

ness and healthcare costs. The study also concluded that open transgender service has had no significant impact on operational effectiveness or unit cohesion in foreign militaries.

On the basis of this information, the Secretary of Defense concluded in 2016 that permitting transgender individuals to serve openly in the military was consistent with military readiness and with strength through diversity, such that transgender service members who could meet the required standards and procedures should be permitted to serve openly. The Secretary of Defense also concluded that it was appropriate to create a process that would enable service members to take steps to transition gender while serving.

The previous administration chose to alter that policy to bar transgender persons, in almost all circumstances, from joining the Armed Forces and from being able to take steps to transition gender while serving. Rather than relying on the comprehensive study by a nonpartisan federally funded research center, the previous administration relied on a review that resulted in a policy that set unnecessary barriers to military service. It is my judgment that the Secretary of Defense's 2016 conclusions remain valid, as further demonstrated by the fact that, in 2018, the then-serving Chief of Staff of the Army, Chief of Naval Operations, Commandant of the Marine Corps, and Chief of Staff of the Air Force all testified publicly to the Congress that they were not aware of any issues of unit cohesion, disciplinary problems, or issues of morale resulting from open transgender service. A group of former United States Surgeons General, who collectively served under Democratic and Republican Presidents, echoed this point, stating in 2018 that “transgender troops are as medically fit as their non-transgender peers and that there is no medically valid reason—including a diagnosis of gender dysphoria—to exclude them from military service or to limit their access to medically necessary care.”

Therefore, it shall be the policy of the United States to ensure that all transgender individuals who wish to serve in the United States military and can meet the appropriate standards shall be able to do so openly and free from discrimination.

SEC. 2. Revocation. The Presidential Memorandum of March 23, 2018 (Military Service by Transgender Individuals) [formerly set out below], is hereby revoked, and the Presidential Memorandum of August 25, 2017 (Military Service by Transgender Individuals) [formerly set out below], remains revoked.

SEC. 3. Agency Roles and Responsibilities. In furtherance of the policy described in section 1 of this order, I hereby direct the following:

(a) The Secretary of Defense, and Secretary of Homeland Security with respect to the Coast Guard, shall, after consultation with the Joint Chiefs of Staff about how best to implement this policy and consistent with applicable law, take all necessary steps to ensure that all directives, orders, regulations, and policies of their respective departments are consistent with this order. These steps shall include establishing a process by which transgender service members may transition gender while serving, along with any further steps that the Secretary of Defense and Secretary of Homeland Security deem appropriate to advance the policy described in section 1 of this order.

(b) The Secretary of Defense shall:

(i) immediately prohibit involuntary separations, discharges, and denials of reenlistment or continuation of service on the basis of gender identity or under circumstances relating to their gender identity;

(ii) identify and examine the records of service members who have been involuntarily separated, discharged, or denied reenlistment or continuation of service on the basis of gender identity or under circumstances relating to their gender identity;

(iii) issue guidance to the Secretaries of each military department regarding the correction of the military records of individuals described in subsection (b)(ii) of this section as necessary to remove an injus-

tice, pursuant to section 1552(a) of title 10, United States Code, to the extent permitted by law; and

(iv) direct the Secretaries of each military department to provide supplemental guidance, subject to the approval of the Secretary, to the boards for the correction of military records, instructing such boards on how to review applications for the correction of records of individuals described in subsection (b)(ii) of this section. Where appropriate, the department concerned shall offer such individuals an opportunity to rejoin the military should they wish to do so and meet the current entry standards.

(c) The Secretary of Homeland Security with respect to the Coast Guard shall:

(i) immediately prohibit involuntary separations, discharges, and denials of reenlistment or continuation of service, on the basis of gender identity or under circumstances relating to their gender identity;

(ii) identify and examine the records of service members who have been involuntarily separated, discharged, or denied reenlistment or continuation of service, on the basis of gender identity or under circumstances relating to their gender identity;

(iii) issue guidance regarding the correction of the military records of individuals described in subsection (c)(ii) of this section as necessary to remove an injustice, pursuant to section 1552(a) of title 10, United States Code, to the extent permitted by law; and

(iv) provide supplemental guidance to the Board for Correction of Military Records of the Coast Guard, instructing the Board on how to review applications for the correction of records of individuals described in subsection (c)(ii) of this section. Where appropriate, the Secretary of Homeland Security shall offer such individuals an opportunity to rejoin the Coast Guard should they wish to do so and meet the current entry standards.

(d) The Secretary of Defense and the Secretary of Homeland Security shall report to me within 60 days of the date of this order [Jan. 25, 2021] on their progress in implementing the directives in this order and the policy described in section 1 of this order.

SEC. 4. General Provisions. (a) Nothing in this order 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 order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order 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.

J.R. BIDEN, JR.

MILITARY SERVICE BY TRANSGENDER INDIVIDUALS

Memorandum of President of the United States, Aug. 25, 2017, 82 F.R. 41319, which related to transgender military personnel, was revoked by Memorandum of President of the United States, §1, Mar. 23, 2018, 83 F.R. 13367, formerly set out below.

Memorandum of President of the United States, Mar. 23, 2018, 83 F.R. 13367, which related to military service by transgender individuals, was revoked by Ex. Ord. No. 14004, §2, Jan. 25, 2021, 86 F.R. 7472, set out above.

§ 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)), shall serve in the armed forces for a total initial period of not less than six years nor more than eight years, as provided in regula-

tions 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 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 or in the case of an unrestricted officer designated within a cyberspace occupational specialty.

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

(A) two years;

(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; or

(C) in the case of an unrestricted officer designated within a cyberspace occupational specialty, the period of obligated service specified in the enlistment agreement of such officer.

(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; Pub. L. 116–92, div. A, title XVII, §1731(a)(19), Dec. 20, 2019, 133 Stat. 1813; Pub. L. 116–283, div. A, title IX, §924(b)(17), Jan. 1, 2021, 134 Stat. 3823; Pub. L. 117–81, div. A, title X, §1081(a)(11), Dec. 27, 2021, 135 Stat. 1920; Pub. L. 118–31, div. A, title V, §509(a), Dec. 22, 2023, 137 Stat. 243.)

HISTORICAL AND REVISION NOTES
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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.

Editorial Notes

AMENDMENTS

2023—Subsec. (c)(1). Pub. L. 118-31, § 509(a)(1), inserted before period at end “or in the case of an unrestricted officer designated within a cyberspace occupational specialty”.

Subsec. (c)(2)(C). Pub. L. 118-31, § 509(a)(2), added subpar. (C).

2021—Subsec. (a). Pub. L. 117-81 inserted comma after “3806(d)(1)”.

Subsec. (b). Pub. L. 116-283 struck out “of his armed force” after “reserve component”.

2019—Subsec. (a). Pub. L. 116-92 inserted “shall serve” before “in the armed forces”.

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.

Statutory Notes and Related Subsidiaries

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, addi-

¹ See References in Text note below.