

New Rule for Transgender Troops: Stick to Your Birth Sex, or Leave

By Dave Philipps

- March 13, 2019

The Defense Department, after months of litigation and controversy over the issue, is establishing a new policy for transgender troops: They can enlist and serve, but only if they stick to their biological sex. No transitioning allowed.

The department [issued a memorandum](#) late Tuesday ordering the military to adopt the policy, which will take effect April 12. Under the new rules, troops and recruits can identify as transgender, but must use the uniforms, pronouns, and sleeping and bathroom facilities for their biological sex. They will not be allowed to serve if they have a diagnosis of gender dysphoria, a disorder in which a person's gender identity does not match their physical gender at birth.

The policy exempts transgender troops who have already transitioned or have begun the medical process. Anyone who defies the regulations in the future would be forced out of uniform.

Pentagon officials were at pains on Wednesday to insist that the new rules — which already face a number of legal challenges — do not exclude people based on gender identity.

“This is not a ban,” a high-ranking defense department official told reporters repeatedly during a background briefing given on the condition that he not be named. Transgender people can still serve, he said, “so long as they adhere to the standards of their biological sex.”

Department officials say the new policy ensures equal treatment for all troops. Opponents say it is an attempt to sneak a discriminatory policy past court challenges on constitutional grounds.

“It's baloney — of course it's a ban,” said Shannon Minter, a lawyer representing transgender service members who have challenged the policy in federal court.

The action follows a 2017 announcement by President Trump on Twitter that the “United States Government will not accept or allow” transgender individuals “to serve in any capacity in the U.S. Military.”

The new policy will accomplish that, Mr. Minter said: “It prevents trans people from serving and will purge the military of transgender service members.”

But the Pentagon says that most serving troops won't be affected. A 2016 survey found that about 9,000 troops identified as transgender, but as of last month, only about 1,000 had begun the formal transitioning process.

The official at the briefing said the policy simply added gender dysphoria, which he called “a serious mental condition,” to the long list of pre-existing conditions, from asthma to heel spurs, that would disqualify someone from serving.

“Any service member with a medical condition, such as gender dysphoria, has a potential negative impact on force readiness and should be evaluated,” the official said. “All service members, equally, must meet established readiness standards to maintain the effectiveness and lethality of the force.”

Transgender people have been allowed to serve openly and transition in the military since [a longtime ban was lifted in 2016](#), and [they now serve around the globe](#). Transgender recruits have been allowed to

enlist since the start of 2018. The new policy allows the military to grant waivers to transgender recruits, though the [experiences of current recruits](#) suggests that waivers may be difficult to get.

With the new policy set to take effect April 12, some transgender troops and recruits are rushing to sign enlistment papers or start the transitioning process before the deadline, according to Navy Lt. Cmdr. Blake Dremann, who heads Sparta, an association of transgender troops that opposes the policy change.

“There is a sense of urgency, and we are working very quickly,” Commander Dremann said.

After Mr. Trump’s announcement, opponents mounted five separate court challenges, and court injunctions in those cases kept the 2016 policy allowing transgender military service in place.

Most have since been lifted. On Wednesday, the Departments of Justice and Defense said the last remaining injunction no longer applied, but Mr. Minter, the plaintiff in that case, has challenged that claim. Judge Colleen Kollar-Kotelly of the Federal District Court in the District of Columbia has set a deadline of Friday for the government to respond to the challenge, and has not ruled on the status of the injunction.

'Nothing short of a ban': Transgender troops, advocates react to new military policy

The Defense Department says the new policy is not a ban on transgender service. Currently serving trans service members disagree.

March 14, 2019, 11:59 AM EDT / Updated March 14, 2019, 9:36 PM EDT

By Julie Moreau

Staff Sgt. Patricia King is the first openly transgender infantry soldier as well as the first enlisted female infantry soldier in U.S. military history. And after 19 years serving her country, she is angry.

“This is the defense of the indefensible,” she said of the Defense Department’s March 12 [memo](#) outlining a new policy regarding transgender military service.

The policy allows currently serving transgender troops and service members who have already received a diagnosis of gender dysphoria to continue to serve in their preferred gender. But after April 12, when the policy goes into effect, no one with gender dysphoria who is taking hormones or has transitioned will be allowed to enlist.

Further, any currently serving troops diagnosed with gender dysphoria after April 12 will have to serve in their sex as assigned at birth and will be barred from taking hormones or getting gender-affirming surgery.

According to the Defense Department, the policy is not a ban on transgender service.

“Transgender individuals are not excluded from military service, and DOD policy specifically prohibits discrimination based on gender identity,” the [DOD website states](#). “But all persons, whether or not they are transgender, must meet all military standards, including the standards associated with their biological sex. Waivers or exceptions to these standards may be granted on a case-by-case basis.”

King, however, said the DOD’s policy “is nothing short of a ban, regardless of whatever political language might be used.”

“This is telling qualified people they are not allowed to serve,” she said. “That is the definition of a ban.”

King said the new policy will affect everyone in the military from medical providers who will now have to choose between providing transition-related care and protecting a transgender soldier’s career, and unit leaders who may have to advise those they command not to be themselves if they wish to remain in the military.

And for service members, King said they will be “forced to violate their own integrity in order to continue to serve.”

Capt. Jennifer Peace, currently assigned to the Defense Intelligence Agency as executive officer in the Iranian division, has served in the military for 15 years, many of those as openly transgender.

Peace told NBC News the proposed implementation plan is “an unfortunate step backwards for diversity and inclusion in the military” and will have a negative impact on currently serving trans people.

“This is the enforcement of a presidential tweet that trans people have no place in the military,” Peace

said. “As senior leaders look at trans individuals, I fear they are going to see this as military directive that trans people have no place in the military, and I think it’s going have an impact on their career.”

LGBTQ military advocates roundly criticized the new policy, calling it “horrific” and “cruel.”

“This is the start of an incredibly dark chapter in our nation’s history as the Trump-Pence administration moves to implement an unconscionable ban on our brave transgender service members and qualified recruits who want to serve,” Ashley Broadway-Mack, president of LGBTQ military family group [American Military Partner Association](#), said.

“This horrific policy is even more cruel than ‘don’t ask, don’t tell,’ because the Pentagon explicitly told these service members it was finally safe to come out — and now they are being targeted for discrimination,” Mack added. “We emphatically condemn this unconscionable transgender military ban, because it undermines military readiness, destroys unit cohesion, betrays our service members and is based on nothing more than blatant bigotry.”

Navy Lt. Cmdr. Blake Dremann is the president of the LGBTQ military group Sparta and one of five service members who, along with King and Peace, [testified before Congress](#) about transgender military service. He said he and his organization “stand firmly with our members and the thousands of transgender troops serving bravely across the globe.”

“While the new policy may go into effect soon, it does not remove or lessen the contributions we continue to provide in the defense of our nation,” Dremann said. “We look forward to a time when service members are judged solely on their capability to complete the mission. We will continue to work to make that a reality.”

Peace said that similar to what occurred under “don’t ask, don’t tell,” transgender service members will withdraw from military social life.

“What you’re going to see with all these trans troops, 14,000 service members, are going to go back to a place where they can’t be part of the military family,” Peace lamented. “You can’t talk about what you did that weekend or your spouse can’t come to the company baseball game. You feel left out. You feel like an other.”

Peace and King believe the policy will further depress the number of willing recruits at a time when the military is struggling to meet its targets. Peace said potential recruits that value diversity and inclusion “are not going to look to the military now,” and the military will be “recruiting from a smaller talent pool.”

King said that “every unit is under-strength right now.”

“Every time we lose a person for any reason that is a position that is not easily refilled,” she explained. “That is an extra job that somebody else has to do that’s a hole on the battlefield that is not filled.”

Peace said, “In the end, this is going to hurt readiness and going to hurt units, and it’s going to hurt soldiers.”

LEGAL BATTLE ‘FAR FROM OVER’

There are currently four lawsuits pending against the new policy. The Supreme Court stayed two injunctions in January, and last week U.S. District Judge George Russell in Maryland lifted a third injunction. An injunction issued by a district court in D.C. still technically remains in effect, however, until the issuance of mandate. As a result, the release of the memo came as a shock to some advocates who question whether, with its publication, the government is in violation of a court order.

“Not only does the Trump-Pence transgender military ban violate the Constitution, but now the

administration is also defying a court order,” Jennifer Levi, director of the Transgender Rights Project at LGBTQ legal group GLAD, said in a statement. “With brazen disregard for the judicial process, the Pentagon is prematurely and illegally rolling out a plan to implement the ban when a court injunction remains in place prohibiting them from doing so.”

The legal battle is “far from over,” according to Shannon Minter, legal director of the National Center for Lesbian Rights.

“All four cases are proceeding,” he said. “Just because an injunction is lifted, doesn’t mean case is over.”

Outside the courtroom, many advocates support the passage of legislation that would prevent the ban from taking effect.

“Congress must act now and secure the fate of nearly 15,000 transgender troops,” Harper Jean Tobin, director of policy for the National Center for Transgender Equality, said in a statement. “History is watching Congress and will judge them harshly for inaction. That is why we must act swiftly to protect transgender troops, our military, and the dignity of our own legacy.”

Minter encouraged LGBTQ advocates and “everyone who cares about the integrity of our military” to “contact your representatives and tell them to support this legislation.”

As for Peace and King, they want the chance to speak before the Senate Armed Services Committee. “Nothing changes people’s minds more than a conversation,” Peace said. “That act of telling your story is so powerful.”

Peace said military leaders and policy makers often have “discussions about us” but do not “include us in the discussion.” Peace, who during her testimony before the House Armed Services Military Personnel Subcommittee, called the ban a “policy based in bigotry,” said it has not discouraged her from continuing to serve in the military. “If you care about something to want to see it change, you have to be the type of leader you want to see.”

King, who is close to retirement, said: “It’s so hard to be leaving the military. A year ago I felt comfortable saying it was time to retire, but now as I get ready to retire that is no longer so.”

“I know we are facing an uphill battle,” King said, but “my goal is to right this wrong.”

The quiet release of the Pentagon's new policy on transgender service: Analysis

The unveiling of the policy was in stark contrast to the Obama administration.

By Elizabeth McLaughlin Mar 14, 2019 4:04 AM ET

The Pentagon quietly released its [new policy on transgender service](#) on Wednesday, almost 600 days after President [Donald Trump](#) first announced he intended to ban transgender individuals from the military.

Trump's announcement by tweet in July 2017 [kicked off a string of lawsuits](#) against the administration that culminated with the Supreme Court's decision last month to allow the Pentagon to begin enforcing the new policy. Last week, a federal judge in Maryland lifted the last injunction against the ban, so the Trump administration notified the D.C. District Court that it intended to move forward.

On Wednesday morning, the Pentagon sent a copy of the policy directive to defense reporters, but it came without a statement of support from the White House, acting Defense Secretary Patrick Shanahan, or even the Pentagon's press office.

Some reporters, including from ABC News, were invited to dial into a 30-minute call with two defense officials, but the information was not attributable to anyone by name per the Pentagon.

The unveiling of the new policy, which affects about 9,000 service members who self-identify as transgender, was in stark contrast to how the Obama administration released its policy in 2016 that allowed transgender individuals to serve openly.

In that rollout, then-Defense Secretary Ash Carter went before cameras, answering questions from reporters and explaining why it was the correct policy change. Carter said at the time that the military didn't want any barriers that would prevent the department "from recruiting or retaining the soldier, sailor, airman, or Marine who can best accomplish the mission."

But no such high-profile briefing accompanied Wednesday's rollout.

The Pentagon Briefing Room hasn't been used by a defense secretary since August of last year. The Pentagon's primary spokesperson has not briefed reporters on camera since May.

One of the only opportunities to hear from Pentagon officials about the new policy happened last month when the House Armed Services Military Personnel Subcommittee held a hearing with four active-duty transgender service members, along with James Stewart, performing the duties of under secretary of defense for personnel and readiness, and Vice Adm. Raquel Bono, director of the Defense Health Agency.

Stewart told the committee that the Trump administration's policy is not about transgender individuals, but those diagnosed with gender dysphoria specifically and that the policy put in place under the Obama administration would "degrade military readiness" in the long term.

But the four service chiefs of the Army, Navy, Air Force and Marine Corps have testified in Congress that the presence of transgender service members has had no effect on unit cohesion, discipline or

morale -- a sentiment echoed by the active duty transgender service members last month.

Defense officials were asked by reporters on Wednesday for the data that shows transgender individuals have a negative effect on military readiness and unit cohesion, but officials conceded that it doesn't exist because the Defense Department doesn't track transgender service members. Instead, officials pointed to the panel of experts assembled by former Defense Secretary James Mattis who used their military and professional judgment to make policy recommendations.

Officials again said the policy was "not a ban on transgender individuals serving in the military" but focused on those diagnosed with gender dysphoria, defined as "a marked incongruence between one's experienced/expressed gender and assigned gender ... associated with clinically significant distress and impairment of functioning." The Pentagon argues the policy simply allows the department to deal with gender dysphoria as it would any other diagnosis or disorder that would impair someone's ability to serve.

Dr. Jesse M. Ehrenfeld, chair-elect of the American Medical Association Board of Trustees, testified before Congress last month that there was "no medically valid reason, including the diagnosis of gender dysphoria, to exclude transgender individuals from military service."

"This is the position of most major medical organizations," Ehrenfeld said.

The policy is available online [here](#) and takes effect April 12.

The Trump Administration Is Banning Most Transgender Troops From Serving In The Military. Here Are The Rules.

A directive issued Tuesday gives transgender troops and recruits until April 12 to enlist in their preferred gender or receive a diagnosis of "gender dysphoria."

Adolfo Flores BuzzFeed News Reporter

Posted on March 12, 2019, at 11:07 p.m. ET

The Trump administration approved a policy Tuesday requiring most transgender troops and military recruits serve in the sex they were assigned at birth and barring them from transitioning to another gender.

The directive from the Defense Department falls short of a total ban on trans people serving in the military, but says new and existing service members will have only 30 days to qualify for gender transition, after which transgender people will not be allowed to enlist or receive medical treatment, unless they're exempt.

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Under the rules, transgender troops and recruits who enlist prior to April 12, 2019, and were either qualified for military service in their preferred gender or as a service member received a diagnosis of "gender dysphoria" can go forward with medical treatments for their transition. Military secretaries can also grant waivers to transgender people in whole or in part to the new requirements on a case-by-case basis.

Harper Jean Tobin, director of policy for the National Center for Transgender Equality, said the implementation of the rules represented an unprecedented step backward in the social and civil progress for the US and its military.

"Throughout our nation's history, we have seen arbitrary barriers in our military replaced with inclusion and equal standards," Tobin said in a statement. "This is the first time in American history such a step forward has been reversed, and it is a severe blow to the military and to the nation's values."

The Obama administration lifted a ban on transgender troops in 2016, but President Trump reversed the decision in 2017 saying that transgender people would render the military "burdened with medical costs and disruption," setting off a series of legal battles.

Last week, a federal court in Baltimore lifted a preliminary injunction that had prevented Trump from enacting the ban, which followed a Supreme Court order in January that lifted similar injunctions in two other courts.

Service members who are diagnosed with gender dysphoria can be discharged from the military if they're "unable or unwilling to adhere to all applicable standards, including the standards associated with their biological sex."

The memo issued Tuesday was signed by David L. Norquist, who is currently performing the duties of

the deputy secretary of defense.

The directive said transgender people are disqualified from serving in the military unless a mental health provider says the applicant demonstrated 36 consecutive months of stability in the gender they were assigned at birth immediately before submitting their application. The transgender applicant must also demonstrate they have not transitioned and that a licensed medical provider has determined that gender transition is not medically necessary. The troop or recruit must also adhere to the standards associated with the gender they were assigned at birth.

"A history of cross-sex hormone therapy or a history of sex reassignment or genital reconstruction surgery is disqualifying," the directive said.

Nearly 15,000 transgender troops currently serve in the US military, said the National Center for Transgender Equality.

Aaron Belkin, director of the Palm Center, a nonprofit institute that's examined the issue of transgender people serving in the military, said the Trump administration has chosen prejudice and politics over the testimony of medical and military leaders.

"In almost three years of open service these troops built a strong record of achievement and earned the support of every service chief," Belkin said in a statement. "The Trump administration is determined to bring back 'don't ask, don't tell,' a policy that forced service members to choose between serving their country and telling the truth about who they were."

Nancy Pelosi Slams Donald Trump Over 'Bigoted, Disgusting' Pentagon Rule That Will Bar Transgender Troops From Transitioning

By Chantal Da Silva On 3/13/19 at 8:38 AM EDT

House Speaker Nancy Pelosi slammed President Donald Trump over a Pentagon policy change that would bar transgender troops and military recruits from transitioning to another sex and require most service members to serve in their birth gender.

“The president’s revival of his bigoted, disgusting ban on transgender service members is a stunning attack on the patriots who keep us safe and on the most fundamental ideals of our nation,” Pelosi said in a statement on Tuesday.

Condemning the new rule as "cowardly," Pelosi said the president's "years-long insistence" on making it difficult for transgender troops to serve "makes clear that prejudice, not patriotism, guides his decisions.

"If implemented, this hateful policy would undermine our military readiness and betray our core American values," Pelosi said.

A memo obtained by The Associated Press outlining the Pentagon's new policy asserted that military services would be required to implement the policy in 30 days, allowing anyone who signed an enlistment contract by April 12 to continue with any plans for hormone treatments and gender transition if they had received a diagnosis of "gender dysphoria."

After April 12, however, no applicants who were currently taking hormones or who had transitioned to another gender would be allowed to enlist.

The memo also said that any currently serving troops diagnosed with gender dysphoria after April 12 would have to serve in their birth gender and would not be allowed to take any hormones or undergo transition surgery.

Further, the policy change would allow for service members to be discharged based on a gender dysphoria diagnosis, or if they were "unable or unwilling to adhere to all applicable standards, including the standards associated with his or her biological sex, or seek transition to another gender," according to the AP. Before any discharges could be finalized, according to the new policy, service members would be required to receive formal counseling and be given the option of changing their decision.

Vowing to fight the new policy, Pelosi said: “No one with the strength and bravery to serve in the U.S. military should be turned away because of who they are.

"The House will continue to fight this discriminatory action, which has no place in our country," she said. "We will never allow hate and prejudice to dictate our national security.”

In a statement sent to *Newsweek*, Democratic Senator Tammy Duckworth of Illinois, an Iraq War veteran who lost both of her legs in 2004 after suffering severe combat wounds, joined Pelosi in condemning the new rule. She called on colleagues on both sides of the aisle to take a stand against the policy.

“When I was bleeding to death in my Black Hawk helicopter on that dusty field in Iraq, I didn't care if

the American troops risking their lives to help save me were gay, straight, transgender, black, white, male or female. All that mattered was they didn't leave me behind," Duckworth, a former U.S. Army lieutenant colonel, said. "If you are willing to risk your life for our country and you can do the job, you should be able to serve—no matter your gender identity or sexual orientation. Discrimination has no place in our military, it weakens our national security especially when we have an ever-shrinking portion of our population who are willing to serve in uniform."

"I hope my colleagues on both sides of the aisle in Congress will oppose this policy and show our service members that we have their backs," the Illinois senator added.

Reacting to the new rule, Aaron Belkin, the director of the Palm Center, which studies gender, sexuality and the military, accused the Trump administration in a statement published online of determined to "bring back 'don't ask, don't tell,' a policy that forced service members to choose between serving their country and telling the truth about who they were.

"The Trump administration has chosen prejudice and politics over the truth of open service as revealed by the testimonies of dozens of medical and military leaders and the service and sacrifice of 14,700 transgender service members," Belkin said. "In almost three years of open service, these troops built a strong record of achievement and earned the support of every service chief.

"Even leaders who supported 'don't ask, don't tell' at the time later came to believe that it had failed, harming readiness rather than improving it," Belkin said. "That will be the fate of this bigoted policy on transgender service as well."

As the Palm Center noted, recent polls conducted by Quinnipiac University and Dalia Research found that at least 70 percent of Americans support allowing transgender Americans to serve in the military.

Top military officials have also expressed support for letting transgender troops serve, including the chiefs of all military service branches.

It was only a few years ago that the Obama administration ended the policy of discharging service members because they were transgender.

In 2016, then-Defense Secretary Ash Carter announced that transgender people could serve openly, with the military asserting that by July 1, 2017, transgender applicants would be allowed to enlist.

But the Trump administration pushed back the enlistment date, with the government calling for further studies to determine whether allowing transgender people to serve would have any affect on military effectiveness.

Then, early in his presidency, the U.S. leader announced in a tweet that the government would not be accepting or allowing transgender people to serve in the military "in any capacity," asserting that the military "must be focused on decisive and overwhelming victory and cannot be burdened with the tremendous medical costs and disruption that transgenders in the military would entail."

In a statement published online, the National Center for Transgender Equality called the Trump administration's new policy a "tragic reversal of a historic step forward for the United States.

"The start of this looming purge represents an unprecedented step backward in the social and civil progress of our country and our military," Harper Jean Tobin, director of policy for the center, said in a separate statement.

"Throughout our nation's history, we have seen arbitrary barriers in our military replaced with inclusion and equal standards. This is the first time in American history such a step forward has been reversed, and it is a severe blow to the military and to the nation's values," Tobin said.

Calling on Congress to take action, Tobin said: "The Trump administration is built on demonizing

minority groups, reversing the civil rights gains of immigrants, people of color, women, and the LGBTQ movement will forever remain the hallmarks of their time in office. That is why Congress must act now and secure the fate of nearly 15,000 transgender troops.

"We cannot let an incompetent administration guided by a petulant bigot stand as the mascot of our time," Tobin added. "History is watching Congress, and will judge them harshly for inaction. That is why we must act swiftly to protect transgender troops, our military and the dignity of our own legacy."