



Center for Military Readiness — Policy Analysis —

September 2023

Congress Has the Power to Fix Our Military

Several measures passed in both the **House** and **Senate** versions of the **National Defense Authorization Act (NDAA) for 2024**, if enacted in law, would begin the process of restoring common sense policies in our military. Congressional oversight and action should assign higher priority to military meritocracy, readiness and morale, not **woke** policies that **take progressivism to extremes and impose them with coercion, even if it hurts the institution**. CMR appreciates the lawmakers who are engaging in this important debate.

Pre-Conference Overview: The NDAA for 2024

The House version of the NDAA for 2024, [H.R. 2670](#), addressed all issues included in the [CMR Challenge to Congress for 2023](#), summarized [here](#), and several more. In the analysis below, section numbers with an “H” are from the **House NDAA, H.R. 2670**. Comparable sections that would restore sound policies in the **Senate NDAA, S. 2226**, are indicated with an “S.”

Priority items of interest are marked with three stars (***) , and additional alternatives are marked with two stars (**). Sections seeking information, marked with one star (*) also deserve support.

1. *Meritocracy in the Military*

Both the House and Senate addressed CMR’s paramount issue for 2023: **Meritocracy in the Military**. CMR supported the *amicus* brief filed by the **Veterans for Fairness and Merit (VFM)** in two cases that the **Supreme Court** heard in October 2022, *Students for Fair Admissions (SFFA) vs. Harvard and the University of N. Carolina*.

The Court handed down rulings ending racial discrimination in higher education, disregarding the administration’s arguments supporting racial discrimination at the **military service academies** and **ROTC** programs as a matter of “national security.” The litigation did not challenge admission policies at the military service academies, which were not parties to the case. However, the Court’s rejection of the administration’s “national security” trope regarding ROTC programs at civilian colleges strongly indicates that racial preferences in service academy admission policies are unconstitutional as well.

Litigation over that issue could take years, but Congress should use its constitutional power to address the issue now with a two-pronged strategy: Defund **Diversity, Equity & Inclusion (DEI)** power bases and restore non-discrimination, recognition of merit, and mission accomplishment as paramount values in all personnel decisions.

Actions such as these also would counter the February 2023 [Executive Order](#) imposing [racially discriminatory “equity” mandates](#) favoring some demographic groups over others:

- **S. Sec. 535 ***** of the NDAA would define “equity” to mean “equality,” and prohibit the DoD from directing or **compelling acceptance of critical race theory (CRT)** concepts, including **distinctions based on race, ethnicity, or national origin**. The legislation also would require that all DoD personnel actions be **based exclusively on individual merit and demonstrated performance**.
- **S. Sec. 534 **** would require that all military promotions, assignments, and other personnel actions be based primarily on “**qualifications, performance, and merit**.” (The word “primarily” could create a loophole that would swallow the non-discriminatory rule.)

- **H. Sec. 523 **** calls for regulations to implement **merit-based recruiting** and personnel determinations to be based on **merit, qualifications, performance, integrity, fitness, training, and conduct** to advance individuals who exhibit talent and abilities to support national security, without **favoritism, nepotism, or quotas**. (Clearer definitions and addition of “**racial discrimination**” to prohibited factors would strengthen the measure.)
- **S. Sec. 560 **** and **H. Sec. 570E **** would require the military service academies to consider **standardized test scores** as part of the application process. This would counter pressures to drop such tests in pursuit of demographic diversity. (Assigning more weight to test scores than to less consequential factors would clarify congressional intent.)

2. Diversity, Equity, & Inclusion (DEI) Programs and Chief Diversity Officers (CDOs)

Both houses of Congress are beginning to recognize how divisive, demoralizing, and costly DEI programs and bureaucratic enforcers have become:

- **H. Sec. 364 **** and **S. Sec. 537 **** would prohibit the Secretary of Defense from appointing or employing **military or civilian employees** whose duties include diversity, equity, and inclusion with a **rank or grade in excess of GS-10**.
- **H. Sec. 904 **** would eliminate the **Chief Diversity Officer** of the **Department of Defense**, and **H. Sec. 570F **** would eliminate any offices of diversity, equity, and inclusion along with DEI office personnel and highly paid consultants.

3. Critical Race Theory (CRT) and Anti-Extremism Programs

The House and Senate NDAs include several sections addressing **divisive [critical race theory](#) (CRT)** and “**anti-extremist**” programs that demoralize and weaken bonds of cohesion:

- **H. Sec. 566 ***** and part of **S. Sec. 535 ***** would prohibit funds authorized for **DoD Education Activity (DoDEA)** schools from being used to promote the idea that, 1) Any race is **inherently superior or inferior** to any other race, color, or national origin; 2) The U.S. is a **fundamentally racist** country; 3) The **Declaration of Independence** or the **U.S. Constitution** are racist documents; 4) An individual’s moral **character or worth is determined** by the individual’s **race, color, or national origin**; 5) An individual, by virtue of the individual’s race, is **inherently racist** or oppressive, whether consciously or unconsciously; and 6) An individual, because of the individual’s race, bears **responsibility for the actions committed by other members** of the individual’s race, color, or national origin.
- **H. Sec. 1099B **** would prohibit the Department of Defense from making participation in training or support for certain **race-based concepts a requirement for hiring, promotion, or retention** of individuals. The legislation also would ensure that employees and service members **cannot be compelled to declare belief** in or participate in training that promotes such concepts as a condition of favorable personnel actions.
- **H. Sec. 569 **** would require publication of training materials of the controversial **Defense Equal Opportunity Management Institute (DEOMI)**.
- **H. Sec. 598 **** would prohibit funds for the **DoD Countering Extremism Working Group** and require that all documents and correspondence of the group be provided to the **Committee on Armed Services** and the **Select Subcommittee on the Weaponization of the Federal Government**.

4. *Gender Identity and Transgender Policies*

During a confirmation hearing with Joint Chiefs Chairman nominee **Gen. Charles Q. Brown, Jr., USAF, Sen. Mike Rounds (R-SD)** put on the record the concerns of an 18 year-old female constituent and **National Guard** boot camp trainee who had to [share her training camp living quarters and showers with physically intact biological males](#). Situations such as this are the result of official DoD transgender policies.

The Senate nevertheless declined to consider legislation that would have disqualified persons diagnosed with gender dysphoria and barred “gender transition” and gender marker procedures recognizing gender identity instead of biological sex. The Senate also failed to approve legislation that would have prohibited **TRICARE** coverage for certain medical procedures for **children** that could result in **sterilization**.

The House, however, passed positive measures addressing the consequences of irreversible treatments for gender dysphoria:

- **H. Sec. 717 ***** would prohibit TRICARE from covering and the Department of Defense from furnishing [sex reassignment surgeries](#) and **gender hormone treatments for transgender individuals**.
- **H. Sec. 640C ***** would prohibit **provision of gender transition procedures**, including surgery or medication, through the **Exceptional Family Member Program**.

5. *Drag Shows on Military Bases*

The Senate failed to pass legislation barring adult cabaret performances, but **H. Sec. 595** would codify Defense Secretary **Lloyd Austin**’s promise to [end drag queen performances and story hours](#) on military bases. **H. Sec. 599 **** would end the Navy’s **Digital Ambassador Program**, which featured a drag queen, and mandate Armed Services Committee reviews before the controversial recruiting program is restarted.

6. *Parents Rights – DoD Education Activity (DoDEA) Schools*

- **H. Sec. 651 ***** would **protect the rights of parents of children in DoDEA schools** with regard to [curriculum, instructional materials](#), and **parental consent** on medical matters. In addition, **H. Sec. 659 ***** would require **disclosure of curriculum** in DoDEA schools for military dependents and prohibit funding for **race-based theories** in DoDEA schools. **H. Sec. 661**** would prohibit DoDEA schools from purchasing **pornographic and radical gender ideology books** for their libraries.

7. *Sex-Neutral Standards for Combat Arms MOSs (Army Combat Fitness Test)*

Years of tests with the failed **Army Combat Fitness Test (ACFT)** revealed difficulties in training both men and women with [sex-neutral standards in the combat arms](#) – units such as the infantry that attack the enemy with deliberate offensive action. Taking steps to fix the ACFT:

- **H. Sec. 567 ***** would require **sex neutral ACFT standards** for specific combat occupations, such as **infantry, armor, field artillery**, and **Special Operations Forces** that engage in direct ground combat against the enemy.
- **S. Sec. 557 **** would restore the **Army’s Physical Fitness Test (APFT)** as the test of record and require a 24- month pilot program and briefings before a new standard can be implemented.

8. *COVID Mandate Repeal and Restitution*

More needs to be done to help active-duty and other military members who were adversely affected or unjustly discharged due to **COVID-19** mandates in 2022. For example:

- **H. Sec. 525 *****, **H. Sec. 526 *****, and **H. Sec. 527***** would prohibit adverse actions against military member solely because of refusal to receive a COVID-19 vaccine. The legislation also would require **reviews of administrative discharges** and possibly lead to reinstatement.
- **H. Sec. 564 ***** would prohibit any adverse actions against **cadets or midshipmen** who did not fulfill tuition repayment requirements due to unreasonable COVID-19 vaccination mandates.

9. *Climate Change Executive Orders and Mandates*

The House bill includes several measures addressing mandates related to “**climate change**” and associated pressures to ensure compliance. For example:

- **H. Sec. 1822 **** would prohibit the use of DoD funds to implement a proposed rule requiring federal contractors to meet **greenhouse gas emissions reduction targets**, and **S. Sec. 820 **** would prohibit such report requirements for two years.
- **H. Sec. 1050 **** would prohibit DOD from implementing recent **climate change executive orders**.
- **H. Sec. 1046 **** would prohibit funds for **advisory committees related to environmental, social, and governance (ESG)** aspects.

10. *Abortion Travel and Time Off Subsidies*

Defense Secretary **Lloyd Austin** issued a controversial memo authorizing generous time off and transportation subsidies for servicewomen seeking **abortions** in states different from their home. The Senate failed to act on the issue, but **H. Sec. 716 ***** would nullify the October 2022 memo and prohibit the Secretary of Defense from [paying for or reimbursing expenses](#) relating to abortion services.

11. *Displays of Unauthorized Flags*

In 2023, excessive displays of **LGBT pride/progress** flags, even at the [White House](#), inspired pushback. The Senate narrowly defeated an amendment to authorize displays of only the American flag and authorized exceptions on public buildings, but **H. Sec. 1048 ***** would prohibit the display of unapproved flags in DoD public spaces.

12. *Requests for Information **

Both the House and Senate have called for numerous studies, reports, and data from DoD officials on a wide variety of controversial issues: a) Costs, objectives, and results of DoD DEI and CRT programs and training; b) Consequences of transgender mandates with regard to women’s privacy in living quarters, showers, and athletic teams; c) Options for parents using DoD Education Activity schools; d) Health conditions affected by COVID-19 vaccine mandates, and e) Concerns about electrification of military vehicles, including battery safety. All requests should be made official in law.

The **118th Congress** should use both the power of the **U. S. Constitution** and the **power of the purse** to advance sound policies for our military, instead of expanding divisive wokeism that weakens morale and cohesion.

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