

Memorandum to: Secretary of Defense
Secretary of Homeland Security

Subject: **Accession of Individuals Who Identify as Transgender in the Military**

References: [Memorandum](#) for the Secretary of Defense & the Security of Homeland Security, “Military Service by Transgender Individuals,” August 25, 2017

Secretary of Defense [Memorandum](#) for Secretaries of the Military Departments, “Military Service by Transgender Individuals – Interim Guidance,” Sept. 14, 2017

In my August 25, 2017, Memorandum, I expressed concerns about the previous Administration’s failure to identify a sufficient basis to conclude that terminating the Departments’ longstanding policy and practice regarding individuals who identify as transgender in the military would not hinder military effectiveness and lethality, disrupt unit cohesion, or tax military resources. As I stated then, further study would be needed to ensure that continued implementation of policy changes ordered in 2016 would not have those negative effects.

My Memorandum further cited the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States under Article II of the U.S. Constitution and the laws of the United States of America. Among other things, I directed the Secretary of Defense and the Secretary of Homeland Security with respect to the U.S. Coast Guard to maintain beyond January 1, 2018, the currently effective policy regarding accession of individuals who identify as transgender into military service.

In the Interim Guidance issued by the Secretary of Defense in response to my Memorandum, you directed that Instructions setting forth medical standards for appointment, enlistment, or induction in the military, which generally prohibit the accession of individuals who identify as transgender into the Military Services, would remain in effect because a “*current or history of gender dysphoria or gender transition does not meet medical standards . . .*”

You also initiated efforts to determine future policies regarding individuals who identify as transgender currently serving under policies announced by the previous administration on June 30, 2016, effective October 1, 2016. Recommendations are due by February 29, 2018, and I intend to review those recommendations and determine policy by March 23, 2018.

Starting on October 30, 2017, several district judges have issued preliminary injunctions ordering the Department of Defense to access individuals who identify as transgender in the military by January 1, 2018. These orders disregard the orderly process of review that is underway, and attempt to usurp authority vested in the President of the United States under Article II, Section II, of the U.S. Constitution.

Following clarification of the scope of these orders, the Department of Justice filed immediate motions for stays and appeals of denials to Courts of Appeals. These motions will continue, as

needed, to the Supreme Court, if necessary. As with all judicial matters, motions such as this take time, so the outcome of appeals may not be known prior to January 1, 2018.

Implementation of district court orders to access applicants who identify as transgender by that date, before the process of review has run its course, would force a significant change to military accession standards before I have had the opportunity to receive, review, and evaluate resulting recommendations.

As the Department of Justice stated in its request for a stay in the *Jane Doe 1 et. al.*, case, “*Forcing the military to take some applicants it might have rejected had it been given more time to complete its study and implement its final policy is a significant injury in itself.*”

Short-circuiting the deliberative process threatens the military with two burdensome implementation processes – one to comply with the district courts’ orders and another to execute new policy changes that I may choose to make in the future.

The best interests of the military would not be served by court-ordered actions that create uncertainty and confusion in the ranks, while imposing needless costs and potential harmful effects on mission readiness and combat lethality.

More importantly, compliance with premature court orders that run contrary to presidential directives would undermine the authority invested in me as Commander-in-Chief. A precedent of this kind would undermine presidential prerogatives and authority on this and all matters involving military policy.

In order to preserve the constitutional responsibilities vested in the President and to discharge my solemn obligation to defend this nation, in the event that the order of the lower court has not been stayed before Jan. 1, 2018, you are hereby directed to include in every accession and reenlistment contract involving a person who identifies as transgender, or has a diagnosis of gender dysphoria language that clearly notifies the person that the accession or reenlistment is being processed solely because of the preliminary injunction. Accession and reenlistment contracts also should state that should the government prevail in the litigation the accession and reenlistment will be voided, the person will be immediately released from active duty, and any subsequent applications for accession or reenlistment will be processed in accordance with duly promulgated accession standards. Furthermore, every accession or reenlistment contract involving a person who identifies as transgender, or has a diagnosis of gender dysphoria, who is conditionally enlisted after January 1, 2018 will advise the individual that no government-funded medical procedures will be performed nor medication that is unique to their condition will be provided until all litigation is adjudicated.

I trust that the process of review that you have initiated will produce results that are useful in this important policy-making process.