



Center for Military Readiness — Policy Analysis —

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CMR Challenge to Congress – Let’s Do More in 2024

In 2023 the 118th Congress proposed many good ideas in the **National Defense Authorization Act (NDAA) for 2024**. Negotiators met to resolve differences in the House and Senate bills, and their [Conference Committee Report \(CCR\)](#) included some steps in the right direction. Key social policy provisions, however, were weakened or left on the cutting room floor. The annual NDAA, now signed into law as [P.L. 118-31](#), made progress, but this detailed CMR Policy Analysis challenges Congress to do more in 2024:

CMR Policy Analysis: NDAA for 2024: Missed Opportunities Must be Revisited

The following summary highlights each issue of concern, and the CMR Policy Analysis above includes references to sections of the 2023 House and Senate bills. Congress should renew efforts to reinforce **meritocracy** and to end **racial discrimination**, while defunding or eliminating controversial social programs and tax-funded power bases pushing progressive ideologies and **wokeism in the military**.

The problem is not difficult to define. Regardless of the issue, wokeism takes progressive policies to extremes and imposes them with coercion, even if they hurt the institution.

1. Strengthen Modified Meritocracy Language to End Racial Discrimination

The NDAA Conference Committee Report (CCR) watered down several meritocracy measures, leaving a minimalist statement that omits a key word: ***“Merit Requirement – A military accession or a promotion in the Department of Defense shall be based [~~exclusively~~] on individual merit and demonstrated performance.”*** (CCR Sec. 529C)

- Omission of the word “*exclusively*” could be deemed a loophole since the edited statement does not expressly bar racial discrimination. **“Equity”** mandates, which favor some demographic groups over others, are not consistent with the 2023 [Supreme Court opinion](#) banning racial discrimination in higher education and in ROTC programs at civilian schools.
- CCR Sec. 563 required the military service academies to **“consider standardized test scores”** in the application process. (emphasis added) This will help in countering pressures to drop such tests to advance diversity, but standardized test scores should be assigned heavier weight, such as the 30% used at the USMA in computing overall **composite scores** determining **“order of merit.”**

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

CCR Sec. 1101 incorporated identical measures prohibiting the Defense Secretary from appointing or employing **military or civilians** whose primary duties include **diversity, equity, and inclusion (DEI)** policies, and whose **rank or pay grade is higher than GS-10 (\$70,000)**.

- The GS-10 pay cap may indirectly reduce the number of high-priced DEI consultants and divisive programs that weaken meritocracy, but the Committee should have approved measures to prohibit spending for all DEI offices and to abolish the **Chief Diversity Officer (CDOs)** in the DoD and other military institutions. (**H. Sec. 570F** and **H. Sec. 904** of the House bill, [HR 2670](#), approved on July 14, 2023.)
- CCR 529B adopted House provisions barring the Defense Secretary from establishing any new positions with responsibility for DEI matters or filling any vacancies in DEI offices. However, mandates will ex-

pire upon delivery of a **Comptroller General** report on the DoD DEI workforce.

- Conferees rejected a House provision that would have prohibited discrimination or quotas in admissions to the **military service academies** for one year. (**H. Sec. 570G**)
- They also failed to “**sunset**” the **Defense Advisory Committee on Diversity and Inclusion (DACODAI)** – a high-level DEI power base – by Sept. 2024. (**H. Sec. 596**) Congress should act to dismantle all DEI offices, which promote race-conscious policies, permanently.

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

The Conference Report prohibited the use of federal funds to promote **critical race theory** at the military service academies, and defined CRT as “. . . *the theory that individuals, by virtue of race, ethnicity, color, or national origin, bear collective guilt and are inherently responsible for actions committed in the past by other individuals of such race.*” (CCR Sec. 576)

- This was a positive step, but with a catch. Conferees amended the language to protect the “**academic freedom**” of instructors to select textbooks and other classroom materials and instructions. This at a time when disturbing antisemitic demonstrations are occurring on many college campuses. These troubling events may be a consequence of academic freedom to teach Marxist CRT teachings that divide people by race – the “**oppressors**” and the “**oppressed.**”
- Conferees also weakened House-approved language that would have protected **ideological freedom** by prohibiting the DoD from compelling service members to believe or declare a belief in certain **race-based ideological concepts**. (**H. Sec. 1099B**) Conferees stripped out additional clauses describing typical elements of CRT ideology, including attacks on America’s **Founding Fathers** and documents. These appeared in **H. Sec. 568** and **H. Sec. 660** of the House bill.
- **CCR Sec. 578** approved a House provision requiring publication of all **Defense Equal Opportunity Management Institute (DEOMI)**-created materials(**H. Sec. 569**), and **H. Sec. 598**, to prohibit funds for the **DoD Countering Extremism Working Group**. The CEAWG reported less than 100 extremist cases in 2021. However, conferees omitted **H. Sec. 568**, requiring an annual report on total costs for specifically defined CRT training.

4. Transgender Policies, Privacy, and EFMP Payments for Treatments on Children

Increasingly controversial DoD transgender orders involve **high costs** for **medical treatments and surgeries**, increased **non-deployability**, plus **privacy violations for women** forced to share private living spaces, showers and athletic teams with biological men. Nevertheless,

- Conferees omitted House-passed legislation to prohibit **TRICARE** from covering, and the DoD from providing, sex reassignment surgeries and **gender hormone treatments for transgender individuals**. (**H. Sec. 717**)
- The conferees also rejected a measure that would have stopped the DoD from providing “**gender transition**” procedures, including **surgery** or **hormone treatments**, through the **Exceptional Family Member Program (EFMP)** for children. (**H. Sec. 640C**)

5. Abortion Travel and Time Off Subsidies

In October 2022, Secretary of Defense **Lloyd Austin** unilaterally authorized generous time off and travel subsidies for “**non-covered**” abortions across state lines.

- Congress could have ended **Sen. Tommy Tuberville’s** months-long protest against this move by supporting the House provision that would have nullified Secretary Austin’s controversial memo. Conferees, however, rejected the House measure. (**H. Sec. 716**)
- This failure to act [could encourage](#) the Secretary of Defense to impose more controversial policies that advance the woke agenda without congressional authorization.

6. **Drag Shows and Sexualized Performances on Military Bases**

Conferees missed the opportunity to permanently codify Secretary **Austin’s** current policy ending [drag queen performances and story hours](#) for dependent children on military bases. (**H. Sec. 595**)

- **CCR Sec. 594** failed to permanently end the already discontinued [“digital recruiting ambassador”](#) program that credentialed a flamboyant gay sailor to post videos as drag queen **Harpy Daniels**. (The program may be reinstated if certain requirements are met.)
- The NDAA also failed to prohibit inappropriate **“LGBT Pride”** events, which often feature sexualized entertainment that demeans women on military bases, sometimes in the presence of children.

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

Conferees incorporated several solid House measures to **protect the rights of parents with children in Department of Defense Education Activity (DoDEA) schools** [with regard to curriculum, instructional materials](#), and **parental consent on medical matters**. **CCR Sec. 589** also noted that a DoD report on parental rights has been overdue since June 23, 2023.

- However, the Conference Report added an unexplained new clause under (c.) **Exceptions**, delaying for **two years** the effective date of parents’ rights to *“inspect a list of the **books and other reading materials** contained in the library of the school,”* and to *“provide parents access to the **online school library catalog.**”* (emphasis added)
- Conferees also rejected a measure that would have prohibited DoDEA schools from purchasing **pornographic and gender ideology books** for their libraries. (**H. Sec. 661**)
- **CCR Sec. 589** calls for swift parental notification if a child receives emergency medical care, but the purpose of a change in the definition of a child’s *“medical examination or screening”* by a *“non-clinical school staff”* is not clear.

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

After **direct ground combat (infantry)** units were opened to women in 2015, the Army promised but could not implement **sex-neutral standards** in the [Army Combat Fitness Test \(ACFT\)](#), due to women’s failure rates.

- **CCR Sec. 577** retained **H. Sec. 567** mandating [sex neutral ACFT standards for 20 specific combat occupations](#), such as **infantry, armor, field artillery, and Special Forces**. However, it changed the politically sensitive phrase *“sex-neutral”* to *“increased minimum fitness standards”* for the MOSs or areas of concentration listed. The list did not include **13B** (cannon artillery crewman) and **68W** (combat medic).
- The law directs the Army to provide a briefing on implementation, and Congress should act to ensure higher fitness standards in the Army’s most physically demanding occupations.

9. COVID Mandate Repeal and Restitution

Congress repealed **COVID-19** mandates in 2022, but controversies surrounding orders for personnel to accept **Emergency Use Authorization (EUA)** COVID-19 vaccines, [which did not meet all legal requirements](#) and violated some individuals' personal convictions, remain unresolved.

- **CCR Sec. 526** prohibited adverse action against servicemembers solely for refusing a COVID-19 vaccination if they had submitted a request for a religious, administrative, or medical exemption and directed the military departments to consider reinstatement.
- **CCR Sec. 527** required a review board to grant a request for [review of a discharge or dismissal](#) based solely on failure to obey a lawful order regarding the COVID-19 vaccine.
- Conferees did not incorporate a House measure that would have exempted **cadets or midshipmen** from being required to repay tuition if they were not appointed as a commissioned officer because they refused to be vaccinated. (**H. Sec. 564**)

10. Climate Change Executive Orders and ESG Mandates

Conferees incorporated several House measures to mitigate “**climate change**” mandates, including rule changes requiring federal contractors to meet **greenhouse gas emissions reduction targets**. (**CCR Sec. 318**)

- **CCR Sec. 319** incorporated a House measure requiring annual assurances from the Defense Secretary that sufficient **recharging station infrastructure** is in place to support **electric non-tactical vehicle fleets** in military installations prior to deployment. In addition, **CCR Sec. 320** prohibited funding of energy programs to entities owned or controlled by the **Russian Federation** or the **Chinese Communist Party**.
- However, conferees rejected a measure to prohibit the DOD from implementing **climate change executive orders (H. Sec. 1050)**, and another to prohibit funds for **advisory committees related to environmental, social, and governance (ESG)** aspects. (**H. Sec. 1046**)

11. Displays of Unapproved Flags on Military Bases

CCR Sec. 1052 incorporated **H. Sec. 1048**, which prohibited displays of unapproved flags in DoD public spaces. The Conference Report affirmed “*the authority of a military commander to enforce good order and discipline on a military installation.*”

- However, *flags “approved at the discretion of the military chain of command or senior civilian leadership, as appropriate”* does not rule out “**LGBT Pride**” flag displays if local commanders approve them.

12. Congress Should Get Beyond the Good, the Bad, and the Incomplete

Congress has made progress dealing with these woke personnel issues – in some cases for the first time – but members must revisit missed opportunities to eliminate wokeism in several policy matters, and to support sound policies in the only military we have.

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*The Center for Military Readiness (CMR) is an independent public policy organization, founded by President Elaine Donnelly in 1993, which reports on and analyzes military/social issues. This **CMR Policy Analysis** was prepared for educational purposes; it does not constitute endorsement of legislation. More information is available at www.cmrlink.org. This document and its active links can be viewed at <https://cmrlink.org/data/sites/85/CMRDocuments/CMRPolicyAnalysisJanuary2024.pdf>*