



The Freedom to Serve and the Freedom to Work

LGBT Service Members and Veterans
Deserve Employment Protections

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Introduction and summary

The mid-1990s were a dark time for lesbian, gay, bisexual, and transgender, or LGBT, Americans.

In 1993, Congress passed the so-called Don't Ask, Don't Tell policy, a law that mandated that gay, lesbian, and bisexual service members keep their sexual orientation a secret or face discharge from the military.² In 1996, President Bill Clinton signed into law the Defense of Marriage Act, or DOMA, defining marriage as between one man and one woman for the purposes of the federal government and federal benefits. That same day, Congress failed—by a single vote—to pass the Employment Non-Discrimination Act, or ENDA, which would have prevented employers from discriminating against workers and job applicants on the basis of sexual orientation.³

In the past three years, we have come a long way toward reversing the setbacks of the 1990s, particularly by highlighting the way in which these laws went against the American commitment to support and care for those who have contributed to the defense of this country: LGBT service members and veterans. First, in 2010, Congress repealed Don't Ask, Don't Tell, or DADT, meaning service members no longer had to hide who they love in order to serve the country they love. History was made again in 2013 when the Supreme Court struck down key provisions of the Defense of Marriage Act, thereby allowing the Department of Defense to recognize the same-sex spouses of service members for the purpose of military support programs and benefits. The American public has come to realize the gross injustice of subjecting LGBT service members and veterans to discrimination at the hands of the federal government.

Unfortunately, the third piece of legislation that Congress took up in the 1990s—basic civilian employment protections—does not address service members and veterans. There are more than 1 million members of the military and veterans who could benefit from ENDA,⁴ as these brave men and women also must eventually transition back to civilian life and earn a living to provide for their families. The freedom to serve and the freedom to work are interconnected.

LGBT Americans continue to face discrimination on an everyday basis, particularly in employment settings. Recent research suggests that these disparities are compounded for LGBT Americans who have served in uniform.⁵ It is imperative that our lawmakers honor the service of all veterans to ensure that they receive a fair shot at employment when they come home.

This report begins by highlighting some federal government actions to combat service member and veteran unemployment and the ways in which these actions fall short for LGBT people. Subsequently, we review the barriers to economic stability experienced by some LGBT workers in the general population and identify additional challenges facing LGBT service members and veterans specifically. More broadly, this report articulates how LGBT members of the military live at the intersection of two or more marginalized populations and shoulder the burden of multiple forms of discrimination simultaneously.

This report recommends the following actions be taken to address discrimination against LGBT service members and veterans and to give these Americans a fair shot at making a living and participating in our growing economy.

- Congress must pass the Employment Non-Discrimination Act to ensure that every service member and veteran has an equal shot at finding employment when they finish their tour of service.
- Alongside an inclusive ENDA, President Barack Obama should issue an executive order banning discrimination among federal contractors.
- Congress should pass the Restore Honor to Service Members Act in order to prevent discrimination and scrutiny in hiring service members discharged prior to 1993 for sexual orientation.
- Congress should pass the Charlie Morgan Military Spouses Equal Treatment Act of 2013 so that the Department of Veterans Affairs can recognize the legal marriages of all veterans, regardless of where they live.
- Congress should repeal the “license to discriminate” language that was included in the FY 2014 National Defense Authorization Act so that commanders have the proper tools at their disposal to prevent harassment and discrimination in the ranks.

The freedom to serve and the freedom to work are interconnected when we consider that there are more than 1 million LGBT veterans who must find work in the civilian sector after they finish their term of service.

- The Department of Veterans Affairs should continue to expand LGBT inclusive health care policies, especially for transgender veterans.
- The Department of Defense should review and update the medical regulations that govern enlistment in order to remove unnecessary barriers to service.

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