

CMR Policy Analysis – Frequently Asked Questions

Updated May 23, 2005

The Hunter/McHugh Amendment to H.R. 1815 Codification of DoD Regulations Re: Women in Land Combat

An amendment to the 2006 Defense Authorization Bill, co-sponsored by House Armed Services Committee (HASC) Chairman Duncan Hunter (R-CA) and Military Personnel Subcommittee Chairman John McHugh (R-NY), would codify current Department of Defense (DoD) regulations governing the assignment of female soldiers.¹ It is more comprehensive than an earlier subcommittee-approved version that applied to the Army only.

Currently, women are exempt from smaller (below the brigade level) units “*assigned a direct ground combat mission*,” such as the infantry, armor, and Special Operations Forces. The legislation would also codify the “collocation rule,” which exempts women from smaller support companies that “collocate” (stay 100 percent of the time) with land combat troops.²

The Hunter/McHugh amendment reasserts civilian control of the military, and affirms congressional intent that women should not be placed in land combat units, or in support units that collocate with them. It is entirely appropriate for Congress to codify current DoD regulations, and to remind Pentagon officials that they are expected to comply with the law requiring formal notice in advance of proposed changes.

Everyone is at risk in a war zone, but land combat is more than the experience of being in danger—or even the threat of death by ambush. Direct ground combat troops engage in deliberate offensive/defensive action against merciless enemies, under fire. Personnel policies should recognize the unique physical and psychological requirements of close combat missions, and not introduce factors that make the job more difficult or more dangerous.

- ***What is the purpose of the legislation, and why is it necessary?***

The Hunter/McHugh amendment is an appropriate assertion of civilian control of the military. Since 2004, and perhaps earlier, Army officials have been unilaterally bending, breaking, or re-defining regulations, while denying that anything has changed. The issue centers on smaller forward support companies (FSCs), which are designed to collocate with the Army’s new, modular infantry/armor maneuver battalions. These embedded forward support companies should not be confused with brigade-level support troops, which come and go intermittently. Those units and others already authorized for servicewomen will not be affected.

Contrary to previous denials, the Army has rushed to gender-integrate previously all-male support units, without authorization by the Secretary of Defense, and without the legally required official notice to Congress at least 30 legislative days (about three months) in advance. The law also requires an analysis of proposed changes on young women’s exemption from Selective Service obligations. To date, no such notice has been given.³

The Hunter/McHugh amendment sends the valuable and necessary message that the military services may not change personnel policies without congressional oversight and approval. Absent congressional intervention, unauthorized changes could become established policy and

“precedent” for all ground combat units, including infantry and armor battalions, Special Operations Forces and eventually the Marine Corps. Future Navy officials might conclude that the notification law regarding submarines could be disregarded as well. Either the congressional notification laws mean something, or they don’t.

- ***Wouldn’t it be better to have hearings first?***

That is precisely why the congressional notification law was written: to allow sufficient time for hearings on proposed rule changes. If the Army believes it can make a good case for revising DoD rules, it should comply with the law.

- ***Some officials insist that they do not have to report rule changes to Congress because the Army is “...in strict and full compliance with Department of Defense policies regarding women in combat.” Why must Congress intervene? ⁴***

For the Army’s assertion to be true, forward support companies (FSCs), which are designed to collocate with infantry/armor maneuver battalions, would be composed of male soldiers only at this time and in the future. Instead, Army officials plan to assign women to formerly all-male forward support companies, but evacuate them just before a battle begins.

The blueprint for this semantic sophistry appears in a four-page “Women in the Army Point Paper,” prepared by the Office of the Secretary of the Army on January 24, 2005. The paper arbitrarily designates 24 of 225 positions in a typical land combat-located FSC, mostly mechanics, to be open to both sexes. It also changes the wording of the DoD collocation rule, and limits its application only when a battalion is “*conducting an assigned direct ground combat mission.*” (Emphasis added) This assumes that scarce helicopters or vehicles would be available for evacuation purposes, which would be unlikely on the eve of battle.

The Women in the Army Point Paper also presumes to drop several direct ground combat units, such as multiple launch rocket systems (MLRS) and Stryker brigade reconnaissance (RSTA) squadrons, from the DoD-approved list designated to be all-male. This supposedly “unofficial” plan is reportedly being implemented in the 3rd Infantry Division, currently deployed in Iraq, and in other “unit of action” brigade combat teams undergoing transformation. The Army should not be allowed to continue policy changes it had no authority to make.

- ***Have the FSCs been gender-integrated, and how many female soldiers are serving in formerly all-male combat collocated units?***

Chairman Hunter has received constantly changing “fact sheets” from the Army on the number of female soldiers involved, ranging from 21 to 186. Then the Army released a statement on May 19 claiming (implausibly) that FSC personnel won’t be part of infantry/armor battalions at all. This revives an earlier, discredited plan to “assign” women (on paper only) to the legally open brigade level, while “attaching” them (in reality) to the all-male land combat maneuver battalions. This demonstrates why the Hunter/McHugh amendment is necessary to ensure congressional oversight in this matter.

- ***Army officials insist that the women “are not collocating,” so the notification law does not apply.***

For this to be true, the Army would have to a) Compromise organizational efficiency in the new, modular combat teams; or b) Implement stated plans to remove female soldiers from em-

bedded forward support companies when their infantry/armor battalions begin “conducting” land combat. The latter plan is presaged in the Women in the Army Point Paper, described above. Plans to decimate combat-allocated FSCs by removing one of ten (female) soldiers, at a time when immediate support is needed most, would be demoralizing, disruptive, and dangerous for all concerned.

- ***Army officials insist that these changes are authorized under DoD regulations and a separate 1992 Army rule. Is there a difference?***

The word “conducting” was not in the superseded 1992 Army regulations; nor does it appear in current DoD regulations set forth in 1994. It nevertheless appears in the “Message from the Army Leadership” signed by Army Secretary Francis Harvey, Chief of Staff General Peter Schoomaker, and Sergeant Major Kenneth O. Preston, published in the March edition of *Soldiers* magazine.⁵ Terms of the law require official notice to Congress well in advance, not after the fact.

- ***We are fighting an insurgency and the battlefield is no longer linear. Doesn't that make DoD regulations regarding women obsolete?***

Everyone is in danger in Middle East operations, but the “non-linear” insurgent battlefield has not reduced the unique demands on “tip of the spear” land combat units that engage in deliberate offensive/defensive action against the enemy, under fire. In the fierce battle for Fallujah and offensives such as “Operation Matador,” great physical strength and psychological bonds essential for unit cohesion made it possible for soldiers and Marines to accomplish difficult combat missions and survive.

- ***Why should we restrict female soldiers when they have performed so well?***

The nation is proud of our female soldiers, who are certainly brave, committed, and doing well in authorized support roles. There is no military or demographic reason, however, why America must expose young women, many of them mothers, to direct ground combat. Elimination of some or all of women’s land combat exemptions would be tantamount to suggesting that violence against women is all right—as long as it happens at the hands of the enemy.

Not all women want to be “rewarded” with involuntary assignments in or near land combat. In the Army’s own (Army Research Institute) surveys from 1993 to 2001 (when they were discontinued) 85% - 90% of enlisted women, who outnumber female officers 5 to 1, indicated that they are opposed to involuntary land combat assignments on the same basis as men.

- ***Don't we need to remedy shortages of male soldiers by assigning women to the forward support companies?***

Some have speculated about a shortage of male soldiers, but the Army has not documented the problem. If there are temporary shortages, gender-based recruiting quotas are to blame. The need for more male soldiers has been apparent since 9/11, but recruiters have been expected to spend more time and money keeping the percentage of women unnecessarily high. Female soldiers should not be forced to pay the price for this bureaucratic error.

- ***Won't it help recruiting to provide new opportunities for women in land combat?***

Forcing women into or near land combat units will hurt recruiting, not help. Recent surveys have shown that “fear of dying in combat” has doubled as a reason for potential recruits to

avoid the military. Young women do not want to be forced into combat, and young men will be turned off by cultural changes to accommodate women in formerly all-male combat units. Young men also know that women are not equally capable of individually carrying injured soldiers to safety. Parents who influence decisions to join the military will have yet another reason to discourage their sons and daughters from enlisting.

- ***Aren't combat assignments necessary for promotion to flag rank, or Chairman of the Joint Chiefs?***

For decades, women in the military have been promoted at rates equal to or faster than men. Land combat experience is not necessary for promotion to flag rank or higher, but even if it were, this is not a good enough reason to force (not "allow") the majority of servicewomen into or near land combat units. This is a matter of national defense and military readiness, not a "women's issue" or a matter of career advancement.

- ***Passing the Hunter/McHugh amendment might cause confusion. Won't that send the wrong signal to the brave young men and women fighting the Global War on Terrorism?***

Nothing could be more confusing and disruptive than the Army's stated plans to assign women (on paper) to an open support unit, "attach" them to a closed one, or evacuate them before troops begin "conducting" an assigned direct ground combat mission. The Hunter/McHugh amendment, properly enforced, would restore clarity, consistency, and compliance with law and policy.

- ***Shouldn't Congress wait for the Army to study current operations before passing the Hunter/McHugh amendment?***

The principle of civilian control of the military requires that Congress provide responsible oversight. Army officials have been equivocal, evasive, and inconsistent in stating their intent. A set of Army briefing slides dated May 10, 2004, set forth ways to circumvent the congressional notification law. Women would be "assigned" (on paper) to a gender-integrated unit, but "attached" to a formerly all male forward support company. This strategy, according to that presentation, might be seen as "subterfuge" to circumvent the law.⁶

On November 3, 2004, several flag officers told congressional staffers that they had no intention of repealing the collocation rule. A different briefing by Human Resources Policy Director Col. Robert H. Woods, Jr. to Army Staff Director Lt. Gen James Campbell, inside the Pentagon on November 29, called for elimination of the regulation. With signals changing so often, Congress is justified in codifying the current DoD regulation.

There have been numerous news reports of junior officers or high-level commanders disregarding current regulations in order to place female soldiers in land combat-located units. This is being done without formal approval of the Defense Department or notice to Congress. Members should support commanders who want to observe the rules by conveying the message that the Army is expected to comply.

- ***Since the Army has already assigned female soldiers to certain combat-located support units, thousands of positions might be affected. Isn't it too late for Congress to act?***

A recent letter from Army Staff Director James L. Campbell to HASC leaders presumed to declare (without authorization) that 21,925 forward support company positions currently "open"

would be lost to women. The letter manipulates opinion by implying (absurdly) that only women would be in those FSC positions. It also suggests that the Army is willing to tolerate widespread violation of the rules, which makes a better case *for* the Hunter/McHugh amendment than against it. The legislation is narrowly drawn, and will not affect positions that are currently authorized by DoD regulations to be open to both sexes.

● ***Isn't it time to allow women into land combat?***

The word is “force,” not “allow,” since volunteers must follow orders on an involuntary basis. Women have served well in the military, but there have been problems that have resulted from unrealistic policies. Gender integration in direct ground combat would have significant consequences in seven major areas, starting with lowered morale due to doubts about the judgment of Army leaders.

There would be legal consequences with regard to Selective Service, military complications that could needlessly cost lives, social/cultural dynamics that detract from discipline, readiness/deployability problems, and a new precedent that will eventually apply to all land combat units including the Marine Corps.

Fighting and preparing for land combat is difficult enough without adding burdens such as these. For the sake of both men and women in the military, Congress must provide principled leadership now.

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1. The full House Armed Services Committee approved the legislation by voice vote on May 18, 2005.
 2. These regulations, including the collocation rule, were promulgated by then-Defense Secretary Les Aspin on January 13, 1994. The Army's list of open and closed units was subsequently approved by Aspin's successor, William J. Perry, on July 28, 1994. Copies of this and all documents mentioned in this paper can be obtained from the Center for Military Readiness, 734/464-9430, or info@cmrlink.org.
 3. PL 103-160, Sec. 591, amended 2001. Federal courts have repeatedly exempted women from Selective Service obligations because they are not used in land combat. If that status should change, a future legal challenge, brought on behalf of men, would likely succeed.
 4. Letters from Army Secretary Francis Harvey and Vice Chief Gen. Richard Cody, May 11, 2005.
 5. In an April 11 speech, General Schoomaker described the collocation rule as applying only when those units are “undertaking” a ground combat mission.
 6. “Combat Exclusion Quick Look Options,” May 10, 2004. This plan was implemented in some “unit of action” combined infantry/armored maneuver battalions in the 3rd Infantry Division, based at Fort Stewart GA.



This paper has been prepared by the Center for Military Readiness, an independent public policy organization that specializes in military personnel issues. More information is available at www.cmrlink.org.