

Transgender Servicemembers: Policy Shifts and Considerations for Congress

Updated August 30, 2017

A series of [Twitter posts](#) on July 26, 2017, by President Donald J. Trump indicated a planned shift in Department of Defense (DOD) policy on service in the Armed Forces by transgender individuals. A [Presidential Memorandum](#) to the Secretaries of Defense and the Homeland Security (as parent agency to the U.S. Coast Guard) followed on August 25, 2017, outlining the new policy parameters with respect to uniformed DOD and Coast Guard personnel.

Background: Policy Evolution

Prior to 2016, DOD policy treated the physical and psychological aspects of transgender conditions as (1) grounds for the discharge of existing servicemembers, and (2) a disqualifying condition for new accessions through enlistment or commissioning. On June 30, 2016, then-[Secretary of Defense Ashton Carter](#) announced that “transgender Americans may serve openly, and they can no longer be discharged or otherwise separated from the military just for being transgender.”

DOD’s concomitant policy issuance ([DODI 1300.28](#)), effective October 1, 2016,

- established a construct by which transgender servicemembers may transition gender while serving,
- enumerated prerequisites and prescribed procedures for changing a servicemember’s gender marker (male or female), and
- specified medical treatment provisions for Active Component (AC) and Reserve Component (RC) transgender servicemembers.

Then-Secretary Carter also [announced plans](#) to begin to admit transgender recruits by July 1, 2017, stating “the gender identity of an otherwise qualified individual will not bar them from joining the military.”

However, on June 30, 2017, Secretary of Defense James Mattis announced in a memorandum that DOD would postpone the announced accession policy change for six months to further study the issue.

Revised Policy: August 2017

President Trump’s directive to the Secretary of Defense would revert policy to the pre-2016 consideration of transgender conditions as grounds for discharge (effective January 1, 2018) and would indefinitely continue the policy prohibiting transgender individuals from joining the Armed Forces. The President also directed a halt to all DOD or DHS spending (effective March 23, 2018) on sex reassignment surgeries

“except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex.” In the interim, the President delegated decisions about transgender service, as such,

The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall determine how to address transgender individuals currently serving in the United States military.

On August 29, Secretary of Defense James Mattis announced that for the time being, “[current policy](#) with respect to currently serving servicemembers will remain in place.” He also announced that he would establish a panel of experts to conduct further study on the issue.

How Will the Policy Affect Those Already Serving?

Secretary Mattis’ announcement suggests that currently serving transgender members may be retained and receive medical care for diagnosed conditions. Nevertheless, the conditions for future service, discharge, and medical care for currently openly serving transgender members and those who may reveal their transgender status after the established deadlines may be subject to the outcome of future studies and leadership decisions.

There is a lack of reliable data on the number of transgender individuals in the military and in the general population. DOD does not collect data on servicemembers who identify as transgender, nor does the U.S. Census Bureau or the Centers for Disease Control and Prevention. [Some estimates](#) based on survey data suggest that transgender individuals make up between 0.1% and 0.5% of the total U.S. population. A 2016 [RAND study](#) estimated that transgender personnel account for less than 0.2% of the total force.

What Is the Cost of Care for Transgender Servicemembers?

The President and some in Congress have raised concerns about potential medical costs for transgender servicemembers. Costs may include hormone replacement therapy, counseling, and/or gender reassignment surgery. As costs for treatment vary significantly by individual, there is a broad range of cost estimates for medical services. In a 2016 study, [RAND estimated](#) that the annual health care costs to DOD associated with gender-transition treatment for active component members under the Military Health System would be between \$2.4 million and \$8.4 million. DOD’s medical expenditures for direct care in FY2017 were approximately [\\$17 billion](#).

What Are Other Concerns with Transgender Service?

President Trump’s policy directive expressed concerns about the potential effects of transgender service on military effectiveness and lethality, and unit cohesion. There are limited data on the effects of transgender service on unit cohesion or operational effectiveness due to a short history and low incidence of open transgender service in the U.S. and foreign militaries. [Existing research](#) from four foreign militaries with policies allowing transgender service generally has shown no significant adverse effects on cohesion. Nevertheless, in these militaries, researchers noted some reports of initial resistance to policy change or hostility toward transgender personnel.

Others have expressed concerns about possible disruption to units if members are or become medically non-deployable or otherwise unfit for duty. Medical or surgical treatments for transgender personnel could affect a member’s deployability, or availability for worldwide assignments. In fiscal year 2016, the Army reported that 12% (~140,000) of its total active duty force was non-deployable, with 90% of those

being medically non-deployable and 10% administratively non-deployable. A 2016 [RAND study](#) estimated less than 0.1% of the force would seek transition-related care that could disrupt an individual's ability to deploy.

Considerations for Congress

Congress has not adopted any legislation with regard to gender identity and the ability to serve on active duty. However, Members have proposed prohibiting defense spending on medical treatments related to gender transition. Congress may choose to defer or delegate authority to DOD for policies and regulations regarding accession, separation, and health care for transgender servicemembers. Alternatively, Congress may draft legislation affecting Administration policy, under its authority to make laws governing the Armed Forces. In its oversight role, Congress may decide to initiate further review of policy implications through hearings or studies.

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