



Frequently Asked Questions Transgender Military Ban

On 12 April 2019, the Department of Defense began implementing President Trump's policy banning transgender people from serving openly in the military. Here are up-to-date answers to the questions we receive regarding this policy. Questions are grouped according to category.

Relevant document:

[Directive-Type Memorandum 19-004, Attachment 3](#) (March 12, 2019) (DTM)

If you experience results or instructions that differ from these, please contact the Modern Military Association's Legal Help Desk as follows:

Email: legal@modernmilitary.org

Web: <https://modernmilitary.org/contact/>

Phone: 1-800-538-7418 OR 202-328-3244

ACCESSIONS (Joining the military)

Q: I am transgender, and I want to join the military. Can I?

A: The answer depends on two things: the status of your transition, and the status of your relationship with the military. Based on those circumstances, you are either an Exempt Individual or a Nonexempt Individual and can enlist or commission under certain circumstances. (Note: In *all* circumstances, a trans person will have to be medically and physically qualified in all other respects under applicable regulations.)

Q: What's an Exempt Individual?

A: There are two types of Exempt Individuals: (1) new accessions and (2) currently-serving Service members:

1. **To be considered Exempt as a new accession** (recruit, officer candidate, or prior-service applicant), no later than 2359 on 11 April 2019 you must
 - a. Have signed a contract for enlistment, or were selected for entrance into an officer commissioning program through a selection board or similar process, and
 - b. Be found medically qualified in your correct gender.
2. **To be considered Exempt as a currently serving Service member** (active duty, reserve, or National Guard), you must have received a diagnosis of gender dysphoria (GD) from a military medical provider (MMP) or had a civilian provider's diagnosis validated by an MMP no later than 2359 on 11 April 2019.

If you are not an Exempt Individual, you are a Nonexempt Individual.

Q: OK, so I'm Exempt. Can I join or not?

A: This is where the status of your transition comes in. There are three separate scenarios:

1. **You have been diagnosed with GD:** The diagnosis is disqualifying *unless* a licensed mental health provider certifies that you have been “stable, without clinically significant distress or impairment in social, occupational, or other important areas of functioning” for 18 months.
2. **You have received medical treatment associated with gender transition:** History of medical treatment is disqualifying *unless* a licensed medical provider certifies that (1) you have completed all transition-related medical treatment; (2) you have been stable in your correct gender for 18 months; and (3) if you are receiving hormone therapy, you have been stable on those hormones for 18 months.
3. **You have received gender-affirming surgery (called “sex reassignment or genital reconstruction surgery” in the DTM):** Surgery is disqualifying *unless* (1) 18 months has passed, and (2) no “functional limitations or complications persist” and additional surgery is not required.

Q: I’m currently serving and Exempt, but I haven’t started/completed transition. What happens with me?

A: If you qualify as Exempt, you can transition in-service. That means you can continue to receive all medically necessary treatment to protect your health, receive a gender-marker change in DEERS (if necessary), and serve in your correct gender. (See below for additional information about medical care.)

Q: What if I’m Nonexempt? Is there any hope for me to join?

A: Yes. There are two scenarios—only one of which would allow for joining the military under Trump’s trans ban:

1. **You have received a diagnosis of gender dysphoria:** This is disqualifying *unless* the following three things are established:
 - a. A licensed mental health provider certifies stability *in your gender assigned at birth (GAB)*, for 36 months preceding your application to join the military, without “clinically significant distress or impairment in social, occupational, or other important areas of functioning”;
 - b. You have not transitioned, and a medical provider certifies that transition is not medically necessary to protect your health; **and**
 - c. You are willing and able to serve in your GAB.
2. **You have received hormone therapy or gender-affirming surgery:** A history of this transition-related care is disqualifying without a waiver.

Q: So if I’m Nonexempt and have not transitioned, I can join the military but I have to serve in my GAB?

A: Unfortunately, yes. Nonexempt trans people are required to serve in their GAB.

Q: Can I lie about my history of GD or related treatment in order to join?

A: You should never lie as part of the accessions process. Not only will you be separated if found out, you could be prosecuted for fraudulent enlistment. Please contact the Legal Help Desk for questions about required disclosures during applicant medical evaluation.

Q: I’m enlisted and want to commission as an officer, switch between active duty and Reserves, or change branches/services. Will I be able to do that?

A: Again, this depends on the status of your transition. Either you are Exempt or Nonexempt, and the rules above apply to this situation as well. Basically, if you are currently serving and have received (before 12 April) a GD diagnosis, you should not be restricted from pursuing a commission, changing components, or changing branches/services.

Q: What happens if I'm Exempt and I voluntarily get out of the military at the end of my contract? Will I be able to rejoin? Am I still Exempt?

A: The DTM does not specifically address this scenario. We do not know if it will be possible.

RETENTION (Staying in the Military)

Q: I'm trans and my DEERS marker has been corrected. Can I continue to serve?

A: Yes. You are an Exempt Individual, and the DTM says that you may not be separated or discharged "solely on the basis of gender identity." Notably, *a waiver is not required*.

Q: I'm serving in my correct gender, and my term of enlistment (or contract period) is up soon. Will I be able to reenlist/sign a new contract?

A: Yes. You are Exempt, and the DTM says that you may not be denied reenlistment or continuation of service "solely on the basis of gender identity." Again, *a waiver is not required*.

Q: I'm Exempt, but I haven't finished my transition. Will I be OK?

A: As above, you should not be separated based solely on your gender identity. Since you are Exempt, you can transition in-service. That means you can continue to receive all medically necessary treatment to protect your health, receive a gender-marker change in DEERS (if necessary), and serve in your correct gender. (See below for additional information about medical care.) Note, however, that medical complications could jeopardize retention. Medical separation is possible for trans people on the same basis as cis people, if a medical condition or treatment adversely affects the ability to continue serving. (For additional information about continued medical care, see below.)

Q: I am trans, but I haven't started my transition. I'm serving in my GAB. Will I be separated?

A: If you did not receive a GD diagnosis from an MMP by 12 April, you are classified as Nonexempt. Nonexempt Individuals can continue to serve under the following circumstances:

1. **You do not receive a GD diagnosis (on or after 12 April):** You can continue to serve in your GAB as long as you do not receive a GD diagnosis.
2. **You receive a GD diagnosis (on or after 12 April):** You may continue to serve, without a waiver, if an MMP determines that transition is not medically necessary to protect your health, and you are willing and able to adhere to the standards of your GAB.

Q: I tried to get a GD diagnosis, but I was deployed or unable to access an MMP before 12 April. Am I out-of-luck?

A: Not necessarily. The Navy has issued guidance stating that you may submit a request for an extension of time beyond 12 April 2019 to receive a diagnosis for the purposes of qualifying as Exempt under the DTM. To qualify, such a request must contain specific information and be processed in specific ways. Please contact the Legal Help Desk immediately. Even if you aren't in the Navy, we may be able to help.

Q: I'm currently serving in my GAB. Can I be open about my gender identity if I haven't (or don't) transition?

A: Yes. The DTM states that you cannot be separated, discharged, or denied reenlistment or continuation of service solely based on gender identity. This is true regardless of whether you are Exempt or Nonexempt.

Q: I'm Nonexempt and want to talk to a medical provider about my gender identity. Can I do that?

A: Yes, but it could result in separation if you speak to a *military* medical provider. If an MMP diagnoses you with GD, you can continue to serve but only (a) if the provider determines that transition is not medically necessary to protect your health *and* (b) you are willing and able to continue adhering to the standards of your GAB.

Q: I received a GD diagnosis from an MMP *after* 12 April, and I can't get the certification necessary to continue serving (or I don't want to serve in my GAB). What happens to me?

A: You will be evaluated for medical separation or administrative separation. You are strongly urged to obtain advice and information about the process, and your choices and options, so that all your rights and benefits are preserved. You should contact the Legal Help Desk for information and assistance as early in the process as possible.

Q: For Nonexempt Individuals, is it possible to get a waiver to serve in my correct gender? Or to transition in-service?

A: Yes, it is technically possible. The DTM states that the Services “may grant waivers, in whole or in part, to the requirements ... in individual cases.” But given the lack of waivers issued before 2016, we have no reason to believe that such waivers would be routinely granted.

Q: As a Nonexempt Individual, if I get a waiver which part of the policy applies to me afterwards?

A: If you receive a waiver permitting you to serve in your correct gender, then from that point forward you will be considered Exempt.

Q: Can the military take away my Exempt status?

A: No. A person who is Exempt cannot have that status revoked.

Q: I'm in the Reserves. Do all these rules apply to me?

A: The DTM applies to all military personnel, including those in Reserve Components.

Q: What about the Guard?

A: DoD accession and retention rules generally apply to state National Guards as well. But some Guards have said that they will not separate trans people. At the very least, some Guards may be more willing to issue waivers to trans people who are Nonexempt. Please contact the Legal Help Desk for more information.

MEDICAL CARE (Treatment)

Q: I'm Exempt. Will I continue to receive transition-related medical care?

A: Yes. Requests for medical care and treatment should be handled in the same way as before the policy change, in accordance with DoDI 1300.28, and the July 29, 2016 Memorandum from the Assistant Secretary of Defense for Health Affairs. If you experience issues accessing care, please contact the Legal Help Desk immediately.

Q: I'm Nonexempt. Will I receive medical care?

A: You will receive medical care on the same basis as all other Service members. If you receive a GD diagnosis, you should continue to receive medically necessary non-transition-related care. If you seek or need to transition, you will be processed for separation. Contact the Legal Help Desk for advice and assistance about separation.

GENERAL QUESTIONS

Q. I'm serving in my GAB and will continue doing so. As long as I meet the military standards of my GAB, can I present in my correct gender outside of work hours?

A: Yes. Though the uniform regulations discuss appropriate civilian attire, determining what is appropriate should not be gender-based. The Navy has re-affirmed this in guidance issued in accordance with this new policy. Note, however, that local commands may restrict civilian attire based on local conditions or host-nation agreements. If you experience problems or issues concerning civilian attire, please contact the Legal Help Desk.

Q: Haven't there been studies about transgender service members and military readiness?

A: Yes, there have been a number of studies. Most recently, the Palm Center published a [study](#) demonstrating that re-implementing a ban would cost the government \$960 million. Additionally, the RAND corporation published a [study](#) in 2016, the Palm Center published a 2014 [study](#), and the Williams Institute at UCLA published a 2014 [study](#).

Q: What is being done to challenge this policy?

A: The policy is currently being fought in the court system in four different cases, including one that was brought by MMAA along with Lambda Legal (*Karnoski v. Trump*), pending in Seattle. A final ruling on the merits of the case has not been made, and a trial date has not been set. MMAA and Lambda intend to continue to fight the policy in court for as long as necessary.

A coalition of organizations—including MMAA, SPART*A, and NCTE—is also working with Members of Congress to see if the policy can be reversed or changed through legislation. This process will likely take years to resolve. Follow us on Facebook or sign up for our newsletter to receive updates as the cases proceed.

Q: I want to become part of the lawsuit. What do I do?

A: Please fill out the form on the website of Lambda Legal (our co-counsel), located [here](#).

Q: I am outraged. What can I do to help?

A: You can donate to MMAA to help in our legal fight for full equality, and ask your friends, family, and network to do so as well, [here](#). You can [contact your elected officials](#) to urge them to denounce this policy change and to support any legislation that will reverse or change it.