



Allowing People With HIV to Enlist

Lambda Legal seeks an end to a “discriminatory” policy.

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The U.S. military is being sued over a policy that prevents people living with HIV from enlisting in the armed forces. The lawsuit was filed in November 2022 by Lambda Legal, which advocates for the LGBTQ and HIV communities and argues that the policy is “senseless” and “discriminatory.” The lawsuit was filed on behalf of three plaintiffs living with HIV.

Minority Veterans of America (MVA), a nonprofit advocacy group that represents minority veterans and service members, including people with HIV who wish to serve in the military, is another plaintiff in the lawsuit. Joining Lambda Legal in the case are cocounsels Winston & Strawn LLP, Perkowski Legal, PC, and Scott A. Schoettes, Esq.

“The existing policy is out of step with science and unlawfully excludes people living with HIV from performing as members of the U.S. military. A positive HIV status alone has no effect on a person’s ability to safely serve,” says Kara Ingelhart, Esq., senior attorney at Lambda Legal in the press release. “Because HIV disproportionately impacts LGBTQ+ people and people of color, this discriminatory policy is not only outdated but is also a serious equity issue that has a significant impact on communities who already face countless systemic barriers to accessing full life in America. Striking this policy would help expand opportunities for the 1.2 million people in the U.S. living with HIV—42% of whom are Black and 21.7% are Latinx.”

The lawsuit arrives in a year of several milestones for service members living with HIV. In April 2022, a federal judge struck down a Pentagon policy that discharged service members living with HIV and denied them promotions.

A few months later, the Department of Defense updated its policy to allow service members living with HIV whose viral load is undetectable to continue to serve and remain deployable.

In addition, the policy prevents commanders from involuntarily separating service members living with HIV from other troops and from blocking them from training to become officers. It also allows cadets and midshipmen—young people already on the path to military leadership—who test HIV positive to continue their commissioning programs.

Each year, about 350 service members test positive for HIV, according to a 2019 congressional report. Lambda Legal estimates that, overall, about 2,000 service members are living with HIV.

