Allowing People With HIV to Enlist

Congress members seek a change to a Department of Defense policy.

November 14, 2022 By Trent Straube

Two identical congressional letters—one signed by six senators; the other by 34 representatives—urge President Joe Biden to direct the Department of Defense (DoD) to allow people with "well-managed" HIV and hepatitis B virus (HBV) to enlist, seek appointment and otherwise serve in the military, according to a press statement from Representative Mike Quigley (D–Ill.).

Quigley led the effort in the House, along with Representatives Sara Jacobs (D–Calif.) and Barbara Lee (D–Calif.). Senators Chris Coons (D–Del.) and Kirsten Gillibrand (D–N.Y.) spearheaded the call to action in the Senate.

"People living with HIV and HBV can manage their condition with as little as one pill a day and are able to lead very full, long lives," Quigley's press release states. "Given the advancements in medicine for both HIV and HBV, these viruses do not in and of themselves make an individual less able to serve, and the risk of battlefield transmission is near zero. There is no longer any plausible argument to deny these individuals the ability to serve their country."

The lawmakers' letters arrive at the White House after a "landmark victory" court ruling in April 2022 for service members living with HIV and after the DoD in June 2022 updated and modernized its HIV policy.

In the court ruling, a federal judge struck down discriminatory Pentagon policies that discharge and deny promotions to service members living with HIV. The ruling applied to people who contracted HIV while in service; it's estimated that about 2,000 people in the military have HIV. Currently, people with HIV are not allowed to enlist.

In its June policy update, the DoD clarified that service members whose viral load is undetectable can continue to serve and are deployable. The new policy also allows cadets and midshipmen—young people already on the path to military service—who test positive for HIV to continue their commissioning program.

These recent developments are cited in the letters to Biden.

The military members involved in the HIV lawsuit that led to the overturn of the Pentagon policy

had been deemed fit to serve. Thus, they claimed the policy was discriminatory and based on outdated science. The court agreed, adding that the Pentagon's policy was "unlawful, arbitrary and capricious—and unconstitutional," in the words of Lambda Legal's Scott Schoettes.

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