

Defense Advisory Committee on Women in the Services (DACOWITS)

Public Comment Period

3 March 2020 at 1115

Lt Col Jessica Rутtenber (USAF), Maj Megan Biles (USAF)

Thank you for the opportunity to speak at today's Committee meeting. We have a great deal of respect for the important work that DACOWITS does on behalf of our nation's servicewomen. Pregnancy has been a long-standing and significant barrier to the career advancement of women in the Armed Forces. I have researched this topic for many years and recommended policy changes to the Air Force's Women's Initiatives Team. I have also helped countless Airmen navigate the Inspector General, Equal Opportunity, and Patient Advocacy processes over the last 19 years. I am here today to help give voice to those women who often opt not to file complaints due to fear of reprisal, especially after learning that there are no clearly defined protections for their situation. It deeply concerns me that in 2020 servicewomen's careers are still unnecessarily impacted when they become pregnant, and that current policies imply that those members become a burden and have less value to the force.

The Pregnancy Discrimination Act of 1978, amended the Civil Rights Act of 1964, to make pregnancy discrimination a form of illegal sex discrimination. However this law does not apply to the military. Department of Defense Directive (DoDD) 1020.02E, *Diversity Management and Equal Opportunity in the DoD*, prohibits unlawful employment discrimination based on sex (to include pregnancy), but for only civilian employees. Although Department of Defense (DoD) nondiscrimination protections mirror other categories under the Civil Rights Act (i.e., race, color, religion, sex, and national origin), pregnancy among military members remains unprotected. Until 1975, military women were involuntarily discharged when they became pregnant. Forty-five years later, while women are no longer affirmatively forced out, they still

risk harm to their careers by having a child. DoD policies often convey the message that having a family and being in the military are incompatible, having a substantial negative impact on the overall readiness of our Armed Forces. Additionally, a strong argument can be made that current policies encourage servicewomen to hide their pregnancies because of real and perceived impacts to their careers that begin the moment they disclose they are pregnant. As a result, some servicewomen do not obtain prenatal health care during the early stages of their pregnancies.

Pregnancy remains a barrier for the careers of female warriors. This is due in part to outdated policies as well as outright discrimination. DoD policies need to be modernized at the Service-level. But an important step, both symbolic and practical, is to bar pregnancy discrimination altogether when the member can competently perform the mission. Destigmatizing pregnancy is essential to servicewomen's sense of inclusion in the military. By taking this important first step, the military will be in a better position to compete for diverse talent, able to retain qualified personnel, and enhance operational readiness, all while preserving mission accomplishment.

Overly restrictive policies and blanket occupational health profiles intended to protect servicewomen during pregnancy can negatively impact unit readiness, individual career progression, and the retention of our female Service members. As a result, servicewomen miss out on training opportunities, leading to less experience in comparison to their male counterparts, and in some cases lose qualifications in critical career fields. These highly trained professionals should be permitted to still perform their duties and/or attend training while pregnant, as long as it does not impact the mission, by giving them the ability to make informed decisions with their obstetrician's approval.

We are seeking DACOWITS support for three proposed changes to DoD policies, specifically DoDD 1020.02E, *Diversity Management and Equal Opportunity in the DoD*, and

DoDD 1350.2, *Department of Defense Military Equal Opportunity (MEO) Program*, as well as comparable Service-level policies:

- Recommendation 1: Add pregnancy as a subcategory of sex in DoD military equal opportunity policies (similar to its treatment in civilian equal employment opportunity policies).
- Recommendation 2: Add language to clarify that a member cannot be barred from participating in assigned duties and/or in a training program on the basis of pregnancy, provided the member consents and is found medically fit for duty (with reasonable access to medical care) to perform such duties or activities without degrading mission accomplishment. Pregnancy under normal circumstances does not automatically disqualify fitness for duty.
- Recommendation 3: Add language stating it is a violation of the military's equal opportunity policy to disadvantage a pregnant Service member within her career, including limitations to assignments (except in the case where she voluntarily agrees to accept an assignment limitation), performance appraisals, or selection for professional military education or training, solely on the basis of pregnancy or because the servicewoman has taken convalescent and/or maternity leave (i.e., primary caregiver leave).

This policy language would empower servicewomen to make better informed career decisions with guidance from their obstetricians, increase mission readiness, and convey the message that pregnant servicewomen are valued. We are here to ask DACOWITS to help make this a reality for all servicewomen, by asking that you further examine this area of concern and potentially make policy recommendations to address the discrepancies that exist within current DoD policies. I appreciate your time and consideration of this matter. Thank you.

