

REPEAL OF DON'T ASK, DON'T TELL

Navy Frequently Asked Questions (FAQs)

FAQ – TRAINING

What training will be required for Sailors and their families when repeal occurs?

Sailors will be informed of the change in policy and expectations for behavior. Sailors involved in certain functions (e.g., administrative, legal or investigative) may receive additional training 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, Navy policy staff, lawyers, chaplains and medical personnel.

(Support Plan for Implementation, Appendix D, Q17)

FAQ – POLICY

What is the new policy on sexual orientation in the military?

Service members 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. Sailors may inform others of their sexual orientation at their own discretion.

The Department of Defense will not ask Service members to identify their sexual orientation. The Department of Defense will not collect or maintain data on an individual's sexual orientation.

(Support Plan for Implementation, Appendix D, Q1)

FAQ – POLICY APPLICATION

Does the new policy apply equally to all Active, Reserve and Guard components?

Yes. Department of Defense (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)

FAQ – STANDARDS OF CONDUCT

Does repeal affect standards of conduct?

No. Standards for personal and professional conduct apply uniformly without regard to sexual orientation.



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Navy Frequently Asked Questions (FAQs)

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

Unprofessional behavior by any Sailor 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 Sailors or other Service members will not be tolerated. *(Support Plan for Implementation, Appendix D, Q14)*

FAQ – 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 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)

FAQ – RELIGIOUS RIGHTS

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

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

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

Service members 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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Navy Frequently Asked Questions (FAQs)

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 Service members and facilitate the free exercise of religion for all personnel, regardless of religious affiliation of either the chaplain or the individual.

Chaplains minister to Service members and provide advice to Commanding Officers 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 Sailors to other appropriate counsel.

(Support Plan for Implementation, Appendix D, Q6)

FAQ – EARLY DISCHARGE

Will the Department of Defense establish a new category of early release from service commitments for Service members based on moral, religious or other objections to the repeal of Don't Ask, Don't Tell?

No. The Department of Defense does not permit the early discharge of Service members 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 Service member.

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

(Support Plan for Implementation, Appendix D, Q8)



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Navy Frequently Asked Questions (FAQs)

FAQ – FACILITIES

Will the Department of Defense build separate living or bathroom facilities for gay and straight Service members?

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

(Support Plan for Implementation, Appendix D, Q12)

FAQ – ACCOMMODATIONS

Does a Sailor have the legal right to refuse to share accommodations and/or facilities with a gay, lesbian or bisexual Service member?

No. Sailors do not have a legal right to reject (or select) assignment with any other Service member within shared military accommodations and facilities. In addition, Sailors 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 Sailor has a concern with a billeting or work arrangement for any reason, he or she should address those concerns appropriately within the chain of command. Commanders will continue to assign personnel to accommodation or berthing facilities using current policies, based on gender segregation, availability, mission accomplishment, and the preservation of good order and discipline. Under no circumstances may they assign personnel to accommodations based on sexual orientation.

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)

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 Service member 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 Service members?

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 Service members from rising to the highest level of responsibility possible,” and prohibits the evaluation of Service members 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 Navy. Criminal harassment should be referred to appropriate law enforcement agencies for investigation.

(Support Plan for Implementation, Appendix D, Q16)

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 Sailors. In these matters, all Sailors will be considered equally regardless of sexual orientation.

(Support Plan for Implementation, Appendix D, Q11)

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 Military Services without regard to sexual orientation.

Sexual orientation is not a factor in recruitment or retention in the Military Services, 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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Navy Frequently Asked Questions (FAQs)

FAQ – TRANSGENDER

Can transgender or transsexual individuals join the Military Services?

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

(Support Plan for Implementation, Appendix D, Q4)

FAQ – REENTRY

Will Service members honorably discharged under Don't Ask, Don't Tell be allowed to reenter the Military Services?

All honorably discharged Service members have an equal opportunity to apply for reentry. The Navy 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)

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) state: "a group composed of one Service member and such Service member's dependents, two married Service members or two married Service members and such Service members' dependents. To the extent authorized by law and in accordance with Navy implementing guidance, the term may also include other nondependent family members.

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



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Navy Frequently Asked Questions (FAQs)

Deputy Assistant Secretary of Defense for Military Community & Family Policy will provide links to DoD DADT Policy Change information to the National Military Family Association and other Non-government Offices supporting military families.

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).

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 out-side the gate. If the individual is eligible for treatment in an MTF, all services can be provided.

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)

Employee 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”.

FAQ – BENEFITS

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

Gay, lesbian and bisexual Sailors are eligible for the same benefits as any single Sailor. For example, any single Sailor may extend to someone of their choosing benefits such as notification instructions on their Forms 93, *Record of Emergency Data* (RED), and listing 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)

