



FORT SILL LEGAL ASSISTANCE TRANSGENDER POLICY



I am a transgender Service member, can I be discharged or denied continuation of service because I am transgender?

No. Under Directive-Type Memorandum (DTM) 16-005, "Military Service of Transgender Service Members," dated 30 June 2016, no otherwise qualified Service member may be involuntarily separated, discharged, or denied reenlistment or continuation of service, solely on the basis of their gender identity.

What does this mean?

Merely being a transgender Service member cannot be the basis of an involuntary separation from service, or denial of reenlistment. However, as with any Service member, failing an APFT, refusing to adhere to regulated grooming policies (without an approved exception to policy), or failing to comply the Army's Body Composition standards, could provide justification for an involuntary separation or denial of reenlistment.

What if I identify as transgender (civilian) now, and I want to join the military in the future?

You may still join. However, the following procedures must be followed:

- 1) A diagnosis of gender dysphoria requires a licensed medical provider to certify that you have been stable without any clinically significant distress or impairment in social, occupational, or other important areas of functioning for at least 18 months.
- 2) Any medical treatment associated with gender transition requires a licensed medical provider to certify that you have completed all medical treatment associated with the gender transition, and have been stable in the preferred gender for 18 months. Also, if you are receiving cross-sex hormone therapy post-gender transition, you must be stable on those hormones for 18 months.
- 3) If you have undergone sex reassignment or genital reconstruction surgery, a licensed medical provider must certify that 18 months have elapsed since the date of the most recent surgery, that no functional limitation or complications persist, and that no additional surgery is required, you have been stable without any clinically significant distress or impairment in social, occupational, or other important areas of functioning for at least 18 months.

What if I am currently serving in the military as one gender, and I want to transition to the opposite gender?

You may still continue to serve in the military. However, in accordance with Department of Defense Instruction (DoDI) 1300.28, there are several prerequisites and procedures required to change a Service member's gender marker in the Defense Enrollment Eligibility Reporting System (DEERS).

Keep in mind, the Military Departments and Services recognize a Service member's gender by the member's gender marker in DEERS. Using this same gender marker, the Services apply, and the member is responsible to meet, all standards for uniforms and grooming; body composition

assessment (BCA); physical readiness testing (PRT); Military Personnel Drug Abuse Testing Program (MPDATP) participation; and other military standards applied with consideration of the member's gender. As to facilities subject to regulation by the military, the Service member will use those berthing, bathroom, and shower facilities associated with the member's gender marker in DEERS.

Below is a quick synopsis of the process necessary to change a Service member's gender marker in DEERS.

- 1) Secure a medical diagnosis from a military medical provider that gender transition is medically necessary.
- 2) Notify the commander of:
 - a. the diagnosis and identify all medically necessary treatment
 - b. the medical treatment plan and a projected schedule for such treatment
 - c. an estimated date for change in the member's gender marker in DEERS
 - d. any changes that may affect any of the above

What if I am transitioning and I want to adhere to the standard of my preferred gender before my DEERS gender marker is changed?

You may request an exception to policy (ETP) through your chain of command from the Secretary of the Army. An ETP may be appropriate and necessary to accommodate the changes in the member's physical appearance and body composition during gender transition. Accommodations in the application of standards for uniforms and grooming, BCA, PRT, and MPDATP participation may be warranted.

*****DISCLAIMER*****

This is a very new policy and specific guidance is still being created.

No later than 1 October 2016, the Department of Defense will issue a training handbook for Commanders, transgender Service members, and the force. Medical guidance for providing transition related care will be issued, and the Military Health System will be required to provide transgender Service members with all medically necessary care related to gender transition, based on the soon to be published guidance.

No later than 1 July 2017, the military services will begin accessing transgender applicants who meet all standards (discussed above) for initial entry into the military, ROTC, or any other accession program.

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This Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney. To schedule an appointment with a Legal Assistance Attorney, please contact the Legal Assistance Office at (580) 442-5058 or (580) 442-5059. The Fort Sill Legal Assistance Office is located on the 4th floor of Building 4700, Hartell Hall (Welcome Center) at 4700 Mow-Way Road.