

Trump Plans To Implement His Transgender Military Ban

The president's anti-transgender policy has been on hold amid several court challenges, which will continue.

Dominic Holden BuzzFeed News Reporter

Posted on March 8, 2019, at 6:30 p.m. ET

The Trump administration said Friday it will soon implement a ban on most transgender people in the military, despite lawyers for transgender challengers insisting a federal court injunction still blocks the policy.

In a [notice](#) filed in the District Court for Washington, DC, the Justice Department said "there is no longer any impediment to the military's implementation" of the ban, adding that the Pentagon plans to release a memorandum "formally implementing the new policy in the near future."

ADVERTISEMENT

But Jennifer Levi, a lawyer for GLBTQ Legal Advocates & Defenders, a group representing the challengers, was adamant the ban remains blocked by a previous court order.

"The government is wrong," she told BuzzFeed News.

The disagreement is part of a complicated legal dispute. The administration's suggestion that it will move forward with the ban comes one day after a federal court in Baltimore lifted a preliminary injunction that had prevented President Donald Trump from enacting the ban, which followed a Supreme Court [order](#) in January that lifted similar injunctions in two other courts.

But a fourth preliminary injunction had also been issued in the DC District Court blocking the ban. Although a three-judge panel in the DC Court of Appeals vacated that injunction in January, the court said it would not mandate that the lower court withdraw its injunction until the three appellate judges issued their separate opinions in the case. Those opinions were issued Friday, which started a 21-day countdown for challengers to seek a rehearing before a larger panel of judges.

ADVERTISEMENT

Still, the appeals court had yet to issue a mandate to the lower court to withdraw the preliminary injunction.

"The mandate clearly has not issued so the injunction remains in place," Levi said in an email. "The injunction does not and cannot dissolve automatically without a court order and, in this case, there is no court order until the mandate issues."

The Justice Department's filing acknowledged that the "D.C. Circuit has not issued the mandate," but

said in its filing on Friday, “Nevertheless, the D.C. Circuit’s judgment vacating this Court’s preliminary injunction took effect when entered” in January.

A Pentagon spokesperson told BuzzFeed News on Thursday, “The department [of Defense] is now free and clear of any injunctions against implementation” of the ban. But the spokesperson did not answer questions about the injunction in the DC case.

In June 2016, the Obama administration lifted a decadeslong ban on transgender service members after finding they didn’t harm the military. Trump reversed that decision in 2017, saying that transgender people would render the military “burdened with medical costs and disruption.” Trump formalized the policy in a [memorandum](#) that August — but four courts soon issued preliminary injunctions putting the ban on hold as legal challenges moved forward. All four of the challenges will proceed even if Trump implements the ban.

The policy evolved in February 2018, when former defense secretary James Mattis recommended banning most transgender personnel but allowing those who’d already joined and transitioned to remain in the ranks. Trump then rescinded his own 2017 order while officials sought to implement Mattis’s recommendations.

The Justice Department filing on Friday said that the new policy memorandum “will not take effect until 30 days after its release.”

“To be told that I’m now a burden, after nearly 19 years of service, it’s really hard to understand,” Chief Warrant Officer Lindsey Muller, an active-duty Army attack helicopter pilot who also served during the Iraq War, told BuzzFeed News in January.

Describing phone calls from other transgender soldiers and applicants, Muller said, “They are terrified.”

New Pentagon transgender rule sets limits for troops

The policy will likely force the military to eventually discharge trans people who need hormone treatments or surgery and can't or won't serve in their birth sex.

March 13, 2019, 8:26 AM EDT

By Associated Press

WASHINGTON — The Defense Department has approved a new policy that will largely bar transgender troops and military recruits from transitioning to another sex, and require most individuals to serve in their birth gender.

The memo outlining the new policy was obtained Tuesday by The Associated Press, and it comes after a lengthy and complicated legal battle. It falls short of the all-out transgender ban that was initially ordered by President Donald Trump. But it will likely force the military to eventually discharge transgender individuals who need hormone treatments or surgery and can't or won't serve in their birth gender.

The order says the military services must implement the new policy in 30 days, giving some individuals a short window of time to qualify for gender transition if needed. And it allows service secretaries to waive the policy on a case-by-case basis.

Under the new rules, currently serving transgender troops and anyone who has signed an enlistment contract by April 12 may continue with plans for hormone treatments and gender transition if they have been diagnosed with gender dysphoria.

But after April 12, no one with gender dysphoria who is taking hormones or has transitioned to another gender will be allowed to enlist. And any currently serving troops diagnosed with gender dysphoria after April 12 will have to serve in their birth gender and will be barred from taking hormones or getting transition surgery.

The memo lays out guidelines for discharging service members based on the new policy. It says a service member can be discharged based on a diagnosis of gender dysphoria if he or she is "unable or unwilling to adhere to all applicable standards, including the standards associated with his or her biological sex, or seeks transition to another gender."

It adds that troops must be formally counseled and given a chance to change their decision before the discharge is finalized.

In a statement Tuesday night, House Speaker Nancy Pelosi called the ban "cowardly."

"The President's revival of his bigoted, disgusting ban on transgender servicemembers is a stunning attack on the patriots who keep us safe and on the most fundamental ideals of our nation," the California Democrat said. "The President's years-long insistence on his cowardly ban makes clear that prejudice, not patriotism, guides his decisions."

Palm Center, a California research institute, protested the new policy Tuesday. Director Aaron Belkin said, "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."

The final legal injunction blocking the new policy was lifted last week, allowing the Pentagon to move forward. But restrictions on transgender troops are likely to face ongoing legal challenges and have been slammed by members of Congress as discriminatory and self-defeating.

The memo was signed by David L. Norquist, who is currently serving as the deputy defense secretary. Rep. Jackie Speier, D-Calif., said in February that barring service by transgender individuals "would cost us recruits at a time when so few Americans are willing to serve." She spoke at a hearing in which transgender troops testified that transitioning to another sex made them stronger and more effective members of the military.

Until a few years ago service members could be discharged from the military for being transgender, but that changed under the Obama administration. Then-Defense Secretary Ash Carter announced in 2016 that transgender people already serving in the military would be allowed to serve openly. And the military set July 1, 2017, as the date when transgender individuals would be allowed to enlist.

After Trump took office, however, his administration delayed the enlistment date and called for additional study to determine if allowing transgender individuals to serve would affect military readiness or effectiveness.

A few weeks later, Trump caught military leaders by surprise, tweeting that the government won't accept or allow transgender individuals to serve "in any capacity" in the military. "Our military must be focused on decisive and overwhelming victory and cannot be burdened with the tremendous medical costs and disruption that transgender in the military would entail," he wrote.

His demand for a ban triggered a legal and moral quagmire, as the Pentagon faced the prospect of throwing out service members who had willingly come forward as transgender after being promised they would be protected and allowed to serve. And as legal battles blocked the ban from taking effect, the Obama-era policy continued and transgender individuals were allowed to begin enlisting in the military a little more than a year ago.

An estimated 14,700 troops on active duty and in the Reserves identify as transgender, but not all seek treatment. Since July 2016, more than 1,500 service members were diagnosed with gender dysphoria; as of Feb. 1, there were 1,071 currently serving. According to the Pentagon, the department has spent about \$8 million on transgender care since 2016. The military's annual health care budget tops \$50 billion.

Last year, all four service chiefs told Congress that they had seen no discipline, morale or unit readiness problems with transgender troops serving openly in the military. But they also acknowledged that some commanders were spending a lot of time with transgender individuals who were working through medical requirements and other transition issues.

The five transgender troops who testified in February said their medical transitions took anywhere from four weeks to four months and they did most of it on their own time. All said they were fit to return to deploying afterward.

Pentagon issues new transgender policy limiting service members to birth gender

- By Luis Martinez
- Elizabeth McLaughlin
-

Mar 13, 2019, 4:17 AM ET

With all legal hurdles cleared, the [Pentagon has instituted](#) a new transgender policy that largely [limits the military service](#) of transgender persons currently in uniform to their birth gender. If they are unwilling to do so, they could be discharged.

The new policy, signed late Tuesday by David Norquist, who is currently serving as the deputy Defense secretary, will be implemented on April 12. A copy of the policy memo was obtained by ABC News.

[\(MORE: Active-duty transgender service members testify before Congress about President Donald Trump's potential ban\)](#)

Transgender service members currently serving in the military will only be allowed to continue to serve if they adhere to the dress and grooming standards of their biological gender. Waivers will be allowed on a case-by-case basis but only from the secretaries in charge of the military services.

As was the case with a memo issued last February, service members [diagnosed with gender dysphoria](#) will no longer be allowed medical surgeries for gender transition unless they are currently in the process of receiving medical treatment.

However, transgender recruits will no longer be allowed to join the military, even if they have transitioned to a new gender, as had been the case under the earlier memo. Only individuals who have never had hormone treatment or surgery will be allowed to enter the military as recruits.

Waivers are still available for those currently in uniform, but they have to be approved by the service chiefs.

The new policy comes a week after a federal judge lifted the only remaining injunction of the ban on transgender military service that President Donald Trump had called for in the summer of 2017.

Multiple lawsuits filed shortly after the Pentagon followed through with the president's desire for a ban had limited the implementation of the ban.

"It would be prudent for acting Secretary Shanahan to delay implementing the Mattis policy until the courts have made their final determinations," said Rep. Adam Smith, D-Wash., the chairman of the House Armed Services Committee.

"Any other course of action not only undermines military readiness, but is also an insult to transgender individuals who have served and are still serving with distinction," he continued. "Anyone who is qualified and willing should be allowed to serve their country openly. Make no mistake, this is a discriminatory ban on transgender people, not a ban on a medical condition and we will continue to fight against this bigoted policy."

Advocacy groups denounced the Pentagon's new policy.

"Today 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," Aaron Belkin, the head of the Palm Center, said in a statement.

"In almost three years of open service these troops built a strong record of achievement and earned the support of every service chief. 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."

Pentagon's transgender policy will ban those who require treatment for gender dysphoria

[Tom Vanden Brook](#), USA TODAY Published 7:08 p.m. ET March 12, 2019 | Updated 12:08 a.m. ET March 13, 2019

WASHINGTON – The Pentagon's policy on transgender service was signed Tuesday night, barring from service those who require treatment for gender dysphoria, according to a copy of the directive.

The policy will be effective April 12, the memo noted.

Implementation of the policy, pushed by President Donald Trump, had been delayed by court challenges. Currently serving troops who have been treated for gender dysphoria will be allowed to continue serving.

Transgender troops must serve in their sex at birth, and must file for waivers for use of showers, bathrooms, physical fitness and other standards, according to the policy, signed by David Norquist, the number two civilian official at the Pentagon.

Rep. Jackie Speier, D-Calif., who chairs the House Armed Services subcommittee on personnel, blasted Trump and the Pentagon policy. She called the policy vicious and demeaning and took a swipe at Trump's avoidance of military service during the Vietnam War for having bone spurs. She vowed to fight the implementation of the policy.

"I would like to know what it is that the President is so afraid of?" Speier said in a statement. "Transgender troops have served for decades and carried out multiple deployments, including Afghanistan, Iraq, and Syria, to protect our country and freedoms. These tough, brave service members have never used bone spurs as an excuse to dodge their duty and service to our country. We owe them our gratitude, not government-sanctioned discrimination."

In a statement, House Speaker Nancy Pelosi described Trump's ban as "bigoted" and "disgusting" and pledged that the House would "continue to fight this discriminatory action, which has no place in our country."

"The President's years-long insistence on his cowardly ban 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. "No one with the strength and bravery to serve in the U.S. military should be turned away because of who they are."

Legal advocates for transgender troops maintained in a court filing Tuesday that the Pentagon should be prevented from implementing the policy.

The new policy, however, does not allow special accommodation for incoming troops' gender dysphoria. That condition is recognized in medicine as resulting from the conflict between physical gender and gender identity. The American Medical Association and other major medical and psychiatric organizations have stated that gender dysphoria should not disqualify troops from serving.

USA TODAY has reported that [the Pentagon has provided about \\$8 million in medical and psychological treatment](#) to more than 1,500 transgender troops since July 1, 2016. The previous ban on service from transgender troops was lifted at that time. The Pentagon annually spends about \$50 billion on health care.

In July 2017, Trump tweeted that he wanted to ban the service of transgender troops. The policy has been modified to prohibit the service of most transgender individuals.

The RAND Corp., a non-partisan think tank, conducted a Pentagon-funded study in 2016 and found that there likely are fewer than 10,000 transgender troops among the more than 1 million active-duty troops. RAND determined that the cost of treating for transgender troops and their effect on readiness to fight were negligible.

Pentagon signs directive to implement transgender military ban

By Rebecca Kheel - 03/12/19 08:22 PM EDT

TRENDING:

- [Donald Trump](#)
- [Budget](#)
- [Paul Manafort](#)



Pentagon signs directive to implement transgender military ban

By [Rebecca Kheel](#) - 03/12/19 08:22 PM EDT [1,061](#)

4,244

-

Just In...

- [Celebrities get caught in college admissions scandal](#)
Rising
— *1m 15s* ago
- [Rep. Omar and anti-Semitic distractions](#)
Opinion
— *1m 29s* ago
- [Dems offer bill to end tax break for investment-fund managers](#)
Finance
— *4m 13s* ago
- [Fiat Chrysler recalling 850K vehicles in US that don't meet emissions standards](#)
Transportation
— *6m 17s* ago

[view all](#)



© Getty Images

The Pentagon announced Tuesday that a directive has been signed to implement [President Trump's](#) policy barring most transgender people from serving in the military.

Under the policy, transgender people who join after it takes effect will have to serve in the gender they were assigned at birth. Service secretaries will be allowed to grant waivers on a case-by-case basis.

The policy will go into effect in 30 days, according to the memo signed by acting Deputy Defense Secretary David Norquist.

ADVERTISEMENT

The directive is being issued after a court [last week lifted](#) the last of the orders preventing the transgender military policy from taking effect.

A federal judge in Maryland ruled he had no choice but to lift the injunction after the Supreme Court in February ruled 5-4 to lift two other holds.

The Trump administration said it [planned to move forward](#) with the policy following the judge's ruling last week.

Still, advocates for transgender troops have argued the Pentagon is constrained by a fourth injunction, pointing to a stipulation in the order that allows for a period of time for the plaintiff to decide whether they want a rehearing in front of the court's full bench.

“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,” said Jennifer Levi, the director of the Transgender Rights Project of GLBTQ Legal Advocates & Defenders (GLAD). GLAD is serving as co-counsel in the lawsuit at issue.

“In addition to being unlawful, moving forward with this ban is also deeply immoral and deeply insulting to the many transgender troops who are bravely serving their country,” Levi added.

That 21-day period, though, ends before the memo signed Tuesday says the new policy takes effect.

Transgender troops have been serving openly since June 2016, when the Obama administration lifted the previous ban on their service.

In July 2017, Trump tweeted he would reverse that policy, saying he would “not accept or allow Transgender individuals to serve in any capacity in the U.S. Military.”

Four lawsuits were filed against the ban, and lower courts in all four cases issued injunctions blocking the policy from taking effect while the suits made their way through the court system.

In March 2018, then-Defense Secretary [James Mattis](#) released a policy that would allow transgender people to serve if they did so in their biological sex. Tuesday’s directive implements the Mattis policy.

The policy will grandfather in currently serving transgender troops or anyone who has already signed an enlistment contract, allowing them to continue serving openly.

But after April 12, people diagnosed with gender dysphoria will not be able to serve unless a doctor certifies they have been stable in their biological sex for 36 months, have not transitioned to the gender they identify with and are willing to serve in their biological sex.

If they are diagnosed after they join the military, they have to continue serving in their biological sex.

Troops diagnosed with gender dysphoria can be discharged if they are “unable or unwilling to adhere to all applicable standards, including the standards associated with their biological sex,” the memo says.

The Pentagon denies the Mattis policy is a ban, but advocates argue it effectively is, comparing it to the defunct “don’t ask, don’t tell” policy for gay, lesbian and bisexual service members.

Though courts have ruled to lift the injunctions, they have not ruled on the underlying merits of the lawsuits against the policy. Advocates are vowing to continue their fight, expressing confidence they will eventually be victorious.

“Our transgender siblings-in-arms and future warriors have proven time and again that they are committed, that they are ready, and that they are able to selflessly and effectively serve our nation,” said Andy Blevins, the executive director of OutServe-Servicemembers Legal Defense Network, in a statement. “We will continue to fight until open and authentic military service is the law of the land – our service members deserve it and our country needs it.”

Pentagon Signs Directive Blocking Transgender People From Serving in Military

The Pentagon has reportedly signed a directive banning most transgender people from serving in the U.S. military unless they enlist under their birth gender. The policy, which takes effect in 30 days, states that any troops diagnosed with “gender dysphoria” after April 12 will be prohibited from taking hormones or undergoing transition surgery, according to the Associated Press. The directive also reportedly lays out guidelines for discharging troops if they are “unable or unwilling to adhere to all applicable standards, including the standards associated with his or her biological sex, or seeks transition to another gender.” The directive comes after [a federal judge in Maryland lifted the final injunctions against Trump’s transgender military ban](#) last week that had previously prevented the policy from going into effect. The Trump administration said it planned to put the policy into effect following the judge’s ruling.