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**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

AIDEN STOCKMAN; NICOLAS  
 TALBOTT; TAMASYN REEVES;  
 JAQUICE TATE; JOHN DOES 1-2;  
 JANE DOE; and EQUALITY  
 CALIFORNIA,

Plaintiffs,

v.

DONALD J. TRUMP, et al.

Defendants.

CASE NO. 5:17-CV-01799-JGB-KK

**DECLARATION OF ADAM S.  
 SIEFF IN SUPPORT OF  
 PLAINTIFFS' JOINT  
 OPPOSITION TO MOTION TO  
 DISSOLVE THE PRELIMINARY  
 INJUNCTION**

1 STATE OF CALIFORNIA,  
2 Plaintiff-Intervenor,  
3 v.  
4 DONALD J. TRUMP, et al.  
5 Defendants.  
6

7  
8 I, Adam S. Sieff, declare as follows:

9 1. I am an attorney at the law firm of Latham & Watkins LLP, counsel of  
10 record for Plaintiffs in the above-caption matter. I am an attorney in good standing  
11 licensed to practice law in the State of California. I submit this declaration in support  
12 of Plaintiffs' Joint Opposition to Defendants' Motion to Dissolve the Preliminary  
13 Injunction. I have personal knowledge of the facts contained in this declaration, and  
14 if called upon to do so, I could and would testify competently thereto.

15 2. Attached as **Exhibit A** is a true and correct copy of *Statement of*  
16 *Secretary James N. Mattis*, Department of Defense (Aug. 29, 2017), publicly  
17 available at [https://www.defense.gov/News/News-Releases/News-Release-](https://www.defense.gov/News/News-Releases/News-Release-View/Article/1294351/)  
18 [View/Article/1294351/](https://www.defense.gov/News/News-Releases/News-Release-View/Article/1294351/).

19 3. Attached as **Exhibit B** is a true and correct copy of *Terms of*  
20 *Reference – Implementation of Presidential Memorandum on Military Service*  
21 *by Transgender Individuals*, Department of Defense (Sept. 14, 2017). This  
22 document was produced by Defendants in the related matter of *Doe, et al. v.*  
23 *Trump, et al*, No. 17-CV-1597 (CKK) (D.D.C.) as USDOE00003230-3231 and  
24 filed as Docket No. 108-6 in that case.

25 4. Attached as **Exhibit C** is a true and correct copy of *Memorandum,*  
26 *DOD Retention Policy for Non-Deployable Service Members*, Under Secretary of  
27 Defense, Personnel and Readiness (February 14, 2018), publicly available at  
28 <https://www.defense.gov/Portals/1/Documents/pubs/DoD-Universal-Retention->

1 Policy.PDF.

2 I declare under penalty of perjury under the laws of the United States of  
3 America that the foregoing is true and correct.

4

5 Dated: April 25, 2018

By:           /s/ Adam S. Sieff            
Adam S. Sieff

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# **EXHIBIT A**



DEPARTMENT OF DEFENSE



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**IMMEDIATE RELEASE**

## **Statement by Secretary of Defense Jim Mattis on Military Service by Transgender Individuals**

Press Operations

Release No: NR-312-17

Aug. 29, 2017

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The Department of Defense has received the Presidential Memorandum, dated August 25, 2017, entitled “Military Service by Transgender Individuals.” The department will carry out the president’s policy direction, in consultation with the Department of Homeland Security. As directed, we will develop a study and implementation plan, which will contain the steps that will promote military readiness, lethality, and unit cohesion, with due regard for budgetary constraints and consistent with applicable law. The soon arriving senior civilian leadership of DOD will play an important role in this effort. The implementation plan will address accessions of transgender individuals and transgender individuals currently serving in the United States military.

Our focus must always be on what is best for the military’s combat effectiveness leading to victory on the battlefield. To that end, I will establish a panel of experts serving within the Departments of Defense and Homeland Security to provide advice and recommendations on the implementation of the president’s direction. Panel members will bring

mature experience, most notably in combat and deployed operations, and seasoned judgment to this task. The panel will assemble and thoroughly analyze all pertinent data, quantifiable and non-quantifiable. Further information on the panel will be forthcoming.

Once the panel reports its recommendations and following my consultation with the secretary of Homeland Security, I will provide my advice to the president concerning implementation of his policy direction. In the interim, current policy with respect to currently serving members will remain in place. I expect to issue interim guidance to the force concerning the president's direction, including any necessary interim adjustments to procedures, to ensure the continued combat readiness of the force until our final policy on this subject is issued.

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News
Press Advisories
News Releases
Transcripts
Speeches
Publications

# **EXHIBIT B**



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

9/14/17

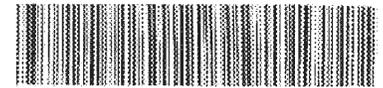
MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
COMMANDANT, U.S. COAST GUARD  
DEPUTY CHIEF MANAGEMENT OFFICER  
CHIEF, NATIONAL GUARD BUREAU  
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR OF COST ASSESSMENT AND PROGRAM  
EVALUATION  
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR OF OPERATIONAL TEST AND EVALUATION  
CHIEF INFORMATION OFFICER OF THE DEPARTMENT OF  
DEFENSE  
ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE  
AFFAIRS  
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC  
AFFAIRS  
DIRECTOR OF NET ASSESSMENT  
DIRECTOR, STRATEGIC CAPABILITIES OFFICE  
DIRECTORS OF DEFENSE AGENCIES  
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: Terms of Reference - Implementation of Presidential Memorandum on Military  
Service by Transgender Individuals

Reference: Military Service by Transgender Individuals -- Interim Guidance

I direct the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff to lead the Department of Defense (DoD) in developing an Implementation Plan on military service by transgender individuals, to effect the policy and directives in Presidential Memorandum, *Military Service by Transgender Individuals*, dated August 25, 2017 ("Presidential Memorandum"). The implementation plan will establish the policy, standards and procedures for service by transgender individuals in the military, consistent with military readiness, lethality, deployability, budgetary constraints, and applicable law.

The Deputy Secretary and the Vice Chairman, supported by a panel of experts drawn from DoD and the Department of Homeland Security (DHS) ("Panel"), shall propose for my consideration recommendations supported by appropriate evidence and information, not later than January 15, 2018. The Deputy Secretary and the Vice Chairman will be supported by the Panel, which will be comprised of the Military Department Under Secretaries, Service Vice Chiefs, and Service Senior Enlisted Advisors. The Deputy Secretary and Vice Chairman shall



OSD011320-17/CMD015104-17

designate personnel to support the Panel's work to ensure Panel recommendations reflect senior civilian experience, combat experience, and expertise in military operational effectiveness. The Panel and designated support personnel shall bring a comprehensive, holistic, and objective approach to study military service by transgender individuals, focusing on military readiness, lethality, and unit cohesion, with due regard for budgetary constraints and consistent with applicable law. The Panel will be chaired by the Under Secretary of Defense for Personnel and Readiness and will report to the Deputy Secretary and the Vice Chairman at least every 30 days and address, at a minimum, the following three areas:

Accessions: The Presidential Memorandum directs DoD to maintain the policy currently in effect, which generally prohibits accession of transgender individuals into military service. The Panel will recommend updated accession policy guidelines to reflect currently accepted medical terminology.

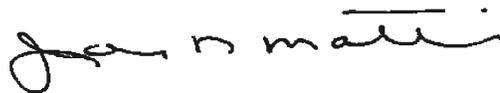
Medical Care: The Presidential Memorandum halts the use of DoD or DHS resources to fund sex-reassignment surgical procedures for military personnel, effective March 23, 2018, except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex. The implementation plan will enumerate the specific surgical procedures associated with sex reassignment treatment that shall be prohibited from DoD or DHS resourcing unless necessary to protect the health of the Service member.

Transgender Members Serving in the Armed Forces: The Presidential Memorandum directs that the Department return to the longstanding policy and practice on military service by transgender individuals that was in place prior to June 2016. The Presidential Memorandum also allows the Secretary to determine how to address transgender individuals currently serving in the Armed Forces. The Panel will set forth, in a single policy document, the standards and procedures applicable to military service by transgender persons, with specific attention to addressing transgender persons currently serving. The Panel will develop a universal retention standard that promotes military readiness, lethality, deployability, and unit cohesion.

To support its efforts, the Panel will conduct an independent multi-disciplinary review and study of relevant data and information pertaining to transgender Service members. The study will be planned and executed to inform the Implementation Plan. The independent multi-disciplinary review and study will address aspects of medical care and treatment, personnel management, general policies and practices, and other matters, including the effects of the service of transgender persons on military readiness, lethality, deployability, and unit cohesion.

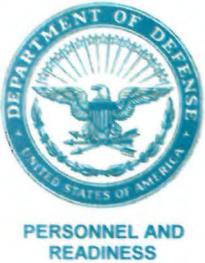
The Panel may obtain advice from outside experts on an individual basis. The recommendations of the Deputy Secretary and the Vice Chairman will be coordinated with senior civilian officials, the Military Departments, and the Joint Staff.

All DoD Components will cooperate fully in, and will support the Deputy Secretary and the Vice Chairman in their efforts, by making personnel and resources available upon request in support of their efforts.



cc:  
Secretary of Homeland Security

# **EXHIBIT C**



**UNDER SECRETARY OF DEFENSE**  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

FEB 14 2018

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
DEPUTY CHIEF MANAGEMENT OFFICER  
CHIEF, NATIONAL GUARD BUREAU  
DIRECTOR OF COST ASSESSMENT AND PROGRAM  
EVALUATION

SUBJECT: DoD Retention Policy for Non-Deployable Service Members

In July, the Secretary of Defense directed the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)) to lead the Department's effort to identify changes to military personnel policies necessary to provide more ready and lethal forces. In his initial memorandum to the Department, Secretary Mattis emphasized, "[e]very action will be designed to ensure our military is ready to fight today and in the future." Given the Secretary's guidance, OUSD(P&R) moved forward from the underlying premise that all Service members are expected to be world-wide deployable. Based on the recommendations of the Military Personnel Policy Working Group, the Deputy Secretary of Defense determined that DoD requires a Department-wide policy establishing standardized criteria for retaining non-deployable Service members. The objective is to both reduce the number of non-deployable Service members and improve personnel readiness across the force.

The Deputy Secretary of Defense directed the following interim policy guidance, which will remain in effect until the Department issues a DoD Instruction on reporting and retention of non-deployable Service members:

- Service members who have been non-deployable for more than 12 consecutive months, for any reason, will be processed for administrative separation in accordance with Department of Defense Instruction (DoDI) 1332.14, *Enlisted Administrative Separations*, or DoD Instruction 1332.30, *Separation of Regular and Reserve Commissioned Officers*, or will be referred into the Disability Evaluation System in accordance with DoDI 1332.18, *Disability Evaluation System (DES)*. Pregnant and post-partum Service members are the only group automatically excepted from this policy.
- The Secretaries of the Military Departments are authorized to grant a waiver to retain in service a Service member whose period of non-deployability exceeds the 12 consecutive months limit. This waiver authority may be delegated in writing to an official at no lower than the Military Service headquarters level.

- The Military Services have until October 1, 2018, to begin mandatory processing of non-deployable Service members for administrative or disability separation under this policy, but they may begin such processing immediately.
- The Military Services may initiate administrative or disability separation upon determination that a Service member will remain non-deployable for more than 12 consecutive months; they are not required to wait until the Service member has been non-deployable for 12 consecutive months.
- The Military Services will continue to provide monthly non-deployable reports to OUSD(P&R) in the format established by the Military Personnel Policy Working Group.

My office will issue a DoDI to provide additional policy guidance and codify non-deployable reporting requirements. Publication of the DoDI will supersede and cancel this policy memorandum.



Robert L. Wilkie

cc:

Assistant Secretary of the Army  
for Manpower and Reserve Affairs  
Assistant Secretary of the Navy  
for Manpower and Reserve Affairs  
Assistant Secretary of the Air Force  
for Manpower and Reserve Affairs  
Senior Enlisted Advisor to the Chairman  
of the Joint Chiefs of Staff  
Deputy Chief of Staff, G-1, U.S. Army  
Chief of Naval Personnel, U.S. Navy  
Deputy Chief of Staff for Personnel and Services,  
U.S. Air Force  
Deputy Commandant for Manpower and Reserve  
Affairs, U.S. Marine Corps  
Director, Reserve and Military Personnel,  
U.S. Coast Guard  
Director, Manpower and Personnel, Joint Staff  
National Guard Bureau, J-1