

good order and military discipline. Military law, regulation, and custom invest officers, non-commissioned officers, drill instructors, recruiters, cadre, and others with the right and obligation to exercise control over those they supervise. In this context, inappropriate sexual activity between those potentially vulnerable persons and those with authority to exercise control over them is inherently destructive to good order and discipline.

(2) *Prohibited activity.* The responsibility for identifying relationships subject to this offense and those outside the scope of this offense is entrusted to the individual Services to determine and specify by appropriate regulations. This offense is intended to cover those situations that involve the improper use of authority by virtue of an individual's position in either a training or recruiting environment. Not all contact or associations are prohibited by this article. Service regulations must consider circumstances where pre-existing relationships (for example, marriage relationships) exist. Additionally, this offense criminalizes only activity occurring when there is a training or recruiting relationship between the accused and the alleged victim of this offense.

(3) *Knowledge.* The accused must have actual or constructive knowledge that a person was a "specially protected junior member of the armed forces" or an "applicant for military service" (as those terms are defined in this offense). Knowledge may be proved by circumstantial evidence.

(4) *Consent.* Consent is not a defense to this offense."

(f) Paragraph 20.e. is amended to read as follows:

"e. *Sample specifications.*

(1) *Prohibited act with specially protected junior member of the armed forces.*

In that ___ (personal jurisdiction data), a (commissioned) (warrant) (noncommissioned) (petty)

officer, while in a training leadership position over ____, did (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____ 20__, engage in a prohibited act, to wit: _____ with _____, whom the accused knew was a specially protected junior Servicemember in initial active duty training.

(2) Prohibited act with an applicant for military service.

In that ____ (personal jurisdiction data), a (commissioned) (warrant) (noncommissioned) (petty) officer, while in a training leadership position over ____, did (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____ 20__, engage in a prohibited act, to wit: _____ with _____, whom the accused knew was (an applicant for military service) (a specially protected junior member of the armed forces who is enlisted under a delayed entry program).”

(g) Paragraph 51.e. is amended to read as follows:

“e. Sample specification.

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____, 20 __, (in the motor pool area) (near the Officers’ Club) (at the intersection of _____ and _____) (while in the Gulf of Mexico) (while in flight over North America) physically control [a vehicle, to wit: (a truck) (a passenger car) (____)] [an aircraft, to wit: (an AH-64 helicopter) (an F-14A fighter) (a KC-135 tanker) (____)] [a vessel, to wit: (the aircraft carrier USS _____) (the Coast Guard Cutter _____) (____)], [while drunk] [while impaired by _____] [while the alcohol concentration in (his) (her) (blood or breath) equaled or exceeded the applicable limit under subsection (b) of the text of the statute in paragraph 51 as shown by chemical analysis] [in a (reckless) (wanton) manner by (attempting to pass another vehicle on a sharp curve) (ordering