

July 22, 2016

The Honorable John McCain
Chairman
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Mac Thornberry
Chairman
House Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

The Honorable Jack Reed
Ranking Member
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Adam Smith
Ranking Member
House Committee on Armed Services
2216 Rayburn House Office Building
Washington, DC 20515

RE: Preserve the Selective Service Registration Requirement for Women

Dear Chairmen and Ranking Members:

As you commence negotiations on a final FY17 National Defense Authorization Act, the undersigned organizations urge you to retain the Senate language (Section 591) requiring women to register for the draft. Although our organizations may differ on the need or wisdom of a draft registration system, we are united in our belief that the wholesale exclusion of women from registration requirements constitutes unconstitutional gender-based discrimination, fails to acknowledge women's long service in our nation's armed forces, and is inconsistent with the recent Department of Defense decision to open all military positions and units to women.

More than 35 years ago, in *Rostker v. Goldberg*, 453 U.S. 57 (1981), the Supreme Court upheld the categorical exclusion of women from selective service registration requirements as consistent with equal protection because it concluded that Congress intended the registration system to be used to prepare for a draft of combat troops. The justices reasoned that because women were excluded from serving in combat, they were not similarly situated to men and therefore did not have to register.

Times have changed. In 2013, the Department of Defense repealed the direct ground combat and assignment rule and, in 2015, Secretary of Defense Ash Carter announced that the Services and Special Operations Command must open all units and positions to women, without exception. The underlying principle behind repeal of the combat exclusion rule was that no individual who wants to serve her country should be forbidden from competing for or serving in any military capacity solely because of gender. Instead, every soldier, sailor, airman and Marine should be judged on individual merit, ability, and performance. Merit-based military assignments strengthen and enhance our nation's military readiness and effectiveness.

The repeal of the combat exclusion policy also acknowledged the combat roles women have undertaken, in the air, at sea, and on the ground for many years, but especially since the 1990s, including in the wars in Iraq and Afghanistan. Women have long served in our military with honor and distinction, have been exposed to hostile enemy action, and have died defending our country. They have long since demonstrated their abilities and their commitment to our nation and to standing with men to meet our nation's military needs.

Requiring women to register for the draft is appropriate, if our nation continues to require draft registration. The requirement has bipartisan support within the House and Senate and is supported by top military leaders and advisors in our armed forces.¹

If you have any questions, please don't hesitate to contact Vania Leveille, senior legislative counsel, at the American Civil Liberties Union at vleveille@aclu.org or (202) 715-0806. Thank you for your consideration of this important issue.

Sincerely,

Alliance for National Defense
Iraq and Afghanistan Veterans of America
Reserve Officers Association
Service Women's Action Network
American Association of University Women
American Civil Liberties Union
Human Rights Watch
The Leadership Conference on Civil and Human Rights
NAACP
National Center for Lesbian Rights
National Council of Jewish Women
National Organization for Women
National Women's Law Center
Union for Reform Judaism
Women in International Security
Women's Research and Education Institute

cc: Members of the Senate Armed Services Committee
Members of the House Armed Services Committee

¹ Army Chief of Staff Gen. Mark Milley and Marine Corps Commandant Gen. Robert B. Neller testified before the Senate Armed Services Committee that women should be required to register for future military drafts. *See* Dan Lamothe, *Army and Marine Corps chiefs: It's time for women to register for the draft*, WASH. POST, Feb. 2, 2016, available at <https://www.washingtonpost.com/news/checkpoint/wp/2016/02/02/army-and-marine-corps-chiefs-its-time-for-women-to-register-for-the-draft/>; *see also* Richard Lardner, *Air force secretary supports draft registration for women. A.P.*, available at <http://www.stripes.com/news/air-force/air-force-secretary-supports-draft-registration-for-women-1.413084>; DEF. ADVISORY COMM. ON WOMEN IN THE SERVICES, 2015 REPORT vi (2015), http://dacowits.defense.gov/Portals/48/Documents/Reports/2015/Annual%20Report/2015%20DACOWITS%20Annual%20Report_Final.pdf (recommending that the "Secretary of Defense should recommend legislation that mandates women between the ages of 18 and 26 fulfill the same Selective Service registration requirements as men.").