



# Implementing the Repeal of “Don’t Ask, Don’t Tell” in the U.S. Armed Forces

## Key Findings and Recommendations

March 2010

It is long past time to repeal the “Don’t Ask, Don’t Tell” law that bans openly gay men and women from serving in the military. No reputable or peer-reviewed study by the Pentagon or any independent research organization has ever shown that allowing service by openly gay personnel compromises military cohesion or effectiveness—the main argument speciously given by supporters of the policy to maintain the status quo.

A recent publication prepared for the chairman of the Joint Chiefs of Staff declared that “there is no scientific evidence to support the claim that unit cohesion will be negatively affected if homosexuals serve openly.” But perhaps most importantly, both service members and the American people have signaled that they no longer support this discriminatory policy. A recent poll of recently returned Iraq and Afghanistan veterans found that 73 percent are personally comfortable in the presence of gays and lesbians, including 37 percent who are very comfortable. Similarly, 75 percent of Americans in a recent *Washington Post* poll supported openly gay people serving in the U.S. military

Now that the administration and the top-ranking civilian and uniformed leaders of the Pentagon have called for an end to the policy, the change must be implemented as efficiently and smoothly as possible. In doing so, it is critical that the repeal of “Don’t Ask, Don’t Tell” not be perceived as a complicated puzzle requiring complex solutions and a long implementation period to address relatively minor problems.

The Center for American Progress has identified eight fairly limited and manageable administrative, bureaucratic, and legal changes that must be made to the military’s internal regulations dealing with training, conduct, housing, benefits, and other relevant topics to ensure the new policy is implemented smoothly.

CAP’s analysis found that most existing regulations are already neutral with respect to sexual orientation and therefore don’t need to be modified. Others will require minor changes in legislation or additional executive guidance. Our key findings include:

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## Training

- Mandate that the Department of Defense make sexual orientation part of existing servicewide nondiscrimination training programs
- Update all training manuals and the Military Equal Opportunity program to include nondiscrimination based on sexual orientation

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## Legal issues arising from repeal

- After “Don’t Ask, Don’t Tell” is repealed there will be no federal law prohibiting service members’ same-sex partners from receiving certain benefits afforded to the same-sex partners of civilian DoD employees and employees of other federal agencies, including the State Department. Certain benefits can be provided if the president revises and reissues his June 2009 White House memo on same-sex domestic partners to include the military services. Alternatively, the military can provide these benefits on its own.

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## Housing and common-use facilities

- Signal clearly that the military will not segregate housing, showering, and other common-use facilities based on sexual orientation
- Moreover, the military should look first to the State Department in order to determine if service members’ same-sex partners, who meet domestic partner criteria established by the State Department in January 2009, can be allowed to reside in on-base housing or receive the augmented basic housing allowance that married military personnel receive.

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## Benefits

- There is no federal law (beyond “Don’t Ask, Don’t Tell”) that prohibits the president from applying the June 2009 White House memo that establishes a procedure for extending certain benefits to the same-sex partners of federal civil service employees to the same-sex partners of service members.
- The White House memo called on the heads of all federal agencies except the Pentagon to “conduct a review of the benefits provided by their respective departments and agencies to determine what authority they have to extend such benefits to same-sex domestic partners of federal employees.” The Department of Defense should be called upon to do the same.

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## Conduct

- Congress should repeal the ban on sodomy in the Uniform Code of Military Justice, which is rarely enforced on heterosexuals, and replace it with a ban on all sexual acts that undermine good order and discipline.
- DoD should implement a broad code of social conduct based on the U.K. model that covers all personal relationships and behavior that undermine good order and discipline.

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## Discipline and promotion

- A broad code of social conduct should be implemented (as discussed in the above section) and the Military Equal Opportunity program should be amended to include issues of sexual orientation (as discussed in the training section).
- Beyond these measures, existing regulations are adequate to provide protection for both homosexual and heterosexual service members.

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## Retroactive compensation and reinstatement

- DoD should allow previously discharged service members the opportunity to re-enlist provided that they meet all other age, fitness, moral, and educational standards as all other prior service members must.
- Prior service applicants should follow existing application procedures whenever possible. The services, Congress, and the White House should work together to establish a fair and uniform procedure for considering requests from former officers.
- Congress should permit a one-time temporary exception for service members discharged under “Don’t Ask, Don’t Tell” who wish to re-enlist if the only barrier to their re-enlistment is a restriction on the number of noncommissioned officers or commissioned officers who may be maintained in a particular military rank.

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## Health concerns

- Existing health regulations are adequate and do not need to be revised, including pre-entry HIV testing and regular testing for active-duty service members and troops about to deploy.

*To access the full report please go to [http://www.americanprogress.org/issues/2010/03/dadt\\_repeal.html](http://www.americanprogress.org/issues/2010/03/dadt_repeal.html).*