

# REPEAL OF DON'T ASK, DON'T TELL

## Army Frequently Asked Questions (FAQs)

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### FAQ – EDUCATION

#### **What education will be required for Soldiers and their families when repeal occurs?**

Soldiers will be informed of the change in policy and expectations for behavior. Members involved in certain functions (e.g., administrative, legal or investigative) may receive additional education focused on specific changes to their specialty. Family members will be informed of the changed policy and advised where to go to seek any specific information they need.

Further guidance is available from the chain of command, and Army policy staff, lawyers, chaplains and medical personnel.

*(Support Plan for Implementation, Appendix D, Q17)*

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### FAQ – POLICY

#### **What is the changed policy on sexual orientation in the military?**

Soldiers will not be involuntarily separated for lawful homosexual conduct.

Sexual orientation remains a personal and private matter. Sexual orientation and lawful homosexual conduct (statements, acts or same-sex marriage) are not a basis for separation, reassignment or special consideration. Soldiers may inform others of their sexual orientation at their own discretion.

The Army will not ask Soldiers to identify their sexual orientation. The Army will not collect or maintain data on an individual's sexual orientation.

*(Support Plan for Implementation, Appendix D, Q1)*

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### FAQ – POLICY APPLICATION

#### **Does the changed policy apply equally to all Active, Reserve and Guard components?**

Yes. DoD policy on sexual orientation applies equally to all members of the Active, Reserve and National Guard Components.

*(Support Plan for Implementation, Appendix D, Q10)*

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### FAQ – STANDARDS OF CONDUCT

#### **Does repeal affect standards of conduct?**

Standards for personal and professional conduct apply uniformly without regard to sexual orientation.

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Soldiers will continue to conduct themselves consistent with the law and with Army customs and traditions. Soldiers are expected to conduct themselves professionally at all times.

Unprofessional behavior by any Soldier that fails to meet standards of conduct should be corrected by explanation, counseling, administrative action or legal action depending on the nature, severity or repetition of the offense.

Sexual misconduct of any kind is inconsistent with our values and will be dealt with swiftly and severely. Harassment or violence of any kind between Soldiers will not be tolerated.

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### FAQ – UNIFORM CODE OF MILITARY JUSTICE (UCMJ)

#### **Is consensual sodomy still a punishable offense under the Uniform Code of Military Justice?**

Only in limited circumstances. Unrelated to Don't Ask, Don't Tell, the U.S. Supreme Court and the Court of Appeals for the Armed Forces found that private, consensual sexual activity, to include consensual sodomy regardless of sexual orientation, is a protected liberty under the Fourteenth Amendment. Consensual sodomy can only be punished if it is prejudicial to good order and discipline, service discrediting (e.g., in public, between a superior and a subordinate) or if there are other factors involved in the commission of the act such as force, coercion or involvement of a minor. This was true before repeal and it remains true now.

*(Support Plan for Implementation, Appendix D, Q15)*

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### FAQ – RELIGIOUS RIGHTS

#### **Does repeal of Don't Ask, Don't Tell affect the speech, morals or religious rights of Soldiers?**

No. There will not be any modifications or revisions to policy regarding Soldier protections and obligations with respect to free speech and free exercise of religion.

The Army recognizes the right of all Soldiers of the Military Services to hold individual beliefs consistent with their moral foundations and conscience and does not seek to change them.

Soldiers can continue to freely practice their religion and express their personal views within the limitations of the UCMJ and Service standards of conduct.

*(Support Plan for Implementation, Appendix D, Q7)*



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### FAQ – CHAPLAINS

#### **Does repeal of Don't Ask, Don't Tell affect the religious rights of chaplains?**

No. Chaplains will continue to have freedom to practice their religion according to the tenets of their faith. In the context of their religious ministry, chaplains are not required to take actions that are inconsistent with their religious beliefs (e.g., altering the content of sermons or religious counseling, sharing a pulpit with other chaplains or modifying forms of prayer or worship).

Chaplains of all faiths care for all Soldiers and facilitate the free exercise of religion for all personnel, regardless of religious affiliation of either the chaplain or the individual.

Chaplains minister to Soldiers and provide advice to commanders on matters of religion, morals, ethics and morale in accordance with and without compromising, the tenets or requirements of their faith. If, in chaplains' discharge of their broader duties within the unit, they are faced with an issue contrary to their individual faith, they may refer the Soldier to other appropriate counsel.

*(Support Plan for Implementation, Appendix D, Q6)*

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### FAQ – EARLY DISCHARGE

#### **Will the Army establish a new category of early release from service commitments for Soldiers based on moral, religious or other objections to the repeal of Don't Ask, Don't Tell?**

No. The Army does not permit the early discharge of Soldiers based upon their opposition to the repeal of any new policy. This includes Don't Ask, Don't Tell or objection to serving with or living in the company of any Soldier.

Existing DoD regulations allow Soldiers with a service commitment to request early, voluntary discharge under their Service Secretary's plenary authority. Granting these types of requests is at the discretion of the Service Secretary and is granted only when the early separation would be in the best interest of the Army. Commanders retain their current authority under existing Army personnel management policies to assist personnel within their units who desire to separate from the Army when in the best interest of the Army, the unit and/or the individual in question. Soldiers are advised to talk to their chain of command and/or seek legal assistance to ensure they understand the available options within the Army for pursuing separation for any reason.

*(Support Plan for Implementation, Appendix D, Q8)*

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### FAQ – FACILITIES

#### **Will the Army build separate living or bathroom facilities for gay and straight Soldiers?**

No. Building separate facilities would create divisions within units and inappropriately isolate a portion of the force.

*(Support Plan for Implementation, Appendix D, Q12)*

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### FAQ – ACCOMMODATIONS

#### **Does a Soldier have the legal right to refuse to share accommodations and/or facilities with a gay, lesbian or bisexual Soldier?**

No. Soldiers do not have a legal right to reject (or select) assignment with any other Soldier within shared military accommodations and facilities. In addition, Soldiers do not have the legal right to refuse work or duty assignments based on a moral objection to another individual's sexual orientation.

If a Soldier has a concern with a billeting or work arrangement for any reason, he or she should address those concerns appropriately within their chain of command. Commanders may use discretion in personnel assignments to berthing, housing and other facilities to maintain morale, good order and discipline based on Army policies and space available.

Accommodation requests for any reason are considered on a case-by-case basis.

Mission readiness, unit effectiveness and good order and discipline remain the priority. Refusal to comply with lawful orders may result in disciplinary action.

*(Support Plan for Implementation, Appendix D, Q13)*

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### FAQ – MEDICAL

#### **Will repeal of Don't Ask, Don't Tell have health implications for the military?**

No. DoD research found that there would be no increase in Soldier health risk. Existing policies and procedures for HIV screening and testing, management of HIV-positive personnel and management of the military blood supply will continue to be effective following repeal of the law. The Service Surgeons General have examined this issue and determined there would be no increased risk.

*(Support Plan for Implementation, Appendix D, Q9)*

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### FAQ – EQUAL TREATMENT

#### **How will the military handle discrimination towards gay, lesbian and bisexual Soldiers?**

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Unlawful discrimination against any individual or group is unacceptable.

General military equal opportunity (MEO) policy requires the promotion of “an environment free from personal, social or institutional barriers that prevent Soldiers from rising to the highest level of responsibility possible” and prohibits the evaluation of Soldiers on bases other than “individual merit, fitness and capability.”

Complaints regarding harassment or discrimination based on sexual orientation are dealt with through the chain of command, the Inspector General (IG) and other means established by the Army. Criminal harassment should be referred to appropriate law enforcement agencies for investigation.

*(Support Plan for Implementation, Appendix D, Q16)*

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### FAQ – ASSIGNMENT

#### **Are there any new restrictions on duty assignments or employment?**

No. There will be no special treatment or special arrangement for the assignment or employment of gay, lesbian and bisexual Soldiers. In these matters, all Soldiers will be considered equally regardless of sexual orientation.

*(Support Plan for Implementation, Appendix D, Q11)*

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### FAQ – RECRUITMENT

#### **How will repeal of Don't Ask, Don't Tell affect recruitment and retention policies?**

If otherwise qualified, individuals may join and serve in the Army without regard to sexual orientation.

Sexual orientation is not a factor in recruitment or retention in the Army, and the Department of Defense does not have sexual orientation targets or quotas for recruiting.

*(Support Plan for Implementation, Appendix D, Q2)*

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### FAQ – TRANSGENDER

#### **Can transgender or transsexual individuals join the Army?**

No. Transgender and transsexual individuals are not permitted to join the Army. The repeal of Don't Ask, Don't Tell has no effect on these policies.

*(Support Plan for Implementation, Appendix D, Q4)*

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### FAQ – REENTRY

#### **Will Soldiers honorably discharged under Don't Ask, Don't Tell be allowed to reenter the Army?**



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All honorably discharged Soldiers have an equal opportunity to apply for reentry. The Army will determine re-accession based on need and a number of other factors, but sexual orientation will not be a factor.

*(Support Plan for Implementation, Appendix D, Q3)*

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### FAQ – IMPACT ON FAMILY PROGRAMS

#### What is the impact of repeal on Family Programs?

Impact on family programs is dependent on the definition of “family member.” Military family working definition (from draft DoDI 1342.22, Military Family Readiness Systems) states: “ group composed of one Soldier and such Soldier’s dependents, two married Soldiers or two married Soldiers and such Soldiers’ dependents. To the extent authorized by law and in accordance with Army implementing guidance, the term may also include other nondependent family members.

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### FAQ – INFORMATION TO FAMILIES

#### How will Don’t Ask, Don’t Tell policy information be disseminated to military families?

DADT repeal education information materials will be posted on the following websites that provide timely, accurate information to military families:

- Military OneSource (MOS)
- MilitaryHOMEFRONT (MHF)
- Military Service specific Family Support websites
- Family Matters Blog
- Appropriate Facebook and Twitter pages

The Deputy Assistant Secretary of Defense for Military Community and Family Policy will provide links to DoD Don’t Ask, Don’t Tell policy change information to the National Military Family Association (NMFA) and other Non-government Offices supporting military families.

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### FAQ – FAMILY ADVOCACY

#### What Family Advocacy services are unmarried partners eligible for?

Family Advocacy Program (FAP) services, including New Parent Support, are open to anyone who is eligible for treatment in military medical treatment facilities (MTF).



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### FAQ – PHYSICAL ABUSE

#### What if a same sex civilian partner reports physical abuse to FAP?

Family Advocacy staff will conduct a basic assessment and safety plan and then refer the civilian partner to resources outside the installation. If the individual is eligible for treatment in a military medical treatment facility (MTF), all services can be provided.

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### FAQ – CHILD CARE

#### Who is eligible for Child Development Services?

No change. Eligibility of the children of an employee's same-sex domestic partner for DoD Child Development Programs (CDPs) are determined by Department of Defense Instructions (DoDI):

- Child Development Programs (DoDI 6060.2 §§ 4.3, E2.1.28)
- School Age Care Program (DoDI 6060.3 §§ 4.2.4, E2.1.14)

Employees must meet the definition of a parent as the “biological father or mother of a child; a person who, by order of a court of competent jurisdiction, has been declared the father or mother of a child by adoption; the legal guardian of a child or a person in whose household a child resides, provided that such person stands in loco parentis to that child and contributes at least one-half of the child's support. Public Law 101-189 and authorizes DoD civilians as eligible patrons of DoD Child Development Programs.

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### FAQ – YOUTH PROGRAMS

#### What is the impact of repeal on Youth Programs?

No change. Eligibility for participation in DoD youth programs is based on Morale, Welfare and Recreation (MWR) patron eligibility, which includes DoD civilians and military retirees. Eligible individuals must meet the definition of a parent as the “biological father or mother of a child; a person who, by order of a court of competent jurisdiction, has been declared the father or mother of a child by adoption; the legal guardian of a child or a person in whose household a child resides, provided that such person stands in loco parentis to that child and contributes at least one-half of the child's support.”

To the extent of availability of space and services, participation is also authorized for children and youth under the age of 19 who are not “dependents”.

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### FAQ – BENEFITS

#### Does repeal of Don't Ask, Don't Tell affect benefits for partners of gay, lesbian and bisexual Soldiers?

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Gay, lesbian and bisexual Soldiers are eligible for the same benefits as any single Soldier. For example, any single Soldier may extend to someone of their choosing benefits such as notification instructions on their DD Forms 93, *Record of Emergency Data* (RED), and may list the designated individual as an SGLI beneficiary. The Department of Defense is examining other benefits that may be included in this set.

**Context:** Under the Defense of Marriage Act (DOMA), the Federal Government defines marriage as a legal union between one man and one woman as husband and wife. The word “spouse” refers only to a person of the opposite sex who is a husband or a wife. Under DOMA, married/spouse benefits cannot be extended to an unmarried partner, to include same-sex partners.

*(Support Plan for Implementation, Appendix D, Q5)*

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