



HUMAN
RIGHTS
CAMPAIGN®

October 17, 2013

The Honorable Chuck Hagel
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Secretary Hagel,

As president of the Human Rights Campaign (“HRC”), the nation’s largest lesbian, gay, bisexual, and transgender civil rights organization with over 1.5 million members and supporters across the country, I am writing to thank you for working to ensure married gay and lesbian service members across the country have equal access to benefits for their families, and express our concern that some state authorities are seeking to impede that access for members of the National Guard.

Only a day after the Pentagon began issuing military IDs to same-sex spouses and enrolling them in benefits programs like TRICARE, the Texas Military Forces announced that it would not permit Texas National Guard members to enroll at facilities run by the state, citing a potential conflict with Texas marriage law. In subsequent weeks, state officials in Louisiana, Mississippi Oklahoma and South Carolina have publicly taken similar positions, and there is anecdotal evidence of such exclusionary practices in a few other states.

While we are not aware of any state where the same-sex spouse of a National Guard member has been unable to obtain an ID and enroll in benefits programs at a federal facility, the actions of these state officials nonetheless perpetuate discrimination and place additional, unnecessary burdens on service members and their families as they seek to access benefits to which, after the Supreme Court’s decision in *Windsor v. United States* this summer, they are entitled as a matter of law. It is fundamentally unfair that some Guard members and their spouses must take time away from work and family responsibilities and travel, in some cases hundreds of miles, simply to access these benefits.

We recognize that National Guard units have a unique “dual status” within our nation’s Armed Forces and, when not activated by Congress, the President or the Secretary of Defense, are under the command of state’s governor and adjutant general. However, Congress and the Defense Department maintain significant constitutional and statutory authority over the organization, training, and supplying of Guard units at all times. The family benefits now available to the same-sex spouses of service members, including Guard members, are both operated and funded entirely by the federal

government. The only role of state facilities and employees is purely administrative: to process enrollment paperwork and issue IDs.

It is certainly true that Louisiana, Mississippi, Oklahoma, Texas and South Carolina – as well 30 other states – have adopted statutory or constitutional prohibitions against either performing or recognizing marriages between same-sex couples. While we believe that these restrictions violate fundamental protections under our Constitution – a position shared by the Justice Department and an increasing number of federal courts – we acknowledge that those are statements of those states’ public policy. However, we do not believe that the simple act of processing enrollment into federally-funded benefits programs for the families of Guard members constitutes any state government recognizing a same-sex marriage in contravention of its laws. The fact that the majority of states with discriminatory marriage laws have not followed the model of these four states lends great credence to that conclusion.

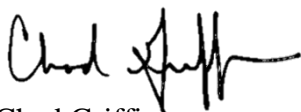
The actions of these states are, however, clearly in conflict with Defense Department policy. Since the end of “Don’t Ask, Don’t Tell”, the Pentagon has worked admirably, and with tremendous success, to ensure that gay and lesbian service members are treated fairly and equally. With the Supreme Court’s action this summer, the Department was able to leave yet another discriminatory barrier behind and ensure equal treatment of same-sex military families. Under your leadership, it has done so swiftly and in a manner that should ensure all married couples, regardless of where they live, receive equal recognition.

By perpetuating discrimination against lesbian, gay and bisexual Guard members, these states are out of step with the Department’s unreserved support for open service. More broadly, by erecting unnecessary barriers to enrollment for members of their Guard units, these states undermine the Defense Department’s goal of full integration of active duty and reserve units under the Total Force Policy.

We are enormously grateful for your leadership, that of your predecessors, and of the service chiefs in facilitating the successful implementation of “Don’t Ask, Don’t Tell” repeal and the swift and broad extension of family benefits in the wake of the *Windsor* decision. However, the actions of Louisiana, Mississippi, Oklahoma, South Carolina and Texas threaten some of that enormous progress. Without strong opposition from the Department, more states may follow suit, once again placing the burden of discrimination on the brave gay and lesbian soldiers and airmen serving our nation through the National Guard, and the families supporting them at home.

I urge you to act immediately to direct the governors and National Guard leadership in every state to remove any barriers to the enrollment of Guard members’ same-sex spouses in all benefits programs under the Department’s control.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Griffin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chad Griffin
President