



HUMAN  
RIGHTS  
CAMPAIGN®

May 2, 2014

The Honorable Eric K. Shinseki  
U.S. Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Secretary Shinseki,

On behalf of the Human Rights Campaign's (HRC) more than 1.5 million members and supporters nationwide, I write to reiterate concerns expressed in our November 2013 letter to you regarding implementation of last summer's U.S. Supreme Court decision in *U.S. v. Windsor* and the availability of benefits to same-sex spouses of veterans. Last summer's decision invalidated part of the Defense of Marriage Act (DOMA), opening up federal recognition to legally married same-sex couples. However, there remains important work to be done, across agencies, to ensure full implementation of the *Windsor* decision. We recognize that under your leadership, the Veterans Administration (VA) has published useful guidance addressing spousal benefits for same-sex couples whose marriages are recognized by the state in which they live, or whose marriages were recognized by the state in which they lived at the time of marriage. However, we remain concerned that the VA has yet to make clear the eligibility of other legally married same-sex couples.

These outstanding areas of concern are acutely illustrated by the recent denial of the burial of the same-sex spouse of an eligible veteran in the Idaho State Veterans Cemetery. As you may be aware, the Division of Veterans Affairs denied U.S. Navy veteran Madelynn Taylor's application for burial beside her wife whose ashes were interred in the cemetery in 2012 citing the state ban on recognition of same-sex marriages. Following this denial, a fellow veteran has offered Taylor his plot. However, this transfer has still not been approved by the Division of Veterans Affairs, citing Idaho's state ban on recognition of same-sex marriages.

The denial of this most basic benefit violates the dignity of all LGBT veterans and is fundamentally inconsistent with the mission of the Department of Veterans Affairs. We urge the Department to take all steps within your purview to end this harmful, needless discrimination and to ensure all veterans the basic dignity of burial beside their spouse. Contrary to the broad standard of recognition currently utilized by the Department of Defense for active duty military

personnel, the VA's current limited recognition policy will undoubtedly leave thousands of families in the same position as Ms. Taylor simply because of where they live.

Although we acknowledge the challenge that the language of 38 U.S.C. § 103 presents, we believe the Department retains sufficient administrative discretion to adopt a broader interpretation that would increase recognition for legally married same-sex couples. Historic administration of the benefits program has consistently looked beyond substantive state marriage laws and has relied instead on a more nuanced choice of law analysis. Further, we believe that application of the *Windsor* decision's equal protection analysis calls such restrictive recognition requirements into question. We urge the VA to fully engage this issue and to undertake an analysis of the impact of the current policy on veterans and their families.

We thank you for the opportunity to bring these issues to your attention. We appreciate your leadership and commitment to ensuring that every military family has access to the benefits that they have earned, regardless of sexual orientation or gender identity. Please do not hesitate to contact me if we can serve as a resource as you move forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Griffin", with a stylized flourish extending to the right.

Chad Griffin  
President