

## CHAPTER I



# CHRONOLOGICAL HISTORY OF THE NATIONAL SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION

## FOUNDERS

Mary Desha, Eugenia Washington, Ellen Hardin Walworth and Mary Smith Lockwood

## ORGANIZATION

**July 13, 1890:** Mrs. Mary S. Lockwood of Washington, D.C., aroused by the Sons of the American Revolution having defeated a motion to admit women to their Society, published in *The Washington Post* an article titled “Women Worthy of Honor.” This narrative included the story of Hannah Arnett, a Patriot of the American Revolution.

**July 21, 1890:** Mr. William O. McDowell of Newark, NJ, a great-grandson of Hannah Arnett and Registrar General of the S.A.R., published a reply in *The Washington Post* in which he offered to assist in forming a society of “Daughters of the American Revolution.” The following six women responded to McDowell’s letter: Miss Eugenia Washington, Miss Mary Desha, Mrs. Hannah McLaren Wolff, Mrs. Louise Knowlton Brown, Mrs. Mary Morris Hallowell and Mrs. Sarah Agnes Rice Pryor.

**July 29, 1890:** First informal meeting was held at the home of Mrs. Brown at 17th and K streets NW, with five present: Mrs. Brown, Miss Washington, Miss Desha, Mrs. Wolff and Mrs. Ellen H. Walworth.

**August 9, 1890:** Another meeting was called at the Langham Hotel, located at the northeast corner of 14th and H streets NW, the residence of Mrs. Walworth, attended only by the hostess, Miss Washington and Miss Desha. The three women present formulated definite plans and laid important groundwork in the founding of the Society.

**August 18, 1890:** A notice appeared in *The Washington Post*, stating the purposes of the proposed society and the requirements for eligibility for membership requesting women descended from Patriots of the American Revolution to send their names to Miss Washington. Thus initial membership was begun and encouraged in a democratic manner.

## MISSION STATEMENT

The mission of the  
National Society Daughters of the American Revolution  
is to promote  
historic preservation, education and patriotism.



As members of the National Society Daughters of the American Revolution we must continue to assume the responsibility for the success of our organization—to ensure that it thrives and meets its mission. To this end, the *DAR Handbook* is provided to assist you in your work and your own education about the National Society.

This 2020 edition of the *DAR Handbook* is formatted for easy retrieval of information. Its binding makes it user-friendly and its index is invaluable in searching for topics. All the information included in this edition is intended to help each member understand the work of the National Society. We welcome your enthusiastic participation in our mission.

A complimentary copy of the *DAR Handbook* is sent to each chapter. Personal copies may be ordered from the DAR Store in the Office of the Corresponding Secretary General. The cost is \$15 payable to the Treasurer General, NSDAR. The most current version of the *DAR Handbook* is also available free of charge on the DAR Members' Website.

wheel, with thirteen stars above her, the whole surrounded by a rim containing the name, *The National Society of the Daughters of the American Revolution*, the motto, *God, Home and Country*, and the dates *1776 and 1890*. The Seal of the National Society or facsimile thereof may be used only on official documents.

## Article XVIII – Insignia

SECTION 1. The official Insignia of the National Society shall be in the form of a spinning wheel and distaff. The wheel shall be seven-eighths of an inch in diameter and of gold, with thirteen spokes and a field of dark blue enamel upon the rim bearing the name DAUGHTERS OF THE AMERICAN REVOLUTION in letters of gold; upon the outer edge of the wheel, opposite the ends of the spokes, are thirteen small stars which may be set with precious stones at the discretion of the owner; underneath the wheel a golden distaff, one-and-one-half inches long, filled with platinum or white gold flax. Upon the back of the insignia the national number of the owner shall be engraved, and her name may be added. The ribbon to be worn with the Insignia shall be blue with a white edge, ribbed and watered, following the color of the Official Sash for National Officers.

SECTION 2. The official Insignia shall be worn upon the left breast and only at functions of the Society or its chapters or when representing the organization or attending ceremonial occasions.

SECTION 3. The replica miniature Insignia and the Recognition Pin may be worn on a branch bar upon any occasion.

- (a) The miniature insignia may be worn on the miniature DAR ribbon at DAR functions, in the same manner as the official Insignia and pins.
- (b) The miniature DAR Insignia may be worn on a branch bar with the miniature insignia of other societies.
- (c) The recognition pin is worn alone and may be worn on any occasion.

SECTION 4. The Insignia, Recognition Pin and Ancestral Bars shall be issued only by permit of the Organizing Secretary General.

SECTION 5. No words shall be written or printed above the Insignia, except that on an official DAR Banner the Insignia may be placed in the center with designation of National Society, state organization, or chapter by name above, below, or around the Insignia.

*Chapter and State Treasurers; Guide for Chapter Registrars; and NSDAR Genealogy Guidelines (combining Is that Lineage Right?, Is That Service Right and Guide for Chapter Registrar and Application Papers, Instructions for Their Preparation).*

## ***DAR Committees***

Most of the volunteer work of DAR is accomplished through a committee system comprised of national chairs appointed by the President General and locally appointed state and chapter chairs. The national chairs direct, supervise and promote the activities of their committees with the assistance of national vice chairs. DAR committees promoting the mission of the Society include:

### ***Historic Preservation***

**American Heritage:** Promotes preservation of American cultural traditions.

**American History:** Promotes American history by honoring significant historical people, places, dates and events. Sponsors American History Essay contests for students in grades 5 through 8, including home-schooled children; **Patriots of the American Revolution DAR High School Essay Contest** for students in grades 9 through 12, including home-schooled students; and recognizes Women in American History.

**Commemorative Events:** Identifies opportunities for commemorative events and promotes participation in celebrations that support the historical, educational and patriotic objectives of the Society.

**DAR Genealogy Preservation:** Electronically indexes/identifies the supporting documents for DAR Applications and Supplemental Applications.

**DAR Museum Outreach:** Educates members and the public about the DAR Museum and its exhibits, programs and needs.

**Genealogical Records:** Collects unpublished records of a genealogical nature that are made digitally available through in the DAR Library. Volunteers index the over 20,000 volumes available through the DAR Genealogical Research System (GRS).

- Whether it is an original or derivative record or an authored narrative
- The source's internal consistency—how parts of the source agree or disagree with each other
- The source's external consistency—how it compares with other items in the same series or collection
- The source's history, including its governance, provenance, purpose, recorder, storage, and time lapse between events and their recordation

[See glossary for definitions of ACCURATE, ANALYSIS, AUTHORED NARRATIVE, DERIVATIVE RECORD, ORIGINAL RECORD, PROVENANCE, RECORD (NOUN), and SOURCE.]

**36. Information analysis.** As they collect potentially relevant information items from sources, genealogists appraise each item's likely accuracy, integrity, and completeness. This appraisal considers each item's characteristics:

- Legibility
- Who provided the information
- That person's reliability and consistency as witness and as reporter
- Whether the information is primary or secondary, or undetermined
- The information item's internal consistency—the presence or absence of contradictions within the item

- The item's external consistency—how it compares with other information in the same source

[See glossary for definitions of ACCURATE, ANALYSIS, INFORMATION, PRIMARY INFORMATION, SECONDARY INFORMATION, and UNDETERMINED.]

## REASONING FROM EVIDENCE

The Genealogical Proof Standard requires genealogists to base conclusions on reliable evidence from independent information items. A conclusion's soundness rests on (a) assessments of each relevant source and information item and (b) genealogists' abilities to reason from the evidence that those sources and information items provide. Fourteen standards address reasoning from evidence.

**37. Sources, information, and evidence.** Genealogists view sources as containers of information items potentially relevant to research questions. They use the information items as evidence of answers to those research questions. [See glossary for definitions of EVIDENCE, INFORMATION, RESEARCH QUESTION, and SOURCE.]

**38. Source preference.** Whenever possible, genealogists prefer to reason from original records that reliable scribes carefully created soon after the reported events. They also prefer original records that competent authorities checked or vetted and



that institutions maintained with protections from alteration, damage, and tampering. At the same time, genealogists understand that some preferred sources could be proved inaccurate, less desirable sources might be proved accurate, or less desirable sources may be the only extant relevant sources. [See glossary for definitions of ACCURATE, ORIGINAL RECORD, RECORD (NOUN), and SOURCE.]

**39. Information preference.** Whenever possible, genealogists prefer to reason from information provided by consistently reliable participants, eyewitnesses, and reporters with no bias, potential for gain, or other motivation to distort, invent, omit, or otherwise report incorrect information. At the same time, genealogists understand that some preferred information items could be proved inaccurate, less desirable items might be proved accurate, or they may be the only extant relevant information items. [See glossary for definitions of ACCURATE and INFORMATION.]

**40. Evidence mining.** Genealogists obtain evidence from information items and sets of information items. They seek evidence items that answer research questions directly, indirectly, or negatively. Evidence mining requires attention to detail, including details that might initially seem insignificant. Genealogists ignore no potentially useful evidence—including indirect and negative evidence or evidence that might conflict with or complicate

a working hypothesis—and they give equal attention to direct, indirect, and negative evidence. [See glossary for definitions of CONFLICTING EVIDENCE, DIRECT EVIDENCE, EVIDENCE, HYPOTHESIS, INDIRECT EVIDENCE, INFORMATION, NEGATIVE EVIDENCE, and RESEARCH QUESTION.]

**41. Evidence scope.** Genealogists obtain much of their evidence from information naming people of interest or their possible relatives, neighbors, and associates. Genealogists also obtain useful evidence from sources that do not name these people. These include histories of the area, its population, and relevant time periods, and works describing customs, governance, laws, and regulations. [See glossary for definitions of EVIDENCE and INFORMATION.]

**42. Evidence discrimination.** Genealogists include in their reasoning all known sources and information items that seem relevant to a research question. They exclude all sources and information items that seem irrelevant to that question. To ensure that their reasoning identifies all known relevant evidence, genealogists examine their justifications for including and excluding sources and information items. They are prepared to defend those justifications. [See glossary for definitions of EVIDENCE, INFORMATION, RESEARCH QUESTION, and SOURCE.]

**43. Evidence integrity.** Genealogists do not trim, tailor, slight, or ignore potentially relevant evidence to

fit a bias or preconception, to harmonize with other evidence, or for any other reason. [See glossary for definition of EVIDENCE.]

44. **Evidence reliability.** Genealogists recognize that any seemingly relevant evidence item may be proved reliable or not reliable. They understand that unreliable evidence may be useful, for example, to follow as a clue, explain an error, or resolve conflicting evidence. [See glossary for definitions of CONFLICTING EVIDENCE, EVIDENCE, and RESOLUTION.]

45. **Assumptions.** As they obtain evidence, genealogists recognize their assumptions, categorize them, and differentially address each kind of assumption:

- *Fundamental assumptions* are concepts generally accepted as true. (For example, people do not act after their deaths or before their births; travel between places is consistent with the period's technology.) Genealogists incorporate fundamental assumptions into their reasoning.
- *Valid assumptions* are concepts generally accepted as true unless convincingly contradicted. (For example, mothers between twelve and forty-nine years old conceive children; personal behavior and life patterns are coherent; people generally observed the legal, moral, and social standards of their time and place.) Genealogists seek evidence to invalidate such assumptions. If they cannot find such evidence, they incorporate the assumptions into their reasoning.

- *Unsound assumptions* are concepts that may be valid but cannot be accepted without supporting evidence. (For example, a man's widow was the mother of his children; migrating families followed popular routes; a bride's surname is that of her parents.) Genealogists seek evidence to support such assumptions. If they find it, the assumption becomes valid. If they cannot find supporting evidence, they do not incorporate the unsound assumption into their reasoning.

[See glossary for definition of EVIDENCE.]

46. **Evidence independence.** Genealogists weigh evidence from independent information items. When information items are related (for example, birth-date information from an obituary and death certificate with the same informant), genealogists weigh them only after grouping the related items into a unit. Then they assign that unit no more credibility than the weight of the group's strongest item. [See glossary for definitions of EVIDENCE, INDEPENDENT INFORMATION ITEMS, INFORMANT, INFORMATION, PRIMARY INFORMATION, and RELATED INFORMATION.]

47. **Evidence correlation.** Genealogists test their evidence by comparing and contrasting evidence items. They use such correlation to discover parallels, patterns, and inconsistencies, including points at which evidence items agree, conflict, or both. [See glossary for definitions of CONFLICTING EVIDENCE, CORRELATION, and EVIDENCE.]

C.A.R. members may use the electronic application format. They would check the box stating they are a member of the C.A.R. in Good Standing and upload a copy of their Certificate of Good Standing in .jpg or .png format to waive the application fee. The Certificate of Good Standing is NOT listed in the Source Citation field. All other requirements for electronic applications are the same as for members who are not members of C.A.R.

### Start with the Applicant

If the applicant does not know of any relatives who are now or were previously members, then it may be necessary to conduct genealogical research to identify a Patriot ancestor whose service may make her eligible to join the DAR. If the applicant has already done her own research, use this information to search the Genealogical Research System (GRS). This should be done with all applicants to ensure the most up-to-date information is used on the new application. The GRS along with a variety of research tools are available to all members through the Members' Website.

### Adoption Records Guide

In the case of an adoption, birth certificates are amended to include the name of the adoptive parents. There may be an original birth record with the name of one or both biological parents. The availability of these records to prove lineage varies from state to state. If the applicant is adopted, she will need to provide evidence of her relationship to either biological parent. Ideally, an adoptee would include both birth certificates, and a copy of the adoption papers.

Most states, to different degrees, have restricted access to original birth records at some point in time. Many states have recently opened closed records or are in the process of changing their access laws. If the applicant does not have a copy of any vital records showing her biological heritage, it may be helpful to check online to see if the state where she was born or adopted has opened their records at this time.

Organizations such as the National Conference of State Legislatures or Adoptee Rights Law Center may have updated online information pertinent to the state(s) she is researching. Many states also have adoptee-rights organizations or adoption search angel networks. No organization is endorsed as a guaranteed source of the latest information, so the applicant and/or lineage research volunteer should consult multiple sources to find the best possible option for record access in the relevant state(s) at the time of application.



completed, with all required signatures.

As of July 2020, the DAR began accepting autosomal DNA (atDNA) for proof of lineage when there is no existing documentation to prove lineage within **the first three generations**. The use of autosomal DNA requires the submission of the [Autosomal Report Form \(DAR-DNA-1005\)](#), as well as proof of the DNA match's lineage and permission to use his or her information. It is also requested that all tested parties join the NSDAR DNA Group Project at FamilyTreeDNA (FTDNA). In most cases, results from other testing companies can be transferred to FTDNA and "unlocked" for a minimal fee, so that additional testing is not required.

Please note that the DAR does not accept AncestryDNA's ThruLines, or any other commercial testing company match report as proof of lineage. Autosomal DNA by itself can only predict the relationship between two people, and as such, the match relationships provided by the commercial testing companies are only estimates. Additionally, because ThruLines works by comparing the user-submitted family trees of each tester, they are only as accurate as the trees on which they are based, and errors in other users' trees can lead to inaccurate conclusions.

#### SECTION IV: POTENTIAL OBSTACLES FOUND DURING RESEARCH FOR LINEAGE AND/OR SERVICE

##### Proof of Biological Parents

The DAR requires proof of lineal bloodline descent from a Patriot ancestor who aided in achieving American Independence. This requirement does not preclude an adopted daughter from applying for membership through her biological parents; however, adopted children may not apply for membership through the lineage of their adoptive parents. ([Membership Eligibility of Adopted Children](#))

- **If Stepparents/adoptive parents in any generation are listed on page two, a letter will be sent.** The lineage must reflect the true bloodline, which includes both parents in each generation. Remember that at adoption, original birth certificates are sealed, and new ones are issued by the court. It is extremely difficult to distinguish between an original birth certificate and an amended one. **It is the responsibility of the chapter to ensure the applicant understands that adoptive parents and/or stepparents may not be listed on**

**page two of the application, and that lineage to a Revolutionary War Patriot through the same will not be accepted.**

The DAR does not require proof a person was born of a legal or lawful marriage to verify an application. ([\*Legitimacy in Regard to Membership - Policy Statement\*](#)). **Marriage records are still valuable pieces of evidence that should not be ignored and might be necessary to prove a lineage. If a marriage took place, the applicant or member is strongly encouraged to provide proof of marriage, if records exist.**

In preparing a lineage, evidence of marriage may be supplied if no records are extant to prove the date and place of marriage. For example, the 1900 and 1910 federal censuses recorded the number of years married, and how many times a person had been married. The 1930 census included the age at which each married person was *first* married. Use care with this information, because it may not reflect the marriage of the current spouses to each other.

**If the parents were married after the applicant was born, an explanation is required.** A birthdate prior to a marriage date often indicates that one or both parents may be adoptive and is most often encountered when a parent remarries, and the stepparent adopts the child. As noted in the previous bullet, adoptive and stepparents may not be listed on page two of the application. **An explanation on a separate sheet of paper must be included with the documentation, with the initial submission of the application, to address any such discrepancy.** Such explanations need not go into excessive detail. **The person making the statement must be speaking from first-hand knowledge; a statement from the Chapter Registrar is not acceptable.** The inclusion of this explanation can prevent the AIR from being written.

### **Proof of Marriage**

Proving a marriage can be a challenge if no marriage record exists. A marriage could be contracted in several ways; these varied from place to place and century to century. In some localities, the practice of requiring a “marriage bond” was instituted. This was an agreement by the groom, and a male representative of the bride, that there was no impediment to the marriage. When a marriage was performed in the Established Church, the minister made the announcement of intentions (“calling the banns”) orally and no record was made of it. On the other hand, in the New England states, the town clerks were charged with notifications of marriage intentions, and these were routinely recorded, but a record of the marriage did not always follow. When the ceremony was later

# DNA & DAR Applications: Frequently Asked Questions (FAQs)

## General DNA Questions

### **1. What is the DAR's current policy regarding the use of DNA evidence as proof of lineage?**

The DAR currently accepts both Y-DNA and autosomal DNA (atDNA) evidence in specific situations. Our DNA policies are available on the "DNA and DAR Applications" section of both our public and Members' websites: <https://www.dar.org/national-society/genealogy/dna-and-dar-applications>. Although we do not accept mitochondrial DNA (mtDNA) by itself as proof of lineage, it may be possible to use it in conjunction with Y-DNA or atDNA results. In addition, we have long accepted paternity, maternity, and siblingship tests of the types currently accepted by the court system.

The use of any DNA, except for paternity tests and their variants, requires (1) an analysis, (2) proof of the matching person's lineage, and (3) permission by the match to use his or her information. Please note that DNA can **only** be used when traditional documentation of lineage does not exist. Therefore, a reasonably exhaustive search of traditional documentation, including that found only in physical repositories, must be documented in the analysis. Additionally, in cases of adoption, or when a non-biological parent is named on a birth certificate, a brief explanatory statement from the applicant or parent should accompany the application.

If DNA evidence is used to prove lineage, we ask that all tested parties join the NSDAR DNA Group Project at FamilyTreeDNA (FTDNA). In most cases, results from AncestryDNA, 23andMe, and other companies can be transferred to FTDNA and "unlocked" for a \$19 fee, so that additional testing is not required.

## Autosomal DNA Questions

### **2. I was adopted at birth, but I recently discovered my biological family through a DNA test. How can I go about proving my parentage on a DAR application?**

Adoptees typically use one of three methods to prove parentage. The easiest method is to submit copies of both your original birth certificate and your amended birth certificate after adoption, or your amended birth certificate along with a copy of the adoption papers naming your biological parents. However, the availability of these sealed records varies from state to state. For more information, please see the "Adoption Records Guide" on pages 15-16 of our *Genealogy Guidelines, Part Two*.

If these records are not available due to legal restrictions in your state, the next preferred option—if there is a living biological parent or full sibling—is a paternity, maternity, or siblingship test, of the type used by the courts. Although these tests **do not** have to go through the court system, they need to be from a certified lab that maintains chain of custody. Paternity tests and their variants usually yield a 99% probability of a biological relationship. (Similar tests can identify a half-sibling as well, but they are less reliable.) Such tests should be accompanied by a brief statement from at least one of the biological parents. If neither parent is living, a statement from a close family member, such as a sibling of one of the biological parents, can be substituted.

If, for some reason, these types of maternity, paternity, or siblingship tests cannot be performed, then there is a possibility of using commercial autosomal DNA test results along with an analysis comprising the amended birth certificate, background information, affidavits from family members, and proof of lineage of the other close family members tested. The three main companies who provide autosomal testing are AncestryDNA, 23andMe, and FamilyTreeDNA. If tested at AncestryDNA or 23andMe, test results from all parties can be transferred for free to our NSDAR DNA group partner, FamilyTreeDNA, at <https://www.familytreedna.com/groups/nsdar/about>, where the prospective member will have to "unlock" the results for \$19 in order to use their analytical tools. Prospective testers may receive a discount on FamilyTreeDNA's Family Finder atDNA tests by joining the project at the link listed above and ordering test kits at the same time.

No matter which route you use, please keep in mind that a birth and/or death certificate for the biological parent who descends from the patriot will be required. Additionally, in any scenario where DNA evidence is used to establish lineage through a biological parent who is living, **a signed statement from him or her, acknowledging parentage and granting permission to use his or her DNA results and/or biographical information**, will also be required.

**3. My half-sister is a DAR member, and I would like to join as well. We have the same father and different mothers, but my father is not listed on my birth certificate. A DNA test shows that we are half-sisters, but both my parents are deceased, so neither can provide an affidavit stating the facts. What is the best way to proceed with my application?**

Autosomal DNA (atDNA) is definitely a possibility in this case. Because the half-sibling relationship range also includes the possibility of other relationships, such as grandparent, aunt/niece, and grandchild, a simple analysis will be required. Certainly, because of ages, some of these other relationships may be eliminated. The analysis should also include background information about your relationship with your half-sister. For example, how did you two discover one another? Did you know you were sisters prior to testing? Did your mother have siblings or other children who were aware of her relationship with your biological father?

In addition, a statement from you and possibly your half-sister, if she has pertinent information, will be required, as well as her permission to use her DNA results. None of these statements need to be notarized, and we will restrict them for 100 years, as if they were vital records.

**4. My mother recently took a DNA test and discovered that the father named on her birth certificate was not her biological father. I am already a member, and the lineage on my application goes through the man my mother thought was her father. What should I do? Will this affect my membership status?**

We understand how distressing this issue is for you, but we sincerely appreciate your transparency in bringing this development to our attention to make our records accurate. Neither your membership status, nor that of anyone else who has joined through the same line, will be impacted; however, we will need to code your ancestor as FAMP/C and your mother's lineage as being in error (EL), in order to prevent future members from joining through this same lineage. Should additional information be necessary to explain the issue, we would appreciate it if you submit printed documentation to us, along with a detailed cover letter outlining the problem, to our Corrections Team at 1776 D St. NW, Washington DC 20006-5303. Please note that no private information will be listed in the GRS, and that only staff genealogists will have access to our DATACF explaining the error in lineage.

**5. I took a DNA test with AncestryDNA, and I found my ancestors through their ThruLines tool. May I submit that report as proof of my lineage?**

Unfortunately, we do not accept Ancestry ThruLines, or any other commercial testing company match report, as proof of lineage. Because autosomal DNA alone can only predict the relationship between two people, the match relationships provided by the commercial testing companies are estimates, at best. Additionally, ThruLines works by comparing the user-submitted family trees of each tester. As a result, they are only as accurate as the trees on which they are based, and mistakes in other users' trees can lead to inaccurate conclusions. Therefore, we will only accept DNA evidence to prove lineage when it is paired with traditional documentation—preferably in original records—as part of an analysis.



## Y-DNA Questions

**6. Y-DNA tests show that I am a descendant of a Revolutionary War patriot who has not yet been established in the GRS. Can I use my Y-DNA test results to prove lineage from him?**

Unfortunately, it is not possible to establish descent from a New Ancestor using Y-DNA evidence, because this requires comparing test results with a male-line descendant of a previously proven son of the patriot.

**7. My patriot ancestor has only been proven through descendants of one of his daughters. We believe we are descended from the patriot in an all-male line, and my brother took a Y-DNA test and matched a descendant of another son at 37/37 markers. Can my brother's Y-DNA test results be used as proof of my descent from the patriot, even though only one of his daughters has been established to date?**

DNA, whether Y-DNA or autosomal, can only be used as part of an analysis. The requirements and instructions on using Y-DNA test results to prove descent from a patriot are listed on both the public and Members' websites: <https://www.dar.org/national-society/genealogy/dna-and-dar-applications>. Ideally, when using Y-DNA, one matches a previously proven son of the patriot; however, in this case, only a daughter has been proven. In order to use your match, you must first prove the lineage of your matching test subject(s) to an unproven son of the patriot using direct evidence. Then, using direct evidence and traditional documentation, you must be able to prove your lineage up to the missing link—the patriot's son.

**8. I am interested in using Y-DNA to prove descent from an established patriot. Since females do not carry Y-DNA, whom should I consider testing as Test Subject #1?**

Although females themselves do not carry Y-DNA, you can learn about your direct paternal line by testing close male family members. A good rule of thumb is that you should ask any close family member with your maiden name to test. These ideal candidates include—but are not limited to—your brother, your father, your brothers' sons, your father's brothers (and their sons), and your paternal grandfather. If the patriot is on your mother's surname line, you might consider testing her brothers and/or their sons, her father, or her father's brothers (and their sons and male-line grandsons).

**9. I plan to use Y-DNA evidence to prove my lineage, and I have already asked my brother to take a Y-37 test. What is the easiest way to locate a potential Test Subject #2?**

The easiest way to determine whether other members have an all-male line of descent from your patriot is to look at their abstracted lineages in the GRS and/or schedule some time with your chapter registrar, who has access to the application images.

If you go to the GRS on the DAR website and enter your patriot's name under the "Ancestor" tab, a listing of all applications through that ancestor will appear. Clicking on the purple "D" associated with lineages descending from the patriot's sons will display abstracted lineages from those applications, known as the Descendants List. You can then determine which of those lineages follow an all-male line. Because the first three generations for recent applications are restricted, you will need to contact your chapter registrar if you locate a promising lineage, in order to determine if the member or her mother share your maiden name.

If you locate a member with a viable lineage, you can contact her chapter registrar and ask whether the member would like to participate. It is possible she is already one of the over 6,000 people in the NSDAR DNA group project. In addition, you may also join the desired surname project, or have your Test Subject #1 join. You could then contact any of the surname group matches (37/37 markers or greater) to see if they have a female descendant or sibling who has already applied through the desired ancestor.



BCG

BOARD FOR CERTIFICATION OF GENEALOGISTS

Q Search



Evolving standards from 1997 to 2014

Evolving standards since 2014

## Ethics and Standards

Both professional genealogists and casual family researchers need genealogy standards in order to get their genealogy right. Without standards, inaccuracies and myths can be created and perpetuated. Many of these errors can be avoided by working to genealogy standards. Genealogy standards have evolved over many years. Family historians originally tapped into the legal field and applied its preponderance of evidence principle to their work. Subsequently, genealogists recognized this approach was not the best fit for family history as an accumulation of evidence is not always sufficient for proof.

## What Are Standards?

### Genealogical Proof Standard (GPS)

### Genealogist's Code of Ethics

Each individual seeking certification signs The Genealogist's Code of Ethics, a pledge to protect the public, clients (whether paying or pro bono), the profession, and people who provide DNA samples. This code was updated by BCG on 5 October 2020 and is effective immediately.

---

### To protect the public

- I will not publish or publicize as a fact anything I know to be false, doubtful or unproved; nor will I be a party, directly or indirectly, to such action by others.
  - I will identify my sources for all information and cite only those I have personally used.
  - I will quote sources precisely, avoiding any alterations that I do not clearly identify as editorial interpretations.
  - I will present the purpose, practice, scope, and possibilities of genealogical research within a realistic framework.
  - I will delineate my abilities, publications, and/or fees in a true and realistic fashion.
  - I will not publish any personal, genealogical, or genetic information disclosed to me unless I have informed consent or omit personally identifying detail. I will also treat publicly available information about living people with sensitivity and will not publish any information with foreseeable potential for harm.
- 

### To protect the client (paying or pro bono)

- I will reveal to the client any personal or financial interests that might compromise my professional obligations.
- I will undertake paid research commissions only after a clear agreement as to scope and fee.

- I will, to the best of my abilities, address my research to the issue raised by the client and report to that question.
  - I will seek from the client all prior information and documentation related to the research and will not knowingly repeat the work as billable hours without explanation as to good cause.
  - I will furnish only facts I can substantiate with adequate documentation; and I will not withhold any data necessary for the client's purpose.
  - If the research question involves analysis of data in order to establish a genealogical relationship or identity, I will report that the conclusions are based on the weight of the available evidence and that absolute proof of genealogical relationships is usually not possible.
  - If I cannot resolve a research problem within the limitations of time or budget established by contract, I will explain the reasons why.
  - If other feasible avenues are available, I will suggest them; but I will not misrepresent the possibilities of additional research.
  - I will return any advance payment that exceeds the hours and expenses incurred.
  - I will not publish or circulate reports in which a client or colleague has a proprietary interest without that person's informed consent. I will respect this interest whether my report was made directly to the client or to an employer or agent.
- 

## To protect the profession

- I will act, speak, and write in a manner I believe to be in the best interests of the profession and scholarship of genealogy.
- I will participate in exposing genealogical fraud; but I will not otherwise knowingly injure or attempt to injure the reputation, prospects, or practice of another genealogist.
- I will not attempt to supplant another genealogist already employed by a client or agency. I will substitute for another researcher only with specific, written consent of and instructions provided by the client or agency.
- I will not represent as my own the work of another. This includes works that are copyrighted, in the public domain, or unpublished. This pledge includes reports, lecture materials, audio/visual tapes, compiled records, and authored essays.
- I will not reproduce for public dissemination, in an oral or written fashion, the work of another genealogist, writer, or lecturer without that person's written



consent. In citing another's work, I will give proper credit.

## To protect people who provide DNA samples

- When seeking DNA from a living person for genealogical research, I will explain
  - a) how I would use and share their genetic information and the risks and benefits of that use and sharing;
  - b) the possibility and consequences of discovering unanticipated relatives, unknown medical conditions, unexpected ethnic backgrounds, and intentional misinformation about such situations;
  - c) options for openness and privacy, how other researchers could or could not access the data; and why complete anonymity and privacy can never be guaranteed.

After providing this information, I will request and comply with the consent, freely given by the person providing the DNA sample or that person's guardian or legal representative.

- When working with DNA test results of living people, I will not publish personally identifying information without each test taker's consent. I will not privately share a match list without the list owner's consent. If I have the list owner's consent, I may privately share details of a match without the match's consent.

View/Download the [Genealogist's Code of Ethics](#).

Discipline and Dispute Resolution

Organizations: Ethics and Standards

[1] Board for Certification of Genealogists, *The BCG Genealogical Standards Manual* (Orem, UT: Ancestry, 2000).

[2] Board for Certification of Genealogists, *Genealogy Standards*, fiftieth-anniversary edition (Nashville, TN: Ancestry, 2014).

Board for Certification of Genealogists

PO Box 14291, Washington, DC 20044

[Contact BCG](#)   [Contact Webmaster](#)   [Privacy policy](#)



© Copyright 2007–2024 Board for Certification of Genealogists®. All Rights Reserved. The words Certified Genealogist and designation CG are registered certification marks with the United States Patent and Trademark Office, and the designations Certified Genetic Genealogist or CGG and Certified Genealogical Lecturer or CGL are service marks of BCG, used under license by certificants after periodic competency evaluations (and only during the current five-year period for which they are certified).



January 15, 2025

**VIA EMAIL**

National Board of Management  
National Society of the Daughters of the American Revolution  
1776 D Street NW  
Washington, D.C. 20006-5303

**Re: Legality of Excluding Trans-Identifying Men from Membership in the National Society of the Daughters of the American Revolution**

Dear Board Members:

The Martha Laird Chapter (Chapter) of the Daughters of the American Revolution (DAR) has engaged the Center for American Liberty to evaluate the legality of amending the DAR bylaws to exclude natal men—including natal men who identify as women—from membership eligibility. Attached to this letter is a memorandum to the Chapter analyzing this question. As the memorandum explains, we conclude that such an amendment is likely both lawful and would not jeopardize the DAR's tax-exempt status.

On or about February 8, 2025, the DAR National Board of Management will consider a proposed bylaw amendment that would prohibit natal men—including men who identify as women—from joining the DAR. We offer this memorandum for the Board's review as it considers whether to allow the proposed bylaw amendment to go to the full DAR membership for a vote at the upcoming Continental Congress this summer. Not only does the DAR have a constitutional right to pass such an amendment, but doing so would ensure the organization stays true to its roots as a genealogical society for women only. We encourage the Board to allow the proposed amendment to proceed.

The attached memorandum was drafted solely for the purpose of advising the Chapter. Neither it nor this letter establishes an attorney client relationship with any other person or entity, does not contain or constitute legal advice, and should not be relied upon as a substitute for consulting with a qualified attorney. We encourage the DAR to consult with counsel regarding the issues at hand.



Sincerely,

A handwritten signature in blue ink that reads "Harmeet K. Dhillon".

Harmeet K. Dhillon

A handwritten signature in black ink that reads "Mark Trammell".

Mark Trammell

Enclosures as stated

cc:

Josh W. Dixon ([jdixon@libertycenter.org](mailto:jdixon@libertycenter.org))  
Center for American Liberty

Eric Sell ([esell@libertycenter.org](mailto:esell@libertycenter.org))  
Center for American Liberty





January 15, 2025

**TO:** Martha Laird Chapter of the National Society of the Daughters of the American Revolution

**FROM:** Harmeet Dhillon  
Mark Trammell  
Center for American Liberty

**RE:** Legality of Excluding Trans-Identifying Men<sup>1</sup> from Membership in the National Society of the Daughters of the American Revolution

### QUESTIONS PRESENTED

The Martha Laird Chapter of the National Society of the Daughters of the American Revolution has engaged the Center for American Liberty to evaluate (1) whether the National Society (DAR) has a First Amendment right to change membership requirements to exclude trans-identifying men from eligibility, and (2) whether such a change would impact the DAR's tax-exempt status. Our research concludes the following:

1. Yes. As a private, genealogical society founded solely for female descendants of those who advanced the American Revolution—and organized for the purpose of conducting charitable acts and promoting American patriotism—the DAR is likely an expressive association. To the extent state and local public accommodation statutes may be interpreted to require the DAR to admit trans-identifying men, such a requirement would likely violate the DAR's First Amendment rights if the DAR determined that such a requirement would interfere with its ability to advance its intended message. The DAR therefore likely has a First Amendment right to exclude trans-identifying men from eligibility regardless of any contrary public accommodation laws.
2. No. Non-profits run the risk of losing their tax-exempt status if they act in a way that is illegal or contrary to public policy. It is unlikely that a genealogical association that limits membership to natal females violates public policy. To the best of our knowledge, neither the IRS nor the District of Columbia has ever revoked a sex-based organization's non-profit status because the organization excluded trans-identifying men from membership eligibility. Moreover, the DAR currently excludes men who do not identify as transgender.

<sup>1</sup> This memo uses the term "trans-identifying men" to refer to natal males who assert a female gender identity.



from eligibility. This exclusion constitutes discrimination on the basis of sex, which is typically prohibited by public accommodation laws, yet to the best of our knowledge, neither the IRS nor the District has ever considered exclusion of men from a private organization’s membership rolls contrary to public policy. Because the DAR is a sex-based genealogical society—and has been for well over 100 years—it is unlikely the IRS or the District would take such a position now with respect to exclusion of trans-identifying men from membership eligibility.

## BACKGROUND

### I. The DAR

The DAR was founded in 1890 for the purpose of giving female descendants of American Revolutionaries an organization to call their own.<sup>2</sup> The Sons of the American Revolution (SAR)—founded years earlier—would not allow women to join as members.<sup>3</sup> Accordingly, women formed their own organization, and the DAR later became a Congressionally chartered organization.<sup>4</sup> The DAR is tax-exempt under § 501(c)(3) of the Internal Revenue Code.

The DAR’s purpose includes “perpetuat[ing] the memory and spirit of the men and women who achieved American Independence.” 36 U.S.C. § 153102; *see also* DAR Bylaws Art. II § (1). To accomplish this purpose, the DAR engages in charitable acts, such as protecting historical sites and records, encouraging historical research related to the American Revolution, and celebrating patriotic anniversaries. DAR Bylaws Art. II § (1)–(2). The DAR’s purpose also includes advancing ideological messages such as “developing an enlightened public opinion,” “foster[ing] true patriotism and love of country,” and “aid[ing] in securing for mankind all the blessings of liberty.” *Id.* Art. II § (3). Among other things, the DAR focuses on restoring historical sites, preserving genealogical records, supporting local schools through volunteer efforts, sponsoring essay contests

---

<sup>2</sup> *See* Daughters of the American Revolution Magazine, DAR (July 1915) at 234, available at [https://www.google.com/books/edition/Daughters\\_of\\_the\\_American\\_Revolution\\_Mag/7S5CAQAAMAAJ?hl=en&gbpv=1&pg=PA234&printsec=frontcover](https://www.google.com/books/edition/Daughters_of_the_American_Revolution_Mag/7S5CAQAAMAAJ?hl=en&gbpv=1&pg=PA234&printsec=frontcover) (last visited Jan. 3, 2025); *see also* *The Founding of the DAR*, <https://www.dar.org/national-society/about-dar/dar-history> (last visited Jan. 3, 2025).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; *see also* 36 U.S.C. § 153101. The SAR is also a Congressionally chartered organization. *See* 36 U.S.C. § 153301.



for youth, providing scholarship programs for high school students, and volunteering to assist military veterans.

The DAR's mission statement provides that its mission is to "promote historic preservation, education and patriotism."<sup>5</sup> This mission helps "*women* [find] purpose and passion in DAR membership."<sup>6</sup>

Membership eligibility to the DAR is restricted to women who are "not less than eighteen years of age, and who [are] lineally descended from a man or woman who, with unfailing loyalty to the cause of American Independence, served as a sailor, or a soldier or civil officer in one of the several Colonies or States, or in the United Colonies or States or as a recognized patriot, or rendered material aid thereto." *Id.* Art. III § 1. To demonstrate such eligibility, DAR applicants must undergo a rigorous process to demonstrate the requisite genealogical connection. *Id.* Art. III at § 2. The applicant must "request to begin her application process through the state regent of the state in which she wishes to join." *Id.* Art. III § 2(b). The "state regent shall assign a DAR member to work with the prospective member," and within one year, the applicant must submit a completed application along with fees and dues. *Id.* Art. III § 2(a). Once an applicant submits the requisite documentation and payment, the application is given to the DAR's Board of Management, which votes on the application. *Id.* Art. III § 4. A two-thirds vote of the Board is required for admission. *Id.*

The requirements that the DAR places on applicants to prove their genealogy is strict—so strict in fact, that female applicants are not allowed to establish the requisite genealogical connection through their adoptive parents, even with a legal, altered birth certificate.<sup>7</sup> Instead, female applicants who have been adopted must prove their ancestry through their biological parents.<sup>8</sup> This requirement typically requires female applicants who have been adopted to "submit copies of both [their] original birth certificate and [their] amended birth certificate after adoption, or [their] amended birth certificate along with a copy of the adoption papers naming [their] biological parents."<sup>9</sup> The DAR also encourages female applicants who are adopted to submit lab certified paternity, maternity or siblingship tests that should be accompanied by a brief statement

<sup>5</sup> <https://www.dar.org> (last visited on Jan. 3, 2025).

<sup>6</sup> *Id.* (emphasis added).

<sup>7</sup> See DNA & DAR Applications: FAQs.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*



from at least one of the biological parents.<sup>10</sup> Unlike adoptees, this same burden to provide the original birth certificates is not currently placed on trans-identifying male applicants who submit an altered birth certificate reflecting their new gender identity.

Finally, the DAR bylaws prohibit discrimination “against an eligible applicant based on race, religion, sexual orientation, national origin, age, disability, or any other characteristic protected by applicable law.” *Id.* § 1. While “sex” and “gender” are typically protected characteristics under state and local public accommodation laws, it appears the DAR construes its bylaws to allow the exclusion of men who do not identify as transgender. *Id.*

## II. The Bylaw amendment to allow admission of trans-identifying men.

In recent years, the debate regarding the eligibility of trans-identifying men to join the DAR has intensified. In 2022, the first known trans-identifying man joined a DAR chapter.<sup>11</sup> At the 132nd Continental Congress in 2023, members of the DAR’s Board of Management proposed amending the bylaws to prohibit discrimination on the basis of “sexual orientation,” which some members believe prohibited discrimination against trans-identifying men.<sup>12</sup> During debate, present and past leadership, as well as the President General, claimed that the amendment was “required” by federal law, and that failure to allow trans-identifying men to join the DAR would jeopardize the organization’s non-profit status.<sup>13</sup> The DAR membership approved the bylaw change by standing vote.

The bylaw change prompted backlash within DAR membership, with many daughters objecting to the decision. In October 2023, the Sage Brush Chapter—with the support of eleven other chapters—submitted a proposed bylaw amendment to the Board of Management that would prohibit all men—including trans-identifying men—from becoming members. DAR President General Pamela Wright later wrote in a message to members:

---

<sup>10</sup> *Id.*

<sup>11</sup>Charlotte McDonald-Gibson, *Historic US women’s group provokes anger by allowing trans member*, London Times, (March 14, 2024), <https://www.thetimes.com/world/article/historic-us-womens-group-daughters-american-revolution-trans-row-dd0gfr2p2>.

<sup>12</sup>[https://www.youtube.com/live/SsvXtKnLtOw?si=RazXwBzcrQ\\_ujQrE&t=8350](https://www.youtube.com/live/SsvXtKnLtOw?si=RazXwBzcrQ_ujQrE&t=8350); <https://x.com/MaryMargOlohan/status/1684243426458345472> (last visited Jan. 3, 2025).

<sup>13</sup> <https://www.youtube.com/watch?v=SsvXtKnLtOw> (last visited, Jan. 3. 2025).





A government-issued birth certificate continues to serve as acceptable proof of eligibility. Some have asked if this means a [trans-identifying man] can join DAR or if this means that DAR chapters have previously welcomed [trans-identifying men]? The answer to both questions is, yes. The bylaw amendment does not change that fact, and we will continue to welcome them into our Society in the future.<sup>14</sup>

Despite allowing trans-identifying men, the DAR also takes the position that it is a “private member association” and that its “membership policies are generally considered outside the scope of anti-discrimination laws when membership is restricted to people who share a protected characteristic – in this case women.”<sup>15</sup> In other words, the DAR holds the view that it is permissible for it to discriminate against men who do not identify as transgender. To justify these views, the DAR takes the position that a “transgender woman is not a man.”<sup>16</sup>

In February 2024, the Board of Management considered and rejected the Sage Brush Chapter’s proposed bylaw amendment to exclude trans-identifying men.<sup>17</sup> In public and private statements to local chapters, the Board of Management again warned that barring trans-identifying men from membership could violate public accommodation laws and jeopardize the DAR’s non-profit status.

In September 2024, the Martha Laird Chapter—with the endorsement of eleven other chapters—submitted another proposed bylaw amendment to prohibit all men, including trans-

---

<sup>14</sup> Hunter Spears, *When the DAR Said Trans Women Were Allowed, Controversy Ensued*, Washingtonian (Jan. 8, 2024), <https://www.washingtonian.com/2024/01/08/when-the-dar-said-trans-women-were-allowed-controversy-ensued/#:~:text=“Some%20have%20asked%20if%20this,both%20questions%20is%2C%20yes.”>

<sup>15</sup> See Answers to Frequently Asked member Questions Regarding Transgender Women in DAR, available at <https://mcusercontent.com/25e2535ce36f62383e1ab2f0e/files/92e66d4f-be38-c37d-779e-eae75a527d64/PGAnswers.pdf> (last visited Jan. 3, 2025).

<sup>16</sup> In response to this position, over 1,000 daughters resigned their membership from the DAR. In what appears to be an attempt to stem the tide of mass resignations, President General Wright distributed a survey in an apparent attempt to urge former members to reinstate their membership. See <https://www.surveymonkey.com/r/DARMembershipExperienceSurvey>. Nevertheless, to date, almost 3,500 daughters have resigned their membership from the DAR as a direct result of its decision to allow trans-identifying men to join.

<sup>17</sup> *National Board of Management Meeting Minutes, May/June Newsletter, p. 186-187.*



identifying men, from DAR membership eligibility. The Board of Management will consider this amendment during its next meeting in February 2025. The Martha Laird Chapter has engaged the Center for American Liberty to analyze the legality of its proposal.

## DISCUSSION

The Martha Laird Chapter’s proposed amendment to the DAR membership requirements to exclude trans-identifying men presents two primary questions. The first is whether the DAR has a First Amendment right to define its membership eligibility in this manner. The second is whether doing so would jeopardize the organization’s non-profit status. We conclude the answer to the first is “yes” and the second is “no.”

### **I. The First Amendment likely protects the DAR’s right to limit its membership based on sex and gender identity.**

The First Amendment to the United States Constitution protects the freedom of speech. U.S. Const., amend. I. The freedom of speech includes the right of certain private organizations to choose their own members. *Democratic Party of U.S. v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 122 (1981) (holding political parties have the right to decide how they nominate candidates). Indeed, the First Amendment protects “the freedom to join together in furtherance of common political beliefs, which necessarily presupposes the freedom to identify the people who constitute the association, and to limit the association to those people only.” *Cal. Democratic Party v. Jones*, 530 U.S. 567, 574–75 (2000).

The Supreme Court has recognized two types of associational rights: the right to expressive association and the right to intimate association. The DAR likely has an expressive associational right to define its members.<sup>18</sup>

#### **A. Expressive Association**

An organization has a First Amendment “right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends.” *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 647 (2000). To qualify for such protection, the organization must take positions on “public questions.” *Bd. of Dir. of Rotary Intern. v. Rotary Club of Duarte*, 481 U.S. 537 (1987). If it does so, the organization’s membership may be bound up with its expressive purpose. *Id.* In general, the government cannot force a membership organization engaged in expression or expressive activity to associate with those with whom it does not wish to associate.

---

<sup>18</sup> Because the contours of the intimate associational right are not as well developed in the case law as the expressive associational right, we evaluate only the latter.



*Janus v. Am. Fed’n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 892 (2018) (“The right to eschew association for expressive purposes is likewise protected.”). The First Amendment is therefore a defense to any attempt by the government to regulate membership eligibility when such regulation interferes with the organization’s expressive message unless the government demonstrates the regulation satisfies strict scrutiny. *See Dale*, 530 U.S. at 647; *Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984) (“There can be no clearer example of an intrusion into the internal structure or affairs of an association than a regulation that forces the group to accept members it does not desire.”).

But not all private organizations benefit from this protection. If the organization is more like a commercial business than a selective membership organization, it is more likely to lack associational rights. *Roberts*, 468 U.S. at 624. Likewise, if the organization is expressive but the regulation at issue does not actually interfere with the organization’s “expressive purpose,” the regulation does not implicate the organization’s associational right. *Id.* 468 U.S. at 267. For example, a regulation that requires organizations to engage in certain non-expressive conduct—such as certain tax reporting requirements or public safety standards for property owned by the organization—does not interfere with the organization’s ability to express its message. *Id.* Such regulations are therefore subject only to rational basis review and are generally upheld.

The Supreme Court’s decision in *Roberts* is instructive. There, a state passed a law prohibiting discrimination based on sex in places of public accommodation. 468 U.S. at 612. The Jaycees, a national men’s organization that made networking and management classes available to members for a fee, relied on the First Amendment to defend its exclusion of women. *Id.* While the organization advanced messages of civic virtue, its messages were in no way related to sex and gender. *Id.* The Supreme Court held that because the admission of women would not “impede the [Jaycees’] ability to engage in [protected] activities or to disseminate its preferred views,” the regulation did not implicate its First Amendment right to expressive association. *Id.*

Concurring, Justice O’Connor would have held that the Jaycees could not rely on the First Amendment to exclude women because the organization was a commercial business as opposed to a private membership organization united for an expressive purpose. *Id.* at 633. Among the Jaycees’ commercial characteristics included the facts that it made networking and leadership training courses available for a fee and emphasized “selling membership” to boost revenue from dues. *Id.* at 639. According to Justice O’Connor, the First Amendment protects membership decisions only “when the association is predominantly engaged in protected expression that state regulation of its membership will necessarily affect, change, dilute, or silence.” *Id.* The Jaycees’ operation as a commercial entity precluded it from relying on the First Amendment to shield membership decisions from government regulation. *Id.* at 636 (“Once [an organization] enters the marketplace of commerce in any substantial degree it loses the complete control over its



membership that it would otherwise enjoy if it confined its affairs to the marketplace of ideas otherwise be heard.”).

More recently, the Supreme Court adopted an expansive view of private organizations’ First Amendment right to define their membership. In *Dale*, the Court held the Boy Scouts could not be forced to allow a gay man to serve as a scout master despite a New Jersey law prohibiting discrimination based on sexual orientation. 530 U.S. at 647. The Court held that the Boy Scouts “engage in expressive activity” through its efforts to “transmit . . . a system of values” to young people. *Id.* The Court accepted the Boy Scouts’ position that admitting a gay man as a scout master would interfere with its expressive message and concluded it “need not inquire further to determine the nature of the Boy Scouts’ expression with respect to homosexuality.” *Id.* at 651. The Court observed that “associations do not have to associate for the ‘purpose’ of disseminating a certain message in order to be entitled to the protections of the First Amendment.” *Id.* Instead, an “association must merely engage in expressive activity that could be impaired in order to be entitled to protection.” *Id.* at 655. Moreover, the First Amendment “does not require that every member of a group agree on every issue in order for the group’s policy to be ‘expressive association.’” *Id.* The organization can take “an official position with respect to [a given issue],” which is “sufficient for First Amendment purposes.” *Id.* And while states may have a “compelling interest in eliminating discrimination,” the “enforcement of anti-discrimination statutes” cannot “materially interfere with the ideas that the organization [seeks to] express.” *Id.* Because the Boy Scouts advanced a message rejecting homosexuality, requiring it to admit gay scoutmasters would interfere with its ability to control its message. *Id.*

Given the above precedent, any organization seeking the protection of the First Amendment to define its membership must show (1) that it is a bona fide private membership organization rather than a commercial enterprise, and (2) that regulation requiring the undesired members interferes with the organization’s expressive activity.

#### **B. The DAR is likely an expressive association and not a commercial enterprise**

In *Dale*, the Supreme Court concluded the Boy Scouts was an expressive association because it sought “to transmit” a “system of values” to a broader audience and thus “engages in expressive activity.” 530 U.S. at 650. Applying *Dale*, the DAR is likely an expressive association. The DAR’s mission “is to promote historic preservation, education and patriotism” surrounding the American revolution. DAR Bylaws Chapter IV. This mission includes “developing . . . an enlightened public opinion,” pursuing efforts to “cherish, maintain and extend the institutions of American freedom,” and seeking “to foster true patriotism and love of country.” *Id.* Art. II(2)–(3). Similar to the Boy Scouts, the DAR encourages “participation in community service” that is



“intended to develop good morals, reverence, patriotism, and a desire for self-improvement.” *Dale*, 530 U.S. 650. For this reason, the DAR likely qualifies as an expressive association.

The DAR also differs from commercial organizations like the Jaycees in several important respects. As Justice O’Connor discussed in *Roberts*, factors courts consider in evaluating this question include the organization’s size and membership eligibility requirement and whether the organization operates in a commercial manner to sell products or some benefit to its membership through payment of dues. 468 U.S. at 633. Though the DAR is a large organization, membership is strictly limited to those with a genealogical connection to American revolutionaries. DAR Bylaws Art. III § 2. This is in stark contrast to the Jaycees, which were open to every male of a certain age. 468 U.S. at 613. Moreover, unlike the Jaycees, the DAR does not “sell” memberships for the purpose of generating revenue, nor does it hold the same place of significance in local commerce as the Jaycees did in the 1980s. *Id.* at 639. Instead, the DAR was founded for the specific purposes of allowing women descendants of American revolutionaries an outlet to engage in certain charitable and civic acts. DAR Bylaws Art. II.

To be sure, many state and local laws prohibit discrimination against protected classes in places of “public accommodation,” *see, e.g.*, D.C. Law § 2-1402.31 (prohibiting “discrimination” in places of “public accommodation” based on “sex” and “gender identity”), and it is possible that the DAR membership may be considered a “public accommodation” under some of these statutes. But if the DAR is an expressive association for purposes of the First Amendment—which, for reasons already discussed, it likely is—and if the prohibition of discrimination against trans-identifying men would interfere with the organization’s speech—which, for reasons discussed below, it likely does—then the First Amendment would provide the DAR a defense to any contrary public accommodation law.

**C. Forcing the DAR to admit trans-identifying men as members would likely interfere with the organization’s speech if the DAR were to make that determination.**

A government regulation violates the First Amendment when it restricts an organization’s ability to define its own membership in a way that interferes with its expressive activity. *See Dale*, 530 U.S. at 647; *see also N.Y. State Club Ass’n, Inc. v. N.Y.C.*, 487 U.S. 1, 13 (1988) (holding organization must show “it will not be able to advocate its desired viewpoints nearly as effectively if it cannot confine its membership to those” it chooses). To qualify for this protection, the organization must explain how requiring it to admit certain members “alter[s] the expressive content” of its message. *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston*, 515 U.S. 557, 572–73 (1995).





The DAR was founded for women in response to their exclusion from the SAR. The DAR’s objective is to develop “an enlightened public opinion,” and to “cherish, maintain and extend the institutions of American freedom.” DAR Bylaws Art. II (1). The DAR has the right to define how it achieves these goals. *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 790–91 (1988). (“The First Amendment mandates that [courts] presume that speakers, not the government, know best both what they want to say and how to say it.”). If the DAR were to determine that its expressive message precluded advocacy for trans-identifying men and show that allowing trans-identifying men to join the organization undermined that message, that determination and showing would likely be sufficient to invoke the First Amendment right to exclude such members. *Id.*; see also *Dale*, 530 U.S. at 651 (observing “it is not the role of the courts to reject a group’s expressed values because they disagree with those values or find them internally inconsistent”); *Green v. Miss United States of Am., LLC*, 52 F.4th 773, 783 (9th Cir. 2022) (holding Miss United States Pageant has First Amendment Right to exclude trans-identifying men from competing because it would interfere with organization’s message). Indeed, there “can be no clearer example of an intrusion into the internal structure or affairs of an association than a regulation that forces the group to accept members it does not desire. Such a regulation may impair the ability of the original members to express only those views that brought them together.” *Green*, 52 F.4th at 783 (quoting *Roberts*, 468 U.S. at 623).

**D. Laws or regulations requiring the DAR to admit trans-identifying men as members would likely fail strict scrutiny.**

If a law or regulation interfered with the DAR’s expressive message by requiring it to admit trans-identifying men as members, it would be subject to strict scrutiny. See *Dale*, 530 U.S. at 655. To satisfy strict scrutiny, the government must demonstrate the law or regulation serves a “‘compelling state interes[t] . . . that cannot be achieved through means significantly less restrictive of associational freedoms.’” *Harris v. Quinn*, 573 U.S. 616, 648–49 (2014) (quoting *Roberts*, 468 U.S. at 623). The government likely would not be able to satisfy this standard here for several reasons.

First, it is unclear whether the government could demonstrate a compelling state interest in forcing the DAR to accept trans-identifying men. The Supreme Court in *Roberts* relied on the historical exclusion of women from commercial and political society in determining it was lawful to force the Jaycees to admit them. 468 U.S. at 623. Here, natal males have faced no such historical exclusion. And while it is possible the government could demonstrate a history of discrimination against trans-identifying men, see, e.g., *Doe by & through Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 527–28 (3d Cir. 2018) (holding school had compelling interest in “preventing discrimination against transgender students”), it is unclear whether such a showing would be sufficient considering trans-identifying men are eligible for the same social benefits that the DAR provides by joining the SAR. See *Green*, 52 F.4th at 792 (holding question “is not whether the





[government] has a compelling interest in enforcing its non-discrimination policies generally, but whether it has such an interest in” application of the non-discrimination policy to the specific organization at issue). The fact that trans-identifying men may join the SAR appears to undermine any compelling interest the government might have in forcing the DAR to admit them.

Second, and similarly, even if preventing discrimination against trans-identifying men is a compelling interest, forcing the DAR to admit them likely is not narrowly tailored to achieve this interest. Because the DAR is a private organization that requires a genealogical connection and offers no goods or services to the general public beyond DAR memorabilia, it is difficult to see how requiring it to admit trans-identifying men—and thereby alter its expressive message—could be narrowly tailored. *Cf. 303 Creative LLC v. Elenis*, 600 U.S. 570, 592 (2023) (noting that “public accommodations statutes can sweep too broadly when deployed to compel speech”). Moreover, unlike the Jaycees’ exclusionary membership policy in *Roberts*—which harmed women’s economic prospects—excluding trans-identifying men from the DAR arguably does not harm them because they have an alternative organization available to them—the SAR—that serves a similar purpose. *Green*, 52 F.4th at 792. Because the DAR does not make its membership available to the general public, and because trans-identifying men are eligible for the SAR, forcing the DAR to admit them into its membership ranks is likely not narrowly tailored to remedy any societal harm caused by discrimination against trans-identifying men.

While we have been unable to locate a case specifically holding the government did not satisfy strict scrutiny in a perfectly analogous situation, it is helpful to consider the consequences of a contrary conclusion. If the government has a narrowly tailored compelling interest in requiring the DAR to admit trans-identifying men, that same logic would arguably extend to a public accommodations provision requiring the DAR to allow men who do not identify as transgender. If preventing discrimination based on gender identity is a compelling interest, and requiring organizations to admit trans-identifying members of the opposite sex is the only way to achieve it, this reasoning could call into question the legality of all sex-based organizations. No court that we are aware of has arrived at such a holding, and it is unlikely that a court would do so.

## **II. Limiting DAR membership to natal females is highly unlikely to jeopardize its tax-exempt status.**

DAR leadership has also raised the specter of the organization losing its tax-exempt status if it does not allow trans-identifying men to become members. We conclude that such an outcome is highly unlikely.



### A. Federal Tax-Exempt Status

Under Internal Revenue Code § 501(c)(3), “[c]orporations . . . organized and operated exclusively for . . . charitable . . . purposes” are entitled to tax-exempt status. But organizations that engage in activity or advance purposes that are illegal or contrary to “national public policy” are not entitled to tax exempt status. *Bob Jones Univ. v. United States*, 461 U.S. 574, 593 (1983); *see also* Rev. R. 71-447, 1971-2 C.B. 230 (1971) (providing that a school that discriminates based on race is not “charitable” because “racial discrimination in education is contrary to Federal public policy”). In practice, organizations not engaged in criminal activity rarely face revocation of their tax-exempt status. *See* Jean Wright, *et al.*, *Illegality and Public Policy Considerations*, Internal Revenue Service, at 8 (1994) (“*Bob Jones* is the only case to date in which an organization was alleged only to have violated public policy and not any specific law.”).

In *Bob Jones*, the Supreme Court assessed whether a university was entitled to tax-exempt status under § 501(c)(3) despite its practice of denying admission to applicants who were married to members of other races. 461 U.S. at 590. The Court traced the national policy of prohibiting racial segregation and discrimination in public education and concluded that an “unbroken line of cases” established that racial discrimination in education violated the “most fundamental national public policy.” *Id.* at 594. The Court held that allowing tax-exempt status for an educational institution supportive of racial discrimination was “wholly incompatible” with § 501(c)(3).

Here, it is unlikely that failure to admit trans-identifying men into the DAR violates national public policy. Unlike racial integration in education, there is no “national public policy” of supporting inclusion of natal males in private genealogical organizations created for women. Indeed, the Supreme Court has not recognized transgender status as a suspect classification under the Equal Protection Clause, and circuit courts are split on the level of scrutiny applicable to laws that discriminate against transgender-identifying individuals. *Compare Gore v. Lee*, 107 F.4th 548 (6th Cir. 2024) (declining to apply heightened scrutiny to law that discriminates based on transgender status) *with Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024) (applying heightened scrutiny to law based on transgender status) *and Kadel v. Folwell*, 100 F.4th 122 (4th Cir. 2024) (holding that discrimination based on transgender status is subject to intermediate scrutiny); *see also Adams v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791 (11th Cir. 2022) (holding that discrimination based on biological sex does not entail discrimination based on transgender status). While laws and court decisions regarding transgender individuals are evolving, it is highly unlikely that a court would conclude that limiting membership in the DAR to natal females violates “national public policy.”



Indeed, the DAR currently excludes men who do not identify as transgender from eligibility. This exclusion constitutes discrimination based on sex, which is typically prohibited by public accommodation laws, yet to the best of our knowledge, the IRS has never considered exclusion of men from a private organization's membership rolls as contrary to national public policy. Because the DAR is a sex-based genealogical society—and has been for over 100 years—it is unlikely the IRS would take such a position now with respect to exclusion of men, whether trans-identifying or not.

### **B. Tax-Exempt Status in the District of Columbia**

We are informed that the DAR is also exempt from real property and income taxation by the District of Columbia. Indeed, federal and / or District law provides that the DAR's real property located in the District shall not be subject to taxation so long as it is used for the purposes for which such exemption was granted. *See* D.C. Code §§ 47-1028–1032, 47-1002(5); *see also* Act of Dec. 24, 1942, Pub. L. No. 77-846, 56 Stat. 1089; Act of May 21, 1924, Pub. L. No. 68-125, 43 Stat. 135; Act of Sept. 16, 1922, Pub. L. No. 67-305, 42 Stat. 846; Act of Feb. 27, 1903, Pub. L. No. 57-118, 32 Stat. 907. Because this exemption is statutory, it appears that it could only be rescinded by further legislative enactment.

District law also provides that § 501(c)(3) organizations—like the DAR—are exempt from income taxation so long as they obtain a letter from the Mayor of the District acknowledging their status as a charitable organization. *See* D.C. Code § 47-1802.01(a)(3). We have not located any legal authority holding that an entity's § 501(c)(3) status is not dispositive to the question of whether it is exempt from income taxes under District law. Even assuming that status were not dispositive, we have not located any legal authority suggesting a different analysis from the one set forth in *Bob Jones* would apply to any attempted revocation of an organization's income tax exemption under District law. That is, it appears that the legal question in any such attempted revocation would be whether the revocation was based on a violation of District public policy. And for the same reasons discussed in Section II.A above, the DAR would have a strong argument that limiting membership in a sex-based genealogical society to natal females does not violate District public policy. Moreover, and for the same reasons as discussed in Section I above, the DAR would have a strong argument that any attempted revocation of its income-tax exemption would violate its First Amendment associational rights. Accordingly, it appears that the DAR would not lose its tax-exempt status in the District by virtue of its exclusion of trans-identifying men.

### **CONCLUSION**

If the DAR changes its bylaws to exclude trans-identifying men from membership edibility, it is possible that a state or local government could bring an enforcement action against the DAR



under a public accommodations law, but the DAR would have a strong First Amendment defense to such an action if it determined that admitting trans-identifying men interferes with its expressive message and articulated reasons why this is the case. Moreover, it is unlikely that the IRS or the District of Columbia would revoke the DAR's non-profit status over such a bylaw change given the facts that there is likely no public policy opposing exclusion of transgender-identifying men from female-only private genealogical organizations and that any such attempted revocation would likely violate the DAR's associational rights.

Sincerely,

Harmeet K. Dhillon

Mark Trammell

cc:

Josh W. Dixon ([jdixon@libertycenter.org](mailto:jdixon@libertycenter.org))  
Center for American Liberty

Eric Sell ([esell@libertycenter.org](mailto:esell@libertycenter.org))  
Center for American Liberty