

## **Transgender Service Members**

Although “Don’t Ask, Don’t Tell” does not target service members on the basis of gender identity, the law adversely impacts all members of the armed forces. Lesbian, gay and bisexual service members are barred from service under a statute known as “Don’t Ask, Don’t Tell.” This law does not directly address military service by transgender persons because by definition it is a ban on military service because of sexual orientation. However, transgender service members may be perceived as being lesbian or gay by others in the military and therefore may end up being investigated under “Don’t Ask, Don’t Tell.”

The military regulations that directly apply to transgender individuals break down into two basic categories: 1) medical regulations, and 2) conduct regulations. How these regulations may impact transgender individuals depends on what their service status is with the military.

**Entering the Military** – Transgender individuals are prohibited from entering military service by medical regulations. To join the military, potential service members are required to undergo a physical examination as part of the entry process. During this examination, the military may reject the potential service member if he or she has had any type of genital surgery. Furthermore, even if the potential service member has not had surgery but identifies as transgender, the military considers this to be a mental health condition which disqualifies them from entering military service. Transgender individuals may request a waiver to enter the military, although waivers are difficult to obtain. Any transgender individual interested in joining the military should contact SLDN for more information about the waiver process.

**Active Duty Military** – Transgender individuals who are already in the military and who are thinking about beginning their transition should think twice about this decision. The military currently has a strong bias against service by transgender individuals and is unlikely to provide the medical support necessary for transitioning service members. The medical and mental health regulations described above apply to currently serving individuals, so even if transgender service members seek treatment from civilian health care providers, they are at risk because they have a duty to report such treatment to the military. Failure to abide by these regulations could result in criminal prosecution by the military.

Also, the military strictly regulates uniform and grooming standards by gender. “Cross-dressing” or perceived “cross-dressing,” even in the context of following medical protocol in advance of full transition, will probably be considered a violation of military regulations and result in discipline, discharge or criminal prosecution.

**Individual Ready Reserve Military** – Transgender persons recalled to duty from the inactive reserve may need to consider halting their transition process while they complete their active duty requirement because of the regulations discussed above. Otherwise, transitioning or post-transitioning reservists may be medically disqualified for continued service once they are recalled to duty and receive physical examinations.

Any transgender individual with questions about military service or who is being harassed or is under investigation based on his or her status as transgender should contact SLDN by either

calling (202.328.3244, ext. 100) or emailing ([legal@sldn.org](mailto:legal@sldn.org)) to schedule an appointment with one of our legal staff.