

ticipation by members of the Armed Forces in a criminal street gang.”

MILITARY SERVICE BY TRANSGENDER INDIVIDUALS

Memorandum of President of the United States, Aug. 25, 2017, 82 F.R. 41319, provided:

Memorandum for the Secretary of Defense [and] the Secretary of Homeland Security

SECTION 1. *Policy.* (a) Until June 2016, the Department of Defense (DoD) and the Department of Homeland Security (DHS) (collectively, the Departments) generally prohibited openly transgender individuals from accession into the United States military and authorized the discharge of such individuals. Shortly before President Obama left office, however, his Administration dismantled the Departments’ established framework by permitting transgender individuals to serve openly in the military, authorizing the use of the Departments’ resources to fund sex-reassignment surgical procedures, and permitting accession of such individuals after July 1, 2017. The Secretary of Defense and the Secretary of Homeland Security have since extended the deadline to alter the currently effective accession policy to January 1, 2018, while the Departments continue to study the issue.

In my judgment, the previous Administration failed to identify a sufficient basis to conclude that terminating the Departments’ longstanding policy and practice would not hinder military effectiveness and lethality, disrupt unit cohesion, or tax military resources, and there remain meaningful concerns that further study is needed to ensure that continued implementation of last year’s policy change would not have those negative effects.

(b) Accordingly, by the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States under the Constitution and the laws of the United States of America, including Article II of the Constitution, I am directing the Secretary of Defense, and the Secretary of Homeland Security with respect to the U.S. Coast Guard, to return to the longstanding policy and practice on military service by transgender individuals that was in place prior to June 2016 until such time as a sufficient basis exists upon which to conclude that terminating that policy and practice would not have the negative effects discussed above. The Secretary of Defense, after consulting with the Secretary of Homeland Security, may advise me at any time, in writing, that a change to this policy is warranted.

SEC. 2. *Directives.* The Secretary of Defense, and the Secretary of Homeland Security with respect to the U.S. Coast Guard, shall:

(a) maintain the currently effective policy regarding accession of transgender individuals into military service beyond January 1, 2018, until such time as the Secretary of Defense, after consulting with the Secretary of Homeland Security, provides a recommendation to the contrary that I find convincing; and

(b) halt all use of DoD or DHS resources to fund sex-reassignment surgical procedures for military personnel, 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.

SEC. 3. *Effective Dates and Implementation.* Section 2(a) of this memorandum shall take effect on January 1, 2018. Sections 1(b) and 2(b) of this memorandum shall take effect on March 23, 2018. By February 21, 2018, the Secretary of Defense, in consultation with the Secretary of Homeland Security, shall submit to me a plan for implementing both the general policy set forth in section 1(b) of this memorandum and the specific directives set forth in section 2 of this memorandum. The implementation plan shall adhere to the determinations of the Secretary of Defense, made in consultation with the Secretary of Homeland Security, as to what steps are appropriate and consistent with military effectiveness and lethality, budgetary constraints, and applicable law. As part of the implementation plan, the Secretary of Defense, in consultation with the Sec-

retary of Homeland Security, shall determine how to address transgender individuals currently serving in the United States military. Until the Secretary has made that determination, no action may be taken against such individuals under the policy set forth in section 1(b) of this memorandum.

SEC. 4. *Severability.* If any provision of this memorandum, or the application of any provision of this memorandum, is held to be invalid, the remainder of this memorandum and other dissimilar applications of the provision shall not be affected.

SEC. 5. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 651. Members: required service

(a) Each person who becomes a member of an armed force, other than a person deferred under the next to the last sentence of section 6(d)(1) of the Military Selective Service Act (50 U.S.C. 3806(d)(1))¹ in the armed forces for a total initial period of not less than six years nor more than eight years, as provided in regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when it is not operating as service in the Navy, unless such person is sooner discharged under such regulations because of personal hardship. Any part of such service that is not active duty or that is active duty for training shall be performed in a reserve component.

(b) Each person covered by subsection (a) who is not a Reserve, and who is qualified, shall, upon his release from active duty, be transferred to a reserve component of his armed force to complete the service required by subsection (a).

(c)(1) For the armed forces under the jurisdiction of the Secretary of Defense, the Secretary may waive the initial period of required service otherwise established pursuant to subsection (a) in the case of the initial appointment of a commissioned officer in a critically short health professional specialty specified by the Secretary for purposes of this subsection.

(2) The minimum period of obligated service for an officer under a waiver under this subsection shall be the greater of—

(A) two years; or

(B) in the case of an officer who has accepted an accession bonus or executed a contract or agreement for the multiyear receipt of special pay for service in the armed forces, the period of obligated service specified in such contract or agreement.

¹ So in original. Probably should be followed by “, shall serve”.

(Aug. 10, 1956, ch. 1041, 70A Stat. 27; Pub. L. 85-861, §§1(12), 36B(3), Sept. 2, 1958, 72 Stat. 1440, 1570; Pub. L. 89-718, §5, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 95-79, title VIII, §803(a), July 30, 1977, 91 Stat. 333; Pub. L. 96-107, title VIII, §805(b), Nov. 9, 1979, 93 Stat. 813; Pub. L. 96-513, title V, §511(18), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 98-94, title X, §1022(b)(1), Sept. 24, 1983, 97 Stat. 670; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110-181, div. A, title V, §505, Jan. 28, 2008, 122 Stat. 96; Pub. L. 114-328, div. A, title X, §1081(b)(1)(A)(iv), Dec. 23, 2016, 130 Stat. 2418.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
651(a)	50 App.:454(d)(3) (1st sentence, and less applicability to members of National Security Training Corps).	June 24, 1948, ch. 625, §4(d)(3) (less 4th sentence, and less applicability to members of National Security Training Corps); added June 19, 1951, ch. 144, §1(g) (last par., less 4th sentence, and less applicability to members of National Security Training Corps), 65 Stat. 79; July 9, 1952, ch. 608, §813, 66 Stat. 509.
651(b)	50 App.:454(d)(3) (2d sentence, and less applicability to members of National Security Training Corps).	
651(c)	50 App.:454(d)(3) (3d and last sentences).	

In subsection (a), the word “male” is inserted, since the source statute (Universal Military Training and Service Act (50 U.S.C. App. 451 et seq.)) applies only to male persons. The words “subsequent to the date of enactment of this paragraph [June 19, 1951]” are omitted as executed. The words “becomes a member” are substituted for the words “is inducted, enlisted, or appointed * * * in”. The words “in the armed forces” are substituted for the words “on active training and service in the Armed Forces * * * and in a reserve component”. The last sentence is substituted for the words “or in training in the National Security Training Corps”. The words “under any provision of law” and “including the reserve components thereof” are omitted as surplusage.

In subsection (b), the words “who is not a Reserve” are inserted, since the eight year obligation for Reserves is covered by subsection (a). The words “active duty” are substituted for the words “active training and service”. The last eight words are substituted for the words “and shall serve therein for the remainder of the period which he is required to serve under this paragraph”. The words “physically and mentally” and 50 App.:454(d)(3) (last 15 words of 2d sentence) are omitted as surplusage.

In [former] subsection (c), the words “who is released from active duty” are inserted for clarity. The words “shall become a member” are substituted for the words “it shall be the duty of such person to enlist, enroll, or accept appointment in, or accept assignment to”. The words “there is a vacancy” are substituted for the words “enlistment, enrollment, or appointment in, or assignment to”. 50 App.:454(d)(3) (last sentence) is omitted as surplusage.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
651(a)	50 App.:454(d)(3) (2d sentence).	Aug. 9, 1955, ch. 665, §3(a) (last sentence), 69 Stat. 603.

In subsection (a), the word “male” is inserted, since the source statute applies only to male persons. The words “subsequent to the date of enactment of the Reserve Forces Act of 1955” are omitted as executed. The

words “becomes a member” are substituted for the words “is inducted, enlisted, or appointed . . . in”. The last sentence is substituted for the words “on active training and service . . . and in a reserve component”. The requirement of transfer to and service in a reserve component, after active training and service is covered by subsection (b) of this section. The words “under any provision of law” and “including the reserve components thereof” are omitted as surplusage.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328 substituted “(50 U.S.C. 3806(d)(1))” for “(50 U.S.C. App. 456(d)(1)) shall serve”.

2008—Subsec. (c). Pub. L. 110-181 added subsec. (c).

2002—Subsec. (a). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1983—Subsec. (a). Pub. L. 98-94 amended subsec. (a) generally, substituting a reference to service in the armed forces for a total initial period of not less than six years nor more than eight years under prescribed regulations for the prior reference to service in the armed forces for a total of six years.

1980—Subsec. (a). Pub. L. 96-513, substituted “Secretary of Transportation” for “Secretary of the Treasury”, and “section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1))” for “section 456(d)(1) of title 50, appendix”.

1979—Subsec. (a). Pub. L. 96-107 struck out “before his twenty-sixth birthday” after “force”.

1977—Subsec. (a). Pub. L. 95-79 struck out “male” after “Each” and “after August 9, 1955,” after “who”.

1966—Subsec. (a). Pub. L. 89-718 struck out reference to persons who enlisted under section 1013 of title 50 in the description of persons not required to serve in the armed forces for a total of six years.

1958—Subsec. (a). Pub. L. 85-861, §1(12), restricted section to male persons who became members of the armed forces after Aug. 9, 1955, excluded persons enlisted under section 1013 of Title 50 or deferred under the next to last sentence of section 456(d)(1) of Title 50, Appendix, reduced from eight to six years the required period of service, required any part of such service that is not active duty or is active duty for training to be performed in a reserve component, and struck out provisions which permitted members of the armed forces to count service in the National Security Training Corps as if it were service in the armed forces for the purposes of this subsection.

Subsec. (c). Pub. L. 85-861, §36B(3), repealed subsec. (c) which required members released from active duty to become members of an organized unit of a reserve component of an officers’ training program.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title X, §1022(b)(2), Sept. 24, 1983, 97 Stat. 671, provided that: “The amendment made by paragraph (1) [amending this section] shall apply only with respect to persons who enter the Armed Forces 60 or more days after the date of the enactment of this Act [Sept. 24, 1983].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-107 applicable to individuals who become members of an Armed Force after Nov. 9, 1979, see section 805(c) of Pub. L. 96-107, set out as a note under section 511 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-79, title VIII, §803(b), July 30, 1977, 91 Stat. 333, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the first day of the seventh calendar month beginning after the month in which this Act is enacted [July 1977] and shall apply to any female person who becomes a member of an Armed Force on or after such day.”

§ 652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned

(a) **RULE FOR GROUND COMBAT PERSONNEL POLICY.**—(1) If the Secretary of Defense proposes to make any change described in paragraph (2)(A) or (2)(B) to the ground combat exclusion policy or proposes to make a change described in paragraph (2)(C), the Secretary shall, not less than 30 calendar days before such change is implemented, submit to Congress a report providing notice of the proposed change.

(2) A change referred to in paragraph (1) is a change that—

(A) closes to female members of the armed forces any category of unit or position that at that time is open to service by such members;

(B) opens to service by female members of the armed forces any category of unit or position that at that time is closed to service by such members; or

(C) opens or closes to the assignment of female members of the armed forces any military career designator as described in paragraph (6).

(3) The Secretary shall include in any report under paragraph (1)—

(A) a detailed description of, and justification for, the proposed change; and

(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the application of the Military Selective Service Act (50 App. U.S.C. 451 et seq.)¹ to males only.

(4) In this subsection, the term “ground combat exclusion policy” means the military personnel policies of the Department of Defense and the military departments, as in effect on October 1, 1994, by which female members of the armed forces are restricted from assignment to units and positions below brigade level whose primary mission is to engage in direct combat on the ground.

[(5) Repealed. Pub. L. 114-92, div. A, title V, §524(a)(2), Nov. 25, 2015, 129 Stat. 813.]

(6) For purposes of this subsection, a military career designator is one that is related to military operations on the ground as of May 18, 2005, and applies—

(A) for enlisted members and warrant officers, to military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and

(B) for officers (other than warrant officers), to officer areas of concentration, occupational specialties, specialty codes, designators, additional skill identifiers, and special qualification identifiers.

¹ See References in Text note below.

(b) **OTHER PERSONNEL POLICY CHANGES.**—(1) Except in a case covered by section 6035 of this title or by subsection (a), whenever the Secretary of Defense proposes to make a change to military personnel policies described in paragraph (2), the Secretary shall, not less than 30 calendar days before such change is implemented, submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice, in writing, of the proposed change.

(2) Paragraph (1) applies to a proposed military personnel policy change, other than a policy change covered by subsection (a), that would make available to female members of the armed forces assignment to any of the following that, as of the date of the proposed change, is closed to such assignment:

(A) Any type of unit not covered by subsection (a).

(B) Any class of combat vessel.

(C) Any type of combat platform.

(Added Pub. L. 109-163, div. A, title V, §541(a)(1), Jan. 6, 2006, 119 Stat. 3251; amended Pub. L. 114-92, div. A, title V, §524, Nov. 25, 2015, 129 Stat. 813.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a)(3)(B), is act June 24, 1948, ch. 625, 62 Stat. 604, which was classified principally to section 451 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 49 (§3801 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 652, added Pub. L. 95-485, title IV, §405(d)(1), Oct. 20, 1978, 92 Stat. 1616, related to Ready Reserve requirement of notification of change of status, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994. See section 10205 of this title.

Provisions similar to those in this section were contained in Pub. L. 103-160, div. A, title V, §542, Nov. 30, 1993, 107 Stat. 1659, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 109-163, §541(c).

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-92, §524(a)(1), substituted “not less than 30 calendar days before such change is implemented” for “before any such change is implemented” and struck out at end “Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received.”

Subsec. (a)(5). Pub. L. 114-92, §524(a)(2), struck out par. (5) which read as follows: “For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.”

Subsec. (b)(1). Pub. L. 114-92, §524(b), inserted “calendar” before “days”.

§ 653. Minimum service requirement for certain flight crew positions

(a) **PILOTS.**—The minimum service obligation of any member who successfully completes training in the armed forces as a pilot shall be 8 years, if the member is trained to fly fixed-