



# Defense Department Settles Lawsuit With Military Graduates Living With HIV

Two military graduates—a former midshipman and cadet—were denied commissions because they had HIV. In 2018, they sued; the discriminatory policy ended in 2022.

April 12, 2024 By [Trent Straube](#)

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The Department of Defense has settled a 2018 [lawsuit](#) filed by two military academy graduates who were denied officer commissions because they were living with HIV, [according to a press statement by Lambda Legal](#), an [LGBTQ](#) and [HIV](#) advocacy group.

One plaintiff is former Navy midshipman Kevin Deese; the other is a former Air Force cadet who remains anonymous. According to the terms of the settlement, both are to be commissioned—that is, they will receive a rank—as officers, a status that they earned but were denied.

In fact, the [Department of Defense updated its policy in 2022](#) (after Deese and his co-plaintiff filed their lawsuit) and this type of HIV discrimination is now prohibited. Specifically, the updated policy allows cadets and midshipmen—young people already on the path to military service—who test HIV positive to continue their commissioning program. Notably, the policy update also states that service members living with [HIV](#) whose viral load is [undetectable](#) can continue to serve and are deployable.

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“We are gratified that our clients, who were denied officer commissions they had earned because of the U.S. military’s discriminatory policy of withholding career advancement opportunities from HIV-positive service members, will now be able to achieve their goals,” said Kara Ingelhart, senior attorney at Lambda Legal, in the statement. “Service members living with HIV, once affected by

an outdated, discriminatory policy, no longer face discharge, bans on commissioning, or bans on deployment simply because they are living with HIV.”

“Joining my brave co-plaintiff in this case was, for me, about demonstrating the very leadership that inspired me to a military career. I follow the mantra of 2004 Naval Academy graduate Travis Manion—“If not me, then who?” added Kevin Deese. “Now, 10 years after my Naval Academy graduation, future midshipmen and cadets living with HIV will be able to commission with their classmates upon graduation. And I could not be more proud to finally be commissioning.”

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.

However, under current U.S. policy, people living with HIV are prohibited from enlisting in the military. [A lawsuit aims to change that](#), as do to push the Department of Defense to allow people with HIV and hepatitis B to enlist.

The two plaintiffs in the 2018 lawsuit aren’t the only military members living with HIV to be commissioned since the 2022 policy change. For example, [Nick Harrison, a service member with HIV, became a commissioned officer](#) last August.