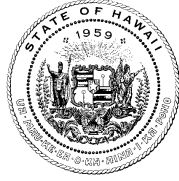


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FIRST DEPUTY ATTORNEY GENERAL

July 27, 2017

The Honorable John McCain
Chair, United States Senate
Armed Services Committee

The Honorable Mac Thornberry
Chair, United States House of
Representatives Armed Services
Committee

The Honorable Jack Reed
Ranking Member, United States
Senate Armed Services Committee

The Honorable Adam Smith
Ranking Member, United States
House of Representatives Armed
Services Committee

U.S. Senate Committee on
Armed Services
Russell Senate Building, Rm. 228
Washington, DC 20510

Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

Re: Transgender Individuals in the U.S. Armed Forces

Dear Chairs McCain and Thornberry and Ranking Members Reed and Smith:

We, the Attorneys General of the States of Hawaii, California, Connecticut, Delaware, the District of Columbia, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia and Washington urge you to protect transgender service members through the National Defense Authorization Act (NDAA) and join us in opposing President Trump's recently stated policy to prevent transgender service members from serving in the United States Armed Forces. Specifically, we ask that you include language in the NDAA: (1) prohibiting discrimination against transgender service members currently serving in the United States Armed Forces; and (2) reaffirming that transgender individuals may not be banned from serving in the United States Armed Forces.

The policy announced by President Trump's tweet undermines the national security goal of giving every able American who wants to serve in the military the opportunity to serve, creates untold bureaucratic and legal cost and complexities in implementation, and would put in place a policy that violates fundamental

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constitutional and American values.

Our request follows President Trump's statement on July 26, 2017:

After consultation with my Generals and military experts, please be advised that the United States government will not accept or allow Transgender individuals to serve in any capacity in the U.S. Military. Our military must be focused on decisive and overwhelming victory and cannot be burdened with the tremendous medical costs and disruption that transgender in the military would entail. Thank you.

President Trump's statement was followed today by a statement from General Joe Dunford, Chairman of the Joint Chiefs of Staff:

"I know there are questions about yesterday's announcement on the transgender policy by the President. There will be no modifications to the current policy until the President's direction has been received by the Secretary of Defense and the Secretary has issued implementation guidance."

While these potentially competing statements cause confusion, what is clear is that the President's stated new ban reopens a closed issue, is contrary to advice provided by our military leadership, and is based on factual misstatements and discredited claims.

The new policy is also blatant discrimination. It has no place in our Armed Services. It is an insult to the courageous transgender service members who hold vital roles in our military and continue to make tremendous sacrifices for our country. Transgender individuals are valued members of our communities. The new ban harms our States' transgender residents and marginalizes an entire group of people based solely on gender identity. In addition to its constitutional infirmities, it is inconsistent with the laws and policies of many States, and with fundamental notions of fairness and equality.

Transgender individuals have honorably served in the armed forces for decades. It is estimated that nearly 150,000 transgender individuals have served in the U.S. Armed Forces. These numbers include those on active duty or in the Guard

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or Reserve forces, and veterans and retired members of the Guard and Reserves. The open service rule put into effect for transgender service members has been comprehensively and smoothly implemented, and is consistent with the fundamental respect owed to all service members.

This is a view shared by many in Congress. We note Senator McCain's recent statement that "[t]he Department of Defense has already decided to allow currently-serving transgender individuals to stay in the military, and many are serving honorably today. Any American who meets current medical and readiness standards should be allowed to continue serving. There is no reason to force service members who are able to fight, train, and deploy to leave the military—regardless of their gender identity. We should all be guided by the principle that any American who wants to serve our country and is able to meet the standards should have the opportunity to do so—and should be treated as the patriots they are."

Other prominent members of Congress in both parties have similarly expressed the sentiment that qualified Americans, regardless of sexual orientation or identity, should continue to be welcomed in the armed services and honored for their service and sacrifice.

The policy change abruptly announced this week is contrary to the best advice of our distinguished military leadership. When Members of Congress recently attempted to prevent transgender service members from accessing necessary medical care, Secretary of Defense James Mattis himself advocated maintaining the current policy. This is the same position Secretary Mattis took during his confirmation hearings. The July 26 statement's inconsistency with the expressed judgment of many of our military leaders undermines the purported justifications for the policy reversal and calls into question whether the Secretary of Defense, the Chairman of the Joint Chiefs, and the service Chiefs were advised or adequately consulted regarding the policy change.

The July 26 statement relies on arguments that the Pentagon's leadership, and many others, have rejected. For example, based on the best independent estimates available from the RAND Corporation and the New England Journal of Medicine, the cost of medical care for transgender troops is negligible. Moreover, a Defense Department study concluded that transgender service members do not harm unit cohesion and that allowing transgender troops to fulfill their duty has no effect on military readiness or military budgets. Transgender service members fill a number of critical military roles. Retaining these talented service members strengthens—not weakens—our military readiness.

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Finally, and perhaps most importantly, this policy change is contrary to the principles our Armed Forces embody, including expanding opportunity and equality. Race, gender, religion, sexual orientation, and gender expression—over time, each has evolved in our military’s vision of who may serve in uniform. In fact, July 26, 2017 marked the 69th anniversary of President Truman’s executive order desegregating the military. That is the tradition we should uphold. Any policy mandating discrimination or preventing the open service of transgender service members erodes that tradition and betrays the core military values of fairness, dignity, and equal treatment.

The members of our Armed Forces put their lives on the line to protect freedom for all Americans. Thousands of transgender Americans serve in uniform today. This policy tells them, “you are not welcome here.” The decision to oust honorable, well-trained, and patriotic service members based on nothing more than their gender identity is undiluted discrimination and therefore indefensible. We urge that this newly announced policy be immediately reversed.

Very truly yours,



Douglas S. Chin
Attorney General
Hawaii



Xavier Becerra
Attorney General
California



George Jepsen
Attorney General
Connecticut



Matt Denn
Attorney General
Delaware

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Brian E. Frosh
Attorney General
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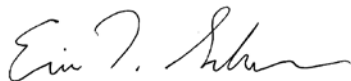
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Oregon

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The Honorable Jack Reed
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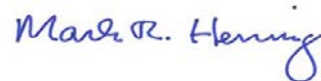
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Bob Ferguson
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cc: Donald Trump, President of the United States
General James Mattis, Secretary of Defense
General Joseph Dunford, Chairman of the Joint Chiefs of Staff