

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

APPENDIX IN OPPOSITION TO DEFENDANTS' ASSERTION OF MOOTNESS

Tab	Description	Bates Number(s)
1	Secretary of Defense, Memorandum, "Rescission of August 24, 2021 and November 30, 2021 Coronavirus Disease 2019 Vaccination Requirements for Members of the Armed Forces" (Jan. 10, 2023).	0001-0003
2	Heather Mongilio, <i>Pentagon Unclear How Military Would Manage End of Mandatory COVID-19 Vaccines</i> , USNI NEWS (Dec. 7, 2022).	0004-0011
3	Meghann Myers, <i>Four weeks later, military still waiting on post-vaccine guidance</i> , MILITARY TIMES (Feb. 9, 2023).	0011-0017
4	Paul D. Shinkman, <i>Pentagon: No Back Pay to Troops</i>	0018-0025

	<i>Discharged for Refusing COVID-19 Vaccine</i> , US NEWS (Jan. 17, 2023).	
5	U.S. Navy COVID-19 Updates (Nov. 30, 2022)	0026-0044
6	Heather Mongilio, <i>Navy Nearing 1/500 COVID-19 Separations</i> , USNI News (Jul. 27, 2022).	0045-0050
7	U.S. Navy COVID-19 Updates (May 25, 2022).	0051-0069
8	NAVADMIN 093/22, U.S NAVY COVID-19 STANDARDIZED OPERATIONAL GUIDANCE 6.0 (Apr. 11, 2022).	0070-0077
9	Declaration of U.S. Navy SEAL 3	0078-0081
10	Declaration of U.S. Navy SEAL 7	0082-0085
11	Declaration of U.S. Navy SEAL 9	0086-0089
12	Declaration of U.S. Navy SEAL 13	0090-0093
13	Declaration of U.S. Navy SEAL 15	0094-0097
14	Declaration of U.S. Navy SEAL 19	0098-0101
15	Declaration of U.S. Navy SEAL 22	0102-0117
16	Declaration of U.S. Navy SEAL 26	0118-012
17	Declaration of U.S. Navy SWCC 1	0124-0130
18	Declaration of U.S. Navy SWCC 5	0131-0134

19	Declaration of U.S. Navy EOD 1	0135-0138
20	Declaration of U.S. Navy SEAL 5	0139-0142
21	Declaration of Levi Beaird, Lieutenant Commander (SEL), USN	0143-0158

Respectfully submitted this 13 day of February 2023.

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Tab 1



SECRETARY OF DEFENSE
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JAN 10 2023

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
COMMANDERS OF THE COMBATANT COMMANDS
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Rescission of August 24, 2021 and November 30, 2021 Coronavirus Disease 2019
Vaccination Requirements for Members of the Armed Forces

I am deeply proud of the Department's work to combat the coronavirus disease 2019 (COVID-19). Through your leadership, we have improved the health of our Service members and the readiness of the Force, and we have provided life-saving assistance to the American people and surged support to local health care systems and agencies at all levels of government. The Department has helped ensure the vaccination of many Americans, while simultaneously providing critical and timely acquisition support for life-saving therapeutics, tests, and treatments for COVID-19. We have demonstrated the ability to support and defend the Nation under the most trying of circumstances.

The Department will continue to promote and encourage COVID-19 vaccination for all Service members. The Department has made COVID-19 vaccination as easy and convenient as possible, resulting in vaccines administered to over two million Service members and 96 percent of the Force — Active and Reserve — being fully vaccinated. Vaccination enhances operational readiness and protects the Force. All commanders have the responsibility and authority to preserve the Department's compelling interests in mission accomplishment. This responsibility and authority includes the ability to maintain military readiness, unit cohesion, good order and discipline, and the health and safety of a resilient Joint Force.

On December 23, 2022 the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 was enacted. Section 525 of the NDAA for FY 2023 requires me to rescind the mandate that members of the Armed Forces be vaccinated against COVID-19, issued in my August 24, 2021 memorandum, "Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members." I hereby rescind that memorandum. I also hereby rescind my November 30, 2021 memorandum, "Coronavirus Disease 2019 Vaccination for Members of the National Guard and the Ready Reserve."

No individuals currently serving in the Armed Forces shall be separated solely on the basis of their refusal to receive the COVID-19 vaccination if they sought an accommodation on religious, administrative, or medical grounds. The Military Departments will update the records of such individuals to remove any adverse actions solely associated with denials of such requests, including letters of reprimand. The Secretaries of the Military Departments will further cease any ongoing reviews of current Service member religious, administrative, or medical accommodation requests solely for exemption from the COVID-19 vaccine or appeals of denials of such requests.

Religious liberty is a foundational principle of enduring importance in America, enshrined in our Constitution and other sources of Federal law. Service members have the right to observe the tenets of their religion or to observe no religion at all, as provided in applicable Federal law and Departmental policy. Components shall continue to apply the uniform standards set forth in DoD Instruction 1300.17, "Religious Liberty in the Military Services."

Other standing Departmental policies, procedures, and processes regarding immunizations remain in effect. These include the ability of commanders to consider, as appropriate, the individual immunization status of personnel in making deployment, assignment, and other operational decisions, including when vaccination is required for travel to, or entry into, a foreign nation.

For Service members administratively discharged on the sole basis that the Service member failed to obey a lawful order to receive a vaccine for COVID-19, the Department is precluded by law from awarding any characterization less than a general (under honorable conditions) discharge. Former Service members may petition their Military Department's Discharge Review Boards and Boards for Correction of Military or Naval Records to individually request a correction to their personnel records, including records regarding the characterization of their discharge.

The Under Secretary of Defense for Personnel and Readiness shall issue additional guidance to ensure uniform implementation of this memorandum, as appropriate.

The Department's COVID-19 vaccination efforts will leave a lasting legacy in the many lives we saved, the world-class Force we have been able to field, and the high level of readiness we have maintained, amidst difficult public health conditions. Our efforts were possible due, first and foremost, to the strength and dedication of our people. I remain profoundly grateful to the men and women of the Department of Defense for their efforts to protect our Force, the Department of Defense community, and to aid the American people.

A handwritten signature in black ink, appearing to read "Mark P. Daulton". The signature is written in a cursive, flowing style.

Tab 2

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Pentagon Unclear How Military Would Manage End of Mandatory COVID-19 Vaccines

By: Heather Mongilio

December 7, 2022 7:17 PM



Hospital Corpsman 2nd Class Gregzon Fontanilla, from Guam, prepares a COVID-19 vaccine aboard the America-class amphibious assault ship USS Tripoli (LHA-7) on May 10, 2022. US Navy Photo

The Pentagon has no ready answers on how the Department of Defense would implement pending legislation that would allow service members to refuse the COVID-19 vaccine without facing separation. **Pls.' Opp. to Assertion of Mootness App. 0005**

tion, officials said this week.

Congressional Republicans negotiated with the Democrat-led House and Senate to include language that would rollback the military's COVID-19 mandate as part of the Fiscal Year 2023 National Defense Authorization Act, according to a bill released late Tuesday.

"Does that August 2021 policy still make sense?" House Armed Services Committee chair Rep. Adam Smith, D-Wash., said on Wednesday. "Is it still the right policy? We don't believe that it is and I don't believe that it is"

The new law would nullify the mandate put in place by Secretary of Defense Lloyd Austin in 2021 that required service members to be vaccinated against COVID-19 using either Pfizer or Moderna's mRNA vaccine, or the one-shot Johnson and Johnson or Novavax vaccines.

Section 525 of the NDAA, released Tuesday night, requires the DoD to remove the COVID-19 mandate.

"We believe in the importance of the Secretary following public health guidance in order to protect the health and welfare of servicemembers and their families, to include mandating vaccines based on readiness requirements," according to the bill language.

Also included in the NDAA is language calling for the Department of Defense to consider reinstating service members who were separated due to refusal to get the COVID-19 vaccine. However, the bill does not demand that the service members who were separated be brought back into the service.

Under the mandate, those who did not comply would be separated. As of Nov. 28, the Navy separated 2,064 sailors, both reservists and active-duty, for failure to get vaccinated against COVID-19. As of Dec. 1, the Marine Corps separated 3,717 Marines.

The language in the NDAA leaves it up to the services to determine if they will reinstate anyone separated for refusal to take the vaccine. It is not clear how the Navy or Marine Corps will handle the service members who were separated. The Navy referred questions about reinstating sailors to the Office of the Secretary of Defense.

It is also unclear if sailors and Marines can be deployed. Currently, any sailor or Marine with a pending or confirmed exemption from the vaccine cannot be deployed due to not having the vaccine, even

Sabrina Singh, deputy Pentagon press secretary, declined to answer a question about the deployment status of troops if the vaccine mandate falls, saying she could not comment on pending litigation when asked by reporters on Wednesday. The Pentagon's legislative team is working with members of the House and Senate to express the secretary of defense's desire that the vaccine mandate stays.

"We have our legislative team that continues to work with members on the Hill, members of Congress in both chambers," Singh said. "That's part of their role and responsibilities and engaging with members on the Hill to make sure that they know where the Secretary's priorities are. [...] I think the Secretary was pretty clear and forceful and his response over the weekend when he said that he supports continuing the vaccine mandate in the NDAA."

Also up in the air is the question of the sailors who filed religious exemption requests for the vaccine. A decision by a **federal judge in March** put a preliminary injunction in place barring the Navy from separating them. It is not clear how the NDAA will affect the lawsuit, which is expected to be heard in February in the Fifth Circuit Court of Appeals.

Secretary of the Navy Carlos Del Toro spoke against removing the mandate at a Navy League event Tuesday, raising concerns such as what happens to sailors who need to go to countries with strict vaccine requirements.

Congress needs to understand the secondhand consequences of their decisions, the Navy secretary said.

"But unquestionably it'll create almost two classes of citizens in our services," Del Toro said. "Those that can't deploy and those that can deploy. And that creates all sorts of problems."

White House Press Secretary Karine Jean-Pierre called removing the mandate a mistake during a press conference Wednesday. The president will weigh the entirety of the NDAA, once passed, before deciding if he'll sign it. She did not say if he will veto due to the removal of the COVID-19 vaccine mandate.

"What we saw, what we think happened here is Republicans in Congress have decided that they rather fight against the health and well-being of our troops than protecting them, and we believe that it is a mistake," Jean-Pierre said.

During a Defense Writers Group breakfast, Wednesday, Marine Corps commandant Gen. David

Berger said that the mandate was political, but vaccination is not. There are multiple vaccines service members receive because it's required for military readiness. In general, there are nine vaccines **required by the military**, while others may be needed depending on the geographic area of service.

"Marines know that when their leadership says you need to do something because that's important to warfighting and your own health, the politics part of it isn't a part of that," Berger said.

One of the reasons Republican leaders had for striking the mandate say requiring the vaccine hurts military recruitment and retention. Singh told reporters that there were a host of other reasons, including competition with big companies and eligibility concerns, that were leading to recruitment issues besides the minimal effect of the mandate.

There are recruiting issues from the vaccine mandate, Berger said during a Reagan National Defense Forum panel Saturday. But that is mostly tied to the misinformation about the vaccine preventing people from getting it, he said.

Mat Staver, a lawyer representing a Navy Surface Warfare Commanding Officer among other service members, over the vaccine mandate said he knows service members who are telling their children not to serve because of the vaccine mandate.

Staver welcomed the language in the NDAA, calling the original vaccine mandate unconstitutional.

"It has caused an incredible abuse of the service members of all branches of the military. It has not been effective," Staver told USNI News. "It has undermined morale, it has been used to punish honorable individuals who are irreplaceable."

Those who were separated due to vaccine refusal should be reinstated, Staver said. He plans to continue with the lawsuits against the military due to the punishment of his clients for not taking the vaccine.

Even if the services do reinstate service members separated over the vaccine, it is unclear what positions they will be able to hold or if they will be deployable.

The bill language also does not address if the military would need to address service members who chose to retire or leave the service instead of getting vaccinated.

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February 7, 2023

In "Budget Industry"

Article Keywords: Congress, Coronavirus, COVID 19, COVID-19 vaccine, FY 2023 NDAA, NDAA, vaccine, vaccine exemption, vaccine mandate

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About Heather Mongilio

Heather Mongilio is a reporter with USNI News. She has a master's degree in science journalism and has covered local courts, crime, health, military affairs and the Naval Academy.

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Nice to see some steps are being taken to end this insanity. It's amazing they're STILL fixated on making sure everyone gets one dose of the shots, but don't care if service members are up-to-date on their boosters. There was never any logic to these mandates. Hope we can finally get a resolution to this.

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Tab 3

Your Military

Four weeks later, military still waiting on post-vaccine guidance

By **Meghann Myers**

Thursday, Feb 9



A health worker administers a dose of COVID-19 vaccine. On Friday, Oct. 7, 2022 The Associated Press reported on stories circulating online incorrectly claiming COVID-19 mRNA vaccines alter recipients' DNA by changing its shape to a "triple helix." (Matt Rourke/AP)

A month after the Defense Department canceled the requirement that service members are vaccinated against COVID-19, the Pentagon's personnel and readiness office has yet to complete the requested paperwork to make the change a reality for thousands of unvaccinated troops in limbo.

The long delay has prompted lawmakers to reach out to Defense Secretary Lloyd Austin with their concerns.

Defense Under Secretary Gil Cisneros, DoD's personnel chief, told Military Times on Jan. 11 that his office was looking into specific policies on religious considerations and combatant command regulations with respect to traveling to countries with vaccine mandates.

"There are still things that we need to kind of tie up," he said.

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Gil Cisneros, under secretary of defense for personnel and readiness, discusses some of the top issues facing his office in 2023.

But that process is still ongoing, a Pentagon spokeswoman told Military Times Thursday, though lawmakers first asked for an implementation plan on Dec. 23.

“The Department is working to leverage existing policies and procedures, where appropriate, to manage post-repeal issue sets and is examining whether additional guidance is necessary,” Cmdr. Nicole Schwegman said.

[In a Feb. 8 letter sent to the Pentagon](#), the chairman of the House Armed Services Committee and the chairman of its subcommittee on military personnel pressed Austin for answers on the new guidance, saying that a Jan. 26 letter from his office on their progress was only four sentences long and “failed to include any implementation plan.”

“While we acknowledge and appreciate your rescission memorandum writ large, many questions remain and have gone unanswered regarding the implementation of the rescission,” Rep. Mike Rogers, R-Ala., and Rep. Jim Banks, R-Ind., wrote in the letter.

The representatives included a list of 14 questions for DoD, including data on involuntary separations for vaccine refusal, service members required to pay back bonuses and confirmation that any academy graduates denied their commissions for refusing the vaccine were still able to earn their college degrees.

The letter also asks whether DoD intends to offer reinstatement for any troops discharged because of the mandate.

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The legislation would also upgrade the discharge status of some individuals.

By [Leo Shane III](#)

Though Republican lawmakers have pushed for that provision since last summer, it was not part of the 2023 National Defense Authorization Act, the law that compelled Austin to rescind the mandate.

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Since the new Congress came into session, Republican members have reopened that discussion with bills introduced in both the Senate and House of Representatives.

“I’m glad that we were able to remove the COVID-19 vaccine mandate last Congress, but there is more work to do,” said Sen. Ted Cruz, R-Texas, in a statement. “[This bill] would correct the wrongs done to unvaccinated service members who were discharged for exercising their conscience.”

The bill would allow reinstatement of any separated troops, as well as restore rank and back pay for any troops who faced discipline before their discharges. It would also upgrade any general discharges.

Previously, separated troops’ reasons for discharge were noted in their paperwork, allowing them to come back into service if they got vaccinated.

Now, under Austin’s rescission memo, they can apply for a records correction with their service’s board, and ostensibly re-enlist or re-commission if they choose.

What the Pentagon is not considering, however, is offering restitution for vaccine refusal.

“We are not pursuing, as a matter of policy, backpay for those who refused the vaccine,” Air Force Brig. Gen. Pat Ryder, a Pentagon spokesman, told reporters in January. “At the time that those orders were refused, it was a lawful order.”

Rogers and Banks requested a response from DoD by Feb. 22.

About [Meghann Myers](#)

Meghann Myers is the Pentagon bureau chief at Military Times. She covers operations, policy, personnel, leadership and other issues affecting service members.

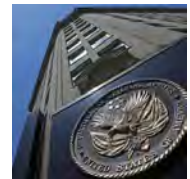
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Pentagon: No Back Pay to Troops Discharged for Refusing COVID-19 Vaccine

Though the military-wide orders to receive the coronavirus vaccine have been repealed, the Defense Department stands firm on the results of its policy.

By [Paul D. Shinkman](#)

Jan. 17, 2023

 Save



Pentagon spokesman Air Force Brig. Gen. Patrick Ryder makes remarks during a briefing at the Pentagon in Washington on Tuesday, Jan. 17, 2023.  (ANDREW HARNIK/AP)

The Pentagon on Tuesday shut down speculation it's considering back pay for service members it discharged for refusing to get a COVID-19 vaccine, distancing itself from an [already politically hazardous issue](#) that has become [even more prejudicial for the military](#) with Republican control of Congress.



[**READ:** [Pentagon Formally Rescinds COVID-19 Vaccine Mandate for Troops](#)]

"Right now, we are not pursuing, as a matter of policy, back pay for those who refused the vaccine," Air Force Brig. Gen. Pat Ryder, a spokesman for the Defense Department, told reporters in response to one of several questions about the issue.

"At the time those orders were refused, it was a lawful order," Ryder added.

He spoke a week after the Pentagon formally rescinded the policy that required all troops to receive the shots with very few exemptions, in line with new legislation signed into law on Dec. 23 that forced the change. [Politico](#) had reported on Friday, citing an unnamed spokesperson, that the department was considering issuing back pay at that time. Ryder on Tuesday distanced the Pentagon from any such speculation.

Defense Secretary Lloyd Austin in announcing the congressionally mandated repeal was unapologetic for the policy, saying in a memo on Jan. 10 that he is "deeply proud for the Department's work to combat the coronavirus disease," which he said "will leave a lasting legacy in the many lives we saved." He cited the orders from Congress that he change the policy, said no further service members would be discharged for refusing the vaccine and announced that any troops under existing investigation or judicial process would be cleared.

It remains unclear the extent to which the department would allow service members who have been discharged to rejoin. However, Tuesday's statements following Austin's memo align with a general air in the department of disinterest in further accommodating those affected by the policy.



Roughly 99% of all active-duty troops received the vaccine. More than 8,400 service members were discharged from the military for refusing to take it. All of those kicked out of military service received at least a “general discharge under honorable conditions,” with others receiving the higher “honorable discharge.” The difference affects medical and other benefits service members receive after leaving the military.

Republicans in Congress [raised almost immediate alarm](#) after Austin first announced the policy in August 2021, followed by a series of deadlines that each department determined for itself, beginning with the Air Force and Space Force at the beginning of November that year.

Then-Sen. Jim Inhofe of Oklahoma, the top ranking Republican on the Senate Armed Services Committee at the time, expressed particular concern that November that he did not believe the military had a clear understanding of how the mandate would affect the military at a time several branches, particularly the Army, were already suffering from dramatic recruitment shortfalls.

Those concerns accelerated in the new Congress when the House succeeded in adding the policy overturn in the latest defense budget, which some Democrats eventually

Pls.' Opp. to Assertion of Mootness App. 0021

endorsed to ensure the bill's passage.

[**READ:** [New York Eyes Nixed COVID-19 Vaccine Rule for Health Workers](#)]

Republican members centered particularly on an assertion that the vaccine mandate – like other so-called “woke” policies – contributed to massive military recruitment deficits, particularly acute in the Army, which missed its 2022 goals by 25%. The Pentagon says [no data exists](#) supporting a link between the two issues.

“Look, I’ve been vaccinated and I’ve had COVID. ... I’ll recommend from my point of view you get vaccinated,” Sen. Lindsey Graham, South Carolina Republican, said at a press conference with other members of his party in December. “We’re having a dilemma, and that’s finding people to serve in the military. Our recruiting goals are way short. The conflict in the world is getting worse, not better. We need more people in the military, not less.”

House Speaker Kevin McCarthy of California, then the top-ranked Republican in the House, tweeted at the time that the military vaccine mandate was “wrong.”

“Our heroes have been fired. Our country is less safe. I told the President directly – it’s time to end the mandate and rehire our service members,” McCarthy said.

Tags: Pentagon, Coronavirus, vaccines



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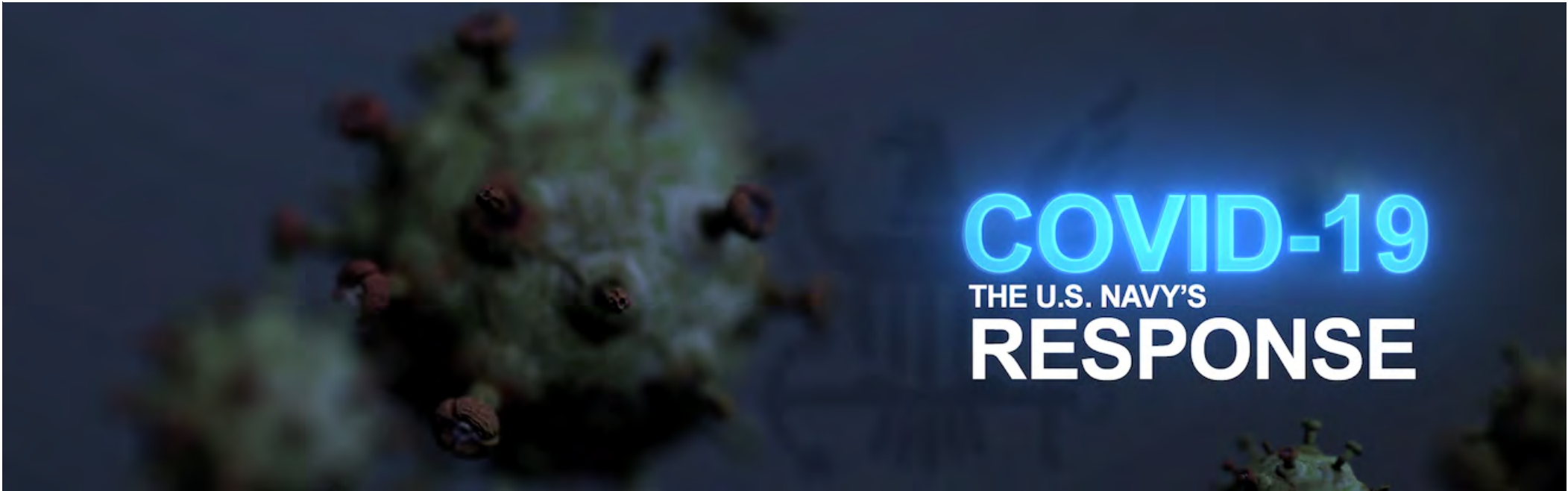
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COVID-19 Updates



You are at the official site for Navy information and updates on Coronavirus Disease 19 (COVID-19). Visit frequently to learn about the latest policies, leadership messages, and guidance on how to protect yourself, your family, and your Shipmates.

[Department of the Navy Return to the Workplace COVID-19 Guidance and Resources 2020](#) (updated July 28, 2020) (PDF). Information to assist the military and civilian employees on workforce management, reporting, testing, personnel protection, telework policy, travel and more. Information is subject to change. Consult the following links for updated guidance: [ALNAV](#) Library, [NAVADMIN](#) Library, and [MARADMIN](#) Library.

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If you have any questions or experience any difficulties please contact the OPNAV COVID Cell via email OPNAV_COVID_CRISIS_RESPONSE_CELL@us.navy.mil or by phone at (703) 571-2822.

- For Navy-specific questions related to COVID-19 numbers and vaccination data, please email PTGN_CHINFONEWSDESK@NAVY.MIL.

NAVY COVID-19 UPDATE

Nov. 30, 2022

- The next report is expected to post Dec. 28, 2022.
- As of Nov. 30, 2022, 2,258 active component and 3,024 Ready Reserve service members remain unvaccinated.
- As a result of the class action certification and corresponding injunction issued by the U.S. District Court for the Northern District of Texas, [NAVADMIN 083/22](#), released March 30, 2022, suspended separation processing and adverse administrative consequences for Navy service members who submitted requests for religious accommodation from the COVID-19 vaccine requirement.
- There have been 2,041 separations for refusing the COVID-19 vaccine. In accordance with [NAVADMIN 083/22](#), Sailors who submitted religious accommodation requests may no longer be separated for vaccine refusal. Vaccine refusers who have not submitted religious accommodation requests remain subject to adverse administrative action, including separation.
- There have been 1,639 Active Component Sailors and 402 Reserve Component Sailors separated, all with an honorable characterization of

- There have been 32 Entry Level Separations (ELS). In accordance with the Naval Military Personnel Manual (MILPERSMAN) 1910-154 and NAVADMIN 225/21, this reflects service members who, since the time of the vaccine mandate, were separated during initial training periods

Search

- vaccinated as defined in NAVADMIN 190/21 prior to returning to service.
- As of Nov. 30, 2022, there are 3,325 active duty and 862 Ready Reserve requests for a religious accommodation from immunization for the COVID-19 vaccine.
 - As of Nov. 30, 2022, active duty service members currently have 15 permanent medical exemptions and 153 temporary medical exemptions, and Ready Reserve service members currently have one permanent medical exemption and 42 temporary medical exemptions.
 - Starting with the Dec. 10 report, the vaccination and religious accommodation request data is provided by the data collected by the COVID-19 Consolidated Disposition Authority (CCDA), as directed in NAVADMIN 249/21: CCDA Data Reporting Requirements. On Feb. 22, 2022, NAVADMIN 042/22 was released updating these reporting requirements.
 - On Dec. 15, 2021, NAVADMIN 283/21 was released outlining execution guidance regarding separation of Navy service members refusing the COVID-19 vaccine.
 - On Dec. 22, 2021, NAVADMIN 289/21 was released outlining guidance encouraging COVID-19 vaccine boosters.

	Cases	Hospitalized	Recovered	Deaths	Cumulative Total COVID Cases*
MIL	134	1	107,371	17	107,522
CIV	499	1	65,309	122	65,930
DEP	13	1	12,687	7	12,707
CTR	84	0	15,793	49	15,926
TOTAL	730	3	201.160	195	202,085

* Active Cases + Recovered + Deaths = Cumulative Total COVID Cases

UNVACCINATED

	Active Duty	Ready Reserve
Unvaccinated	2,258	3,024
Religious Accommodation Request	3,325	862

APPROVED EXEMPTIONS

	Active Duty	Ready Reserve
Permanent Medical	15	1
Temporary Medical	153	42
Religious Accommodation	50	1

- In accordance with Navy mandatory COVID-19 vaccination and reporting policy guidance, the deadline for active-duty Navy service members to be fully vaccinated was Nov. 28, 2021. Ready Reserve Navy service members will be fully vaccinated by Dec. 28, 2021. New accessions will be fully vaccinated as soon as practicable following service entry.
- In order to ensure a fully vaccinated force, U.S. Navy policy is to process for separation all Navy service members who refuse the lawful order to receive the COVID-19 vaccination and do not have an approved exemption. All waiver requests are reviewed on a case-by-case basis and each request will be given full consideration with respect to the facts and circumstances submitted in the request.
- The Navy issued a press release outlining guidance to commands for service members who refuse to comply with the service’s order mandating

- Case 4:21-cv-01236-O Document 225 Filed 02/13/23 Page 33 of 162 PageID 7534
- Fully Vaccinated: Per [NAVADMIN 190/21](#), Navy service members are considered fully vaccinated two weeks after completing the second dose of a COVID-19 vaccine. For more information, visit [https://www.mynavyhr.navy.mil/Support-Services/COVID-19-Vaccination-Options/](#).
 - Unvaccinated: Per [NAVADMIN 243/21](#), this includes Navy service members who:
 - refused the vaccine
 - started the vaccination series, but are not complete
 - are pending medical exemption
 - have an approved medical exemption
 - are pending religious accommodation exemption
 - have an approved religious exemption
 - have not had access to the vaccination due to operational schedule and/or remote location
 - Medical: Medical exemptions will be determined by health care providers based on the health of the requestor, and the nature of the immunization under consideration in line with [BUMEDINST 6230.15B](#) and [MILPERSMAN 1730- 020](#).
 - Religious Accommodation: A religious accommodation is a category of administrative exemptions that provides an accommodation to a service member for an otherwise applicable military policy, practice, or duty. In accordance with The Religious Freedom Restoration Act, if such a military policy, practice or duty substantially burdens a service member’s exercise of religious, accommodation unless:
 - The military policy, practice, or duty is in furtherance of a compelling governmental interest (e.g. mission accomplishment, safety, force health).
 - It is the least restrictive means of furthering that compelling governmental interest.
 - For more information, including frequently asked questions and Navy instructions, visit <https://www.mynavyhr.navy.mil/Support-Services/Religious-Accommodations/>
 - Hyperlinks to currently applicable Navy Administrative Messages:
 - [NAVADMIN 234/22](#): U.S. NAVY COVID-19 STANDARDIZED OPERATIONAL GUIDANCE 7.0 (CORRECTED COPY)
 - [NAVADMIN 187/22](#): UPDATED COVID-19 VACCINATION OPTION - NOVAVAX
 - [NAVADMIN 139/22](#): CCDA GUIDANCE UPDATE
 - [NAVADMIN 130/22](#): COVID-19 DESIGNATION OF MISSION CRITICAL TRAVEL FOR UNVACCINATED INDIVIDUALS AND UPDATED TRAVEL GUIDANCE
 - [NAVADMIN 102/22](#): CCDA ADDITIONAL GUIDANCE REGARDING MEMBERS REQUESTING RELIGIOUS ACCOMMODATION FROM COVID-19 VACCINATION REQUIREMENTS
 - [NAVADMIN 083/22](#): CCDA INTERIM GUIDANCE REGARDING MEMBERS REQUESTING RELIGIOUS ACCOMMODATION FROM COVID-19 VACCINATION REQUIREMENTS
 - [NAVADMIN 042/22](#): UPDATED COVID CONSOLIDATED DISPOSITION AUTHORITY DATA REPORTING REQUIREMENTS AND LESSONS LEARNED
 - [NAVADMIN 289/21](#): GUIDANCE ENCOURAGING COVID-19 VACCINE BOOSTER
 - [NAVADMIN 283/21](#): CCDA EXECUTION GUIDANCE TO COMMANDERS
 - [NAVADMIN 256/21](#): CCDA GUIDANCE TO COMMANDERS
 - [NAVADMIN 249/21](#): CCDA DATA REPORTING REQUIREMENTS
 - [NAVADMIN 225/21](#): COVID-19 CONSOLIDATED DISPOSITION AUTHORITY (CCDA)
 - [ALNAV 062/21](#): 2021-2022 DEPARTMENT OF THE NAVY MANDATORY COVID-19 VACCINATION POLICY
 - [NAVADMIN 190/21](#): 2021-2022 NAVY MANDATORY COVID-19 VACCINATION AND REPORTING POLICY

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- [DoD, Navy Leadership Statements](#)

Guidance & Infographics

- [U.S. Navy Return to the Workplace COVID-19 Guidance and Resources](#) (July 28, 2020)
- [U.S. Navy Response to the COVID-19 Pandemic Infographic](#) (May 19, 2020)
- [Return-to-Work Guidelines Infographic](#) (May 18, 2020)
- [Navy Telework Capabilities Graphic](#) (May 6, 2020)
- [COVID-19 Healthcare Provider Guidance](#) (April 30, 2020)

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NAVADMINs

- Oct. 19, 2022: [U.S. Navy Covid-19 Standardized Operational Guidance 7.0 \(Corrected Copy\)](#).
- Aug. 23, 2022: [187/22 Updated COVID-19 Vaccination Option - NOVAVAX](#)
- June 2, 2022: [139/22 CCDA Guidance Update](#)
- June 2, 2022: [130/22 COVID-19 Designation of Mission Critical Travel for Unvaccinated Individuals and Updated Travel Guidance](#)
- Apr. 22, 2022: [102/22 CCDA Additional Interim Guidance Regarding Members Requesting Religious Accommodation from COVID-19 Vaccination Requirements](#)
- Mar. 30, 2022: [083/22 CCDA Interim Guidance Regarding Members Requesting Religious Accommodation from COVID-19 Vaccination Requirements](#)
- Feb. 22, 2022: [042/22 Updated COVID consolidated Disposition Authority Data Reporting Requirements and Lessons Learned](#)
- Jan. 15, 2022: [007/22 U.S. Navy COVID-19 Standardized Operational Guidance 5.0](#)
- Dec. 22, 2021: [289/21 Guidance Encouraging COVID-19 Vaccine Booster](#)
- Dec. 15, 2021: [283/21 CCDA Execution Guidance to Commanders](#)
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- Nov. 1, 2021: [249/21 CCDA Data Reporting Requirements](#)
- Oct. 13, 2021: [225/21 COVID-19 Consolidated Disposition Authority \(CCDA\)](#).
- Aug. 30, 2021: [190/21 2021-2022 Navy Mandatory COVID-19 Vaccination and Reporting Policy](#).
- Aug. 23, 2021: [180/21 Update 3 to Navy COVID-19 Reporting Requirements](#)
- July 29, 2021: [161/21 Updated Mask Guidance for All DOD Installations and Other Facilities](#)
- July 28, 2021: [159/21 Special Leave Accrual for the Navy](#)
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- June 16, 2021: [129/21 Physical Readiness Program Update for Calendar Year 2021 \(CY2021\) Physical Fitness Assessment](#)
- June 15, 2021: [123/21 Procedures for Foreign Visit requests to U.S. Navy Commands During COVID-19 Pandemic](#)
- June 2, 2021: [110/21 U.S. Navy COVID-19 Standing Guidance Update 1](#)
- May 21, 2021: [100/21 Cancellation of Urinalysis Policy Update](#)
- May 21, 2021: [100/21 Cancellation of Urinalysis Policy Update](#)
- May 21, 2021: [99/21 U.S. Navy COVID 19 Standard Guidance](#)



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- Apr. 30, 2021: [086/21 Updated Guidance to Commanders on Adjusting Health Protection Conditions and Base Services During COVID-19 Pandemic](#)
- [COVID-19 Personnel Movement and Travel Restrictions](#)
- Mar. 10, 2021: [059/21 Use of Masks and other Public Health Measures during COVID-19 pandemic](#)
- Mar. 03, 2021: [052/21 Procedures for Foreign Visit Requests to U.S. Navy Commands during COVID-19 pandemic](#)
- Feb. 16, 2021: [038/21 Process to Request Exception on use of Masks and Other Public Health Measures During COVID-19 Pandemic \(Corrected Copy\)](#)
- Feb. 16, 2021: [037/21 U.S. Navy COVID-19 Standardized Operational Guidance Version 4.0](#) (Cancelled May 21, 2021 per NAVADMIN 099/21)
- Jan. 29, 2021: [026/21 Department of Defense COVID-19 Testing Prior to Overseas Travel \(Update 1\)](#)
- Jan. 7, 2021: [003/21 DEPARTMENT OF DEFENSE COVID-19 TESTING PRIOR TO OVERSEAS TRAVEL](#)
- Dec. 16, 2020: [327/20 SARS-COV-2 VACCINATION AND REPORTING POLICY](#)
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- November 10, 2020: [302/20 Termination of Global Authorized Departure for Individuals at Higher Risk From COVID-19](#)
- November 4, 2020: [298/20 US NAVY COVID-19 STANDARDIZED OPERATIONAL GUIDANCE VERSION 3.1](#) (Cancelled Feb. 16, 2021 per NAVADMIN 037/21)
- October 13, 2020: [277/20 UPDATE 2 TO COVID-19 REPORTING REQUIREMENTS](#)
- September 30, 2020: [266/20 US NAVY COVID-19 STANDARDIZED OPERATIONAL GUIDANCE VERSION 3.0](#) (Cancelled Nov. 4. 2020 per NAVADMIN 298/20)
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- August 14, 2020: [231/20 Flexibility For Fiscal Year 2020 Sexual Assault Prevention Response and Suicide Prevention General Military Training Requirements](#)
- August 10, 2020: [225/20 Third Extension of Global Authorized Departure For Individuals At Higher Risk From COVID-19](#)
- August 4, 2020: [217/20 U.S. Navy COVID-19 Standardized Operational Guidance Version 2.1](#) (Cancelled Sep. 30, 2020 per NAVADMIN 266/20)
- July 13, 2020: [197/20: Second Extension of Global Authorized Departure for Individuals at Higher Risk from COVID-19](#)
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- July 7, 2020: [193/20: Physical Readiness Program Policy Update for Physical Fitness Assessment Cycle Two 2020 Due to COVID19 Mitigation](#)
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- June 17, 2020: [173/20: U.S. Navy COVID-19 Standardized Operational Guidance Version 2.0](#) (Cancelled Aug. 4, 2020 per NAVADMIN 217/20)
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- Apr. 30, 2021: [032/21 Update to Department of the Navy Health Protection Condition Policies](#)
- June 12, 2020 – [67/20: Cancellation of ALNAV 044/20 and 49/20 Per SECDEF Memo transitions to a conditions based movement order](#)
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- Sep. 8, 2021 – 10: [Mandatory Vaccination Coronavirus Disease 2019 for Navy Reserve](#)
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- [Centers for Disease Control and Prevention COVID-19 Website](#)
- [Military OneSource: Coronavirus Information for Our Military Community](#)
- [Coronavirus Guidance from TRICARE](#)
- [Navy-Marine Corps Relief Society: Coronavirus Response](#) (video)
- [Health Information Privacy \(Dept. of Health and Human Services\)](#)

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Get plenty of sleep

Try to eat healthy, well-balanced meals

Stretch, meditate and exercise regularly

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Navy Nearing 1,500 COVID-19 Vaccine Separations

By: Heather Mongilio**July 27, 2022 6:54 PM** • Updated: July 28, 2022 10:03 AM

Hospital Corpsman 3rd Class Robert Moore, assigned to USS George W. Bush (CVN-77) medical department, administers a COVID-19 vaccine at the McCormick Gym onboard Naval Station Norfolk, April 8, 2021. US Navy Photo

This story has been updated with additional information from the Office of the Chief of Naval Personnel.

The Navy separated 259 sailors for their refusal to get vaccinated against COVID-19 in the last month, according to the Navy's monthly COVID-19 update.

Of the total 1,466 separations, 1,121 are active-duty sailors, while 323 are reservists. Another 22 separations are sailors who were in their first 180 days of service.

The Navy has the second highest number of separations of the Department of Defense military branches. The Marine Corps, which leads the services, has separated more than double the number of service members.

As of the last Marine Corps update, published on June 6, the service had separated 3,069 Marines.

The Army has the third highest, with 1,379 separations, slightly below the Navy, it announced July 22. The Air Force has the fewest separations at 834, according to its July 12 update.

The Navy is not able to separate any sailors who have requested a religious exemption to the COVID-19 vaccine due to a ruling in the Fifth Circuit. The Department of Defense has filed an appeal in the case, according to court records.

The Navy received 3,371 requests for religious waivers from active-duty sailors and 873 from reservists. The service has granted 13 religious accommodations to members of the Individual Ready Reserve on the condition that they get vaccinated if called to active-duty or reserve status.

It also granted 43 religious waivers to sailors who are the process of retiring or leaving the service.

The sea service also granted 19 permanent and 189 temporary medical exemptions to active-duty sailors. It gave three permanent and 65 temporary medical waivers to reservists.

Since the beginning of the pandemic in early 2020, there have been 102,697 cases of COVID-19 among sailors, according to the Navy statistics, resulting in 17 deaths.

There are 3,147 active-duty and 3,432 reserve sailors who are unvaccinated.

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August 24, 2022

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May 9, 2022

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May 18, 2022

In "Military Personnel"

Article Keywords: Coronavirus, COVID 19, COVID-19 pandemic, COVID-19 vaccine, lawsuit, religious exemption, vaccine, vaccine exemption, vaccine mandate, vaccine refusal

Categories: Budget Industry, Military Personnel, News & Analysis, U.S. Air Force, U.S. Army, U.S. Marine Corps, U.S. Navy

About Heather Mongilio

Heather Mongilio is a reporter with USNI News. She has a master's degree in science journalism and has covered local courts, crime, health, military affairs and the Naval Academy.

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U.S. Navy COVID-19 Updates



You are at the official site for Navy information and updates on Coronavirus Disease 19 (COVID-19). Visit frequently to learn about the latest policies, leadership messages, and guidance on how to protect yourself, your family, and your Shipmates.

[Department of the Navy Return to the Workplace COVID-19 Guidance and Resources 2020](#) (updated July 28, 2020) (PDF). Information to assist the military and civilian employees on workforce management, reporting, testing, personnel protection, telework policy, travel and more. Information is subject to change. Consult the following links for updated guidance: [ALNAV](#) Library, [NAVADMIN](#) Library, and [MARADMIN](#) Library.

NEED TO A REPORT COVID-19 CASE?

Go to MyNavy Portal at - <https://www.mnp.navy.mil/group/navy-covid-19-reporting> (CAC Enabled)

If you have any questions or experience any difficulties please contact the OPNAV COVID Cell via email OPNAV_COVID_CRISIS_RESPONSE_CELL@navy.mil or by phone at (703) 571-2822.

- For Navy-specific questions related to COVID-19 numbers and vaccination data, please email PTGN_CHINFONEWSDESK@NAVY.MIL.

NAVY COVID-19 UPDATE

May 25, 2022

- As of May 25, 2022, 3,989 active component and 3,262 Ready Reserve service members remain unvaccinated.
- As a result of the recent class action certification and corresponding injunction issued by the U.S. District Court for the Northern District of Texas, [NAVADMIN 083/22](#), released March 30, 2022, suspends separation processing and adverse administrative consequences for Navy service members who submitted requests for religious accommodation from the COVID-19 vaccine requirement.
- There have been 1,074 separations for refusing the COVID-19 vaccine. In accordance with [NAVADMIN 083/22](#), Sailors who submitted religious accommodation requests may no longer be separated for vaccine refusal. Vaccine refusers who have not submitted religious accommodation requests remain subject to adverse administrative action, including separation.
 - There have been 954 Active Component Sailors and 98 Reserve Component Sailors separated, all with an honorable characterization of service. Guidance for separating Navy service members refusing the vaccine was set by the COVID-19 Consolidated Disposition Authority and is detailed in [NAVADMIN 283/21](#).
 - There have been 22 Entry Level Separations (ELS). In accordance with the Naval Military Personnel Manual (MILPERSMAN) [1910-154](#) and [NAVADMIN 225/21](#), this reflects service members who, since the time of the vaccine mandate, were separated during initial training periods within their first 180 days of active duty.

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- who requested accommodation. 11 more conditional approvals have been completed since then. The terms of [NAVADMIN 083/22](#) and the protections afforded by the injunction will continue to apply to these requesters, notwithstanding the previous adjudication of their religious accommodation request. [NAVADMIN 102/22](#) provides updated guidance to commanding officers for unvaccinated service members who submitted a religious accommodation request.
- As of May 25, 2022, there are 3,422 active duty and 869 Ready Reserve requests for a religious accommodation from immunization for the COVID-19 vaccine.
 - As of May 25, 2022, active duty service members currently have 14 permanent medical exemptions and 213 temporary medical exemptions, and Ready Reserve service members currently have one permanent medical exemption and 78 temporary medical exemptions.
 - Starting with the Dec. 10 report, the vaccination and religious accommodation request data is provided by the data collected by the COVID-19 Consolidated Disposition Authority (CCDA), as directed in [NAVADMIN 249/21](#): CCDA Data Reporting Requirements. On Feb. 22, 2022, [NAVADMIN 042/22](#) was released updating these reporting requirements.
 - On Dec. 15, 2021, [NAVADMIN 283/21](#) was released outlining execution guidance regarding separation of Navy service members refusing the COVID-19 vaccine.
 - On Dec. 22, 2021, [NAVADMIN 289/21](#) was released outlining guidance encouraging COVID-19 vaccine boosters.

	Cases	Hospitalized	Recovered	Deaths	Cumulative Total COVID Cases*
MIL	1,008	1	93,630	17	94,655
CIV	1,668	6	45,543	119	47,330
DEP	118	0	11,521	7	11,646
CTR	245	0	12,397	49	12,691
TOTAL	3,039	7	163,091	192	166,322

* Active Cases + Recovered + Deaths = Cumulative Total COVID Cases

UNVACCINATED

	Active Duty	Ready Reserve
Unvaccinated	3,989	3,262
Religious Accommodation Request	3,422	869

APPROVED EXEMPTIONS

	Active Duty	Ready Reserve
Permanent Medical	14	1
Temporary Medical	213	78
Religious Accommodation	27	1

- In accordance with Navy mandatory COVID-19 vaccination and reporting policy guidance, the deadline for active-duty Navy service members to be fully vaccinated was Nov. 28, 2021. Ready Reserve Navy service members will be fully vaccinated by Dec. 28, 2021. New accessions will be fully vaccinated as soon as practicable following service entry.
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- The Navy issued a [press release](#) outlining guidance to commanders for service members who refuse to comply with the Services Order mandating



- Unvaccinated: Per [NAVADMIN 249/21](#), this includes Navy service members who:
 - refused the vaccine
 - started the vaccination series, but are not complete
 - are pending medical exemption
 - have an approved medical exemption
 - are pending religious accommodation exemption
 - have an approved religious exemption
 - have not had access to the vaccination due to operational schedule and/or remote location
- Medical: Medical exemptions will be determined by health care providers based on the health of the requestor, and the nature of the immunization under consideration in line with [BUMEDINST 6230.15B](#) and [MILPERSMAN 1730- 020](#).
- Religious Accommodation: A religious accommodation is a category of administrative exemptions that provides an accommodation to a service member for an otherwise applicable military policy, practice, or duty. In accordance with The Religious Freedom Restoration Act, if such a military policy, practice or duty substantially burdens a service member's exercise of religious, accommodation unless:
 - the military policy, practice, or duty is in furtherance of a compelling governmental interest (e.g. mission accomplishment, safety, force health).
 - is the least restrictive means of furthering that compelling governmental interest.

For more information, including frequently asked questions and Navy instructions, visit <https://www.mynavyhr.navy.mil/Support-Services/Religious-Accommodations/>

yperlinks to Navy Administrative Messages:

[NAVADMIN 102/22](#): CCDA ADDITIONAL GUIDANCE REGARDING MEMBERS REQUESTING RELIGIOUS ACCOMMODATION FROM COVID-19 VACCINATION REQUIREMENTS

[NAVADMIN 083/22](#): CCDA INTERIM GUIDANCE REGARDING MEMBERS REQUESTING RELIGIOUS ACCOMMODATION FROM COVID-19 VACCINATION REQUIREMENTS

[NAVADMIN 042/22](#): UPDATED COVID CONSOLIDATED DISPOSITION AUTHORITY DATA REPORTING REQUIREMENTS AND LESSONS LEARNED

[NAVADMIN 007/22](#): U.S. NAVY COVID-19 STANDARDIZED OPERATIONAL GUIDANCE 5.0

[NAVADMIN 289/21](#): GUIDANCE ENCOURAGING COVID-19 VACCINE BOOSTER

[NAVADMIN 283/21](#): CCDA EXECUTION GUIDANCE TO COMMANDERS

[NAVADMIN 256/21](#): CCDA GUIDANCE TO COMMANDERS

[NAVADMIN 249/21](#): CCDA DATA REPORTING REQUIREMENTS

[NAVADMIN 225/21](#): COVID-19 CONSOLIDATED DISPOSITION AUTHORITY (CCDA)

[ALNAV 062/21](#): 2021-2022 DEPARTMENT OF THE NAVY MANDATORY COVID-19 VACCINATION POLICY

[NAVADMIN 190/21](#): 2021-2022 NAVY MANDATORY COVID-19 VACCINATION AND REPORTING POLICY

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Operational Guidance

- [U.S. Navy Updates Guidance to Combat COVID-19](#) (Nov. 4, 2020)
- [COVID-19 Mitigation Framework Infographic](#) (May 19, 2020)
- [U.S. Navy Response to the COVID-19 Pandemic Infographic](#) (May 19, 2020)
- [Return-to-Work Guidelines Infographic](#) (May 18, 2020)
- [Navy Telework Capabilities Graphic](#) (May 6, 2020)
- [COVID-19 Healthcare Provider Guidance](#) (April 30, 2020)
- [Cyber Awareness – Protect Sailors and Families Online](#) (February 2020)

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- June 16, 2021: [129/21 Physical Readiness Program Update for Calendar Year 2021 \(CY2021\) Physical Fitness Assessment](#)
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- May 21, 2021: [100/21 Cancellation of Urinalysis Policy Update](#)
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- May 14, 2021: [95/21 Interim Update on DOD Mask Guidance](#)
- May 4, 2021: [88/21 SARS-COV-2 Vaccination and Reporting Policy Update](#)
- Apr. 30, 2021: [086/21 Updated Guidance to Commanders on Adjusting Health Protection Conditions and Base Services During COVID-19 Pandemic](#)
- Apr. 05, 2021: [073/21 Navy Mitigation Measures in Response to Coronavirus Outbreak Update 7 \(Conditions-Based Approach to COVID-19 Personnel Movement and Travel Restrictions\)](#).
- Mar. 10, 2021: [059/21 Use of Masks and other Public Health Measures during COVID-19 pandemic](#)
- Mar. 03, 2021: [052/21 Procedures for Foreign Visit Requests to U.S. Navy Commands during COVID-19 pandemic](#)
- Feb. 16, 2021: [038/21 Process to Request Exception on use of Masks and Other Public Health Measures During COVID-19 Pandemic \(Corrected Copy\)](#).
- Feb. 16, 2021: [037/21 U.S. Navy COVID-19 Standardized Operational Guidance Version 4.0 \(Cancelled May 21, 2021 per NAVADMIN 099/21\)](#)
- Jan. 29, 2021: [026/21 Department of Defense COVID-19 Testing Prior to Overseas Travel \(Update 1\)](#).
- Jan. 7, 2021: [003/21 DEPARTMENT OF DEFENSE COVID-19 TESTING PRIOR TO OVERSEAS TRAVEL](#)

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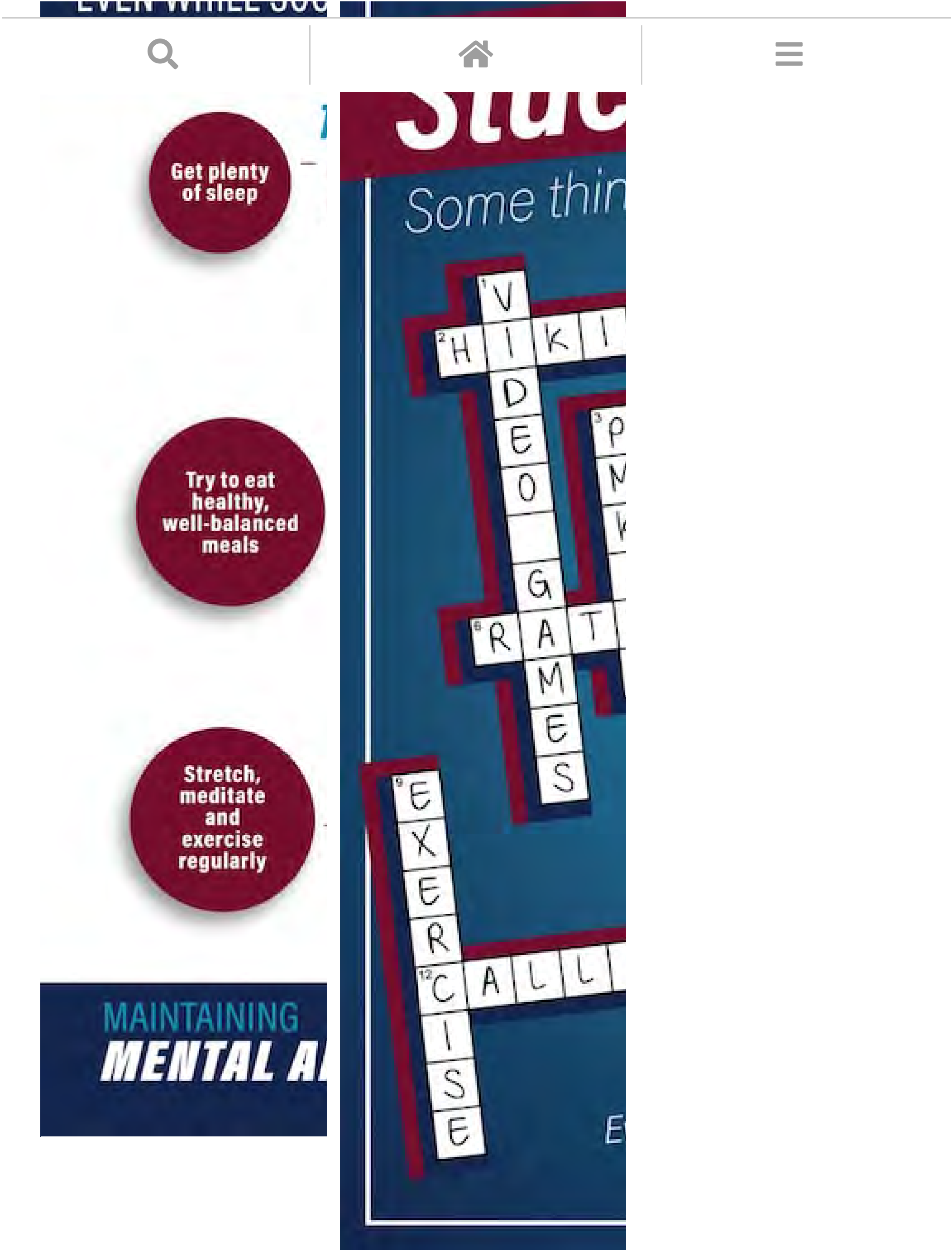
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REF/J/DOC/NMCPHC/19MAR2021//
REF/K/MSG/CNO/041827ZAUG21//
REF/L/MSG/CNO/231718ZAUG21//

NARR/REF A IS NAVADMIN 007/22, U.S. NAVY COVID-19 STANDARDIZED OPERATIONAL GUIDANCE 5.0.

REF B IS NAVADMIN 161/21, UPDATED MASK GUIDANCE FOR ALL DOD INSTALLATIONS AND OTHER FACILITIES.

REF C IS NAVADMIN 086/21, UPDATED GUIDANCE TO COMMANDERS ON ADJUSTING HEALTH PROTECTION CONDITIONS AND BASE SERVICES DURING COVID-19 PANDEMIC (CORRECTED COPY).

REF D IS USD P&R CONSOLIDATED DEPARTMENT OF DEFENSE CORONAVIRUS DISEASE 2019 FORCE HEALTH PROTECTION GUIDANCE AVAILABLE AT

<https://www.defense.gov/Explore/Spotlight/Coronavirus/Latest-DOD-Guidance/>.

REF E IS ASN M&RA MEMORANDUM ON DEPARTMENT OF THE NAVY GUIDANCE ON COVID-19 COMMUNITY LEVELS AND WORKPLACE SAFETY PROTOCOLS.

REF F IS NAVADMIN 289/21, GUIDANCE ENCOURAGING COVID-19 VACCINE BOOSTER.

REF G IS NAVADMIN 268/21, REQUIRED COVID-19 TESTING FOR UNVACCINATED SERVICE MEMBERS.

REF H IS NAVY AND MARINE CORPS PUBLIC HEALTH CENTER COVID-19 OMICRON VARIANT AND BOOSTER EFFECTIVENESS.

REF I IS NAVY AND MARINE CORPS PUBLIC HEALTH CENTER U.S. NAVY FORCE HEALTH PROTECTION WITH CONSIDERATIONS FOR VACCINE EFFICACY.

REF J IS NAVY AND MARINE CORPS PUBLIC HEALTH CENTER DOCUMENT ASSESSING REAL COVID-19 RISK.

REF K IS NAVADMIN 165/21, SOVEREIGN IMMUNITY POLICY.

REF L IS NAVADMIN 180/21, UPDATE TO COVID-19 REPORTING REQUIREMENTS.

POC/OPNAV/CAPT SHARIF CALFEE, (703) 571-2822//EMAIL:
SHARIF.H.CALFEE.MIL(AT)US.NAVY.MIL

RMKS/ 1. Purpose. This NAVADMIN provides updated COVID-19 Standing Operational Guidance (SOG 6.0), replaces reference (A) and cancels references

Pls. Opp. to Assertion of Mootness App. 0071

2. SUMMARY: SOG 6.0 should be read in its entirety. Notable updates include guidance for unvaccinated personnel, actions taken for COVID-19 infected personnel and close contacts, and guidance for mask wearing underway. All units shall refer to references (D) and (E) for Health Protection Condition and masking guidance not contained in this NAVADMIN. Personnel safety of our sailors and civilians remains our driving focus. Vaccinations, vaccine boosters, command engagement, and personal accountability continue to form the foundation of our success. Every member of every command must take personal ownership and responsibility of the promulgated measures required to keep COVID-19 in check.

3. Applicability. This guidance applies to all service members (active duty and ready reserve) assigned to, or supporting, operational units as defined in paragraph 5.e below. Additionally, paragraph 7 (COVID-19 Testing) applies to all commands and paragraph 8 (Operating in a COVID-19 Environment) applies to all personnel onboard operational platforms. Non-operational forces, civilian employees and contractor personnel should follow the latest Department of Defense (DOD) Force Health Protection, Centers for Disease Control and Prevention (CDC), and state/local area guidance. Additionally, higher echelon Commanders guidance may apply.

4. Evolving Guidance. The CDC is the authority for COVID-19 measures on behalf of the general public. The Navy Surgeon General remains as the authority for Navy COVID-19 measures and advises the CNO on how best to apply CDC guidance across the spectrum of unique Navy operating environments, and may include additional measures not required by the general public. Accordingly, and except as noted below in this NAVADMIN, evolving CDC guidance related to virus behavior shall first be evaluated by the Navy Surgeon General prior to Fleet implementation. Questions regarding applicable COVID-19 measures may be directed to the point of contact (POC) listed above.

5. Definitions. All CDC definitions regarding COVID-19 apply and are kept current on the CDC website (<https://www.cdc.gov>). The following additional Navy definitions are provided:

5.a. Fully Vaccinated: Term for an individual who has completed a primary COVID-19 vaccine series as defined in reference (F). Term applies two weeks after the final dose is received. During the time period from initial dose until two weeks after the final dose, an individual is considered partially vaccinated.

5.b. Up-to-Date (UTD) COVID-19 Vaccination: Term for an individual who has received all CDC recommended COVID-19 vaccines, including booster dose(s) when eligible. UTD COVID-19 Vaccine and booster guidance is subject to change and is available on the CDC website.

5.c. High-Risk Personnel: Those individuals designated by a medical provider who meet CDC criteria for increased risk of severe illness. Qualifying conditions are included on the CDC website.

5.d. Commander: For the purposes of this NAVADMIN, the term Commander includes Commanding Officers, Officers-in-Charge, Masters, and Aircraft Commanders.

5.e. Operational and Non-Operational Forces: For the purposes of this NAVADMIN, operational forces and non-operational forces are defined by the applicable NCC. For operational forces, this might include deployed forces, forces in sustainment, or other operational elements that the NCC determines to fall within the intent and context of this NAVADMIN.

5.f. Restriction of Movement (ROM): DoD term for limiting personal interaction to reduce risk to a broader population. Personnel executing directed ROM remain in a duty status and will not be charged leave. ROM-sequester, when directed, is the Navy term for preemptive ROM in order to reduce risk of infection in advance of movement.

5.g. Health Protection Measures (HPM): Comprehensive term for mitigation measures that reduce the spread of COVID-19. This includes physical distancing, wearing of masks, and enhanced environmental cleaning and disinfection. Recommended HPMS are included on the CDC website.

5.h. Viral Test: For the purposes of this NAVADMIN, unless specifically stated otherwise, viral test may refer to either a test that measures the antigens (antigen test) or a test that measures viral RNA (Polymerase Chain Reaction (PCR) test).

5.i. Close Contact: A person who was less than 6 feet away from an infected person (laboratory-confirmed or a clinical diagnosis) for a cumulative total of 15 minutes or more over a 24-hour period (for example, three individual 5-minute exposures for a total of 15 minutes).

6. COVID-19 Infected Personnel and Close Contacts.

6.a. Actions for Personnel Suspected of Being Infected.

6.a.1. Symptomatic. Test immediately those individuals exhibiting COVID-19 symptoms. If symptomatic and positive, isolate the individual per paragraph 6.a.3 and identify close contacts per reference (D).

6.a.2. Close Contacts. Asymptomatic close contacts who have not received a vaccine booster should be tested 5 days after exposure, if testing is available (see paragraph 6).

If COVID-19 positive, refer to paragraph 6.a.3. If the asymptomatic close contact has received a vaccine booster, testing is not required. Close contacts who do not test positive for COVID-19 may remain on duty but must wear a mask for 10 days. If symptoms develop, test per paragraph

6.a.1.

6.a.3. Isolation. Isolate individuals who test positive for 5 days or until symptoms are clearing, whichever is longer, including 24 hours with no fever and without fever-reducing medication (day 0 is date of positive test or symptom onset, whichever occurred first). Isolation may be conducted either ashore or afloat. Once released, individuals will wear a mask for an additional 5 days (minimum 10 days total). No exit testing is required and, absent symptoms, prior positives should not be PCR-tested again for 90 days (per paragraph 7.c).

6.b. Actions for Unvaccinated Personnel.

6.b.1. To maintain Fleet readiness, all personnel assigned to operational Navy units shall be fully vaccinated. Unvaccinated personnel shall not execute orders to operational Navy units. Unvaccinated personnel shall not embark underway Navy vessels or aircraft; commanders of operational units shall temporarily reassign unvaccinated personnel from their commands with the concurrence of the first flag officer in the chain of command. Exceptions, if any, will be managed case-by-case by the applicable NCC and reported to the POC of this instruction.

6.b.2. Refer to medical providers unvaccinated individuals exhibiting COVID-19 symptoms for follow-on care. Identify close contacts per reference (D). Similarly, refer unvaccinated close contacts to medical providers. Treat vaccinated close contacts per paragraphs 6.a.2 above.

Pls. Opp. to Assertion of Mootness App. 0073

7. COVID-19 Testing.

7.a. Test Procurement. To ensure uninterrupted operations, and as feasible, commands will coordinate with their supporting supply activities to obtain testing supplies 60 days in advance of need. This should include additional tests required for U.S. testing of personnel during any anticipated port calls.

7.b. Testing of Unvaccinated Personnel. Unvaccinated personnel shall follow the testing requirements of reference (G), as amended in reference (D) and below in paragraph 7.c.

7.c. Testing of Individuals Previously Infected with COVID-19. Individuals previously infected with COVID-19 may be asymptomatic and continue to test positive by PCR test for up to 90 days from date of initial diagnosis due to the presence of persistent non-infectious viral fragments. Therefore, prior COVID-19 positives are exempt from testing protocols for 90 days from the earlier of symptom onset or first positive test (90-day rule). Individuals who exhibit new or persistent symptoms during that three-month period should be evaluated by a medical provider.

7.d. Surveillance / Ship-Wide Testing. Surveillance or ship-wide testing is not required or recommended and has previously identified large numbers of asymptomatic persistent positives.

7.e. Testing Priority. Personnel exhibiting COVID-19 like symptoms are the highest priority for testing. If testing asymptomatic close contacts per paragraph 6.a.2 or 8.g.2 will stress testing supplies, or if operations preclude testing (e.g., small, remote teams or depleted testing supplies), Commanders are authorized to forego testing asymptomatic close contacts. This prioritization is consistent with CDC guidance (<https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-plan/prioritization.html>).

8. Operating in a COVID-19 Environment.

8.a. Up-to-date (UTD) COVID-19 Vaccination. Commanders should encourage UTD COVID-19 Vaccination of personnel at least 30-days prior to DEPOD movements or inter-fleet transfers.

8.b. Medical Screening. Medical screening will include newly reporting personnel and a command-wide monthly data review and assessment, as directed by the NCC. An additional pre-deployment screening will be completed 7 days prior to deployment. Medical screening shall be conducted by medical providers and reported to the unit Commander to assist in assessing risk and mitigations. Screening will include, at a minimum, vaccination and vaccine booster status, review and assessment of COVID-19 exposure history (those under the 90-day rule), and underlying risk factors.

8.c. Military Sealift Command (MSC). MSC shall medically screen Civil Service Mariners (CIVMARs) and contract personnel for deployment on MSC vessels in accordance with existing MSC Quality Management System processes and procedures. Unvaccinated CIVMARs and contract personnel should not be assigned to operational units. Exceptions and associated mitigations will be approved by Commander, MSC.

8.d. Fully vaccinated High-Risk Personnel. The decision to operate and deploy with fully vaccinated high-risk personnel rests with the Commander, as advised by medical providers, who must report intentions to their immediate superior in command. High-risk personnel shall be PCR viral tested within 3 days prior to embarking.

8.e. Pre-Deployment ROM-sequester. Fully vaccinated personnel should not normally be required to ROM-sequester ahead of planned operations. ROM-sequester may be directed by the applicable NCC based upon Geographic Combatant Commander guidance and applicable host nation requirements.

8.f. Underway HPM. As a result of demonstrated vaccine effectiveness, a 100% fully vaccinated operational force and a healthy demographic, serious illness or death resulting from COVID-19 for fully vaccinated individuals is statistically very unlikely, and modeling contained in references (H), (I), and (J) indicates this will continue in the context of current variants. UTD COVID-19 Vaccination reduces the risk even further. However, the increasing contagious nature of evolving variants can result in unmanageable numbers of even mild symptomatic positives and may impose general health and operational unit risk, i.e. risk to force or risk to mission, regardless of symptom severity. The following HPM, at a minimum, are required:

8.f.1. Medical screening as outlined above in paragraph 8.b.

8.f.2. Masks. Following all inport periods, if less than 75% of the crew is UTD COVID-19 Vaccination Commanders should consult with medical professionals and consider mask wear for the first 10-days at sea. Similarly, Commanders should consider mask wear in response to the onset of onboard COVID-19.

8.f.3. Educate and reinforce the importance of self-monitoring for symptoms and prompt reporting.

8.f.4. Educate and reinforce the importance of frequent handwashing and social distancing, when possible.

8.f.5. Aggressively isolate COVID-19 positive individuals per paragraph 6 above.

8.f.6. Ensure adequate ventilation in spaces routinely manned.

8.f.7. Educate and reinforce focused cleaning efforts on high-touch surfaces, at least daily or more frequently, depending upon usage (e.g., tables, hatch latches, ladderwells, phones, watch console keyboards and buttons, toilets, faucets, sinks, etc.). Although remote, there is evidence of surface spread of COVID-19 and other viruses with similar symptoms.

8.g. Considerations for Adding or Relaxing HPM. NCCs and Commanders should consider for any unit the operational impact resulting from the number of sailors in isolation, either ashore or afloat, regardless of percentage of immunized personnel, UTD COVID-19 Vaccinations, or severity of symptoms. Commanders may elevate or relax HPM at any time, and retain the latitude to temporarily apply alternate HPM in lieu of isolation to support safe operations. An example might be a rapid spread that compels a Commander to employ asymptomatic or mildly symptomatic positives to manage watch-bill impact while recovering others in isolation, applying additional alternate measures as needed to minimize spread. The following should be considered before adjusting HPM:

8.g.1. Overall number of individuals in isolation and trend. The general rule of thumb for a COVID-19 outbreak trending in a favorable direction is that the number of those exiting isolation matches (flattening curve) or exceeds (lowering curve) those entering isolation, combined with the assessment that the total number of symptomatic individuals is manageable and improving, and watch-bill (operational) impact is manageable and improving.

8.g.2. If less than 75% of the total eligible crew is UTD COVID-19 Vaccinations, implement the requirements of 8.f.2. and consider a 5 day viral test for all close contacts per paragraph 6.a.2., regardless of vaccination status.

8.g.3. Proximity of a units access to shore and afloat Medical Treatment

Pls. Opp. to Assertion of Mootness App. 0075

Facilities (MTF) within a medically relevant timeline, balanced with paragraph 7.e HPM and onboard trend. Rule of thumb is within 1-week of an MTF for 100 percent fully vaccinated crew with manageable case load, moving to a more restrictive 72 hours or less if a growing or concerning caseload, and moving to a less restrictive beyond 1-week, if small or no caseload.

8.h. Port Visits. Liberty is an important mission and should be pursued within the context of this NAVADMIN. Geographic NCCs (GNCC) will set conditions for foreign port off-base liberty in coordination with country teams and local authorities, taking into account host country requirements, vaccination and booster status, sovereign immunity per paragraph 9 below, COVID-19 prevalence and mission requirements.

8.i. Aircraft Operations. On a case-by-case basis, aircrews and aircraft maintainers may be exempt from this guidance in order to meet emergent operational or NATOPS currency requirements. Exemptions and mitigation plans must be approved by the Squadron Commander. For aviation units embarked on surface ships, mitigation plans will be coordinated with the ships health protection plan and approved by the ships Commanding Officer.

8.j. Post-Deployment. Personnel returning to homeports from deployment shall follow CDC and U.S. Department of State travel and testing requirements. If return travel includes foreign countries, personnel shall follow the travel and testing requirements for those individual nations, subject to sovereign immunity concerns (see below). Updated travel information is on the following website:
<https://travel.state.gov>.

9. Sovereign Immunity.

9.a. It is U.S. Government policy to protect the sovereign immunity of warships, naval auxiliaries, and aircraft, including protecting crew information to the maximum extent possible. Within the context of COVID-19, host nations may request or require crew or ship information that exceeds that authorized by U.S. policy or international law. NCCs will ensure appropriate training and guidance on protecting U.S. sovereign immunity and on the protection of health information as part of OPSEC/personal security.

9.b. GNCCs should endeavor to determine in advance those host nations that may challenge U.S. sovereign immunity and, as able, avoid them. See reference (K) for additional guidance. In all cases, GNCCs shall authorize the minimum information necessary in order to meet operational requirements. The Navy Declaration of Health (NAVMED 6210/3) is the only authorized form for providing health information to foreign officials. If required by the host nation, and with GNCC concurrence, Commanders, at their discretion, may include on the NAVMED 6210/3 that their unit is 100% vaccinated, those disembarking have tested negative within the required timeframe, and/or that those disembarking have received a vaccine booster.

9.c. Exceptions to Policy (ETP). On a case-by-case basis, and to support operations, OPNAV N3N5 may grant an ETP to mitigate the operational impact of host nation COVID-19 requirements. Any action that may constitute or require a waiver of sovereign immunity must be coordinated by the applicable GNCC with OPNAV N3N5 for ETP approval no later than 5 days ahead of need. To avoid precedence beyond COVID-19, any ETP will be messaged to the host nation as explicitly linked to the pandemic. Requests shall include justification for port selection; host nation mitigation and testing requirements; alternate port options; impact to mission if the request is denied; medical, legal, collection and privacy risk; and feedback from country team coordination. Notifications and requests may be sent via record message traffic, email to the POC provided above, or both.

9.d. Guidance for Commanders. Per the direction of their GNCCs, Commanders
Pls. Opp. to Assertion of Mootness App. 0076

shall comply with domestic and foreign quarantine regulations for port entry and document compliance on NAVMED 6210/3. Absent GNCC approval in advance, Commanders will not submit to host nation COVID-19 testing nor provide individual or collective medical data, copies of health records, nor any supplementary or locally-demanded health forms, and shall not grant access to ship or crew health records or allow the same to be searched or inspected by host nations. If compelling circumstances require a Commander to acquiesce to additional host nation requirements without obtaining an ETP or GNCC concurrence (e.g., personnel emergency, weather avoidance), report the event and circumstances as soon as practicable to OPNAV N3N5 via the chain of command.

10. Reporting Procedures. Reporting procedures are amended as follows and will be incorporated in the next revision of reference (L). OPREP-3 Navy Blue messages for COVID-19 cases that do not result in death, request for assistance, or operational impact may instead be reported via SharePoint. If unable to report via SharePoint, a single daily OPREP-3 Navy Unit SITREP summarizing all COVID-19 cases onboard is required. SharePoint information is used to produce daily reports to Senior Navy Leadership.

11. Released by VADM W. R. Merz, Deputy Chief of Naval Operations for Operations, Plans, and Strategy, OPNAV N3/N5.//

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Tab 9

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 3

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 3, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I serve as a Class Representative in this class action litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. I am currently serving in a non-operational billet. I came to this position shortly after I was removed from a lead position as a SEAL instructor because my command presumed that I was going to be kicked out of the Navy, even with a pending religious accommodation.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 11, 2023.

/s/ U.S. Navy SEAL 3

U.S. Navy SEAL 3

Tab 10

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 7

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 7, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. From January 3, 2022, until my End of Active Obligated Service, I was protected from separation because of the preliminary injunction.

4. I separated from the Navy in November of 2022. In doing so, I did not knowingly withdraw my religious accommodation request. During the separation process, my religious accommodation request was never mentioned.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 12, 2023.

/s/ U.S. Navy SEAL 7

U.S. Navy SEAL 7

Tab 11

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 9

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 9, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. I am currently non-operational. I rank as an E-8 and serve at an advanced training command. After my last deployment, I screened for the milestone position of Troop Chief. However, I was not picked up by any SEAL teams and instead went to the advanced training command I am now serving at.

6. I previously aspired to fill the Troop Chief role so I could promote and continue progressing in my career, but now, my progression has stalled so long as I am unvaccinated. Without being a Troop Chief, I cannot promote to an E-9.

7. Retiring as an E-8, instead of an E-9, reduces my military retirement and bonuses.

8. I am an experienced SEAL of almost 20 years and will soon be faced with a decision regarding reenlistment. One of the factors I am considering for reenlistment is whether I will be able to continue serving my country in meaningful ways while remaining unvaccinated.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 12, 2023.

/s/ U.S. Navy SEAL 9

U.S. Navy SEAL 9

Tab 12

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 13

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 13, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. I am currently a member of a non-operational command. So long as I remain here, I am unable to fulfill the milestone of deployed Leading Petty Officer to advance in rank. Because I cannot deploy as an unvaccinated SEAL, I will not be able to complete this milestone or promote. My career progression has ended, as there is no way for me to advance to the next rank as an unvaccinated SEAL if I cannot deploy.

6. I was removed from my position as a Leading Petty Officer when I filed my religious accommodation request.

7. I have served for eighteen years. Not being allowed to promote again before retirement will have a significant impact on what I can receive in retirement.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 10, 2023.

/s/ U.S. Navy SEAL 13
U.S. Navy SEAL 13

Tab 13

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 15

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 15, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.
4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. I am currently in a training detachment working as an instructor in a non-operational command.

6. Before the mandate, I intended to screen for a SEAL delivery vehicle (SDV) command. I was very excited about serving in this position, and it would have been an important role for my career. I am now unsure if I could ever serve in this position if I remain unvaccinated.

7. If I was not able to serve in a SDV command, the other option would be attaching to a SEAL team and doing a deployment as an Assistant Lead Petty Officer (ALPO). Serving as an ALPO is required to become a platoon's Lead Petty Officer (LPO). The LPO role is a milestone for enlisted SEALs as an E-6. As long as I am non-operational, I cannot serve in either the ALPO or LPO position.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 11, 2023.

/s/ U.S. Navy SEAL 15

U.S. Navy SEAL 15

Tab 14

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 19

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 19, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. From January 3, 2022, until my End of Active Obligated Service, I was protected from separation because of the preliminary injunction.

4. I separated from the Navy in January of 2023. In doing so, I did not knowingly withdraw my religious accommodation request. During the separation process, my religious accommodation request was never mentioned.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 13, 2023.

/s/ U.S. Navy SEAL 19

U.S. Navy SEAL 19

Tab 15

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 22

Pursuant to 28 U.S.C. §1746, I, U.S. Navy SEAL 22, declare under penalty of perjury as follows:

1. I am over the age of eighteen and competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. Since September 2019, I have ranked as an E-7. In November 2021, I was officially serving in a milestone position as Platoon Chief of SEAL Team 7. A milestone position is a leadership position that must be successfully completed before promoting to the next rank. To be eligible for a milestone, one must screen positive through interviews with Team Master Chiefs, have a good reputation, and successfully complete prior leadership positions. This position was incredibly meaningful to me, as I just deployed with these same men and began my career as a Navy SEAL in the same Platoon and Team I was now leading. Serving as one of the Platoon Chiefs of SEAL Team 7 was an honor.

6. To promote from an E-7 to an E-8, I must fulfill a series of requirements, including service in a milestone position. Until the imposition of the COVID-19 requirements I was on track to fulfill those requirements and complete my milestone, therefore becoming eligible to promote to an E-8.

7. When I submitted my Religious Accommodation Request (RAR) in October of 2021, I was removed from that SEAL team and milestone position and sent back to a training command. I was told by my Command Master Chief in December that regardless of whether my religious accommodation request was granted, I could not serve on a SEAL team.

8. Transferring out of that position and back to a training command ended my potential to promote from an E-7 to an E-8. If I remain non-operational because I am unvaccinated, I will be unable to ever attain this promotion.

9. Prior to the COVID-19 vaccine mandate, I consistently received excellent evaluations and awards, including Sailor of the Year for SEAL Team Seven. Therefore, I was

being solicited by a Chief Warrant Officer 4 (W-4) to transition from being an enlisted member of the Navy to an officer for a warrant package through the Warrant Officer Program. I was eligible for this program as an E-7 with fourteen years of dedicated, exemplary service to the Navy and excellent physical qualifications.

10. In support of my warrant package, I received recommendations from Officers, Warrant Officers, and my Commanding Officer. I received this recommendation because I demonstrated outstanding performance as a SEAL, excellent leadership abilities, and the capacity to serve as an Officer of the United States Navy. True and correct copies of my recommendations are attached to this declaration as Exhibit A. After this recommendation, my warrant package was sent to a selection board at Naval Personnel Command.

11. Among those of us seeking warrant packages before the selection board, I screened second in the group for a position, meaning it was incredibly likely that I would be selected. Ultimately, I did not receive a warrant package, even though people that screened below me did. I was told by a CWO3 that my name was removed from consideration because they assumed that I was soon going to be separated from the military because of my RAR. I then received a phone call from a CWO4 explaining how I had frustrated a lot of people that supported my package and that my Commander would not be recommending me any longer. I reached out to the selection board for further clarification about why I was not selected for appointment as a Warrant Officer, but I did not receive a response.

12. There is a prime time for an enlisted sailor to seek appointment as a Warrant Officer, of which I was in. Once an enlisted sailor is appointed as a Warrant Officer, promotion and rank are based on time alone and not on merit or performance. Had I been selected to be a

Warrant Officer, I would likely have retired as a W-4, which would have provided me and my family with substantially higher retirement pay than my current position as an enlisted member.

13. Because I am unvaccinated and non-operational, it would be a near impossibility for me to pursue the Warrant Officer program again or even to promote from an E-7 to an E-8. Since submitting my RAR, I lost time necessary for promotion eligibility, regressed in my skills as a SEAL, and have experienced personal hostility within my command that would make it impossible to prepare another warrant package. Within my community, my reputation is so negatively tarnished for being unvaccinated that I feel as if I have transitioned from an exemplary SEAL to a problem that my leadership and command have no desire to deal with. Therefore, I don't believe I will be able to promote again in my career. There is nothing that I have the power to do that can remedy this loss. Further, there is nothing in my personnel file that the Navy can simply remove to remedy this loss of opportunity.

14. The stigma surrounding my unvaccinated status extends beyond my command and my ability to promote. In March of 2022, I was in need of medical treatment and contacted my hospital corpsman (HMC) to schedule an appointment. A HMC serves as a first step in the process for seeking any sort of medical treatment and is able to approve certain treatments based on his or her initial assessment. I was told by my HMC that he would not approve my requested appointment because I was not vaccinated. I offered to test in advance of any medical appointments, yet my treatment was still not approved. Eventually, I went around the HMC to seek medical care. Although I eventually received the requested appointment, I have lost trust in my ability to receive fair medical treatment because of the stigma surrounding my vaccination status.

15. I am in the process of officially transferring from Temporary Assigned Duty orders at Training Detachment-One (Tradet-1) to Naval Special Warfare Group-One (NSWG-1). NSWG-

1 is historically where the Navy sends SEALs with family, character, or performance issues and otherwise is seen as an assignment for those that cause trouble for other commands. I am one of three unvaccinated NSW personnel transferring from Tradet-1 to NSWG-1. Currently, our role in NSWG-1 is complete random tasks assigned to us within the command. I am currently working for a Trident cell that, during the week of February 6, 2023, traveled to a cold weather training trip to Montana that I was not allowed to attend. Instead, I remained at my command and was tasked to move from our old building to a new one a few miles away.

16. I am specifically concerned about my inability to train as a SEAL during the mandate. Because of the highly-specialized nature of Navy SEAL skills, it is nearly impossible to lose two or more years of training opportunities and still maintain the skill level required of a Navy SEAL. Not training prevents me from keeping my skills sharp and at the level my rank and job duties would require.

17. Before the COVID-19 vaccine mandate, my skills were the sharpest they had ever been, and I was teaching skydiving to west coast SEAL Teams and joining other blocks of tactical training. Because I lost so much training time, I do not feel confident that my skills would be sharp enough to lead a SEAL platoon right now, even if I were operational. In a position where I would need to gain the trust and confidence of the men I would lead, I would need to be the tactical subject matter expert. This is the main responsibility of a Platoon Chief. I would need to be refreshed on my skills and new weapon systems before leading junior members of a platoon that are current and up to date. A leader cannot be the weakest link in a platoon. Loss of leadership and skills are quick ways to be fired from a position. These issues and concerns have not changed since the Secretary of Defense rescinded the COVID-19 vaccination mandate on January 10, 2023.

18. I have numerous NSW qualifications which are considered “critical qualifications,” including Master Training Specialist, NSW Sniper, NSW Explosive Breacher, NSW Dive Supervisor, Air Ops Trainer Examiner, Military Freefall Jumpmaster, among others. Each SEAL team and SEAL platoon needs to have a certain number of members with these qualifications to be considered fully mission capable. If I remain non-operational because I am not vaccinated, I am jeopardizing the ability of my team to complete missions.

19. Because I remain unvaccinated, the leadership surrounding me is looking for me to mess up or make a mistake so I can be reprimanded. The repeal of the mandate does not change that.

20. My current status is uncertain to both my command and me. Despite the new Force Health Protection Guidance regarding travel, my command still believes that I cannot travel. When I asked my Senior Chief about travel, he sent me to a website that was last updated on November 30, 2022, and stated that this was the policies that Navy was working off of.

21. One of my most recent tasks assigned is moving laptops from one building to another – a job that my command publicly demeaned. I have also been told that I will be heavy task saturated and closely watched. I believe these tasks will be equally menial to those such as moving buildings and transporting laptops.

22. While I was once a committed naval service member with excellent evaluations, several service awards, and a progressing career, that has been lost because of the mandate. This has caused me and my family many sleepless nights, anxiety, and loss of purpose. My career is suffering and will continue to suffer if my leadership continues to make operational, assignment, and deployment decisions while considering my unvaccinated status. These are the decisions that have already damaged my career, and I expect they will continue based on the Secretary’s January

10, 2023, memo rescinding the mandate but allowing vaccination status to continue to be considered.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 12, 2023.

/s/ U.S. Navy SEAL 22

U.S. NAVY SEAL 22

Exhibit A



DEPARTMENT OF THE NAVY

NAVAL SPECIAL WARFARE GROUP ONE
3632 GUADALCANAL ROAD
SAN DIEGO CA 92155-5583

1420
Ser 00/452
22 Sep 21

FIRST ENDORSEMENT on SOC(SEAL) [REDACTED] ltr of 24 Aug 21

From: Commander, Naval Special Warfare Group ONE
To: Commander, Navy Personnel Command (PERS-803)

Subj: APPLICATION FOR CONSIDERATION BY THE FY-23 ACTIVE LIMITED DUTY
OFFICER/CHIEF WARRANT OFFICER IN-SERVICE PROCUREMENT
SELECTION BOARD

Ref: (a) CNO WASHINGTON DC 032039Z JUN 21 (NAVADMIN 116/21)
(b) OPNAVINST 1420.1 (Series)
(c) OPNAVINST 6110.1 (Series)

1. Forwarded. SOC [REDACTED] meets all requirements outlined in references (a) through (c), and is worldwide assignable.

2. I have verified that SOC [REDACTED] meets Personnel Security Information/Clearance Requirements.

a. Type of investigation: T3R

b. Date of Investigation: 15 May 2019

3. Commanding Officer's Recommendation:

a. SOC [REDACTED]'s performance, leadership, and technical expertise, exemplify the traits desired in a SEAL Chief Warrant Officer. He is intelligent, motivated, and demonstrates the highest degree of professionalism. As a member at my Training Detachment his subject matter expertise and dedication as a SEAL instructor has made a positive and lasting impact in my command's operational readiness. The U.S. Navy needs qualified leaders in influential and demanding assignments, and I am sure that SOC [REDACTED]'s experience and drive will make him an asset to any Wardroom in the future. SOC [REDACTED] has my endorsement for the Chief Warrant Officer Program.

4. I certify that the applicant has been provided copies of all enclosures to this application as well as a copy of this endorsement. My command point of contact for this matter is CWO5 Troy Wilson [REDACTED]@socom.mil.


D. A. ABERNATHY

Copy to:
SOC [REDACTED]

CUI
When Filled In

INTERVIEWER'S APPRAISAL SHEET

NAVCUIT 1131/5 (Rev 3-2021)

Supporting Directive: COMNAVCUITCOMINST 1131.2

(See information on reverse before completing)

TYPE OR PRINT LEGIBLY

Name:

SEAL 22

Program for Which Applying:

7151, Chief Warrant Officer

Date:

01 SEP 2021

PERSONAL QUALITIES

DESCRIPTIVE: Observe the applicant and write 6 adjectives or phrases that you believe to be most descriptive of the applicant:

1. Impressive	2. Relaxed	3. Clear
4. Confident	5. Articulate	6. Combat Proven

INTERVIEWED VIA: Telephone ☐ In-Person ☒ Other Type of Electronic Media ☐ List Type _____

EVALUATIVE: Consider the applicant as a potential Naval Officer and evaluate them on the following:

APPEARANCE AND POISE	*OUTSTANDING	EXCELLENT	GOOD	ADEQUATE	*UNSATISFACTORY
	X				
ORAL COMMUNICATION AND EXPRESSION OF IDEAS	*OUTSTANDING	EXCELLENT	GOOD	ADEQUATE	*UNSATISFACTORY
	X				
LEADERSHIP POTENTIAL	*OUTSTANDING	EXCELLENT	GOOD	ADEQUATE	*UNSATISFACTORY
	X				
YOUR WILLINGNESS TO HAVE INDIVIDUAL SERVE UNDER YOUR COMMAND WHEN COMMISSIONED	PARTICULARLY LIKE TO HAVE	PREFER TO MOST	BE PLEASED TO HAVE	BE SATISFIED WITH	PREFER NOT TO HAVE
	10 9 8 7 6	5 4 3	2 1	0	
	X				

COMMENTS: A summary statement evaluating the applicant is required. All extreme ratings marked by an asterisk (*) should be further commented upon.

THE NUMBER TWO CWO CANDIDATE THAT I HAVE INTERVIEWED THIS YEAR!

SOC SEAL 22 is an ideal candidate for the NSW CWO program. During his interview he showed confidence and enthusiasm for the CWO program and the challenges of being a NSW CWO. He was very articulate in expressing his knowledge of the NSW CWO community and the commissioning program. He demonstrates all the leadership traits of a veteran SEAL within NSW. I have personally served with him at SEAL Team SEVEN and have observed him in both a training environment and combat deployment. At all times he represented the U.S. and NSW with the highest possible standards.

MOTIVATION

PROGRAM MOTIVATION (Indicate the applicant's motivation for the program for which applying)	VERY HIGHLY MOTIVATED FOR PROGRAM	DEFINITELY MOTIVATED FOR PROGRAM	MOTIVATED FOR NAVY - PROGRAM NOT IMPORTANT	MOTIVATED FOR COMMISSION - PROGRAM AND SERVICE NOT IMPORTANT	UNABLE TO DETERMINE
	X				

POTENTIAL

TECHNICAL KNOWLEDGE (For LDO/CWO Applicants Only) Refer to Discrete Requirements	OUTSTANDING (1)	EXCELLENT (2)	GOOD (3)	AVERAGE (4)	LESS THAN AVERAGE (5)
	X				
POTENTIAL AS A CAREER NAVAL OFFICER	OUTSTANDING (1)	EXCELLENT (2)	GOOD (3)	AVERAGE (4)	LESS THAN AVERAGE (5)
	X				

COMMENTS: Supplement or qualify the motivation rating and potential as a career Naval Officer, as appropriate.

SOC SEAL 22 is truly motivated for the NSW CWO program. He is very motivated to serve in a greater leadership capacity. SOC SEAL 22 is a dedicated Navy professional with unbounded motivation to lead troops and further the successes of his Naval special warfare community.

SOC SEAL 22 will immediately increase the effectiveness of any wardroom, I would be honored to serve with this individual at any command when he receives his commission.

I found my replacement, Press 100 NOW!

SIGNATURE OF INTERVIEWER

TYPE OR PRINT NAME OF INTERVIEWER

Ramon Betancourt

GRADE, DESIGNATOR (IF ANY) BRANCH OF SERVICE

CWO4/7151/USN

Reset Form

Print Form

When Filled In

INTERVIEWER'S APPRAISAL SHEET												
NAVCGRUIT 1131/5 (Rev 3-2021)					Supporting Directive: COMNAVCGRUITCOMINST 1131.2							
(See information on reverse before completing) TYPE OR PRINT LEGIBLY												
Name: SEAL 22			Program for Which Applying: CWO / Special Warfare Technician (715X)				Date: Sep 2, 2021					
PERSONAL QUALITIES												
DESCRIPTIVE: Observe the applicant and write 6 adjectives or phrases that you believe to be most descriptive of the applicant:												
1. SPEAKS CLEARLY			2. CONFIDENT			3. IMPRESSIVE						
4. WELL-DRESSED			5. POISED			6. ARTICULATE						
INTERVIEWED VIA: Telephone <input type="checkbox"/> In-Person <input checked="" type="checkbox"/> Other Type of Electronic Media <input type="checkbox"/> List Type _____												
EVALUATIVE: Consider the applicant as a potential Naval Officer and evaluate them on the following:												
APPEARANCE AND POISE		*OUTSTANDING		EXCELLENT		GOOD		ADEQUATE		*UNSATISFACTORY		
				X								
ORAL COMMUNICATION AND EXPRESSION OF IDEAS		*OUTSTANDING		EXCELLENT		GOOD		ADEQUATE		*UNSATISFACTORY		
		X										
LEADERSHIP POTENTIAL		*OUTSTANDING		EXCELLENT		GOOD		ADEQUATE		*UNSATISFACTORY		
				X								
YOUR WILLINGNESS TO HAVE INDIVIDUAL SERVE UNDER YOUR COMMAND WHEN COMMISSIONED		PARTICULARLY LIKE TO HAVE		PREFER TO MOST		BE PLEASED TO HAVE		BE SATISFIED WITH		PREFER NOT TO HAVE		
		10 9		8 7 6		5 4 3		2 1		0		
				X								
<p>COMMENTS: A summary statement evaluating the applicant is required. All extreme ratings marked by an asterisk (*) should be further commented upon.</p> <p>SOC SEAL 22 possesses the leadership qualities and the technical expertise that the Navy and NSW community desires within their Chief Warrant Officer ranks. His writing ability and communication skills paired with his appearance and poise in uniform make this candidate stand out. His leadership and performance as an enlisted sailor are trademarks and qualities that NSW CWO's must possess. I have no doubt that SOC SEAL 22 will be an outstanding SEAL CWO in the future if selected.</p>												
MOTIVATION												
PROGRAM MOTIVATION (Indicate the applicant's motivation for the program for which applying)			VERY HIGHLY MOTIVATED FOR PROGRAM		DEFINITELY MOTIVATED FOR PROGRAM		MOTIVATED FOR NAVY - PROGRAM NOT IMPORTANT		MOTIVATED FOR COMMISSION - PROGRAM AND SERVICE NOT IMPORTANT		UNABLE TO DETERMINE	
			X									
POTENTIAL												
TECHNICAL KNOWLEDGE (For LDO/CWO Applicants Only) Refer to Discrete Requirements			OUTSTANDING (1)		EXCELLENT (2)		GOOD (3)		AVERAGE (4)		LESS THAN AVERAGE (5)	
					X							
POTENTIAL AS A CAREER NAVAL OFFICER			OUTSTANDING (1)		EXCELLENT (2)		GOOD (3)		AVERAGE (4)		LESS THAN AVERAGE (5)	
					X							
<p>COMMENTS: Supplement or qualify the motivation rating and potential as a career Naval Officer, as appropriate.</p> <p>SOC SEAL 22 motivation and commitment for the CWO program were clearly articulated throughout the interview. He has a dynamic understanding of the challenges that the Navy and NSW face in the future. His experience, leadership and performance to date make him an excellent CWO candidate that the Navy and NSW should consider.</p>												
SIGNATURE OF INTERVIEWER WILSON.TROY.EDWARD.116 8859089					TYPE OR PRINT NAME OF INTERVIEWER Troy E. Wilson				GRADE, DESIGNATOR (IF ANY) BRANCH OF SERVICE CWO5, 7151, USN			

When Filled In

INFORMATION FOR COMPLETING INTERVIEWER'S APPRAISAL SHEET

1. The purpose of the interview is to evaluate accurately and impartially the characteristics of the candidate to determine potential as a commissioned officer and motivation toward service in the Navy.
 2. The interview should take a minimum of 15 minutes. A period of 15-30 minutes is usually adequate, although more time may be necessary on occasion.
 3. Discussion topics should draw out the applicant. Suggested topics include: Navy programs, service life, school experiences, personal interests, goals in life, current events, sports, family attitude toward application, and any others suggested by a review of the application file.
 4. Marking is difficult. Your judgments form an important part of each applicant's file, and usually represent the only personal contact with the applicant reported by an official of the Navy. Be fair and impartial, neither too easy nor too hard on the applicant. Mark only on what you have observed personally, not on the opinions or comments of others.
 5. No marks should be put on this form until the interview has been completed.
 6. If it appears that the space for comments will not be sufficient, phrases may be used rather than complete sentences.
 7. Professional interviews are coordinated with the Region Chaplain Field Recruiter and the respective NAVTALACQGRU. **N312** will monitor compliance with the following, before application kits are forwarded to the Chaplain Appointment and Retention Eligibility (CARE) Advisory Group. Cooperation will minimize unnecessary delays in processing applications.
 8. General guidance for ALL NAVCRUIT 1131/5, Chaplain Corps (CHC) Professional Interview Appraisals:
 - a. Should be conducted in-person or using VTC, Facetime, Skype, or similar type technology.
 - b. May only be conducted by an active duty CHC officer in the following rank:
 - (1) CAPT or CAPT(s)
 - (2) CDR (milestone screened only)
 - c. Comment Section Guidance for NAVCRUIT 1131/5: The interviewer will need to address the following areas in the narrative section (additional pages are accepted; typed preferred, legible for fax/photo copies)
 - (1) How has the applicant's previous experience prepared him or her for Navy Chaplaincy?
 - (2) Describe the applicant's understanding of institutional ministry?
 - (3) Comment on the applicant's willingness to facilitate ministry to faith groups other than his or her own?
 - (4) Describe the applicant's disposition toward working with chaplains of faith groups, gender, race other than his or her own?
 - (5) Elaborate on applicant's perception of commission oath and obligations (i.e. extended separations, overseas assignments, shipboard and Fleet Marine Force tours, etc.)
 - (6) Give applicant's response to the fact that some chaplains may only serve three years (Career Status Board) on active duty and may then be release to the inactive reserves. Would the applicant still request appointment in the Navy?
 - (7) Any summary remarks regarding the interviewer's recommendations are also welcome.
- Note: Chaplain Candidate Program Officer (CCPO/1945) applicants may not be well informed regarding the finer nuances of these questions CCPO Orientation addresses these matters, it is not too soon to bring these matters to their attention. CCPO applicant responses will be reviewed in this context, and are not expected to be at the same level as 4100 (active) or 4105 (reserve) applicants.
9. In-person interviews before a CARE Advisory Group is required for all 4100 and 4105 applicants, in addition to the NAVCRUIT 1131/5.
 10. Below is a checklist of characteristics which interviewing officers can observe and adjectives that can be used to describe these characteristics in applicants. This list is meant only to assist the interviewer in preparing the interview and in making a written evaluation afterward. It is not intended to be all-inclusive.

Characteristic/Descriptive-Example Adjectives:

BEARING: Good posture, Stouch, Forceful, Apathetic, Casual, Formal

GROOMING: Careless, Neat, Clean, Unclean, Well-Dressed, Inappropriately dressed

COMPOSURE: Poised, Awkward, Relaxed, Nervous, Confident, Insecure

ATTITUDE: Sincere, Flippant, Enthusiastic, Indifferent, Contentious, Pleasant, Forthright, Secretive, Arrogant, Modest

ORAL EXPRESSION: Articulate, Inarticulate, Responsive, Unresponsive, Taciturn, Loquacious

VOICE QUALITY: Strident, Soft, Spoken, Speaks clearly, Inaudible

GENERAL IMPRESSION: Impressive, Unimpressive, Dull, Interesting, Mature, Immature

When Filled In

INTERVIEWER'S APPRAISAL SHEET													
NAVCUIT 1131/5 (Rev 3-2021)						Supporting Directive: COMNAVCUITCOMINST 1131.2							
(See information on reverse before completing) TYPE OR PRINT LEGIBLY													
Name: SOC SEAL 22				Program for Which Applying: Warrant Officer				Date: Sep 10, 2021					
PERSONAL QUALITIES													
DESCRIPTIVE: Observe the applicant and write 6 adjectives or phrases that you believe to be most descriptive of the applicant:													
1. Forceful				2. Confident				3. Enthusiastic					
4. Speaks clearly				5. Impressive				6. Forthright					
INTERVIEWED VIA: Telephone <input type="checkbox"/> In-Person <input checked="" type="checkbox"/> Other Type of Electronic Media <input type="checkbox"/> List Type _____													
EVALUATIVE: Consider the applicant as a potential Naval Officer and evaluate them on the following:													
APPEARANCE AND POISE		*OUTSTANDING		EXCELLENT		GOOD		ADEQUATE		*UNSATISFACTORY			
		X											
ORAL COMMUNICATION AND EXPRESSION OF IDEAS		*OUTSTANDING		EXCELLENT		GOOD		ADEQUATE		*UNSATISFACTORY			
				X									
LEADERSHIP POTENTIAL		*OUTSTANDING		EXCELLENT		GOOD		ADEQUATE		*UNSATISFACTORY			
				X									
YOUR WILLINGNESS TO HAVE INDIVIDUAL SERVE UNDER YOUR COMMAND WHEN COMMISSIONED		PARTICULARLY LIKE TO HAVE		PREFER TO MOST			BE PLEASED TO HAVE			BE SATISFIED WITH		PREFER NOT TO HAVE	
		*10 9		8 7 6			5 4 3			2 1		0	
		X											
COMMENTS: A summary statement evaluating the applicant is required. All extreme ratings marked by an asterisk (*) should be further commented upon.													
SOC SEAL 22 is an accomplished SEAL SOC.													
MOTIVATION													
PROGRAM MOTIVATION (Indicate the applicant's motivation for the program for which applying)		VERY HIGHLY MOTIVATED FOR PROGRAM		DEFINITELY MOTIVATED FOR PROGRAM		MOTIVATED FOR NAVY - PROGRAM NOT IMPORTANT		MOTIVATED FOR COMMISSION - PROGRAM AND SERVICE NOT IMPORTANT		UNABLE TO DETERMINE			
		X											
POTENTIAL													
TECHNICAL KNOWLEDGE (For LDO/CWO Applicants Only) Refer to Discrete Requirements		OUTSTANDING (1)		EXCELLENT (2)		GOOD (3)		AVERAGE (4)		LESS THAN AVERAGE (5)			
		X											
POTENTIAL AS A CAREER NAVAL OFFICER		OUTSTANDING (1)		EXCELLENT (2)		GOOD (3)		AVERAGE (4)		LESS THAN AVERAGE (5)			
				X									
COMMENTS: Supplement or qualify the motivation rating and potential as a career Naval Officer, as appropriate.													
SOC SEAL 22 has demonstrated high performance in NSW.													
SIGNATURE OF INTERVIEWER RATCLIFFE.ALEXANDER.ED WIN.1171627148				TYPE OR PRINT NAME OF INTERVIEWER Ratcliffe, Alexander				GRADE, DESIGNATOR (IF ANY) BRANCH OF SERVICE CDR, SEAL, USN					

When Filled In

INFORMATION FOR COMPLETING INTERVIEWER'S APPRAISAL SHEET

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 4. Marking is difficult. Your judgments form an important part of each applicant's file, and usually represent the only personal contact with the applicant reported by an official of the Navy. Be fair and impartial, neither too easy nor too hard on the applicant. Mark only on what you have observed personally, not on the opinions or comments of others.
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 - (5) Elaborate on applicant's perception of commission oath and obligations (i.e. extended separations, overseas assignments, shipboard and Fleet Marine Force tours, etc.)
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 10. Below is a checklist of characteristics which interviewing officers can observe and adjectives that can be used to describe these characteristics in applicants. This list is meant only to assist the interviewer in preparing the interview and in making a written evaluation afterward. It is not intended to be all-inclusive.

Characteristic/Descriptive-Example Adjectives:

BEARING: Good posture, Stouch, Forceful, Apathetic, Casual, Formal

GROOMING: Careless, Neat, Clean, Unclean, Well-Dressed, Inappropriately dressed

COMPOSURE: Poised, Awkward, Relaxed, Nervous, Confident, Insecure

ATTITUDE: Sincere, Flippant, Enthusiastic, Indifferent, Contentious, Pleasant, Forthright, Secretive, Arrogant, Modest

ORAL EXPRESSION: Articulate, Inarticulate, Responsive, Unresponsive, Taciturn, Loquacious

VOICE QUALITY: Strident, Soft, Spoken, Speaks clearly, Inaudible

GENERAL IMPRESSION: Impressive, Unimpressive, Dull, Interesting, Mature, Immature

Tab 16

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 26

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 26, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. I am currently attached to a training command, that is by definition non-operational, meaning I likely will not deploy or attach to a deployable SEAL team in this billet.

5. Because I am non-operational, I am unable to complete a Leading Petty Officer (LPO) position, which is a milestone position that must be completed if I want to promote from an E-6 to an E-7.

6. When I access NSIPS, the Navy Standard Integrated Personnel System, there is no information about my religious accommodation request (RA). I did not take any action to withdraw my request. I was not contacted by anyone in the Navy about this change, nor did anyone request approval to remove my RA from my account. A true and correct copy of my NSIPS religious accommodation window is attached as Exhibit A.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 12, 2023.

/s/ U.S. Navy SEAL 26

U.S. Navy SEAL 26

Exhibit A



FOUO - Privacy Sensitive: [REDACTED] Last login: 02-08-2023 10:13 Home Add to Favorites Sign Out

Religious Accommodations

Name: SEAL 26 Rank/Rate: SO1 Current DSC: 100

Religious Accommodation Find | View All First 1 of 1 Last

Member Info

UIC:
Pay Grade:
Requested Date:
Request Category:
Sub Category:
Request Comments:

Approval Authority Info

UIC:
Date Determination:
Approved/Denied:
Approved/Denied Comments:

Go to: ESR Home
ESR Personal Information Home

Return to Search | Notify |

Tab 17

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DECLARATION OF U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT
CREWMAN 1**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Special Warfare Combatant Craft Crewman (SWCC) 1, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. I am currently non-operational. When I contacted the SWCC detailer regarding potential reenlistment, I was told that so long as I am non-vaccinated, I will be non-operational. The detailer is NSW specific, but he works for a Navy-wide command. A true and correct copy of this email is included as Exhibit A.

6. I want to reenlist and continue serving my country but having to serve in a non-operational capacity will be detrimental to my career in a way that I am powerless to remedy myself.

7. If I reenlist and am placed at an operational command while I am non-operational, I will be limited to strictly administrative tasks, which will lead to a loss of special duty pay. Retention at my current command, where I serve as an instructor, also limits my opportunities for advancement. Both options equally stall my career and advancement in the military, which exerts a coercive pressure on me to take the vaccine.

8. I know that I am non-operational because during my five-year physical in May 2022, I was marked as “Not Physically Qualified” for SO/NSW/MFF/JUMP because I am unvaccinated. To my knowledge, this has not been amended since the repeal of the mandate or change to the MANMED. As long as I stay in my capacity as an instructor, I am non-operational. Further, multiple members of my chain of command have reiterated to me that unvaccinated service members are non-operational.

9. I am approaching the eleven-year mark as an E-6, which means that it is time for me to assume the role of Lead Petty Officer (LPO). In a non-operational status, I am unlikely to be able to complete this milestone at an operational Special Boat Team. The LPO milestone is also a key

element necessary to advance to E-7 under normal circumstances. To promote any further to an E-8, I must fulfill a role as a post-deployed Team Chief as an E-7.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 11, 2023.

/s/ U.S. Navy SWCC 1
U.S. Navy SWCC 1

Exhibit A

Acrobat Meeting More

Quick Steps: Move to Manager, Team Email, Reply & Delete, Done, Create New

Move: Move, Rules, Send to OneNote, Assign Policy, Unread/Read, Tags, Categorize, Follow Up

Groups: New Group, Browse Groups

Find: Search People, Address Book, Filter Email

Speech: Read Aloud, Translate, Language

RE: PRD Rotation Options

To: Casebolt, Justin M SCPO USN (USA) <[REDACTED]@us.navy.mil>

Cc: Beebe, Justin W SCPO USN USSOCOM NSW (USA)

Signed By: [REDACTED]@navy.mil

SWCC 1

Your PRD has been adjusted to reflect the 12mo extension. Currently, non-vaccinated personnel are not being detailed to operational commands. I don't know what that will look like in a year. As it stands right now, your options are CONUS based instructor billets (BTC, TRADET, SCATTS, Det Stennis, etc.). As policies change (if they change), we can readress your options. Until then, you are quite limited. I am good with your current extension at Det Stennis to fill the need there and wait for policy updates. Upon your new PRD, we will have to look at other options. Let me know if you have any further questions.

Respectfully,

SBCS Justin Casebolt
SWCC Detailer PERS 401

Office: [REDACTED]
Cell: [REDACTED]
Email: [REDACTED]@us.navy.mil

Tell us what you think! This short, 3-minute survey would help us improve our performance.
<https://surveys.max.gov/index.php/454228>

FOR OFFICIAL USE ONLY – PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

From: **SWCC 1**
Sent: Friday, February 10, 2023 12:32 PM
To: [REDACTED]@navy.mil
Cc: Beebe, Justin W SCPO USN (USA) <[REDACTED]@socom.mil>
Subject: PRD Rotation Options

By Date: 3:15 PM, 2:58 PM, 1:58 PM, 1:42 PM, 1:40 PM, 5:32 PM, 2:03 PM

Tab 18

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DECLARATION OF U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT
CREWMAN 5**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Special Warfare Combatant Craft Crewman (SWCC) 5, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. I serve with SWCC 1. Our SWCC detailer, who authorizes orders for SWCCs to attach and detach from units, has stated that he is unable to provide me and the other unvaccinated members with orders to operational units. My billet is a training command, so I am classified as non-operational.

6. My career is at a standstill, and I have no ability to correct it myself. My leadership has told me that I can only be transferred to another non-operational unit, which halts my ability to continue to promote through the Navy. I am now significantly behind my peers within my group of enlistment.

7. Typically, SWCCs and other service members alternate between “sea duty” at deployable commands and “shore duty” at training commands. My command has told me that I can possibly extend my “shore duty” again, despite it already being extended once before, instead of switching to “sea duty.” This is not a normal career progression. I have also been told that I could transfer from my current training command to another training command. Going from “shore duty” to “shore duty” is normally disapproved, since it’s acknowledged by leadership as career stunting. It is now becoming my reality, and my only alternative. To continue progressing in my career and in my skill, I need to work “sea duty.”

8. The longer I continue to serve in the capacity I am in now, the more that I fear I am growing detached from evolving tactics, techniques, procedures, and technologies in operational billets. This detachment makes my experience as a SWCC outdated and decreases my relevancy among my operational peers.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 11, 2023.

/s/ U.S. Navy SWCC 5

U.S. Navy SWCC 5

Tab 19

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

**DECLARATION OF U.S. NAVY EXPLOSIVE ORDNANCE
DISPOSAL TECHNICIAN 1**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Explosive Ordnance Disposal Technician (EOD) 1, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I serve as a Class Representative in this class action litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. I am currently stationed in a Leading Chief Petty Officer (LCPO) billet at a non-operational command. My executive officer made a comment that I am not deployable if I am unvaccinated.

6. I am a Senior Chief Petty Officer (E-8). Without deploying, I will be unable to hit the career milestone of Platoon Senior Enlisted Advisor, which would make me less competitive than my peers for promotion to Master Chief Petty Officer (E-9).

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 11, 2023.

/s/ U.S. Navy EOD 1

U.S. Navy EOD 1

Tab 20

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF U.S. NAVY SEAL 5

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 5, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the original Plaintiffs in this litigation.
3. I submitted several declarations in this matter that outline my religious objections to the COVID-19 vaccine and the adverse actions the Navy has taken against me. Since January 3, 2022, I have been protected from separation because of the preliminary injunction.

4. Even though the COVID-19 mandate has now been repealed, consequences of the mandate still exist and personally impact my career in the Navy.

5. I am currently a First-Class Petty Officer serving in an advanced training command. Because I am serving “shore duty” in a school house command, I am considered non-operational.

6. Being non-operational means that I will not be able to meet certain criteria for advancement nor will I be able to gain the experience necessary through deployment to carry out the proper duties of a SEAL. Both the lack of experience and the lack of advancement have stalled my career. I have no assurance that I will be acceptable to a deployable command again without taking the vaccine.

7. I feel like my career as a SEAL is being cut short and that the Navy would rather have me out of the service than remain as an unvaccinated SEAL.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 13, 2023.

/s/ U.S. Navy SEAL 5

U.S. Navy SEAL 5

Tab 21

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

U.S. NAVY SEALs 1-3; on behalf of themselves and all others similarly situated; **U.S. NAVY EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN 1**, on behalf of himself and all others similarly situated; **U.S. NAVY SEALs 4-26**; **U.S. NAVY SPECIAL WARFARE COMBATANT CRAFT CREWMEN 1-5**; and **U.S. NAVY DIVERS 1-3**,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, in his official capacity as United States Secretary of the Navy,

Defendants.

Case No. 4:21-cv-01236-O

DECLARATION OF LEVI BEAIRD, LIEUTENANT COMMANDER (SEL), USN

Pursuant to 28 U.S.C. §1746, I, Levi Beaird, declare under penalty of perjury as follows:

1. I am over the age of eighteen and competent to make this declaration.
2. I am a Lieutenant Commander (select) in the United States Navy presently assigned to Surface Warfare Schools Command, a non-operational command, performing the duties of Engineering Instructor.
3. I first joined the Navy in April of 2009 as a pilot select. During Officer Candidate School (“OCS”), I fractured my right tibia and was medically separated in September of 2009.
4. On or about January 2013, I was again selected for Navy OCS and commissioned in October of 2013.

5. After commissioning, I began as a Surface Warfare Officer (“SWO”) working on the *USS Roosevelt*, a guided missile destroyer. Onboard, I was the Electrical Officer and collaterally the Religious Lay Leader. This was my first deployment, which lasted nine months. As the Religious Lay Leader, I was leading five services per week in the absence of chaplains.

6. During my second tour from February 2016 to February 2018, I served as Navigator, Administrative Officer, Electrical Officer, and Training Officer onboard the *USS Devastator*, a mine sweeper out of Manama, Bahrain. I also served as the command’s Religious Lay Leader; however, due to being mostly pier-side, our Sailors had access to base chaplains on a continual basis.

7. In 2017, I committed to serving in the Navy until on or about 2026. As part of that commitment, I screened for Department Head on my first look and was accepted, which is very difficult to accomplish because it is a highly competitive process. I also applied for a Talent Management Selection Board and was selected to attend the Naval Postgraduate School.

8. As part of accepting my offer to attend Naval Postgraduate School, I obligated myself to fulfill the role of a Department Head at sea for three years after graduation from Department Head school and accepted a retention bonus of \$105,000, that would be dispersed incrementally, to do so. The NAVADMIN that applies to my Department Head Retention Bonus is from 2016 and is entirely unrelated to any COVID-19 vaccination guidance.

9. The retention bonus I was awarded has been paid in installments since 2017. To date, I have received six of eight total installments. The last installment I received was in November of 2021. I expected to receive a \$15,000 payment in November of 2022; however, it was withheld for reasons explained below. No one in my chain of command has discussed with me the fact that my bonus payments stopped. The total amount I have received so far is \$75,000.

10. From March 2018 until 2019, I attended the Naval Postgraduate School, Monterey where I received a degree in National Security Studies writing a thesis paper comparing contemporary Russian and Soviet Naval strategy and completed my Joint Professional Military Education at the Navy War College. During my time in postgraduate school, I was the President of the Surface Navy Association, Monterey Bay. In the Surface Warfare community, that's a non-governmental entity that meets for fellowship with a mission of promoting coordination and communication between military professionals with a specific interest in Naval Surface Warfare.

11. After postgraduate school, in October 2019, I was assigned to Commander Amphibious Squadron Eight out of Norfolk, Virginia as the Future Operations Officer. During my deployment with that command from December 2019 through June of 2020, I was primarily responsible for mission and exercise planning.

12. From the time COVID-19 began in March 2020 through May 2020, I was still deployed and located in Bahrain, functioning as a naval liaison officer between Task Force 51.5 and Commander Amphibious Squadron Eight, and moved over 400 personnel to and from ships back to the United States across multiple theaters of operations. My additional duties included delivering meals to personnel who were quarantining coming to and from the United States to our ships and from our ships to the United States, getting care for injured and mentally ill Sailors and Marines, and finding ways to get service members home to their dying loved ones when commercial air routes were non-existent.

13. In May through June of 2020, I traveled to Greece from Bahrain to intercept 21 passengers coming from the United States who needed quarantining before they were taken to their respective ships.

14. I also moved approximately 200 Marines from their ships and quarantined them on base in Greece before sending them to the United States.

15. Although I was constantly exposed, I did not catch COVID-19 until July 2022 and had a very mild case, with symptoms lasting only three days. I have not had COVID-19 since.

16. After my deployment, in June 2020 until August of 2021, the same month the Department of Defense COVID-19 vaccination mandate went into effect, I returned to Norfolk, Virginia and assumed duties as the Staff Administrative Officer, Senior Watch Officer, and Anti-Terrorism Officer. The Senior Watch Officer position is a highly regarded position that is normally reserved for a higher-ranking officer, specifically a post-Department Head O-4, Lieutenant Commander, at the Staff level, but was given to me in my current position as an O-3, Lieutenant.

17. In August of 2021, as part of my commitment to serve in the Navy until 2026, I was transitioned to Department Head School in Newport, Rhode Island where I began my studies in October of that year. I graduated in April of 2022. However, because my Religious Accommodation Request (“RAR”) to not receive the COVID-19 vaccines was denied, my orders to be Chief Engineer, which is a Department Head position, onboard LCS 11 were canceled, **Exhibit A**, and I have since been stashed at the Surface Warfare School Command’s engineering department (N74) as an instructor without a definitive set of orders or an end date in sight.

18. My orders for sea duty onboard LCS 11 were set to begin in December 2022. When I am on sea duty, I receive special duty pay. But since I am presently stashed at a “shore command,” I am not receiving special duty pay.

19. During my time at Department Head School, in November 2021, I submitted my RAR.

20. My RAR was denied in December of 2021, and I submitted my appeal that same month.

21. I received the final denial of my RAR in February of 2022.

22. After receiving my final denial, later in February 2022, I received a Page 13 counseling, a Report of Misconduct, and was given a Notice to Show Cause.

23. After receiving those documents, on March 4, 2022, I attempted to leave my responsive statement package to my Notice to Show Cause with the Director of the Department Head School, as required. The Director was expecting me to hand deliver papers that morning, so, I knocked on the Director's door to his office, said, "Sir . . . hello," and received no response. Then another officer walked into the Director's office and he and the Director had a conversation. I waited outside the Director's office for him and the officer to complete their conversation. When the Director finally walked out, he looked at me and then continued walking past me without saying a word. This is typical of the treatment I have received from senior leadership throughout the course of this litigation.

24. The Notice to Show Cause initiated my Board of Inquiry, which is the Navy's process for discharging Sailors. I had the option to be administratively separated in exchange for an Honorable discharge (for Commission of a Serious Offense) but declined.

25. Thankfully, the Board of Inquiry process was suspended as a result of this Court's issuance of the class-wide preliminary injunction on March 29, 2022. It is only because of this Court's intervention that I have been able to maintain my career in the Navy. However, the injunctive relief does not cure the fact that I could be forced to pay the Navy the bonus monies I already received along with the costs of my post-graduate and Naval War College education.

26. Because I am not vaccinated, I have not been able to become a Department Head, as originally expected when I signed my commitment in 2017, which triggers the Recoupment and Repayment Policy referenced at paragraph 9 of NAVADMIN 206/16.

27. Pursuant to paragraph 5.j. of NAVADMIN 206/16, “Officers who fail to complete DH [(Department Head)] and/or fail to report to their first DH tour will have all payments received recouped as unearned.”

28. Subsequent guidance in NAVADMIN 102/22, which has not been canceled or suspended, states that because I am unvaccinated, my bonus installment payments would end and “become unearned.” This guidance was implemented after class-wide injunctive relief was granted on March 29, 2022.

29. The relevant sections of NAVADMIN 102/22 that apply to me are as follows: “RMKS/1. Purpose. To provide additional guidance regarding the actions directed in references (a) through (h) for Navy service members who requested religious accommodation from the COVID-19 vaccination requirement. These service members were certified by the U.S. District Court order in reference (i) as members of a class action in the case of U.S. Navy SEALS 1-26, et al., versus Secretary of Defense Lloyd J. Austin, III, et al. This message supersedes and replaces guidance previously provided in reference (j).”

30. “2. Policy. To ensure compliance with the court order in reference (i), this NAVADMIN continues to suspend separation processing and certain adverse administrative consequences of COVID-19 vaccine refusal for Navy service members who submitted requests for religious accommodation from the COVID-19 vaccine requirement. In line with a recent decision of the U.S. Supreme Court, the Navy may continue to consider the unvaccinated status of Navy service members when making deployment, assignment, and other operational decisions.”

31. “3. Applicability. This NAVADMIN applies only to Navy service members who have submitted requests for religious accommodation from the COVID-19 vaccine requirement in line with references (k) and (l).”

32. “4.b.3. Bonus, Special Pays, and Incentive Pays. Bonuses, special pays and incentive pays are considered unearned for personnel who have been removed from assignment based on deployment and other operational decisions. Reference (c) [NAVADMIN 256/21, which has not been canceled] provides guidance on required actions for members with unearned bonuses, special pays and incentives.”

33. NAVADMIN 256/21 states at paragraph “8. [that] Bonuses, Special Pays and Incentive Pays. Navy service members refusing the vaccine may not enter into any new agreements for bonuses, special pays, or incentive pays and any unearned portion of current bonuses, special pays and incentive pays will be recouped in accordance with references (r) through (u). Examples include, but are not limited to, the following: career retention bonuses, enlistment bonuses and incentive pays (such as flight pay). Bonuses, special pays and incentive pays become unearned when a Navy service member refusing the vaccine is no longer performing duties for which they are receiving such a bonus, special pay, or incentive pay (i.e. removed from assignment).”

34. NAVADMIN 256/21 further states at paragraph “9.a. [that] Institutional Education. Navy service members refusing the vaccine who incurred a service obligation for an education benefit (e.g. USNA, ROTC, Naval Postgraduate School, Health Professional Scholarship Program or in-residence Professional Military Education), will have any unearned portion of that education benefit recouped if separated before completing the service obligation. Navy service members refusing the vaccine (as defined in para. 3) currently enrolled in such an education program will be dis-enrolled from their program as soon as feasible and held at their institution or command

pending administrative separation. Note: Current USNA and ROTC Midshipmen will be adjudicated by governing instructions as discussed in para. 3.a.”

35. Because vaccination status is still being considered, current Navy policies indicate that I will be required to reimburse the cost of the education received, plus my retention bonus, which amounts to \$75,000 and whatever the Navy determines I owe for studies at Naval Postgraduate School and the Naval War College for Joint Professional Military Education.

36. I have ranked ahead of my peers since I commissioned in 2013 until submission of my RAR.

37. While I was selected in May of 2022 for Lieutenant Commander, O-4, my understanding is that my promotion will be withheld. I have reason to believe that it will be withheld because I have firsthand knowledge of another Lieutenant, selected for Lieutenant Commander, whose promotion is still being withheld as a result of submitting a RAR, despite the mandate being rescinded. Further, I have not received any additional information or guidance from my command or my detailer to suggest otherwise. My command had no idea that I was even selected for Lieutenant Commander and did not celebrate that achievement with me, which is the normal course of action when officers are selected to promote to the next grade.

38. Until the implementation of the August 24, 2021, vaccine mandate, throughout my career, I have been very well-respected and held in high regard among my peers and those in leadership positions.

39. The fact that I will be required to repay my bonus and cost of my postgraduate education is discriminatory, will be damaging to my career and personally financially crippling, and has caused me significant and officially documented anxiety and depression with PTSD-like

symptoms. The cost of repayment will completely wipe out all of my investment accounts and savings, which could further hamper my ability to provide for my wife and four children.

40. As indicated in Secretary of the Navy Carlos Del Toro's speech on December 6, 2022 to the Navy League, the Navy will not allow me and others who are unvaccinated for COVID-19 to return to full operational duty, despite the 2023 National Defense Authorization Act rescinding the COVID-19 vaccination mandate. (<https://news.usni.org/2022/12/07/pentagon-unclear-how-military-would-handle-end-of-mandatory-covid-19-vaccines>). I have done everything in my own power to complete the necessary schools and prepare myself for the job that the Navy will not let me do, which is Department Head.

41. The fact that I cannot become a Department Head is discriminatory and is having a detrimental impact on my entire career, my family's financial security, and our mental wellbeing. If my career continues down this path, I may be forced out of the military and may not promote. I have spent the entirety of my career, up to this point, preparing to become a Department Head. As Navigator, I was a non-billeted Department Head, i.e., a Department Head in practice but not official title. I had all the rights and duties onboard the ship, which my second tour Division Officer counterparts did not. As the Future Operations Officer (N5) and Administrative Officer (N1) at Commander Amphibious Squadron Eight, I was treated as and functioned as a staff Department Head, but like being a Navigator, I was not a billeted Department Head. I had the same duties and responsibilities as my billeted staff Department Head counterparts; however, my time in those positions did not count for me like it did for them.

42. What brings me sufficient anxiety and depression is that I know that if I am unable to ever fulfill the role of Department Head, I will not be able to achieve my next career milestones or take command of a warship, and I will have a heavy financial burden to pay back to the Navy,

plus interest and as to the untaxed amount. When I received my bonuses, I paid taxes on those bonuses. When the Navy claws back those bonuses, my understanding is that they will do so based on the original amount – meaning I will be out even more than what I was paid. I will essentially pay taxes on those sums of money, twice.

43. Like my career initially ended in 2009 due to an injury, I’m afraid that my career has essentially ended again. It is my understanding that if I cannot promote by 2025, I may be faced with meeting a career continuation board. My understanding is that this board convenes to decide whether or not I can stay in the Navy and may eventually lead to my early separation from the Navy because I have not been performing the job that I was trained to do. Because I have 10 more years before retirement, this means that I could lose out on all of my retirement benefits, which includes retirement pay, medical benefits for me and my family, loss of my GI bill education benefits if I receive a general discharge. A general discharge characterization could also have negative collateral impacts beyond the military context.

44. Further, the treatment I have sustained as an unvaccinated member of the Navy has given me enough anxiety and depression that it is now documented in my record, with PTSD-like symptoms. I have been consistently sought after to update Page 13s, be counseled on my RAR, RAR appeal, Report of Misconduct, Notice to Show Cause, and Board of Inquiry. The manner in which I was discriminated against led to my peers constantly questioning what was going on, why I was being targeted, etc.

45. Due to the small size of my family’s base housing, which was supposed to be temporary, half of our belongings are required to be kept in Non-Temporary Storage (“NTS”). For context, my wife and I are currently living in a 1,400 square foot home with four boys. Our NTS has almost converted to be entirely our expense (not the Navy’s) on two occasions because the

Navy will not issue me necessary orders because I am unvaccinated. I have asked my detailer, who is my correspondent with personnel command and is the person who assists with managing my career, a number of times about this and every time he claims it is impossible for me to be issued orders. This has placed further stress on me and my family.

46. Finally, throughout this entire ordeal, neither the Commanding Officer nor Executive Officer of Surface Warfare Schools Command have personally sat down with me to discuss my RAR, my RAR denials, or my RAR appeal. With the exception of signing Page 13s given to me by an O-5 Commander, as a result of the RAR denials, all conversations were delegated to an O-4, Lieutenant Commander, who has no real positional significance in my command. My upper-level leadership continuously demonstrates that I mean nothing to them as a person or a SWO, despite the fact that I have continued to successfully perform my duties, albeit with a tremendously heavy and anxious heart, but while also receiving high remarks from students, peers, and my immediate leadership.

47. At one point during the mandate, I was required to wear stickers on my badge that signified that I was unvaccinated and that I was allowed to enter the building.

48. Although the Secretary of Defense rescinded the COVID-19 vaccination mandate on January 10, 2023, nothing about my above-referenced circumstances has changed. In light of the fact that the Navy will continue to consider my vaccination status for deployment, assignment, and operational decisions, I think that, without court intervention, all of the negative consequences for being unvaccinated, as listed above, will persist.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on February 13, 2023.

/s/ *Levi Beaird*

LEVI BEAIRD

Exhibit A

ROUTINE

ZYUW BUCLFVA0000-0770207

R 180207Z MAR 22

FM COMNAVPERSCOM MILLINGTON TN//PERS4128 //

TO SWOSCOLCOM NEWPORT RI//JJJ//

USS SIOUX CITY GOLD//JJJ//

CENNAVAVNTECHTRAU JACKSONVILLE FL//JJJ//

SURFCOMSYSTRNCMD DET SOUTHEAST MAYPORT FL//JJJ//

COMLCSSRON TWO MAYPORT FL//JJJ//

PERSUPP DET NAVSTA NORFOLK VA//JJJ//

PERSUPP DET MAYPORT FL//JJJ//

COMLCSSRON ONE//JJJ//

COMSURFACEDIV TWO ONE//JJJ//

UNCLAS //N01321//

MSGID/GENADMIN/CHNAVPERSCOM//

SUBJ/BUPERS ORDER//

RMKS/

BUPERS ORDER: 0122 (01) XXX-XX- [REDACTED] (PERS-4128)

OFFICIAL CANCELLATION OF ORDERS FOR

LT LEVI WAYNE BEAIRD, USN

- ORDERS AND ANY MODIFICATIONS(S) THERE TO CANCELLED.

CONTINUE PRESENT DUTY.

(SIGNED)

A. HOLSEY

REAR ADMIRAL, U.S. NAVY

COMMANDER NAVY PERSONNEL COMMAND

PERS413E PERS413 PERS412

NNNN