TRANSGENDER PEOPLE AND MILITARY RECORDS

Although current regulations restrict the ability of transgender individuals to serve openly, the National Transgender Discrimination Survey (NTDS) showed that 20% of transgender adults are veterans who have served in the military at some point. As transgender vets know, records with former names or outdated gender designations can compromise privacy and lead to harassment when applying for jobs or benefits and in other situations. Fortunately, it is now easier to update these records.

Does the Department of Defense have standard guidance for updating your name and gender marker on military records?

Currently there is no publicly available guidance from the Department of Defense on how to update your information in the Defense Enrollment Eligibility Reporting System (DEERS) and on the DD214 Military Discharge Record. NCTE continues to seek this guidance from the Defense Department. Until clear guidance is published, below are our recommendations for how to update your information on military records.

DD214 Military Discharge Record

Do I have a right to update the name on my DD214 Military Discharge Record?

Congress has authorized the correction of records when it is considered necessary either to rectify an error or to remove an *injustice* [10 U.S.C. § 1552 (a)(1)]. The form DD214 does not list gender but it does list your name. While for most non-transgender people a service record showing a former name does not communicate any sensitive information, for transgender people disclosure of the former name can be equivalent to disclosure of transgender status. This can be considered an *injustice,* and will be the strongest basis for your request to update your name on the DD214.

How do I apply to update the name on my DD214 Military Discharge Record?

Each military department of the military has their own Board for Corrections of Military Records that evaluates corrections of military records, and each Board has the discretion to evaluate requested corrections on a case-by-case basis. The websites for each Board and the address to submit your application for correction are in the Additional Resources section at the end of this document.

Generally speaking, to update your DD 214 Military Discharge Record you will need the following:

- DD Form 149, Application for Correction of Military Record: http://www.dtic.mil/whs/directives/forms/eforms/dd0149.pdf
- Evidence to support your name change request, as detailed below.

What should I say on the DD149 form to request a name change?

The DD149 form gives you the opportunity to make a case for why having a prior name on your military record is an injustice for you. You should personalize your responses on the DD149 form according to your situation. Below is sample language for certain questions to give you an idea of how you can make

your case. Because the Department of Defense has not published written guidance on this issue, this is simply NCTE's recommendation and may be updated over time.

Question 5. I request the following error or injustice in the record be corrected as follows:

I request the name on my DD 214 to be corrected. I am a transgender [man/woman/person]. I changed my legal name from [prior name] to [current name] in [year], as evidenced in the attached name change order, to align my name with my gender identity. As explained below, the appearance of my old name on my DD 214 is an injustice because it reveals my transgender status every time I show my DD 214.

Question 6. I believe the record to be in error or unjust for the following reasons:

Disclosure of my former name, in effect, discloses my transgender status. This is an injustice due to the social stigma and discrimination that transgender people face. My current DD 214 record with my prior name reveals my transgender status every time I show the form. This injustice that can be remedied effectively by issuing a correct DD214 listing my current name.

8. Discovery of Alleged Error or Injustice

a. Date of Discovery – You can put in a date that was important in your transition process—such as the date when you socially transitioned, legally changed your name, or updated your identification, or you can use a date when you attempted to use your DD 214 and you were "outed".

b. If more than three years since the alleged error or injustice was discovered, state why the board should find it in the interest of justice to consider the application – *Until recently I was not aware that it was possible to remedy this injustice. It is in the interest of justice to correct my record so that I will not continue to be forced to reveal my transgender status and put myself at risk every time I show my DD214.*

What evidence should I submit along with my DD Form 149?

1. Evidence of your legal name change, such as a certified copy of your name change order
2. We recommend including *at least one*, and as many as you have available, of the following:
    - A U.S. Passport showing your updated name and gender
    - A state driver's license or identification card showing your updated name and gender
    - A court order recognizing your gender transition
    - A signed statement, on office letterhead, from a licensed physician. Though no requirements for this statement have been issued, we recommend the statement follow the following format:

        I, (physician's full name), (physician's medical license or certificate number), (issuing U.S. State/Foreign Country of medical license/certificate), (DEA Registration number or comparable foreign designation), am the physician of (name of patient), with whom I have a doctor/patient relationship and

whom I have treated (or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated).

(Name of patient) has had appropriate clinical treatment for gender transition to the new gender (specify new gender male or female).

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

Signature
Typed Name
Address
Phone Number
Date

- If you *cannot* obtain any of the above, use any other evidence of your gender transition, including a letter from any medical or mental health care provider.

- **What is "appropriate clinical treatment for gender transition"?**

People's medical needs vary, and treatment options must be decided by health care professionals on an individual basis. You may update your records if you have had the clinical treatment determined by your health care providers to be appropriate, in your individual case, to facilitate gender transition. Clinical treatment methods are outlined in the World Professional Association for Transgender Health Standards of Care, including treatment options of surgical procedures, hormone therapy, psychotherapy, and changes in gender expression and role. No specific treatment is required, and details of your treatment need not be provided. In fact, NCTE encourages you and your doctor to only state in the letter that you have had the clinical treatment determined by your health care providers to be appropriate. Details about surgery, hormone treatment, or other treatments are unnecessary and not helpful.

Defense Enrollment Eligibility Reporting System (DEERS)

How do I change my name and gender in DEERS?

In order to change your name and gender in DEERS, the DEERS/RAPIDS Service Project Office for your military department must submit a request to Defense Human Resources Activity (DHRA) for review and implementation. A gender (or name) change in DEERS will not affect the eligibility of any of your existing dependents for military benefits.

What documents should a name and gender change request include?

The Service Project Office of your military department should submit scans of the below documentation for DHRA review, with the subject line ***DEERS Record Change Request ICO First Name Last Name***.

- Two forms of identification that are listed as acceptable on the federal Form I-9, one of which is a government-issued picture ID. Passports, driver's licenses and Social Security cards are

recommended, but the Department of Defense will accept all documents on page 9 of the I-9 list (http://www.uscis.gov/sites/default/files/files/form/i-9.pdf).

- If name change is requested, a court order legally changing your name.
- If gender marker change is requested, a signed statement, on office letterhead, from a licensed physician. The statement must include the following information:
    - Physician's full name;
    - Medical license or certificate number;
    - Issuing state or other jurisdiction of medical license/certificate;
    - DEA registration number assigned to the physician;
    - Address and telephone number of the physician;
    - Language stating that the physician is your physician and has a doctor/patient relationship with you;
    - Language stating you have had the appropriate clinical treatment for gender transition to male/female; and,
    - Language stating "I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct."

What is "appropriate clinical treatment for gender transition"?

People's medical needs vary, and treatment options must be decided by health care professionals on an individual basis. You may update your records if you have had the clinical treatment determined by your health care providers to be appropriate, in your individual case, to facilitate gender transition. Clinical treatment methods are outlined in the World Professional Association for Transgender Health Standards of Care, including treatment options of surgical procedures, hormone therapy, psychotherapy, and changes in gender expression and role. No specific treatment is required, and details of your treatment need not be provided. In fact, NCTE encourages you and your doctor to only state in the letter that you have had the clinical treatment determined by your health care providers to be appropriate. Details about surgery, hormone treatment, or other treatments are unnecessary and not helpful.

How will I know that my DEERS record has been updated?

DHRA will confirm with the Service Project Office when the record has been updated. The Project Office must then follow existing Service procedures to send an update to Defense Finance and Accounting Service (DFAS), or the Service equivalent pay office, to allow DFAS, or the Service equivalent pay office, to update its system with the corrected gender.

Can I change my gender in DEERS if I am in active duty service?

No. Gender in DEERS cannot be changed for active duty service members. So long as the military branches continue to list transgender status as disqualifying, attempting to change your gender in DEERS could put you at risk of discharge or other negative repercussions.

Application Information for each military department's Board for Correction of Military Records:

Branch	Board for Correction of Military Records	How to Apply
Army	Army Board for the Correction of Military Records http://arba.army.pentagon.mil/abcmr-app.cfm	*Online or by mail:* http://arba.army.pentagon.mil/online-application.cfm Army Review Boards Agency (ARBA) 251 18th Street South, Suite 385 Arlington, VA 22202-3531
Navy and Marine Corps	Board for the Correction of Naval Records http://www.public.navy.mil/bupers-npc/career/recordsmanagement/Pages/BCNR.aspx	*Fax or by mail:* FAX # 703-604-3437 Board for Correction of Naval Records 701 S. Courthouse Road, Suite 1001 Arlington, VA 22204-2490
Coast Guard	Board for the Correction of Military Records of the Coast Guard http://www.uscg.mil/legal/bcmr.asp	*Mail:* DHS Office of the General Counsel Board for Correction of Military Records Mailstop # 485, 245 Murray Lane Washington, DC 20528
Air Force	Air Force Board for the Correction of Military Records http://www.afpc.af.mil/afveteraninformation/airforceboardforcorrectionofmilitaryrecords/	*Mail:* Board for Correction of Air Force Records SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742

Additional Resources

Information about how to update your Passport or Consular Report of Birth Abroad

http://transequality.org/Resources/passports_2012.pdf

SPART*A – Service Members, Partners, Allies for Respect and Tolerance for All: An LGBT Military Community

http://www.spartapride.org/

Transgender American Veteran's Association

http://tavausa.org/