed agreement and provide a copy to the private entity.

(3) The agreement shall be maintained in the department's official files in accordance with state record retention requirements.

(4) The department should also disseminate relevant portions of the agreement, or summaries, to the affected Arkansas National Guard units or personnel so they are aware of the commitments and can carry them out.

(g) Implementation.

(1) After execution, the department, through its program coordinator or designated officials, will work with the private partner to implement the terms of the agreement.

(2) This may include:

(A) Scheduling activities;

- (B) Integrating volunteers with Arkansas National Guard events;
 - (C) Arranging delivery of any donated items; and
 - (D) Otherwise operationalizing the partnership.
- (3) Department of the Military officials will ensure that:
- (A) What was agreed upon is being delivered; and
 - (B) The partnership remains aligned with its intended purpose.
- (4) Regular communication with the private partner should be maintained to address any issues or changes.

(h) **Amendments.**

(1) If it becomes necessary to amend a partnership agreement—for example, to extend its duration, change the level of support, or alter terms—any amendment must be made in writing and signed by both parties.

- (2) Before an amendment is approved, the Department of the Military must:
- (A) Reevaluate the factors in subsection (b) this section; and
 - (B) Determine if the amendment triggers any new requirement for Legislative Council or Joint Budget Committee review.

Example: If an extension increases the total projected value above a threshold in this Section.

(3) An amendment that would cause the agreement’s value or duration to exceed what was presented for legislative review must be presented again to the Legislative Council or Joint Budget Committee as appropriate.

(i) **Conclusion of Partnerships.**

(1) Upon the conclusion or termination of a partnership, the Department of the Military shall document the end date and summarize the support received.

- (2) Any unused donated funds must:
- (A) Remain in the dedicated Department of the Military fund for use toward the same purpose; or
 - (B) Be returned to the donor if required by the terms of the donation.

(3) Any donated equipment or materials remaining will continue to be property of the Department of the Military (unless the partnership agreement provided otherwise).

(4) The Department of the Military should evaluate the partnership's outcomes and record any lessons learned for future reference.

12 CAR § 133-108. Safeguards and ethical considerations.

(a) Prohibition on compromising integrity.

(1) In accordance with Arkansas Code § 12-60-105(c)(1), the Department of the Military shall not accept or use any personal property or voluntary services from a private entity if doing so would compromise the integrity or appearance of integrity of any:

- (A) Department of the Military program;
- (B) Any Arkansas National Guard program; or
- (C) Any individual involved in such programs.

(2)(A) This safeguard is paramount and applies to all interactions under this part.

(B) Department of the Military officials must consider not only actual conflicts of interest but also the appearance of a conflict or impropriety.

(3) If a reasonable person could perceive that a gift or partnership might improperly influence Department of the Military decisions or grant undue preferential treatment to the donor, it must be declined.

(b) Conflict of interest checks.

(1) Before approving a partnership, the Department of the Military shall perform due diligence to identify any potential conflicts of interest.

(2) This includes checking whether the private entity or its key personnel:

- (A) Have any pending bids, contracts, or grant applications with the Department or Arkansas National Guard;
- (B) Are regulated by or seeking some formal action from the Department of the Military; or

(C) Have a personal relationship with Department of the Military leadership that could be seen as favoritism.

(3) If any such circumstances exist, the Secretary of the Department of the Military must determine whether adequate mitigation measures can eliminate the conflict or appearance thereof.

(4) Mitigation could include:

(A) Recusal of certain officials from the decision process;

(B) Additional transparency measures; or

(C) In some cases, declining the partnership altogether.

(c) Adherence to state ethics laws.

(1) All Department of the Military personnel shall continue to be bound by state ethics and gift laws, Arkansas ethics statutes and rules, in their personal capacity.

(2) This part is not intended to circumvent those laws but to allow institutional acceptance of support for official purposes.

(3) Therefore, no officer or employee of the Department of the Military may personally receive a gift or payment from a private entity as a quid pro quo for the Department of the Military entering into a partnership.

(4) Any offer of an improper inducement to an individual, such as employment opportunities, personal gifts beyond nominal tokens, or payments:

(A) Must be reported; and

(B) Will disqualify the private entity from participation.

(5) The secretary shall consult the Arkansas Ethics Commission or other appropriate authority if unsure whether a proposed arrangement complies with ethical requirements.

(d) Transparency and accountability.

(1)(A) The Department of the Military shall maintain transparency with respect to this program.

(B) All partnership agreements and records of gifts shall be available for review by oversight authorities and auditors.

(2) When reporting to the Legislative Council or Joint Budget Committee under 12 CAR § 133-107, the Department will provide clear descriptions of the private

partners and the nature of support to ensure legislative overseers can evaluate the appropriateness.

(3) To further public transparency, the Department of the Military should consider publishing a summary of active public-private partnerships excluding any sensitive details, so the public is informed about the private support being received.

(e) No endorsement or control by private entity.

(1) Safeguards shall be in place to ensure that entering into a partnership does not allow a private entity to exert undue influence over military programs.

(2)(A) Private partners shall not direct or control the specifics of recruiting or retention programs.

(B) Those remain under the authority of the Department of the Military and Arkansas National Guard leadership.

(3) Additionally, while the Department of the Military may acknowledge the assistance of a private partner publicly, it shall not endorse any commercial product or service of the partner in an official capacity.

(4) Use of the Department of the Military's logos or trademarks by the private entity is prohibited unless expressly authorized for a limited purpose in the partnership agreement.

(f) Avoiding competition and unfair advantage.

(1) If the Department of the Military engages in multiple partnerships, it must do so even-handedly.

(2) The program should not be used to give an unfair market advantage to one company over competitors in a field.

Example: If multiple entities are interested in providing similar support, the Department of the Military should, when practical, accommodate more than one or rotate opportunities to avoid the perception of exclusivity or favoritism, unless a single partnership clearly best serves the public interest.

(g) Federal considerations.

(1) When partnerships involve Arkansas National Guard resources or activities that are federally funded or regulated, the Department of the Military must ensure compliance with any pertinent federal National Guard Bureau regulations or United States Department of Defense policies regarding acceptance of gifts or volunteer services.

(2) If a conflict between state authority and federal law arises, the Department of the Military will resolve it in consultation with federal authorities and, if necessary, modify or terminate the partnership.

(h) Training and awareness.

(1) The Department of the Military shall provide guidance or training to key personnel about this program and its ethical guardrails.

(2) By educating staff and private partners on these safeguards, the Department of the Military will help prevent inadvertent violations and uphold the integrity of its operations.

12 CAR § 133-109. Reporting and legislative oversight requirements.

(a) Legislative notification overview.

(1) In compliance with Arkansas Code § 12-60-105(e), any agreement for a public-private partnership under this public-private partnership program must be presented to the Legislative Council or, if the General Assembly is in session at the time, to the Joint Budget Committee, for either reporting or review, depending on the value of the agreement.

(2)(A) This legislative oversight is required to ensure transparency and accountability for partnerships involving significant support.

(B) The thresholds and processes are as follows.

(b) Reporting to Legislative Council—Mid-level agreements.

(1) If the total value of the personnel services or property, or both, to be received by the Department of the Military under a partnership agreement exceeds ten thousand dollars (\$10,000) but is less than fifty thousand dollars (\$50,000) in a single calendar year, or if the total projected value of the agreement, including any amendments or possible extensions, is less than three hundred fifty thousand dollars

(\$350,000), then the agreement shall be reported to the Legislative Council or Joint Budget Committee, if applicable, for review of the information only.

(2)(A) The department shall submit a written report describing the agreement to the Legislative Council at the next regularly scheduled meeting following execution of the agreement, or prior to execution, if feasible and if the Secretary of the Department of the Military chooses to seek any input.

(B) If the General Assembly is in session, the report shall be submitted to the Joint Budget Committee instead.

(3)(A) **Contents of report.** The report should include:

- (i) the name of the private entity;
- (ii) A summary of the partnership's purpose and terms;
- (iii) The estimated value of goods or services, or both, to be received, with methodology of valuation; and
- (iv) The duration of the agreement.

(B) It should also note that this is a report pursuant to Arkansas Code § 12-60-105(e)(1) for legislative awareness.

(4)(A) **Acknowledgment.** Typically, Legislative Council may simply acknowledge receipt of the report.

(B)(i) No formal approval is required for these midlevel agreements;

(ii) The department may proceed with the partnership upon fulfillment of the reporting obligation.

(C) However, if Legislative Council members have questions or concerns, the department shall address them and take under advisement any recommendations.

(c) Review—High-value agreements.

(1) If the total value of the services and property to be received is fifty thousand dollars (\$50,000) or more in a single year, or if the total projected value of the agreement, with any potential amendments or extensions, is at least three hundred fifty thousand dollars (\$350,000), then the agreement shall be presented for review and approval by the Legislative Council or Joint Budget Committee if in session, before the Department finalizes the deal.

(2) **Submission for review.**

(A) The department must submit the proposed agreement, or a detailed summary thereof, to the Legislative Council or Joint Budget Committee along with a request for review.

(B) This should occur in advance of the department's intended start date for the partnership, allowing sufficient time for the legislative body's review process.

(C) The department shall not execute or implement the partnership until the review has been completed and the agreement has been favorably reviewed.

(3) Review process.

(A) The Legislative Council or Joint Budget Committee will review the submission according to its procedures.

(B) They may require a department representative to present the proposal and answer questions.

(C)(i) The Legislative Council or Joint Budget Committee will evaluate whether the partnership is in the interest of the state and consistent with legislative intent.

(ii) A favorable review, often indicated by a motion to file or approve the request, means the Department may proceed.

(D) If the committee declines to review favorably or raises objections, the department may need to modify the agreement or reconsider proceeding, in accordance with any guidance given by the committee.

(4) **Emergency or time-sensitive situations.** In the rare event that a partnership opportunity is time-sensitive and of high value, and the General Assembly or Legislative Council will not meet in time, the department should consult legislative leadership for guidance.

(d) Aggregation and multiple agreements.

(1) The thresholds in this section apply to each individual partnership agreement.

(2) However, the department should be mindful of multiple smaller agreements with the same private entity.

(3) If the department enters into a series of agreements or acceptances of gifts from the same source that cumulatively within one (1) fiscal year exceed fifty

thousand dollars (\$50,000), it is prudent to inform the Legislative Council even if each agreement on its own fell below the threshold.

(4)(A) The department shall avoid structuring agreements in a manner to intentionally evade the review threshold.

Example: Splitting what is really one large arrangement into separate smaller agreements.

(B) Transparency to the legislature is the guiding principle.

(e) Annual summary report.

(1) In addition to case-by-case reporting or review, the department shall compile an annual summary of all public-private partnerships and significant gifts received under the public-private partnership program.

(2) This summary can be provided to the Governor, the Joint Committee on Military and Veterans Affairs, or the Legislative Council, as information.

(3) The summary should include:

(A) The names of partners;

(B) The support provided; and

(C) How it was used to benefit recruiting and retention.

(4) This annual practice will supplement the specific requirements and help policymakers assess the overall impact of the program.

(f) Coordination with other oversight.

(1) The department shall also cooperate with any audits or inquiries from the Arkansas Legislative Audit regarding partnerships and donations.

(2) All financial aspects of received property and services are subject to audit like any other public funds or resources.

(3) The records maintained per 12 CAR § 133-104(a)(6)(A) will facilitate this oversight.

(g) Nonapplicability to small donations.

(1) For clarity, purely nominal donations or volunteer assistance do not require formal Legislative Council reporting under this section, as they fall well below the ten thousand dollar (\$10,000) threshold.

Example: A local restaurant sending lunch to a recruiting event valued at a few hundred dollars, or a single day volunteer speaker.

(2) Nevertheless, the department should keep internal records of such support and ensure even small contributions adhere to integrity standards.

(3) If questions arise, the department can always choose to report any support to the Legislative Council for transparency, even if not strictly required.

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