

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND**

BROCK STONE, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, *et al.*,

Defendants.

Case 1:17-cv-02459-MJG

Hon. Marvin J. Garbis

DEFENDANTS' ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT

Defendants Donald J. Trump, in his official capacity as President of the United States, James Mattis, in his official capacity as Secretary of Defense, Mark Esper, in his official capacity as Secretary of the U.S. Department of the Army, Richard Spencer, in his official capacity as Secretary of the U.S. Department of the Navy, and Heather Wilson, in her official capacity as Secretary of the U.S. Department of the Air Force (collectively, "Defendants"), through their undersigned counsel, hereby answer Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief (the "Amended Complaint"), and set forth affirmative defenses as follows.

NATURE OF THE ACTION

1. The averments in this paragraph contain Plaintiffs' characterization and opinion about the nature of transgender service members' military service, to which no response is required, and also contains characterizations as to numbers of individuals serving in certain positions and having obtained awards without identifying any sources for this information or individuals involved, which Defendants thus lack sufficient information to admit or deny. To the extent a

response may be deemed required, Defendants admit that some open transgender persons are serving in the military, but clarify that the characterization of “honorably” is not conferred until separation from the military.

2. With respect to the first sentence Defendants admit that some of the Plaintiffs in this case are transgender service members. Defendants further admit sentences two, four, five, seven and eight of this paragraph. With respect to the third sentence, Defendants admit the allegations, with the exception that Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation that Staff Sergeant Cole was a designated marksman for her unit. With respect to the sixth sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

3. This paragraph contains Plaintiffs’ characterization of Agnes Gereben Shaefer et al., *Assessing the Implications of Allowing Transgender Personnel to Serve Openly*, RAND Corporation (2016) (the “RAND Report”) and Directive-Type Memorandum 16-005, “Military Service of Transgender Service Members” (June 20, 2016) (“DTM 16-005”), which documents speak for themselves and are the best evidence of their content. To the extent Plaintiffs’ allegations are inconsistent with the RAND Report and DTM 16-005, this paragraph is denied.

4. Defendants admit that the twitter posts attached to this paragraph appear to be true and correct copies of statements posted by President Trump on July 26, 2017. The remainder of this paragraph purports to characterize the President’s July 26 tweets, which speak for themselves and are the best evidence of their content. To the extent Plaintiffs’ allegations are inconsistent with the tweets, this paragraph is denied.

5. The first sentence of this paragraph is denied. The remainder of this paragraph purports

to characterize unspecified “news reports.” Defendants lack knowledge or information sufficient to form a belief as to what news reports Plaintiffs are referring. Moreover, any news reports would speak for themselves and would be the best evidence of their content.

6. With respect to the first sentence of this paragraph, Defendants admit that President Trump issued a Memorandum entitled “Military Service by Transgender Individuals” on August 25, 2017 (the “Presidential Memorandum”). The remainder of this paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs’ allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

7. With respect to the first sentence of this paragraph, Defendants admit that the directives in the Presidential Memorandum did not take effect immediately, and further clarify that the Secretary of Defense issued Interim Guidance on September 14, 2017, which is the current policy in effect today. The Presidential Memorandum and Interim Guidance speak for themselves and are the best evidence of their content. To the extent Plaintiffs’ allegations are inconsistent with the Presidential Memorandum and Interim Guidance, this paragraph is denied. With respect to the second sentence, Defendants lack sufficient knowledge or information sufficient to form a belief as to the scheduling for medication treatment and procedures for unidentified persons. Moreover, Defendants deny that the current policy prevents medical treatment and procedures, and clarify that, under the Interim Guidance, transgender service members are eligible to receive medical treatment related to their transgender status or diagnosis of gender dysphoria when approved by the appropriate military medical personnel. The third sentence of this paragraph is denied. The last sentence of this paragraph contains Plaintiffs opinion and characterization of the effects of the Presidential Memorandum, to which no

response is required. But, to the extent a response is deemed required, Defendants lack sufficient knowledge or information sufficient to form a belief as to the feelings of unidentified persons.

8. The averments in this paragraph are denied.

9. The averments in this paragraph are denied.

10. This paragraph contains Plaintiffs' characterization of this action, to which no response is required. To the extent a response is deemed required, denied.

THE PARTIES

Plaintiff Stone

11. Admit.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that Plaintiff Stone currently is assigned to a unit at Fort Meade and currently resides off-base in Maryland.

13. Admit.

14. Admit.

15. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

16. Defendants admit that Plaintiff Stone received a medical treatment plan that included continuing hormone therapy as a medically necessary part of his gender transition.

17. Defendants admit the first and second sentences of this paragraph. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence of this paragraph.

18. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

Plaintiff Cole

19. Admit.

20. Admit.

21. Defendants admit the allegations in this paragraph, with the exception that Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation that Staff Sergeant Cole was a designated marksman for her unit.

22. Admit.

23. Defendants admit that Staff Sergeant Cole disclosed her transgender status to her chain of command following DoD's June 2016 Open Service Directive, but lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

24. Defendants admit that Plaintiff Cole received a medical treatment plan that included continuing hormone therapy as a part of that treatment plan.

25. The averments in this paragraph are denied. *See* Declaration of CPT Matthew Vanderlught ¶ 3, which was filed under seal with Defendants' Motion to Dismiss and in Opposition to Plaintiffs' Application for a Preliminary Injunction (ECF No. 52-1). Defendants further clarify that, on September 14, 2017, Secretary of Defense Mattis issued Interim Guidance, which authorized medically-necessary services, to include surgery, for approved treatment plans.

Plaintiff Doe

26. Admit.

27. Admit.

28. Admit.

29. Admit.

30. Admit.

31. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

32. Defendants admit that Plaintiff Doe received a medical treatment plan that included continuing hormone therapy as part of his gender transition, and that he had been scheduled to undergo surgery in August 2017.

33. Defendants admit that, around August 15, 2017, surgeries related to service members' transgender status were placed on hold at the facility where Plaintiff Doe was to undergo surgery, while Air Force medical providers awaited further guidance from senior leaders regarding transgender policy in the Armed Forces. Defendants further clarify that, on September 14, 2017, Secretary of Defense Mattis issued the Interim Guidance, which authorized medically-necessary services, to include surgery, for approved treatment plans. In accordance with the Interim Guidance, transgender Airmen across the Air Force have since been eligible to receive surgery related to their transgender status or diagnosis of gender dysphoria that was approved through their medical treatment plans, as well as other generally-required surgery clearance processes.

Plaintiff George

34. Admit.

35. Admit.

36. Admit.

37. Admit.

38. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

39. Defendants admit that a medical provider at a local treatment facility deemed it “medically necessary” for Plaintiff George to receive hormone therapy, and that he received hormone therapy.

40. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of this paragraph. The second sentence of this paragraph contains Plaintiffs’ speculation regarding hypothetical events that may or may not take place in the future, and Plaintiffs’ speculation about how the Air National Guard’s future accession policies may or may not apply to those hypothetical events. Accordingly, the second sentence of this paragraph is denied.

Plaintiff Gilbert

41. Admit.

42. Admit.

43. Admit.

44. Admit.

45. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

46. Defendants admit that Plaintiff Gilbert received a medical treatment plan that included

continuing hormone therapy as part of her gender transition. Defendants further aver that they lack knowledge or information sufficient to form a belief as to the truth of the claim that Plaintiff Gilbert plans to seek approval for surgery.

47. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of this paragraph.

48. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of this paragraph.

Plaintiff Parker

49. Admit.

50. Defendants admit the first, second, and fourth sentences of this paragraph. With respect to the third sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

51. Admit.

52. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

53. Defendants admit that Plaintiff Parker received a medical treatment plan that included continuing hormone therapy as part of her gender transition.

Plaintiff ACLU of Maryland

54. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

55. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

56. Defendants lack knowledge or information sufficient to form a belief as to the nature of

the ACLU of Maryland's work. The remainder of this paragraph contains legal conclusions regarding the ACLU of Maryland's standing to bring this case, to which no response is required. To the extent a response is deemed required, denied.

57. Defendants lack knowledge or information sufficient to form a belief as to the nature and purpose of the ACLU of Maryland's work. The remainder of this paragraph contains legal conclusions regarding the ACLU of Maryland's standing to bring this case, to which no response is required. To the extent a response is deemed required, denied.

Defendants

58. Defendants admits the first two sentences of this paragraph. With respect to the third sentence, Defendants admit that President Trump issued the Presidential Memorandum on August 25, 2017, but deny that it is properly characterized as a "transgender service member ban."

59. Admit.

60. Defendants clarify that Mark Esper is the current Secretary of the Army.

61. Admit.

62. Admit.

JURISDICTION AND VENUE

63. The allegations in this paragraph consist of Plaintiffs' legal conclusions regarding jurisdiction, to which no response is required.

64. The allegations in this paragraph consist of Plaintiffs' legal conclusions regarding venue, to which no response is required.

FACTUAL ALLEGATIONS

65. With respect to the first sentence of this paragraph, Defendants admit that transgender persons have served in the military, but lack sufficient knowledge or information to form a belief as to the truth of the remainder of this sentence. With respect to the second and third sentences of this paragraph, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

66. Defendants lack knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph.

67. This paragraph purports to characterize a portion of DoDI 1300.28, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegation are inconsistent with DoDI 1300.28, this paragraph is denied.

68. To the extent this paragraph characterizes the views of the American Psychiatric Association ("APA"), Defendants lack knowledge or information sufficient to form a belief as to those views, and further aver that any statement of the APA would speak for itself and is the best evidence of its content. Defendants also lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph concerning "every other major mental health organization."

69. Defendants admit that some men and women who are transgender experience gender dysphoria. Defendants further admit that symptoms of gender dysphoria include the incongruence between a person's gender identity and the gender that they were assigned at birth, as well as clinically-significant distress. However, to the extent this paragraph fails to address the full scope of diagnostic criteria and symptoms of gender dysphoria, this paragraph is denied.

70. Defendants lack knowledge or information sufficient to form a belief as to the truth of the

allegations in this paragraph, which covers subjects that require medical and/or clinical expertise.

71. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, which covers subjects that require medical and/or clinical expertise.

72. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, which covers subjects that require medical and/or clinical expertise.

73. The first sentence of this paragraph is denied. With respect to the second and third sentences, Defendants admit that the military provides psychological care and hormone treatments to service members, when approved by the appropriate medical personnel. With respect to the fourth sentence of this paragraph, Defendants admit that the military provides medically-indicated surgery, including chest and breast reconstruction, hysterectomy, and genital reconstruction to service members, but lack sufficient knowledge or information to respond to Plaintiffs' reference to "other procedures that might be prescribed to treat gender dysphoria."

74. This paragraph purports to characterize DoD's policy and the service branch regulations for medical fitness, which speak for themselves and are the best evidence of their content. To the extent Plaintiffs' allegations are inconsistent with DoD's policy and regulations, this paragraph is denied.

75. This paragraph purports to characterize DoD's policy and service branch regulations for medical fitness, which speak for themselves and are the best evidence of their content. To the extent Plaintiffs' allegations are inconsistent with DoD's policy and regulations, this paragraph is denied.

76. This paragraph purports to characterize DoD's policy and the service branch regulations

for medical fitness, which speak for themselves and are the best evidence of their content. To the extent Plaintiffs' allegations are inconsistent with DoD's policy and regulations, this paragraph is denied.

77. Denied.

78. This paragraph purports to characterize a written statement by Former Secretary of Defense Ashton Carter, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the statement, this paragraph is denied.

79. This paragraph purports to characterize a written directive issued by Former Secretary of Defense Ashton Carter, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the directive, this paragraph is denied.

80. This paragraph purports to characterize a written directive issued by Former Secretary of Defense Ashton Carter, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the directive, this paragraph is denied.

81. The first sentence of this paragraph is admitted. With respect to the second sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations concerning "these individuals" who are unidentified.

82. With respect to the first sentence of this paragraph, Defendants admit that the working group examined medical, legal, and policy considerations associated with permitting transgender servicemembers to serve in the military. The remainder of the first sentence contains Plaintiffs' subjective characterization and argument about the scope of the examination, to which no answer is required. Defendants admit the second sentence of this paragraph. With respect to the third sentence, Plaintiffs appear to characterize a statement from former Secretary of Defense Ashton

Carter made on June 30, 2016, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with those statements, the averments in the third sentence are denied.

83. This paragraph purports to characterize the RAND Report, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied.

84. This paragraph purports to characterize the RAND Report, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied.

85. This paragraph purports to characterize the RAND Report, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied.

86. This paragraph purports to characterize DTM 16-005, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005, this paragraph is denied. With respect to the last sentence, Defendants admit that Exhibit B appears to be a copy of DTM 16-005.

87. This paragraph purports to characterize a written statement by former Secretary of Defense Ashton Carter, which speaks for itself and is the best evidence of its content. To the extent Plaintiff's allegations are inconsistent with the statement, this paragraph is denied.

88. This paragraph purports to characterize DTM 16-005, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005, this paragraph is denied.

89. This paragraph purports to characterize DTM 16-005, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005, this paragraph is denied.

90. This paragraph purports to characterize *Transgender Service in the U.S. Military: an Implementation Handbook*, DoD (Sept. 30, 2016) (the "Handbook"), which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Handbook, this paragraph is denied.

91. This paragraph purports to characterize the Handbook, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Handbook, this paragraph is denied.

92. With respect to the first sentence of this paragraph, Defendants admit that there was training on the policy after it was announced, and that this training involved commanders, medical personnel, the operating forces, and recruiters. With respect to the second sentence, Defendants admit each military Service implemented a program to train its members.

93. Defendants admit that the service branches were instructed to conduct a review of the regulations. However, the remainder of this paragraph contains Plaintiffs' subjective characterization and argument about the scope of that review, to which no answer is required.

94. Defendants admit that the Twitter posts attached to this paragraph appear to be true and correct copies of statements posted by President Trump on July 26, 2017. The July 26 tweets, speak for themselves and are the best evidence of their content. To the extent Plaintiffs' allegations are inconsistent with the July 26 tweets, this paragraph is denied.

95. This paragraph is denied.

96. This paragraph purports to characterize specified press reports, which speak for

themselves and are the best evidence of their content. To the extent Plaintiffs' allegations are inconsistent with those press reports, this paragraph is denied.

97. This paragraph purports to characterize specified press reports, which speak for themselves and are the best evidence of their content. To the extent Plaintiffs' allegations are inconsistent with those press reports, this paragraph is denied.

98. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

99. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

100. This paragraph purports to characterize an article that was posted on www.palmcenter.org. To the extent Plaintiffs' allegations are inconsistent with that article, this paragraph is denied.

101. This paragraph purports to characterize a written statement by Rep. Scott Taylor, which statement speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with that statement, this paragraph is denied.

102. This paragraph purports to characterize a written statement by Sen. John McCain, which statement speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with that statement, this paragraph is denied.

103. This paragraph is denied.

104. Defendants admit that the Secretary of Defense was away from the Pentagon on July 26, 2017.

105. Defendants admit that President Trump issued the Presidential Memorandum on

August 25, 2017 for the Secretary of Defense and Secretary of Homeland Security, and that Exhibit C to Plaintiffs' Original Complaint appears to be a copy of the Presidential Memorandum.

106. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum and/or are legal conclusions, this paragraph is denied.

107. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum and/or are legal conclusions, this paragraph is denied.

108. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum and/or are legal conclusions, this paragraph is denied.

109. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum and/or are legal conclusions, this paragraph is denied.

110. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum and/or are legal conclusions, this paragraph is denied.

111. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum and/or are legal conclusions, this paragraph is denied.

112. This paragraph is denied.

113. The first sentence of this paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. The second and third sentences of this paragraph purport to characterize the RAND Report, which speaks for itself and is the best evidence of its content. The last sentence of this paragraph quotes a resolution by the American Medical Association ("AMA"), which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, the RAND Report and/or the AMA resolution, this paragraph is denied.

114. This paragraph purports to characterize an article that was posted on www.palmcenter.org, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with that article, this paragraph is denied.

115. The first sentence of this paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied. The second sentence of this paragraph purports to characterize the RAND Report, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied.

116. This paragraph purports to characterize the RAND Report, which speaks for itself

and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied. The last sentence of this paragraph is vague and ambiguous, particularly in that it references "similar conclusions," and therefore no answer is required. But, to the extent an answer is deemed required, Defendants lack knowledge or information sufficient to respond to this sentence.

117. This paragraph purports to characterize the written statement of Sen. Tammy Duckworth, which statement speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with that statement, this paragraph is denied.

118. The first sentence of this paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied. The second sentence of this paragraph purports to characterize the RAND Report, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with the RAND report, this paragraph is denied.

119. This paragraph purports to characterize an August 2017 report by the Palm Center, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' allegations are inconsistent with that report, this paragraph is denied.

120. This paragraph consists of legal conclusions to which no answer is required. To the extent an answer is deemed necessary, denied.

121. This paragraph consists of argument and speculative allegations about future events that have not and may never occur, and therefore Defendants lack knowledge or information sufficient to form a belief as to truth of the allegations.

122. The first and second sentences of this paragraph are admitted. The third sentence

of this paragraph consists of speculative arguments and allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

123. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

124. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

125. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

126. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

127. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

128. This paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

129. This paragraph is denied. *See supra* ¶¶ 25 & 33.

130. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, which concern potential harms that transgender servicemembers allegedly will suffer in the future.

131. This paragraph consists of legal conclusions to which no answer is required. To the extent a response is deemed necessary, denied. Moreover, to the extent this paragraph addresses Plaintiffs' personal education opportunities, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

132. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of this paragraph. Defendants admit the allegations in the second sentence of this paragraph.

133. This paragraph consists of speculative allegations about future events that have not and may never occur, and therefore Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

134. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first, third, and fourth sentences of this paragraph. The second sentence of this paragraph purports to characterize DTM 16-005 and the Presidential Memorandum, which speak for themselves and are the best evidence of their content. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005 and the Presidential Memorandum, this paragraph is denied.

LEGAL CLAIMS

COUNT I (Against All Defendants)

135. The answers to all preceding paragraphs are incorporated herein by reference.

136. This paragraph consists of legal conclusions to which no answer is required.

137. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

138. This paragraph consists of a legal conclusion to which no answer is required. To the extent an answer is deemed necessary, this paragraph is denied.

139. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

140. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

141. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

142. The first sentence of this paragraph contains Plaintiffs' argument and opinion about how "all service members" should feel about the Presidential Memorandum, to which no response is required. To the extent a response is deemed required, the first sentence is denied. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of this paragraph.

143. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

144. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

145. The first sentence of this paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this sentence is denied. The second sentence of this paragraph purports to characterize DTM 16-005, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with DTM 16-005, this sentence is denied. The third sentence of this paragraph purports to characterize Secretary Mattis's statement, which speaks for itself and is the best evidence of its content. To the extent this paragraph is inconsistent with that statement, this paragraph is denied. The last sentence of this paragraph is denied.

146. Defendants admit the first sentence of this paragraph. The second sentence of this paragraph consists of speculative claims about whether hypothetical and unspecified candidates would or would not be eligible to access into the military, to which no response is required. But, to the extent a response is deemed required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. The second sentence of this paragraph also purports to characterize the Presidential Memorandum, which speaks for itself and is the best

evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

147. This paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

148. This paragraph purports to equate unidentified and unspecified types of "medically necessary care." These allegations are vague, speculative, and constitute argument, and thus Defendants lack knowledge or information sufficient to respond to this paragraph.

149. The first sentence of this paragraph purports to equate unidentified and unspecified types of "surgical procedures." These allegations are vague, speculative, and constitute argument, and thus Defendants lack knowledge or information sufficient to respond to this paragraph. The second sentence of this paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied.

150. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

151. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

152. This paragraph consists of Plaintiffs' legal argument and conclusions to which no answer is required. To the extent a response is deemed required, denied.

153. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

154. This paragraph consists of Plaintiffs' prayer for relief and legal arguments and

conclusions to which no answer is required. To the extent a response is deemed required, denied.

COUNT II (Against All Defendants)

155. The answers to all preceding paragraphs are incorporated herein by reference.

156. This paragraph consists of Plaintiffs' legal conclusions, to which no response is required.

157. This paragraph consists of Plaintiffs' legal conclusions, to which no response is required.

158. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

159. The first sentence of this paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiffs' claims are inconsistent with the Presidential Memorandum, this paragraph is denied. The second sentence of this paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

160. This paragraph consists of Plaintiffs' legal conclusions to which no answer is required. To the extent a response is deemed required, denied.

161. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

162. This paragraph consists of Plaintiffs' prayer for relief and legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

COUNT III (Against All Defendants)

163. The answers to all preceding paragraphs are incorporated herein by reference.

164. This paragraph purports to characterize 10 U.S.C. § 1074(a)(1), which statute speaks for itself and is the best evidence of its content. To the extent Plaintiff's claims are inconsistent with the statute, this paragraph is denied.

165. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

166. The first sentence of this paragraph purports to characterize the Presidential Memorandum, which speaks for itself and is the best evidence of its content. To the extent Plaintiff's claims are inconsistent with the Presidential Memorandum, this paragraph is denied. The second sentence of this paragraph is denied. *See supra* ¶¶ 25 & 33.

167. This paragraph consists of Plaintiffs' legal conclusions to which no answer is required. To the extent a response is deemed required, denied.

168. This paragraph consists of Plaintiffs' legal arguments and conclusions and prayer for relief, to which no answer is required. To the extent a response is deemed required, denied.

169. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

* * *

Defendants deny that Plaintiffs are entitled to the relief requested in their Prayer for Relief or to any relief whatsoever.

Defendants hereby specifically deny each and every allegation in the First Amended Complaint not expressly admitted or denied in this Answer, or to which it has responded that it has insufficient information to admit or deny.

Date: December 15, 2017

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General
Civil Division

BRETT A. SHUMATE
Deputy Assistant Attorney General

JOHN R. GRIFFITHS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

/s/ Ryan B. Parker
RYAN B. PARKER
ANDREW E. CARMICHAEL
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
Telephone: (202) 514-4336
Email: ryan.parker@usdoj.gov

Counsel for Defendants