

Position statement: The American Academy of Nursing opposes prevention and limitation of transgender individuals from serving in the United States military



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Background

There are an estimated 1,320 to 6,630 transgender active duty service members in the U.S. military (Schaefer et al., 2016). Notably, their ability to serve has been unaffected by changes in policy on lesbian, gay, and bisexual service members.

In 2016, a memorandum by then U.S. Department of Defense Secretary Ash Carter called for an end the longtime ban on transgender persons serving in the U.S. military (U.S. Department of Defense, June 30, 2016). Carter's memorandum, which established a timeline for eliminating the ban, was based on an extensive 2016 RAND study that found unit cohesion was not harmed by openly serving transgender service members (Schaefer et al., 2016), as well as extensive consultation with military leaders. However, in 2017, U.S. President Donald J. Trump sought to reinstitute the ban, based on assertions that allowing transgender service members to serve would threaten morale and lead to significant increased health care costs, despite strong evidence to the contrary. Currently, the ban is at least temporarily on hold while challenges to it continue to be considered by the federal courts. President Trump's initial call for a return to an outright ban was subsequently modified to include some highly narrow exceptions. (The issues and timeline are summarized in the Appendix.)

Several health professional organizations, including the American Medical Association (2017), American Psychiatric Association (2018), and American Psychological Association (2018), oppose a ban on

transgender individuals serving in the military. A 2017 letter to Defense Secretary Jim Mattis on behalf of the Academy also urged that prior policy eliminating the ban be maintained (Berkowitz, 2017). The ban also faces opposition by members of Congress, over 100 of whom issued a June 5, 2018, letter to Mattis, opposing the proposed ban and citing the opposition of health professional associations (Brook, 2018).

Conclusion

- The American Academy of Nursing opposes all efforts to bar transgender individuals from military service. Available evidence points to the strong conclusion that there is no basis for such a ban other than prejudice, discrimination, or political appeals to antitransgender bias. U.S. military service members are admitted to serve based on their skills, abilities, and potential; their gender identity is irrelevant. Whether a ban is blanket in nature or contains narrow exceptions, it is harmful not just to transgender service members, but to all lesbian, gay, bisexual, and transgender people, as a symbol of continued government-sponsored discrimination that propagates stigma and contributes to health disparities.
- The Academy supports coverage of medically necessary care for all service members, including transition-related care for transgender service members who require it.

Recent attempts to prevent transgender individuals from serving in the military continue to fuel social stigma, fear, and bias against transgender individuals. The American Academy of Nursing strongly opposes these efforts as non-evidence based and capricious.

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- The Academy supports legal, administrative and political efforts to oppose a ban on transgender service members and to ensure that medically necessary care, including transition-related care, is covered.

This position is consistent with the Academy's support for diversity, elimination of health disparities, and its record of opposition to discrimination based on gender identity ([American Academy of Nursing, 2016, October](#); [Berkowitz, 2017](#); [Sedlak & Boyd, 2016](#)).

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Appendix

On June 30, 2016, then-Secretary of Defense Ash Carter issued a memorandum ending the prior blanket prohibition on transgender service members, declaring in part that “[e]ffective immediately, no otherwise qualified service member may be involuntarily separated, discharged or denied reenlistment or continuation of service, solely on the basis of their gender identity.” ([U.S. Department of Defense, June 30, 2016](#)) He based this change in large part on a Department of Defense-commissioned RAND¹ corporation study concluding that “evidence from foreign militaries and the U.S. military has indicated no significant impact on unit cohesion or operational readiness as a result of allowing transgender and gay and lesbian personnel to serve openly. . .” ([Schaefer et al., 2016, p.4](#)). The RAND study also examined the potential cost of covering transition-related health care for transgender service members who require it. Applying prevalence data from the National Transgender Discrimination Survey, estimated costs would account for less than 0.13% of the overall Department of Defense health care expenditures ([Schaefer et al., 2016, p.3](#)). Along with the RAND study, Secretary Carter also consulted military leaders before concluding that allowing transgender service members to serve openly was a reasonable and timely policy change.

Carter had given the military until July 1, 2017, to begin accepting transgender recruits. Subsequently,

¹ RAND was originally an acronym for Research and Development, but RAND (all caps) is now the formal company name.

President Donald J. Trump's Defense Secretary, James Mattis, pushed that deadline to January 1, 2018.

On July 26, 2017, President Trump announced via Twitter² that he was reinstating the ban on transgender service members. He announced that American forces could not afford the “tremendous medical costs and disruption” of transgender service members and “the United States Government will not accept or allow transgender individuals to serve in any capacity in the U.S. Military.” Then, in August 2017, he directed the Department of Defense to adopt policy reflecting these declarations, effective March 2018.

That policy was challenged in federal court. Four federal district courts issued temporary injunctions against the new transgender ban: the District of Columbia ([Doe v. Trump, October 30, 2017](#)), the District of Maryland ([Stone v. Trump, Nov. 21, 2017](#)), the Central District of California ([Stockman v. Trump, Dec. 21, 2017](#)), and the Western District of Washington ([Karnoski v. Trump, Feb. 21, 2018](#)). The DC and Maryland decisions were subsequently upheld by the Courts of Appeal for the DC Circuit ([Doe v. Trump, December 22, 2017](#)) and the 4th Circuit ([Stone v. Trump, 4th Cir., Dec. 21, 2017](#)), respectively.

A February 22 memorandum by Secretary Mattis modified the blanket ban on transgender service members ([Mattis, 2018](#)). The memorandum disqualified all individuals “who require or have undergone gender transition.” He also recommended that “transgender persons without a history or diagnosis of gender dysphoria, who are otherwise qualified for service, may serve, like all service members, in their biological sex. p.3”³

This “exception” to the ban would apply to virtually no one. In order to serve, a transgender person who had undergone transition would be: unable to serve; that person would be unable to seek transition; would have to be comfortable with the sex assigned at birth and continue to be identified as the gender pertaining to that sex. Transgender service members currently serving would be allowed to remain; however, if they challenged this new policy in court, they could be discharged. Critics compared these recommendations to the “don't ask, don't tell” policy, repealed in 2010, which required lesbians, gay men and bisexuals to keep their sexual orientation secret in order to serve ([Cooper, 2018](#)).

In March 2018, President Trump accepted Secretary Mattis' recommendations, ([Trump, 2018](#)), announcing a revised policy that “the accession or retention of individuals with a history or diagnosis of gender dysphoria—those who may require substantial medical treatment, including through medical drugs or

² @realDonaldTrump

³ While different sources may define “gender dysphoria” somewhat differently, the DoD report defines it as “the distress or impairment of functioning that is associated with incongruity between one's biological sex and gender identity.” (DoD, 2018).

surgery—presents considerable risk to military effectiveness and lethality." (White House, 2018, March 23).

The Federal District Court for the Western District of Washington, in considering an appeal to its preliminary injunction, had to consider whether the revised policy rendered its prior ruling moot. The court rejected that argument and, with it, rejected the new, "modified" antitransgender policy. In doing so, the court declared that "because transgender people have long been subjected to systemic oppression and forced to live in silence, they are a protected class. Therefore, any attempt to exclude them from military service will be looked at with the highest level of care..." That level of care, "strict scrutiny," means that the government "must show that it was sincerely motivated by compelling interests, rather than by prejudice or stereotype, and that it is narrowly tailored to achieve those interests." Based on this standard, the Court had no problem finding that the Administration had failed to meet this burden; it thus supported the continued challenge to the transgender ban (Karnoski v. Trump, April 13, 2018). Notably, this is the first time a federal court had found transgender persons to be a protected class.

On June 15, 2018, that same court rejected the Administration's request to lift its injunction while the case is under appeal. (Karnoski v. Trump, June 15, 2018). As of this writing, advocates are seeking a permanent injunction against the transgender ban.

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