

JROTC AND "DON'T ASK, DON'T TELL:" WHAT LGBT STUDENTS SHOULD KNOW

What is "Don't Ask, Don't Tell, Don't Pursue, Don't Harass?"

In 1993, Congress passed a law called "Don't Ask, Don't Tell" requiring lesbian, gay and bisexual (LGB) service members to be secretive or closeted about their sexual orientation or face discharge. The Department of Defense may fire service members if they: 1) tell anyone that they are lesbian, gay or bisexual; 2) engage in same-sex acts, including sex, kissing and even hand-holding; and/or 3) marry or attempt to marry someone of the same sex.

"Don't Ask, Don't Tell" is the only federal law that explicitly requires lesbian, gay and bisexual people be fired from their jobs because of who they are. In fact, three to four service members lose their jobs every day under the law. Since the law was passed, more than 7,800 service members have been discharged for being lesbian, gay or bisexual. Because the effect of this law is to discriminate against lesbian, gay and bisexual service members, the law encourages harassment and other forms of anti-gay discrimination in addition to being fired.

To try to prevent the spread of these problems, the Pentagon included the concepts of "Don't Pursue, Don't Harass" to the law. "Don't Pursue" is a series of guidelines and regulations attempting to limit when a service member's sexual orientation can be investigated. "Don't Harass" is a series of guidelines and regulations intended to promote respect for all service members, regardless of their sexual orientation, and to create safe spaces for service members to report anti-gay harassment.

Despite the addition of these two concepts, improper investigations still occur and anti-gay harassment is widespread in the military.

Can a lesbian, gay or bisexual person serve in the military under "Don't Ask, Don't Tell?"

Legally: Yes. The law allows lesbian, gay and bisexual people to serve if they hide their sexuality.

Reality: The military has interpreted the law to mean that service members may not tell anyone, anywhere,

anytime about their sexual orientation, including doctors, mental health care workers, family, friends and co-workers both inside and outside the military. This means that a person must be closeted about their sexual orientation in most every part of their life to reduce the risk of being fired.

Can the military investigate a service member they think is lesbian, gay or bisexual at anytime?

Legally: No. Under military regulations, the military may only investigate a service member's sexual orientation if they have "credible evidence" from a "reliable source" that the service member is lesbian, gay or bisexual.

Reality: Many service members are investigated for being LGB based on very little evidence. Service members have been investigated after their commands received anonymous reports that they were LGB. Some service members have been investigated for being LGB because they refused to have sex with or date their opposite gender supervisor and the supervisor then accused them of being LGB. "Don't Ask, Don't Tell" is often used as a weapon by people to get back at service members they do not like.

Does "Don't Ask, Don't Tell" apply to students in JROTC?

No. "Don't Ask, Don't Tell" only applies to active and reserve service members who have taken an official oath for the branch of the military they are entering. JROTC students cannot officially recite an oath of service and are not in the military.

Can a high school student be involved in GSA and JROTC at the same time?

Legally: Yes. There is no law preventing a JROTC student from also belonging to GSA.

Reality: While the law does not prevent students from belonging to JROTC and GSA, openly LGB high school students may have a hard time adjusting if they join the military because they must keep their sexual orientation secret.

If a JROTC student is harassed because he/she is perceived to be lesbian, gay or bisexual, what should that student do?

That student should immediately report the harassment to a school supervisor. If the harassment is coming from other JROTC students, the student should report the harassment to the JROTC instructor. If the JROTC instructor does not end the harassment, the student should report both the harassment and the JROTC instructor's failure to stop the harassment to a school supervisor.

Are military recruiters allowed to come to high schools to recruit students for the military?

Legally: Yes. Military recruiters aggressively recruit students in high schools, and by law are allowed to go into high schools to recruit new members into the military. Additionally, recent Federal law gives military recruiters access to student contact information to engage in recruitment activities outside of the school.

In fact, high school students are a primary target for military recruiters because the military offers young people great opportunities for education and training. Military recruiters are not allowed to ask students about their sexual orientation and should not stop recruiting a student just because the student belongs to GSA or is lesbian, gay or bisexual.

Reality: If a military recruiter is told, or believes, that a student is LGB, it is very likely they will not spend time trying to get that student to join the military.

Will belonging to a GSA in high school prevent a student from being recruited for military service?

Legally: No. The law states that service members may engage in "associational" behavior. That means that having lesbian, gay or bisexual friends, belonging to a LGB related organization, or reading LGB publications is not against the law and cannot be used to prove someone's sexual orientation.

Reality: While belonging to GSA should not prevent a student from being recruited into the military, if the GSA student is openly lesbian, gay or bisexual they may have problems. You cannot serve in the military as openly lesbian, gay or bisexual.

Can a lesbian, gay or bisexual high school graduate attend any of the service academies (West Point, Naval Academy, Air Force Academy, etc.)?

Legally: Yes. Lesbian, gay and bisexual service members

can serve as long as they are secretive about their sexual orientation.

Reality: A lesbian, gay or bisexual student must keep their sexual orientation hidden while attending the academy, which means a cadet may not tell anyone, anywhere, anytime about their sexual orientation, including doctors, mental health care workers, family, friends and fellow students both inside and outside the military. If a LGB cadet's sexual orientation is discovered, the cadet will be kicked out of the academy and may be asked to pay the military back for the money already spent on his or her education.

Can a lesbian, gay or bisexual high school graduate attend college on an ROTC scholarship?

Legally: Yes. However, unlike JROTC students, college ROTC students are considered service members and "Don't Ask, Don't Tell" applies to them.

Reality: If a LGB ROTC student's sexual orientation is discovered, the student will be kicked out of the ROTC program, will lose his or her ROTC scholarship, and may be asked to pay the military back for the money already spent on his or her education.

If an ROTC or military academy student is harassed because he/she is perceived to be lesbian, gay or bisexual, what should that student do?

The student should report the harassment to the command and school authorities immediately. However, if the student is lesbian, gay or bisexual, the student must be careful not to tell the command or academy authority his or her sexual orientation when reporting the harassment because he/she could be kicked out of the ROTC program or out of the military academy. ROTC students at schools that have policies to protect LGB students may have added protection because they can report the harassment, and their ROTC command's failure to stop the harassment, to a civilian school authority. However, students must remember not to disclose their sexual orientation to the entity to which they report the harassment.

What does "Stop-Loss" mean and does it affect how "Don't Ask, Don't Tell" is applied against lesbian, gay or bisexual people serving in the military?

During the recent war against terrorism, many of the military services ordered a "Stop-Loss." This means that the services stopped discharging service members if they work in jobs important to the war. This does not apply to LGB discharges. Lesbian, gay or bisexual service members are still discharged if their sexual orientation is discovered.

Does "Don't Ask, Don't Tell" apply to transgendered service members?

Legally: No. The policy applies to sexual orientation, not gender identity.

Reality: Often times, service members who are gender non-conforming are thought to be lesbian, gay or bisexual. These service members often face harassment by their fellow service members and commands may try to discharge them for being LGB, even if they are not. It is important to know that the "Don't Harass" part of the policy protects everyone - regardless of gender or sexual orientation - from being harassed because they are perceived to be lesbian, gay or bisexual. This section protects against discrimination that is based upon perceived sexual orientation; it does not prohibit discrimination that is purely based on gender identity.

Can Transsexuals join the military?

No. While "Don't Ask, Don't Tell" does not prevent transsexuals from serving in the military, other regulations do prevent their service. Military medical regulations state that transsexualism is considered to be a disqualifying medical condition. Prior to joining the military, service members are required to have a physical exam which must include a complete medical history. If a transsexual person lies or does not include all medical information, the person could be punished for making a false statement or fraudulently enlisting.

What will happen if a service member dresses in clothes that are not considered to be standard for his or her gender?

While in uniform, service members must follow the uniform regulations that are established by the military. These regulations prescribe, for example, that males (as perceived by the military) wear male uniforms. When in civilian clothes, "cross-dressing" is often viewed as being harmful to military good order and discipline. The military only recognizes anatomical gender and does not understand transgender or gender identity issues. If the military discovers a service member is wearing clothes considered to be for the opposite gender from what the military knows them to be anatomically, on or off duty, the service member will most likely be disciplined for violating regulations, and then discharged.

What would happen if a service member came out as transgender while they are serving in the military?

They would be discharged. In general, the military views being transgender as a medically disqualifying condition that interferes with a service member's ability to perform his or her duties.

For More Information, Contact:

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GLSEN is the leading national organization working to end anti-gay bias in K-12 schools. Established nationally in 1995, GLSEN has become one of the premiere voices for safety and equality in the education system. For more information visit www.glsen.org



Servicemembers Legal Defense Network (SLDN) is dedicated to ending witch hunts, death threats, imprisonment, lesbian-baiting, discharges and other discriminatory actions against men and women in the military harmed by "Don't Ask, Don't Tell, Don't Pursue, Don't Harass," and related policies, through direct legal assistance, watchdog activities, policy work, outreach and education, and litigation support.