

CHAPTER 14

MILITARY SERVICE



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Until recently transgender people have served with distinction, but in silence, in every branch of our armed forces. But while the repeal of “Don’t Ask, Don’t Tell” in 2010 has allowed lesbian, gay, and bisexual troops to serve openly, an estimated over 12,000 transgender service members were still forced to lie about who they are in order to serve their country.²

On June 30, 2016, the Defense Department announced that transgender service members may live openly without fear of discharge, and the military will adopt policies to allow qualified transgender individuals to enlist, provide medically necessary care, and support gender transition while serving. This change will bring the U.S. military in line with many of our allies, including Australia, Canada, the United Kingdom, and others. The new policies, for current service members, that have been released so far include some concerning limitations. New policies for transgender people joining the military will be in place by July 2017.

Important questions and challenges remain, including ensuring that requirements for gender transition in the military are reflect contemporary clinical standards and are not unduly burdensome and ensuring that non-binary transgender troops can serve consistent with their gender identity. A proposed 18-month waiting period between gender transition and military enlistment is unnecessarily long and will hamper recruitment of able and ready individuals. And the Defense Department continues to wrongly interpret an obscure federal law to require to deny necessary medical procedures for transgender military dependents that will be available to service members themselves.

POLICY ADVANCES

- The Department of Defense ended the ban on transgender Americans in the United States military, allowing transgender Americans to serve openly and access necessary medical care, though with some concerning limitations. (2016)
- The Department of Defense partially repealed the exclusion of transition-related care (though still excluding surgery) for military retirees and family members in TRICARE. (2016)
- Prior to the end of the transgender service ban, the Secretary of Defense issued an effective moratorium on discharges under the ban. (2015)

NEEDED POLICY CHANGES

- The Department of Defense should reduce the proposed 18-month waiting period for enlistment of transgender individuals following a gender-related diagnosis, transition, or treatment.
- The Department of Defense should simplify requirements for gender transition while serving by accepting health care provider certification of gender identity, and eliminate requirements for documentation from other government agencies or courts.

1 Injustice at Every Turn: A Report of the National Transgender Discrimination Survey, at 30.

2 Gates, GJ and Herman, JL. 2014. Transgender Military Service in the United States. Williams Institute, UCLA School of Law.

- The Department of Defense should adopt policies to permit transgender service members with a non-binary gender identity to serve in a manner consistent with their gender identity.
- The Department of Defense should review remaining regulations barring military service by people with intersex conditions and people living with HIV and adopt new rules based on current medical science.
- The Department of Defense should review and reform or eliminate its policies on prosecutions based on HIV and consensual sex.
- The Department of Defense should eliminate outdated medical care regulations that bar medically necessary procedures to treat gender dysphoria for military spouses and dependents.
- Unless and until Congress eliminates the Selective Service System (SSS) or makes it gender neutral, the SSS should work with other federal agencies to update its policies to eliminate confusion and prevent barriers to student aid and other opportunities for transgender people.*

See Honoring Our Veterans for more on policies affecting military veterans, retirees, and dependents.