

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JANE DOE 1 <i>et al.</i> ,)	
)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 17-cv-1597 (CKK)
)	
)	
DONALD J. TRUMP <i>et al.</i>)	
)	
)	
Defendants.)	

DEFENDANTS’ ANSWER TO PLAINTIFFS’ AMENDED COMPLAINT

Defendants, through their undersigned counsel, hereby answer Plaintiffs’ Amended Complaint for Declaratory and Injunctive Relief (the “Amended Complaint”) as follows:

1. The first sentence of this paragraph contains Plaintiffs’ characterization of this action, to which no answer is required. To the extent an answer is deemed required, deny. Moreover, the first sentence of this paragraph also purports to characterize the Executive Memorandum entitled “Military Service by Transgender Individuals,” which was issued on August 25, 2017 (the “Presidential Memorandum”). Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete statement of its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with the Presidential Memorandum, Defendants deny the allegations. The second sentence of this paragraph purports to Characterize DoDI 1332.38. Defendants respectfully refer the Court to DoDI 1332.38 for a complete statement of its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with DoDI 1332.38, Defendants deny the allegations.

2. This paragraph appears to purport to characterize Directive-Type Memorandum 16-005, “Military Service of Transgender Service Members” (June 20, 2016) (“DTM 16-005). Defendants respectfully refer the Court to DTM 16-005 for a complete statement of its contents. To the extent Plaintiffs’ characterizations are inconsistent with DTM 16-005, this paragraph is denied. In addition, this paragraph contains subjective characterization and argument about the nature and scope of the process that led to DTM 16-005, to which no answer is required. To the extent an answer is deemed required, Defendants deny that the review process leading up to DTM 16-005 was “exhaustive.”

3. With respect to the first, third, and fourth sentences of this paragraph, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. With respect to the second sentence of this paragraph, Defendants deny that the United States made “express promises,” and lack knowledge or information sufficient to form a belief as to the reason for Plaintiffs’ purported actions.

4. The first sentence of this paragraph purports to characterize tweets posted by President Trump on July 26, 2017. Defendants respectfully refer the Court to the July 26 tweets for a complete statement of their contents. To the extent Plaintiffs’ allegations are inconsistent with the July 26 tweets, or call for legal conclusions, this paragraph is denied. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence.

5. With respect to the first sentence, Defendants admit that the President signed the Presidential Memorandum on August 25, 2017, which was directed to the Secretary of Defense and the Secretary of Homeland Security. The second and third sentences of this paragraph purport to characterize the Presidential Memorandum, and Defendants respectfully refer the

Court to the Presidential Memorandum for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum or call for a legal conclusion, these sentences are denied. The last sentence of this paragraph is denied.

6. This paragraph is denied, except to admit that Plaintiffs consist of six current servicemembers, one midshipman at the U.S. Naval Academy, and one student participating in the Reserve Officers' Training Corps, and that their total years of military service amount to more than twenty years.

7. This paragraph is denied.

8. This paragraph consists of argument, legal conclusions, and Plaintiffs' characterization of their claims, to which no answer is required. To the extent an answer is deemed required, this paragraph is denied.

9. This paragraph consists of argument and Plaintiffs' characterization of their claims, to which no answer is required. To the extent an answer is deemed required, and to the extent Plaintiffs' purport to characterize the Presidential Memorandum, this paragraph is denied.

JURISDICTION AND VENUE

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

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

PLAINTIFFS

12. With respect to the first sentence of this paragraph, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, except to admit that Plaintiffs consist of six active duty servicemembers, one midshipman at the U.S. Naval

Academy, and one student participating in the ROTC program. With respect to the second sentence, Defendants admit that some Plaintiffs have filed this lawsuit under pseudonyms, but lack sufficient knowledge or information sufficient to form a belief as to their reasons for doing so.

13. Admit.

14. Defendants admit that Jane Doe 1 notified her command that she is transgender in or around June 2016, but lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

15. Defendants admit that Jane Doe 1 has continued to serve without incident, but lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

16. Deny.

17. Defendants admit that Jane Doe 1 submitted a letter of resignation, but lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

18. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that Jane Doe 2 is currently on active duty in the U.S. Army.¹

¹ In the interests of protecting the privacy of the Plaintiffs who are proceeding under pseudonyms, Defendants have not, in preparing this Answer, accessed the personnel records of the pseudonym Plaintiffs at this time in order to verify all of the particular alleged details about their military service set forth in the Amended Complaint.

19. Defendants admit that Jane Doe 2 has notified her command that she is transgender, but lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

20. Defendants admit that Jane Doe 2 has sought medical treatment related to her gender transition but lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

21. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that Jane Doe 2 continues to serve in the military at this time.

22. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of this paragraph. With respect to the second sentence of this paragraph, Defendants lack knowledge or information sufficient to form a belief as to Plaintiffs' allegation that Jane Doe 2 "is counting on the compensation and benefits accrued . . . to pay for further education and training to begin a civilian career." The remainder of the second sentence of this paragraph consists of speculation regarding hypothetical events that may or may not take place in the future, and therefore Defendants lack knowledge or information sufficient to form a belief as to this allegation. Moreover, to the extent the second sentence purports to characterize the Presidential Memorandum, Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

23. Defendants admit the first sentence of this paragraph. With respect to the second sentence, Defendants lack knowledge or information sufficient to form a belief as to these allegations, except to admit that Jane Doe 3 is currently deployed to Iraq.

24. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that Jane Doe 3 has notified her chain of command of her transgender status and continues to serve in the military at this time.

25. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of this paragraph. With respect to the second sentence of this paragraph, Defendants lack knowledge or information sufficient to form a belief as to whether Jane Doe 3 “plans to renew her contract.” The remainder of the second sentence of this paragraph consists of speculation regarding hypothetical events that may or may not take place in the future, and therefore Defendants lack knowledge or information sufficient to form a belief as to this allegation. Moreover, to the extent this paragraph suggests there is a “new ban,” this paragraph is denied.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that Jane Doe 4 is currently a member of the Army National Guard.

27. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that Jane Doe 4 has notified her chain of command of her transgender status.

28. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that Jane Doe 4 continues to serve in the military at this time.

29. With respect to 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. The third sentence of this paragraph contains speculation regarding hypothetical events that may or not take place in the future, and therefore Defendants lack knowledge or information sufficient to form a belief as to this allegation. Moreover, to the extent the third sentence purports to characterize the Presidential Memorandum, Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

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

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

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

33. Defendants admit the first sentence of this paragraph. With respect to the second sentence of this paragraph, Defendants lack knowledge or information sufficient to form a belief as to John Doe 1's expectations for the future.

34. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that John Doe 1 was commissioned as a Second Lieutenant, that John Doe 1 continues to serve in the military, and that John Doe 1 has notified his command that he is transgender.

35. Defendants admit that on September 5, 2017, John Doe 1 was advised that certain types of transition related surgeries were temporarily suspended but lack knowledge or information sufficient to form a belief as to the types of transition-related medical care John Doe 1 was expecting to receive.

36. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. However, to extent Plaintiff suggest there is a “new ban,” this paragraph is denied.

37. Defendants admit the first sentence of this paragraph. With respect to the second sentence of this paragraph, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence except that Defendants admit Midshipman Kibby informed the Naval Academy he was transgender. With respect to the third sentence of this paragraph, Defendants admit that the Superintendent of the Naval Academy approved Midshipman Kibby’s leave to allow him to undergo hormone treatment, and to provide a period of gender stability of sufficient length to ensure his eligibility to accept a commission in May 2020 if he successfully completes the course of instruction upon returning to the Naval Academy.

38. This paragraph consists of speculation regarding hypothetical events that may or not take place in the future, and therefore Defendants lack knowledge or information sufficient to form a belief as to this allegation. Moreover, to the extent this paragraph purports to characterize the Presidential Memorandum, Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete statement of its contents. To the extent Plaintiffs’ allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

39. Defendants admit the allegations in this paragraph, with the clarification that Dylan Kohere is a participating member of his school's ROTC program.

40. This paragraph consists of speculation regarding hypothetical events that may or not take place in the future, and therefore Defendants lack knowledge or information sufficient to form a belief as to this allegation. Moreover, to the extent this paragraph purports to characterize the Presidential Memorandum, Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

DEFENDANTS

41. Defendants admit the first sentence of this paragraph. The second sentence of this paragraph purports to characterize tweets posted by President Trump on July 26, 2017. Defendants respectfully refer the Court to the July 26 tweets for a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the July 26 tweets, this paragraph is denied. The third sentence of this paragraph purports to characterize the Presidential Memorandum. Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

42. Defendants admit that James N. Mattis is the United States Secretary of Defense. The duties and responsibilities of the Secretary of Defense are specified in 10 U.S.C. §133(b).

43. Admit.

44. Admit.

45. Defendants clarify that Mark Esper is the current Secretary of the Army. The duties and responsibilities of the Secretary of the Army are specified in 10 U.S.C. § 3013.

46. Admit.

47. Defendants admit that Richard V. Spencer is the United States Secretary of the Navy. The duties and responsibilities of the Secretary of the Navy are specified in 10 U.S.C. § 5013.

48. Admit.

49. Defendants admit that Heather A. Wilson is the United States Secretary of the Air Force. The duties and responsibilities of the Secretary of the Air Force are specified in 10 U.S.C. § 8013.

50. Admit.

51. Defendants clarify that Kirstjen Nielsen is the Secretary of Homeland Security. The duties and responsibilities of the Secretary of Homeland Security are specified in 6 U.S.C. § 112.

52. Defendant Defense Health Agency (“DHA”) is a Combat Support Agency the duties and responsibilities of which are specified in Department of Defense Directive 5136.13. The duties and responsibilities of DHA include the management of the TRICARE Health Program. The TRICARE Health Program is defined in 10 U.S.C. § 1072 and is a component of health care for uniformed service members in addition to military health care facilities as specified in 10 U.S.C. Chapter 55.

53. Admit.

54. This paragraph is vague and ambiguous in that it purports to reference “all federal government agencies and departments responsible for implementation of the President’s decision.” Accordingly, Defendants lack sufficient information to respond to paragraph this,

except to admit that the United States Government includes federal government departments and agencies.

55. Admit.

STATEMENT OF FACTS

56. Defendants admit that Chuck Hagel was the Secretary of Defense in May 2014 and that he is a decorated U.S. Army combat veteran. The remainder of this paragraph purports to characterize public statements made by former Secretary of Defense Hagel in May 2014. Defendants respectfully refer the Court to those statements for a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with any statements made by former Secretary of Defense Hagel in May 2014, this paragraph is denied.

57. This paragraph purports to characterize DoDI 1332.18. Defendants respectfully refer the Court to DoDI 1332.18 for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with DoDI 1332.18, this paragraph is denied.

58. This paragraph purports to characterize a portion of a statement made by former Secretary of Defense Chuck Hagel on May 11, 2014. Defendants respectfully refer the Court to the May 11, 2014 statement for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent the May 11, 2014 statement, this paragraph is denied.

59. Defendants admit the first sentence of this paragraph. The second sentence of this paragraph purports to characterize *Statement by Secretary of Defense Ash Carter on DOD Transgender Policy*, Release No: NR-272-15 (July 13, 2015) ("Release No: NR-272-15"). Defendants respectfully refer the Court to Release No: NR-272-15 for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with Release No: NR-272-15, this paragraph is denied.

60. This paragraph purports to characterize Release No: NR-272-15. Defendants respectfully refer the Court to Release No: NR-272-15 for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with Release No: NR-272-15, this paragraph is denied.

61. With respect to the first sentence of this paragraph, Defendants admit that former Secretary of Defense Ash Carter oversaw a working group that included military and civilian leadership from the Armed Services, the Joint Chiefs of Staff, the service secretaries, and others from across the Department of Defense. The remainder of the first sentence contains subjective characterization and argument about the nature and scope of the working group and its review, to which no answer is required. Defendants admit that the working group was chaired by Acting Under Secretary of Defense for Personnel and Readiness Brad Carson and later by Acting Under Secretary of Defense for Personnel and Readiness Peter Levine.

62. Defendants admit that the working group referenced data that included studies and research, and that transgender servicemembers, outside medical professionals, and the RAND corporation were included in the process, but lack knowledge or information sufficient to form a belief as to whether transgender servicemembers' commanders and/or any unidentified "expert groups" had input. The remainder of this paragraph contains Plaintiffs' subjective characterization and argument about the nature and scope of the working group and its review, to which no answer is required.

63. Defendants admit that the working group took account of other countries' policies regarding transgender military service. The remainder of this paragraph contains Plaintiffs' subjective characterization and argument about the nature and scope of the working group and its review, to which no answer is required.

64. Defendants admit that the working group consulted with doctors regarding the provision of medical care to transgender people but lack knowledge or information sufficient to form a belief as to the remainder of this paragraph.

65. With respect to the first sentence of this paragraph, Defendants admit that the Department of Defense asked the RAND Corporation to analyze the impact of permitting transgender servicemembers to serve openly, but otherwise deny. The second sentence of this paragraph purports to characterize Agnes Gereben Shaefer et al., *Assessing the Implications of Allowing Transgender Personnel to Serve Openly*, RAND Corporation (2016) (the “RAND Report”). Defendants respectfully refer the Court to the RAND Report for a complete statement of its contents. To the extent Plaintiffs’ allegations are inconsistent with the RAND Report, this paragraph is denied.

66. This paragraph purports to characterize the RAND Report. Defendants respectfully refer the Court to the RAND Report for a complete statement of its contents. To the extent Plaintiffs’ allegations are inconsistent with the RAND Report, this paragraph is denied.

67. This paragraph purports to characterize the RAND Report. Defendants respectfully refer the Court to the RAND Report for a complete statement of its contents. To the extent Plaintiffs’ allegations are inconsistent with the RAND Report, this paragraph is denied.

68. Defendants admit that DOD took into account the working group effort and the RAND Report when then-Secretary of Defense Carter announced a new policy for transgender military service. The remainder of this paragraph contains Plaintiffs’ subjective characterization and argument about the nature and scope of the working group, to which no response is required, and also purports to characterize public statements made by then-Secretary Carter on June 30, 2016. Defendants respectfully refer the Court to Secretary Carter’s June 30, 2016 statements for

a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the June 30, 2016 statements, this paragraph is denied.

69. This paragraph purports to characterize public statements made by then-Secretary Carter on June 30, 2016. Defendants respectfully refer the Court to Secretary Carter's June 30, 2016 statements for a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the June 30, 2016 statements, this paragraph is denied.

70. This paragraph purports to characterize public statements made by then-Secretary Carter on June 30, 2016. Defendants respectfully refer the Court to Secretary Carter's June 30, 2016 statements for a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the June 30, 2016 statements, this paragraph is denied.

71. This paragraph purports to characterize DTM 16-005. Defendants respectfully refer the Court to DTM 16-005 for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005, this paragraph is denied.

72. This paragraph purports to characterize DTM 16-005. Defendants respectfully refer the Court to DTM 16-005 for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005, this paragraph is denied.

73. Defendants admit the first sentence. The second sentence purports to characterize *Transgender Service in the U.S. Military: an Implementation Handbook*, DoD (Sept. 30, 2016) (the "Handbook"). Defendants respectfully refer the Court to the Handbook for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Handbook, this paragraph is denied.

74. Defendants deny the first sentence, except to admit that DoDI 1300.28 was issued on October 1, 2016. The second sentence of this paragraph purports to characterize DoDI

1300.28. Defendants respectfully refer the Court to DoDI 1300.28 for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with DoDI 1300.28, this paragraph is denied. The third sentence of this paragraph purports to characterize the Memorandum from Assistant Secretary of Defense, *Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members* (July 29, 2016) (the "Guidance for Treatment"). Defendants respectfully refer to the Court to the Guidance for Treatment for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Guidance for Treatment, this paragraph is denied.

75. This paragraph purports to characterize DoD medical guidance that is set forth in DoDI 1300.28 and the Guidance for Treatment. Defendants respectfully refer the Court to those documents for a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with those documents, this paragraph is denied.

76. Deny except to admit that after the policy change the services began developing training materials and training the force.

77. Defendants admit that a revised version of DoDI 1020.02E issued on November 29, 2016. The remainder of this paragraph purports to characterize DoDI 1020.02E. Defendants respectfully refer the Court to 1020.02E for a complete statement of its contents. To the extent Plaintiffs' allegations are inconsistent with DoDI 1020.02E, this paragraph is denied.

78. This paragraph purports to characterize unspecified United States Coast Guard policies and procedures for service by transgender service members. Defendants respectfully refer the Court to the Coast Guard's applicable policies and procedures for a full and complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the Coast Guard's policies and procedures, this paragraph is denied.

79. Defendants deny the allegations in this paragraph, except to admit that, on June 30, 2017, Secretary Mattis approved a recommendation by the services to defer accessing transgender applicants into the military until January 1, 2018.

80. Defendants admit that President Trump posted tweets on the morning of July 26, 2017. To the extent that this paragraph also purports to characterize the July 26 tweets, Defendants respectfully refer the Court to the tweets for a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the July 26 tweets, this paragraph is denied.

81. This paragraph purports to characterize President Trump's July 26, 2017 tweets. Defendants respectfully refer the Court to the tweets for a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the July 26 tweets, this paragraph is denied.

82. The first sentence of this paragraph provides Plaintiffs' subjective opinion about unspecified statements from unidentified members of Congress, to which no answer is required. To the extent an answer is required, the first sentence of this paragraph is denied. The second and third sentences of this paragraph purport to characterize public statements of Senators John McCain and Joni Ernst. Defendants respectfully refer the Court to public statements of Senators John McCain and Joni Ernst for a complete statement of their contents. To the extent Plaintiffs' allegations are inconsistent with such public statements, this paragraph is denied.

83. Denied.

84. This paragraph purports to characterize a "public statement" by "fifty-six former generals and admirals," but does not identify that statement or the authors thereof. Accordingly, Defendants lack knowledge or information sufficient to respond to this paragraph. To the extent

an answer is deemed required, Defendants respectfully refer the Court to any such “public statement” for a complete statement of its contents. To the extent Plaintiffs’ allegations are inconsistent with any such “public statement,” this paragraph is denied.

85. With respect to the first sentence of this paragraph, Plaintiffs purport to characterize a statement by Admiral Paul Zunkunft, Commandant of the United States Coast Guard. Defendants respectfully refer the Court to the statement of Admiral Paul Zunkunft for a complete statement of its contents. To the extent Plaintiffs’ allegations are inconsistent with that statement, this paragraph is denied. With respect to the second sentence of this paragraph, Defendants deny current transgender Coast Guard service members are affected by any change in policy, but admit transgender service members can contact the Coast Guard Service Central Coordination Cell, which includes judge advocates, for assistance.

86. Defendants admit that the Presidential Memorandum issued on August 25, 2017. The remainder of this paragraph purports to characterize the Presidential Memorandum, and Defendants respectfully refer the Court to the Presidential Memorandum for a complete statement of its contents. To the extent Plaintiffs’ allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

87. This paragraph purports to characterize the Presidential Memorandum. Defendants respectfully refer the Court to the Presidential Memorandum for a complete statement of its contents. To the extent Plaintiffs’ allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

88. This paragraph purports to characterize the Presidential Memorandum. Defendants respectfully refer the Court to the Presidential Memorandum for a complete

statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied.

COUNT I
(Fifth Amendment – Equal Protection)

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

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

91. This paragraph consists of legal conclusions and argument to which no answer is required. Moreover, this paragraph also purports to characterize the Presidential Memorandum. Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete statement of its contents. To the extent an answer is deemed required, and to the extent this paragraph purports to characterize the Presidential Memorandum, this paragraph is denied.

92. This paragraph consists of legal conclusions and argument, to which no answer is required. To the extent an answer is deemed required, and to the extent this paragraph purports to characterize policy, this paragraph is denied.

93. This paragraph consists of legal conclusions and argument, to which no answer is required. To the extent an answer is deemed required, this paragraph is denied.

COUNT II
(Fifth Amendment – Due Process)

94. The answers to all preceding paragraphs are incorporated here by reference.

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

96. This paragraph consists of legal conclusions and argument to which no answer is required. Moreover, this paragraph also purports to characterize the Presidential Memorandum. Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete

statement of its contents. To the extent an answer is deemed required, and to the extent this paragraph purports to characterize the Presidential Memorandum, this paragraph is denied.

97. This paragraph consists of legal conclusions and argument to which no response is required. To the extent an answer is deemed required, this paragraph is denied. Moreover, Defendants lack knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations regarding what they "reli[ed]" upon and as to whether they "notif[ied]" their superiors of their transgender status."

98. This paragraph consists of legal conclusions and argument to which no response is required. To the extent an answer is deemed required, this paragraph is denied.

99. This paragraph consists of legal conclusions and argument to which no response is required. To the extent an answer is deemed required, this paragraph is denied.

100. This paragraph consists of legal conclusions and argument, to which no answer is required. To the extent an answer is deemed required, this paragraph is denied.

COUNT III
(Estoppel)

As the Court has dismissed Count III, *see* ECF No. 60, no response is required to paragraphs 101 through 108.

* * *

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 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.

Dated: December 29, 2017

Respectfully submitted,

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