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September 20, 2021

The Honorable Lloyd J. Austin
Secretary of Defense
United States Department of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Austin:

On behalf of Oklahomans serving in the Armed Forces, I urge you to ensure that accommodations to the COVID-19 vaccine requested by service members, who object based on a sincerely-held religious belief be respected in order to uphold the constitutional rights of our men and women in uniform.

The U.S. Army, Navy, and Air Force have released guidance with regard to the inoculation of service members, who have not received the COVID-19 vaccine following your announcement on August 24 that the Pentagon would require service members to be immunized. While I understand the importance of maintaining force readiness and health, it is equally important to provide a system in which our service members can request an accommodation for a variety of personal, medical, and religious reasons. Given that your team has already opted to mandate the vaccine, accommodations will be vital to secure the protection of constitutional rights for our men and women in uniform to ensure they are able to observe the tenants of their faith.

As provided for in the Religious Freedom Restoration Act (42 U.S.C. §2000bb-1) and DOD Instruction 1300.17, *Religious Liberty in the Military Services*, service members may seek religious accommodations from vaccines should they substantially burden their sincerely held religious beliefs.

The guidance issued by the U.S. Air Force, including Department of the Air Force Policy Directive 52-2, *Accommodation of Religious Practices in the Air Force*, indicates that airmen must submit a letter outlining the religious basis for their exemption request and a comment on the sincerity of their request. It is also my understanding that local Wing Commanders are empowered to endorse which airmen receive religious exemptions, and that a request gets elevated to the MAJCOM level and possibly the Air Force Surgeon General if the request is appealed. Given that local commanders are the initial decision-makers, it is vital that the Air Force ensures equal standards for religious accommodations are applied across all installations and states.

In my conversations with the Surgeon General of the Air Force and the Assistant Secretary for Manpower and Reserve Affairs, it is my understanding that a chaplain's recommendation weighs heavily in the unit commanders' decision-making. While I understand the desire to take religious accommodation requests seriously, it is important to remember that military leaders are not in a position to determine the sincerity of a service member's religious beliefs.

I have also examined the U.S. Army vaccination guidance, which states that the Surgeon General is the "only approval or disapproval authority for immunization accommodation requests" and religious accommodation requests for an immunization exemption must comply with the requirements described in Army Regulation 600-20, *Army Command Policy*, and DOD Instruction 1300.17. Per DODI 1300.17, "the burden of proof rests on the DOD Component, not the individual requesting the exemption." In addition, this Army policy states that DOD Components will "normally accommodate" a service member's practices based on a sincerely held religious belief in accordance with the requirements the Religious Freedom Restoration Act. It is my expectation that these protocols will be followed and that religious accommodations will be provided to soldiers in Oklahoma and elsewhere, who have voiced religious objections to the COVID-19 vaccine, without delay.

Regarding the U.S. Navy, the Naval Military Personnel Manual (MILPERSMAN) 1730-20 states that authority to grant religious exemptions of immunization requirements is vested with the Chief of Naval Personnel. SECNAV INSTRUCTION 1730.8B notes that "immunization waivers will be decided by the Surgeon General of the Navy or headquarters level designee." In addition, commanding officers and a military chaplain must endorse requests for religious accommodation through waiver of immunization requirements. As such, it would appear that there is a higher threshold for obtaining a religious exemption for sailors than other service members. There should be no disparate standards across the services regarding the protection of religious freedom. Similarly, it is worth reiterating my earlier reminder that disagreeing with the importance of or basis for a religious accommodation is not sufficient grounds to deny such a request.

While DOD leaders have stated they intend to respect requests for religious accommodations for the COVID-19 vaccine, I have heard from Oklahoma service members who have been discouraged from seeking a religious exemption, told preemptively that they will be rejected, or told that not receiving the vaccine will prevent promotion and other opportunities. Nevertheless, according to DOD Instruction 1300.17, an expression of sincerely held beliefs may not be used "as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment."

Further, some service members have indicated that they are being told they cannot submit religious accommodation requests without a chaplain's letter verifying a "legitimate" religious conviction. If true, these claims demonstrate a hostility toward religious exercise, as it would mean the Department is setting a higher bar on religious accommodation than existing law, regulation and policy requires. I am concerned that even rumors of these instructions will have a

chilling effect and discourage individuals from seeking religious accommodations. Neither denominations nor ecclesiastical endorsing organizations need to affirm or agree with a belief for an individual member of such religious group to hold a sincere religious belief.

Similarly, I am concerned by the requirements that the Army, Navy, and Air Force established to subject individuals, who are seeking an exemption, to multiple rounds of interviews and counseling. While it is appropriate and important to ensure that all service members have accurate medical information, it is just as important to ensure that requests are considered with respect. None of these meetings should be done with the intention to coerce or compel an individual to abandon his or her sincerely held beliefs.

There is no shortage of service members who have indicated they would leave the service rather than receive the vaccine. It is in the Department's interest—and in the interest of our national security—to retain talent. As such, we should not force service members to choose between abiding by their sincerely held religious beliefs and serving their country. Americans have invested tremendous fiscal and institutional resources to teach and produce our service members. To the extent that issuing legitimate religious accommodations can help retain our military's institutional knowledge and expertise, it is my expectation that you will encourage the U.S. military to issue them.

I hope you agree that the U.S. military must afford service members the same accommodation process for the COVID-19 vaccine that it has provided for other vaccines and religious accommodation requests. In addition, I request immediate clarification on the following questions:

1. How many service members, by service, have requested a religious exemption from the COVID-19 vaccine? How many COVID-19 vaccine religious exemption requests have been granted? How many are pending? Please include the number of days such requests have been pending. How many have been denied?
2. Please provide clarification regarding who at U.S. Navy is responsible for assessing and taking action on requests for a religious accommodation for the COVID-19 vaccine.
3. How will you ensure consistency across installations?
4. How will you ensure that the same criteria for religious accommodations are applied to the Military Academies?
5. I understand the Director of the Air National Guard is given the authority to determine religious accommodations when a Guardsman is in Title 32 status. How will you ensure these determinations are consistent with Guardsmen who are under Title 10?
6. What action will you take to ensure all military leaders charged with taking action on accommodation requests will base such determinations on the request's sincerity, not whether they affirm the basis for the request?
7. How will DOD ensure that no service member with a pending request for or approved religious accommodation is subject to adverse treatment?
8. Will you commit that service members who do not wish to be vaccinated, regardless of the reasoning, will still receive an honorable discharge?

Religious exemptions are vital mechanisms to ensure that our men and women in uniform can continue to live according to their religious beliefs. Given that the first deadline for service members to be fully vaccinated is November 2, 2021, I expect your reply outlining how you will approach religious exemptions for the COVID-19 vaccine and how DOD is equipping the services to process these requests in a legal, fair, timely, and respectful manner, by close of business Wednesday, September 22 to assess whether further oversight action is needed on behalf of Oklahomans.

Thank you for your attention to this important issue.

In God We Trust,

A handwritten signature in blue ink, appearing to read 'James Lankford', is written over the printed name below it.

James Lankford