



Georgetown University Law Center

DATE: September 17, 2008
TO: Law Center Community
FROM: Dean T. Alexander Aleinikoff
RE: Military Recruitment

Tomorrow military recruiters will be participating in the Law Center's Government Interview Program sponsored by our Office of Public Interest and Community Service. Because the Armed Services permit gay men, lesbians and bisexuals to serve in the military only if such individuals neither disclose nor act upon their sexual orientation, permitting recruiters from the Armed Services to interview law students is not consistent with the Law Center's policy of requiring employers who recruit here to agree not to discriminate on the basis of sexual orientation. This letter is intended to clarify why recruiters for the armed services are nonetheless being allowed to interview as part of the Government Interview Program.

The Law Center prohibits discrimination in education and employment on the basis of age, color, gender, handicap, marital status, national origin, race, religion and sexual orientation. The Association of American Law Schools, of which we are a member, has a comparable policy. In light of these policies, the law faculty voted in 1991 to bar the military from interviewing students on campus.

In 1994, Congress adopted a provision, known as the Solomon Amendment, which requires schools to provide the military with full access to students for recruitment purposes or risk termination of certain federal funds. Shortly after passage of this provision, the Law Center was placed on a list of schools ineligible to receive Department of Defense (DOD) monies. This action in turn put those Georgetown law students who are in the military at risk of losing their DOD financial aid. To avoid that result, the faculty revised its policy in 1995 to permit the Armed Services to advertise jobs in student mailboxes and to interview interested students at the Main Campus of the University.

For a time, this solution appeared to satisfy the recruitment needs of the Armed Services. Over the past several years, however, the Department of Defense has interpreted the Solomon Amendment to place at risk not simply the federal grant and contract funds of the Law Center, but those of the entire University. In addition, four years ago, the DOD began to demand strictly equivalent treatment with other employers. In light of these changed circumstances, branches of

the military are now permitted to participate in our Government Interview Program.

The decision to permit military recruiters to interview law students was reached only after broad consultation with the University's General Counsel, the President of the University, members of the faculty, senior administrators, and many students. Senior administrators and faculty met with Outlaw, a student group for gay, lesbian, bisexual, and transgendered students and their supporters, to inform them of the situation and to seek their suggestions for shaping our response.

The fact that military recruiters are permitted to participate in the Government Interview Program does not mean that the Law Center has retreated in any way from our strongly held view that gay, lesbian and bisexual students should be able to seek any and every job for which they are qualified—and that they should be permitted to serve in those jobs with honesty, integrity and pride. It is unfortunate that federal policy does not take the same view.

In December 2004, the Law Center faculty voted to become a member of the Forum for Academic and Institutional Rights (FAIR). FAIR, and several other plaintiffs, sued the government, arguing that the Solomon Amendment impermissibly burdened their First Amendment free association and free speech rights. The Supreme Court ultimately rejected the challenge. *Rumsfeld v. FAIR*, 547 U.S. 47 (2006).

While the Court has held that Congress has the authority to adopt the Solomon Amendment, this decision does not settle the question of whether the Amendment is sound policy. We continue to believe that it is not.

I want to underscore that the Law Center is opposed to discrimination, not to military service. Generations of Law Center students and alumni have served in the military; many are serving today. We are proud of them and grateful to all the men and women of the Armed Services for the sacrifices they make to defend this nation. Indeed, it is because of the exceptional opportunities offered by the military to serve our country that equal access should be provided to all those who seek to serve.

We at the Law Center cannot, alone, change the hiring policy of the Armed Services. We can and will, however, make clear our opposition to discrimination through postings and through educational materials. We will support forums for discussion of the federal policy.

We will continue to do all that we can to assure gay, lesbian, and bisexual students, staff and faculty that they are welcome and valued members of our community. We know it must be painful for them to be barred from service simply for being candid about their sexual orientation. In a just world, there would be no discrimination on the basis of sexual orientation.