



DEPARTMENT OF DEFENSE

ISSUE: HALF SEPARATION PAY WHEN DISCHARGED UNDER THE HOMOSEXUAL CONDUCT POLICY (HCP), COLLOQUIALLY KNOWN AS “DON’T ASK, DON’T TELL” (DADT).

POLICY DESCRIPTION: Service members otherwise entitled to full separation pay only receive half separation pay if they are discharged under DADT. Our goal is for these service members to receive full separation pay.

Service members with at least six years of honorable active duty service who are involuntarily discharged from active duty are often entitled to separation pay. Separation pay is akin to a severance package – it’s the financial bridge on which many service members rely in transitioning from military to civilian life.

When a member is discharged under DADT, however, all of the services limit the payment to one-half of the separation pay that would normally be received. For example, AFI 36-3207, an Air Force instruction states, in part:

“A2.1.2. Half separation pay. Half-separation pay is payable [when] one of these specific conditions apply:... A2.1.2.3.1. Failure in the Fitness Program.... A2.1.2.3.2. Homosexual conduct.... A2.1.2.3.3. In the interest of national security.... A2.1.3.3. Dismissal or discharge as a result of a court-martial sentence.... A2.1.3.6. Discharge for substandard performance, misconduct or moral or professional dereliction.

A non-exhaustive list of analogous language from the various services can be found at AFI 36-3207, ¶ A2.2.3.2 (officers), AFI 36-3208 Ch. 9.3 (enlisted), MILPERSMAN 1920-040 .5, MCO P1900.16F ¶ 1305.2, COMDTINST 1910.1, CGPay Manual (COMDTINST M7220.29), §10-A, and DOD Financial Management Regulation Vol 7A, Chap 35, ¶ 350201.B.

Although there may be legitimate grounds for providing only half separation pay to those who are substandard performers or those who have been discharged for moral or professional dereliction, among other categories, there is no legitimate basis for cutting in half the separation pay of those



discharged under DADT. Halving this critical transition pay has adverse psychological and financial effects on those who are discharged. For example:

- SLDN has a client who was outed after more than 15 years of service, simply based on an on-line dating profile. “Adam” not only lost his entire pension, but also received only half separation pay. If he were discharged for almost any other reason, he would have received the full amount.

RECOMMENDATION FOR CHANGE:

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Service Guidelines and Regulations Governing Separation Pay in the Armed Forces – Full Separation Pay

10 U.S.C. § 654, colloquially known as “Don’t Ask, Don’t Tell” (DADT), does not address separation pay and consequently, nowhere does it require that the services deny full separation pay to those who are discharged under DADT. Nonetheless, all of the services continue to mandate that those discharged under DADT, who are otherwise entitled to receive full separation pay, only receive half.

Because these members are effectively paired with substandard performers and those who have been discharged for moral and professional dereliction, among other categories, those discharged under DADT are forced to bear an undue psychological and financial burden.

At a time when members of the armed forces are discharged after facing multiple and extended deployments, and it is undisputed that those discharged under DADT share that burden, those discharged under DADT who are otherwise entitled to separation pay should receive the full amount.

Based on this reasoning, the individual service guidelines and regulations governing separation pay should:

- Remove homosexuality and/or homosexual conduct from the categories of those who receive only half separation pay.
- Write affirmative language guaranteeing that those discharged under DADT, who are otherwise entitled to separation pay, must receive full separation pay.



*A new beginning: Policy recommendations to improve the lives of LGBT people and eliminate
discrimination from federal policies*

PROCESS FOR MAKING CHANGES: The Department of Defense is responsible for the directives implementing the requirements of 10 U.S.C. § 654. The Secretary of Defense can either issue the necessary directives or delegate that authority to persons within the Department. The Secretary of each military department, Army, Navy, Marines, and Air Force, is required to ensure that the mandates are followed by his or her respective branch although commanding officers are primarily responsible for the implementation of the proscribed instructions.