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U.S. House of Representatives

Washington, DC 20515-6035

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PAUL ARCANGELI, STAFF DIRECTOR

September 28, 2022

The Honorable Lloyd J. Austin III
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1100

Dear Secretary Austin:

We write to seek clarity on your position regarding the vaccine mandate per your memorandum of 24 Aug 2021, *Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members* and request you provide us a briefing on the matter as soon as possible.

On September 19, 2022, President Biden told Scott Pelley of CBS news that “the pandemic is over.” Pandemic restrictions have been lifted across the country and state and federal courts have enjoined enforcement of employment-based vaccine mandates. It is our understanding that members of the Armed Forces are now one of only a few groups in the Executive Branch still subject to termination for failure to take the vaccine.

We note there are roughly 48 pending court cases against President Biden, yourself, or other senior Department of Defense leaders. Virtually all of these are challenging the vaccine mandate imposed through your memoranda against servicemembers or contractors. A number of these have caused uncertainty regarding the long-term status of affected servicemembers.

Additionally, the Department of Defense Inspector General’s (DoD IG’s) memorandum of June 2, 2022, *Denials of Religious Accommodation Requests Regarding Coronavirus Disease-2019 Vaccination Exemptions*, has raised concerns regarding the legitimacy of the process being used to consider religious accommodations for service-members:

“We found a trend of generalized assessments rather than the individualized assessment that is required by Federal law and DoD and Military Service policies.”...Volume and rate at which decisions were made to deny requests is concerning. The appeal authorities of the Services we reviewed indicated that an average of 50 denials per day were processed over a 90-day period. Assuming a JO-hour work day with no breaks or attention to other matters, the average review period was about 12 minutes for each package. Such a review period seems insufficient to process each request in an individualized manner and still perform the duties required of their position.”

Based on President Biden’s declaration that the “pandemic is over,” the ongoing litigation and court injunctions against the vaccine mandate, as well as the concerns raised by the DoD IG’s assessment regarding the legitimacy of the process for religious accommodations for the COVID-19 vaccination, we request a briefing on the Department of Defense’s COVID-19 vaccine mandate. The following should be included in the briefing:

- 1) The timeline to end the COVID-19 vaccine mandate, or an understanding of why you plan to keep the order in place;
- 2) A determination on how the President’s announcement affects your determination to continue to enforce the mandate;
- 3) A review of the COVID-19 impacts on operational readiness for the Combatant Commands;
- 4) A summary review of ongoing litigation against DoD for the COVID-19 vaccine mandate;
- 5) An assessment of how the COVID-19 mandate is impacting recruitment and retention in the Armed Forces;
- 6) What consideration is being made to offer reinstatement to those servicemembers who were separated because of a refusal to take a COVID vaccine; and
- 7) Actions taken to address the points raised over the legitimacy of DoD’s COVID-19 religious accommodation process.

We would appreciate a timely response to our request considering we are finalizing the Fiscal Year 2023 National Defense Authorization Act.

Sincerely,



Rep. Mike D. Rogers
Ranking Member



Rep. Joe Wilson




Rep. Michael R. Turner



Rep. Doug Lamborn



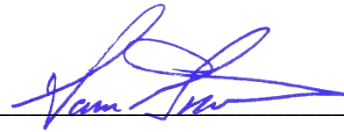
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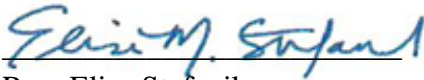
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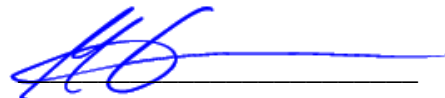
Rep. Elise Stefanik



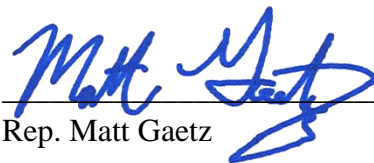
Rep. Scott DesJarlais



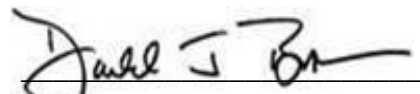
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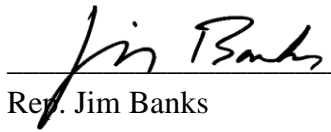
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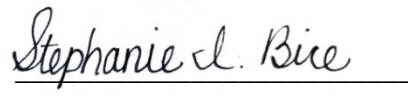

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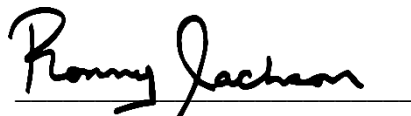

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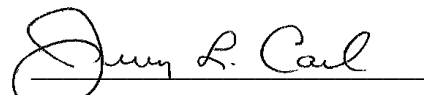

Rep. Mark E. Green, MD

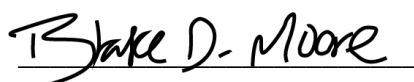

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