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Navigating Faith and Duty: Treatise on Religious Accommodations in the U.S. Military

by

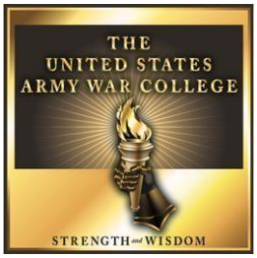
Chaplain (Colonel) Timothy E. Maracle

Under the Direction of:

Professor David Schanzer, Duke University

Professor Timothy Nichols, Duke University

Chaplain (Colonel) Geoffrey Bailey, US Army War College



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Author:	Chaplain (Colonel) Timothy E. Maracle
Project Advisors:	Professor David Schanzer, Duke University Professor Timothy Nichols, Duke University Chaplain (Colonel) Geoffrey Bailey, US Army War College
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Abstract

The Department of Defense's (DOD) COVID-19 vaccine mandate faced significant opposition due to limited exemptions, experimental vaccines, and perceived bias against religious accommodations. The Religious Freedom Restoration Act prohibits substantial burdens on religious expression unless a compelling government interest is proven with the least restrictive means. The COVID-19 mandate illustrates a perceived double standard in comparison to approved medical exemptions. While the DOD emphasizes force readiness for national security, it must address nearly 36,500 denied requests for religious accommodations. The COVID-19 mandate exposed flaws in the DOD's accommodation process and neglected the cumulative effects of thousands of requests. This paper evaluates the interplay between religion and secularism in the DOD regarding religious accommodation, revealing a forced moral compromise condoning abortion, failing treatment of religious service members equitably, and lack of suitable education for leaders. The mandate serves to demonstrate the dynamics of policy on religious accommodations with the DOD.

Key Words

Religious Accommodations, Free Exercise, RFRA, Vaccine Mandate, Military Readiness, Unit Cohesion, Good Order and Discipline.

Navigating Faith and Duty: Treatise on Religious Accommodations in the US Military

The Department of Defense's (DOD) Coronavirus Disease 2019 (COVID-19) vaccine mandate sparked significant opposition due to limited approved exemptions, the experimental nature of the vaccine, and perceived bias in the treatment of religious accommodations. The Religious Freedom Restoration Act (RFRA) states that the government cannot substantially burden religious expression unless it demonstrates a further compelling governmental interest and uses the least restrictive means.[1] The key issues against the DOD are the use of vaccines that condone abortions, the use of experimental vaccines on service members, and equitable treatment of service members' religious beliefs. The COVID-19 vaccine mandate will be used in this paper as an illustration of a perceived double standard in comparison to medical exemptions and other vaccinations.[2] These issues fueled resistance to the mandate and contributed to a growing distrust of military leadership among service members. While the DOD emphasizes the importance of force readiness for national security, it also has an obligation to acknowledge and address the nearly 36,500 requests for religious accommodation from its personnel.[3] The DOD did not understand, nor did it train leaders to understand, religious expression, which created an issue to communicate proper respect for religious beliefs. A policy mandate perceived as supporting abortion that is politically divisive ultimately undermined the principles of service and sacrifice it

[1] 42 U.S.C. Ch. 21B: Religious Freedom Restoration Act. https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter21B&edition=prelim

[2] From 2018 to 2023, influenza immunizations in the DOD averaged 91.1%, compared to 96% for COVID-19. Health.mil. November 1, 2023. https://health.mil/News/Articles/2023/11/01/Flu-Vaccination-of-Military-Heath-Care-Workers

[3] Mary Avriette. "Always 2020: A Cost-Benefit Analysis of the DOD's Covid-19 Vaccine Mandate." Order No. 31561220, *The Pardee RAND Graduate School, 2024*, 46. https://www.proquest.com/dissertations-theses/always-2020-cost-benefit-analysis-DOD-s-covid-19/docview/3116807748/se-2

aimed to uphold. The COVID-19 vaccination mandate highlighted the DOD's compromised religious accommodation process, inadequate support for religious beliefs, and the negation of the cumulative effect of thousands of religious accommodations across the entire military. This paper examines the relationship between religion and secularism in the DOD through the lens of religious accommodation. The military services, balancing military readiness with respect for religious beliefs, forced a moral compromise between belief and compliance that condoned abortion, violated the ethics of trust through a bait-and-switch tactic of approved vaccines with emergency use authorizations, the right to fair and equitable treatment for religious service members and approved only a fraction of applicants for religious accommodations.[4]

Methodology

This paper conducts a comprehensive literature review focusing on the freedom of religion and expression. Primary sources for this study include federal law, US Supreme Court and other case law, DOD Policy and Instructions, Armed Services doctrine, telephonic interviews, and review of case studies on religious accommodation. It also encompasses DOD studies, federal research projects, legal precedents on religious accommodation issues, transcripts of interviews with various service members and leaders, public laws, and military service requirements. The analysis of this

[4] COVID-19 was only 0.8%, compared to the influenza vaccine at an average of 7%.

information served as source material for the analysis, recommendations, and conclusion.

Background

A theory of religious accommodations states that “religious conduct has a right to be free not only of intentional mistreatment but also of burdens the law may happen unintentionally to place on it.”[5] The history of religious accommodations in the DOD underwent significant changes from 1776 to 1986 as societal shifts and increased diversity enabled greater representation with the current 221 recognized religions in the DOD.[6] In 2019, the Congressional Research Service reported that the DOD was 73% religious, with 70% representing Judeo-Christian beliefs.[7] To define religious accommodations at the outset is to consider that an accommodation represents a right or freedom to be exempt from a law or policy to engage in a specific act, particularly in the context of religious expression. All accommodations are exemptions in themselves, as they are similar concepts; however, exemptions represent a particular type of accommodation. An example of this occurred when the DOD published its vaccine mandate policy; subsequently, a service member requested a religious accommodation to avoid taking the vaccine and receive an exemption from the vaccination requirement.

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[5] Paul Bou-Habib. “A Theory of Religious Accommodation”, *Journal of Applied Psychology*, Vol. 23, No. 1, 2006. https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1468-5930.2006.00323.x?saml_referrer

[6] Armed Forces Chaplaincy Board. “DOD-Listed Religious-Endorsing Organizations/Agents,” *Office of the Under Secretary for Personnel and Readiness*, March 5, 2025. https://prhome.defense.gov/M-RA/MPP/AFCB/Endorsements/

[7] Kristy N. Kamarck. *Diversity, Inclusion, and Equal Opportunity in the Armed Services: Background and Issues for Congress*. R44321 (Washington, D.C.: Congressional Research Service. June 5, 2019), 45. https://crsreports.congress.gov/product/pdf/R/R44321.

Religious Accommodation Policy Origin

The DOD policy, DOD Instruction (DODI) 1300.17, originated after the 1986 US Supreme Court ruling in *Goldman v. Secretary of Defense*.[8] A former Navy chaplain, then an Air Force Reserve psychologist, requested permission to wear a yarmulke after being disciplined following his testimony in court, during which he damaged the prosecutor's case in 1981. Following the testimony, Captain Goldman received a letter of reprimand from the command to which he was assigned for wearing the yarmulke in the courthouse while in uniform.[9] CPT Goldman believed that it was retribution for supporting the defense witness, as he had worn the yarmulke on duty without issue for over five years.[10] This also affected an application he submitted for an active-duty position, which required recommendations to be included in the packet. After the court case, each recommendation in his packet was quickly reversed, and negative messages were substituted for them.[11]

Shortly after, CPT Goldman filed a lawsuit claiming that the Air Force had violated his right to freely exercise his religion by prohibiting the wear of a religious head covering and sought retribution for the damage to their court case. The US Court for the District of Columbia (DC) found in favor of CPT Goldman. However, the Air Force appealed, and the US Court of Appeals for DC reversed the decision.[12] The court remarked, "The military need not encourage debate or tolerate protest to the extent that such tolerance is required of the civilian state by the First Amendment; to accomplish its

[8] *Goldman v. Secretary of Defense*, 734 F. 2d 1531 (D.C. Dir. 1984). https://tile.loc.gov/storage-services/service/ll/usrep/usrep475/usrep475503/usrep475503.pdf

[9] *Goldman v. Secretary of Defense*, 503.

[10] *Goldman v. Secretary of Defense*, 504-505.

[11] *Goldman v. Weinberger et al., Secretary of Defense*. 475 US 573. March 25, 1986, 474. https://supreme.justia.com/cases/federal/us/475/503/

[12] *Goldman v. Secretary of Defense*, 504.

mission, the military must foster instinctive obedience, unity, commitment, and *esprit de corps."*[13] In this case, the US Supreme Court affirmed the Circuit Court's decision in a 5-4 ruling against CPT Goldman, concluding with comments from the case that military readiness can restrict the religious expression of service members.[14] "The First Amendment does not prohibit the challenged regulation from being applied to petitioner, even though its effect is to restrict the wearing of the headgear required by his religious beliefs."[15] The Supreme Court reasoned that if they approved a yarmulke for Jews, then there would be others that requested accommodation ending with a "brightly-colored, 'rag-tag' band of soldiers,'" that would represent the US military in the DOD.[16] CPT Goldman faced a strict punishment in the court martial: he would be relieved of his duties in the Air Force if he did not follow the uniform wear and appearance regulations.

Following the Supreme Court ruling, Justices Scalia, Brennan, and Kennedy provided dissenting opinion, "The Court and the military have refused servicemen their constitutional rights; we must hope that Congress will correct this wrong."[17] In the 1985 National Defense Authorization Act (NDAA), Congress directed the DOD to conduct a study on military dress and appearance standards related to religious practices within the military.[18] Each military service contributed to the comprehensive Joint Study on Religious Matters in the same year to address this directive.[19] The joint study recommended that the DOD create a policy to regulate requests for religious

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[13] *Goldman v. Weinberger*, 475. (italics in original text)
[14] *Goldman v. Secretary of Defense*, 516.
[15] *Goldman v. Weinberger*, 475.
[16] *Goldman v. Weinberger*.
[17] *Goldman v. Weinberger*.
[18] Congress.gov. "H.R.5167 - 98th Congress (1983-1984): Department of Defense Authorization Act, 1985." October 19, 1984. https://www.congress.gov/bill/98th-congress/house-bill/5167.
[19] Thomas R. Folk. "Religion and the Military: Recent Deployments," *The Army Lawyer*, December 1985. https://tile.loc.gov/storage-services/service/ll/llmlp/75615419_12-1985/75615419_12-1985.pdf

accommodations, as was the origin of the DOD Directive (DODD) 1300.17 in 1985.[20] Congress continued in 1987, creating the Religious Apparel Amendment that permitted service members to "wear an item of religious apparel while in uniform…[that] is neat and conservative…[and does not] interfere with the performance of military duties," that effectively reversed the effects of *Goldman v. Secretary of Defense* allowing for Jews to wear yarmulkes while in uniform.[21]

Religious Freedom Restoration Act

Congress enacted the Religious Freedom Restoration Act (RFRA) of 1993 that accentuated this directive following the *Employment Division v. Smith,*[22] case in 1990 stating, "There is no exemption for individuals who hold a certain religious belief if a generally applicable rule happens to place a burden on exercising that belief."[23] This act was necessary due to ongoing issues regarding the interpretation of religious expression under the US Constitution, which imposes a higher standard of review for government actions, particularly in the context of the "separation of church and state," and protects the religious freedoms of all Americans.[24] The RFRA creates a workable test for striking sensible balances between religious liberty and competing prior governmental interests.[25] This allows for a more considered approach to adding

[20] William H. Taft IV. "Religious Practice in the Armed Forces," (official memorandum, Washington, DC: Department of Defense, October 12, 1984), 64-65. https://archive.org/details/DODDirective130017AccommodationofReligiousPracticeswithintheMilitaryServices/page/n63/mode/2up

[21] Brett Curry. "Goldman v. Weinberger (1986)" *Free Speech Center: At Middle Tennessee State University*, January 26, 2025. https://firstamendment.mtsu.edu/article/goldman-v-weinberger/

[22] *Employment Division v. Smith* represents two Native American employees who were caught using peyote in religious expression, were terminated, and were rejected from receiving unemployment benefits for violating the law against illegal substances in

[23] *Employment Division v. Smith*, 494 U.S. 872 (1990), https://supreme.justia.com/cases/federal/us/494/872/

[24] Whitney K. Novak. *The Religious Freedom Restoration Act: A Primer*. IF11490. (Washington, D.C., Congressional Research Service. April 3, 2020), 1. https://crsreports.congress.gov/product/pdf/IF/IF11490

[25] Congress.gov. "Text - H.R.1308 - 103rd Congress (1993-1994): Religious Freedom Restoration Act of 1993." November 16, 1993. https://www.congress.gov/bill/103rd-congress/house-bill/1308/text.

religious exemptions to existing ones that can affect religious expression.[26] The RFRA emphasized protections under the Free Exercise Clause, compelling the government to demonstrate a compelling interest in laws that could infringe on the inherent protection for the free exercise of religion.[27]

The process for religious accommodation begins with DOD publishing the policy for each military service to follow.[28] The 2020 revision to the DOD policy, DODI 1300.17, outlines the requirements for a service member to request a religious accommodation from their respective military leadership, from their first-level commander to the service secretary in the Pentagon. The process allows a commander to disapprove the request at any point. Depending on the level of the request, the process continues until it is terminated at the appropriate level. Each service then creates regulatory requirements[29] to determine whether the military service may substantially burden a person's religious exercise if it advances a compelling government interest and is the least restrictive means.[30] Each military service is responsible for managing religious accommodations in a manner that ensures unit training and missions prepare service members for contingencies and that individual religious freedoms are exercised within the framework of good order and discipline.[31] A Commander "substantially burden[s]" a service member's religious practice if their

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[26] Novak, 1.

[27] *Warner v. City of Boca Raton*, 64 F. Supp. 2d 1272 (S.D. Fla. 1999) https://law.justia.com/cases/federal/district-courts/FSupp2/64/1272/2578549/

[28] 42 U.S.C. §§ 2000bb-1. https://uscode.house.gov/view.xhtml?req=(title:42%20section:2000bb-1%20edition:prelim)

[29] Each military service regulation: The Army has Army Regulation 600-20, Army Command Policy; the Air Force has DAF Instruction 52-201, Accommodation of Religious Practices; and the Navy has SECNAVY Instruction 1730.8B Change 1, Accommodation of Religious Practices.

[30] 42 U.S.C. §§ 2000bb-1.

[31] An example of societal shift is the Secretary of the Army tasked chaplains to conduct training for LGBTQ+ programs in 2022 as directed by Christine E. Wormuth, Secretary of the Army, Army Directive 2021-22 (Army Service by Transgender Persons and Persons With Gender Dysphoria), June 22, 2021. https://armypubs.army.mil/epubs/DRpubs/DRa/ARN32878-ARMY_DIR_2021-22-000-WEB-1.pdf

action either prevents participation in conduct motivated by a sincerely held belief or places substantial pressure on them to engage in conduct that is contradictory to a sincerely held belief.[32] This conduct relates to all aspects of military life "which do not have an adverse impact on military readiness, unit cohesion, good order and discipline, or health and safety."[33] Each commander assesses each submitted packet of information according to the applicable standards of the DOD and service-specific policies.

Commanders at the lowest tactical level, typically at the company level of an O-3,[34] receive the request and determine the highest level necessary for approval or denial. The request pertains to a packet containing memoranda from the unit chaplain, the lowest-level signatory commander, and any letters of reference to justify religious sincerity and practice as illustrated in daily life patterns or habits. An additional memorandum from a medical doctor is required for a vaccination exemption. The lower two of the four tiers[35] of religious accommodation entails granting subordinate commanders the authority to approve considerations such as worship practices, dietary needs, designated times for prayer and meditation, religious observances for holy days,

[32] Department of Defense, Instruction No. 1300.17, Religious Liberty in the Military Services (Washington, D.C., September 1, 2020), https://www.esd.whs.mil/Portals/54/Documents/ DD/issuances/dodi/130017p.pdf

[33] DODI 1300.17, supra note 60, at para. 4(a).

[34] O-3 represents an Officer Grade 3 in the Army, is a Captain and in Air Force, in the Navy, is a Lieutenant and is traditionally the lowest level authorized signatory that influences good order and discipline.

[35] Four categories of religious accommodations are 1) Routine requests requiring no waiver involving adjustments to work and duty schedules. (e.g. attending a religious service not hosted on Sunday), 2) Routine requests that require approval from a commander, involving separate rations for dietary requirements and alterations to the uniform standard by exception. [e.g. Wear of winter physical training uniforms in spring and summer for modesty not affected by uniform regulations Army Regulation (AR) 670-1], 3) Uniform and grooming requests requiring approval by the General Courts Martial Convening Authority (GCMCA) involving hijabs, beards, turbans with an uncut beard and hair in accordance with the command and uniform regulations. (e.g. AR 600-20 Army Command Policy and AR 670-1), 4) Uniform and grooming requests requiring approval by the respective service secretary or their designated representative, including those involving medical procedures, uncut hair without a turban, and failure to receive immunizations.

and access to religious resource materials.[36] The top two tiers encapsulate the required level depending on the difficulty of the request. Suppose a service member requests a modification to the uniform wear policies or grooming standards, which require approval from the General Courts-Martial Convening Authority (GCMCA) at the first general officer level, that include the wear of hijabs, beards, and turbans with uncut hair. In that case, the command must send the request to the first general officer authorized to approve this request. In accordance with the rank structure for the military services, the general officer or flag officer, is at the O-7 to O-9 level.[37]

If the request requires national-level approval, the service secretary is responsible for granting that approval, which they then delegate to their uniform policy representative.[38] In the case of all COVID-19 vaccine exemption requests for religious accommodation, service members submitted their requests through their chain of command to the highest level of authority, the presidentially appointed service secretary of each service or their approved delegate as stated in DODI 1300.17. That representative is authorized to approve vaccine exemptions for the Army[39] and the Navy is the Surgeon General. For the Air Force, it is the first Major Command or Field Commander.[40] If an exemption is denied, the appeal process is referred to the Air Force Surgeon General.[41]

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[36] Department of the Army. *AR 600-20 Army Command Policy*, Washington, D.C. 24 July 2020. 58-59.

[37] O-7 in the Army and AF is a Brigadier General, in the Navy a Rear Admiral Lower Half; O-8 in the Army and AF is a Major General, in the Navy a Rear Admiral Upper Half; O-9 in the Army and AF is a Lieutenant General, in the Navy a Vice Admiral.

[38] Department of the Army. "Religious Liberty and Religious Accommodation in the United States Army" *Office of the Chief of Chaplains,* 31 March 2023.

[39] AR 600-20, 58.

[40] Department of the Air Force. Department of the Air Force Instruction 52-201, "Religious Freedom in the Department of the Air Force," *Secretary of the Air Force*, June 23, 2021, 18. https://static.e-publishing.af.mil/production/1/af_hc/publication/dafi52-201/dafi52-201.pdf

[41] DAFI 52-201, 18.

A brief background on DODI 1300.17 shows the DOD first published a directive version on June 18, 1985.[42] The most recent revision was published on September 1, 2020, with a change in title from “Accommodation of Religious Practices Within the Military Services,”[43] to “Religious Liberty in the Military Services.”[44] The previous revisions occurred in 1988 and 2009. According to DODD 5124.02 from 2008, the DOD assigned the Under Secretary of Defense (SECDEF) for Personnel and Readiness (USD(P&R)) the responsibility for overseeing all matters related to religious liberty, including the publication of DODI 1300.17. Each request for religious accommodation has a review and action timeline for processing. Referring to Table 1 below, the DODI 1300.17 mandates that requests sent within the continental US be reviewed and adjudicated within thirty days. Outside the continental US, there is a limit of sixty days. In an average year, the DOD typically receives approximately 900 religious accommodations.[45] When COVID-19 led to a global pandemic, the DOD received nearly 36,500 religious accommodation requests across the three services in response to the vaccination mandate issued by the SECDEF.[46] The COVID-19 number of accommodation requests is unprecedented, totaling over forty times the average in the history of the DOD.[47]

[42] DODI 1300.17, (2020).
[43] DODI 1300.17, *Accommodation of Religious Practices Within the Military Services*. (Washington, DC: Department of Defense, February 10, 2009). https://mil.wa.gov/asset/5ba41fd4007a6
[44] DODI 1300.17, (2020).
[45] Interview with Chaplain (Lieutenant Colonel) William Martin, Religious Accommodation Officer to the Headquarters Department of the Army representing the Office of the Chief of Chaplains on September 19, 2024.
[46] Avriette, 52.
[47] Avriette, 52.

Action to be Taken	For Requests Within the United States	For Requests Outside the United States or for Reserve Component Service Members Not on Active Duty
Action on Requests for Religious Accommodation that Can Be Approved Consistent with Existing Military Department or Military Service Regulations or Policies		
Review and final action completed and written notification to requesting Service member provided	No later than 30 business days from Service member submission	No later than 60 days from Service member submission
Action on Requests for Religious Accommodation that Require the Waiver of Otherwise Applicable Military Department or Military Service Regulations or Policies		
Written request for accommodation received by the Office of the Secretary concerned[1]	No later than 30 days from Service member submission to commander or supervisor	No later than 60 days from Service member submission to commander or supervisor
Review and final action completed and written notification to requesting Service member provided	No later than 60 days from receipt by the Office of the Secretary concerned.[1] Must be provided to the Service member within 5 days of final action	
	1. Unless authority is delegated to a subordinate official in accordance with Paragraph 3.2.b of this issuance.	

Table 1, Review and Action Timeline for Processing Accommodation Requests[48]

History of the COVID-19 Emergency Use Authorization Vaccine

The history of the COVID-19 vaccine started on November 20, 2020, when Pfizer-BioNTech submitted a request for Emergency Use Authorization (EUA) for their vaccine to the US Food and Drug Administration (FDA).[49] Following this request, the DOD launched a voluntary vaccination campaign on December 9, 2020, prioritizing healthcare workers and other high-risk personnel.[50] On January 22, 2021, newly inaugurated President Biden signed executive orders in the first days of his administration to expedite the vaccine development process, known as Operation Warp

[48] DODI 1300.17, Table 1., 10.

[49] Pfizer and BioNTech. "Pfizer and BioNTech to Submit Emergency Use Authorization Request Today to the U.S. FDA for COVID-19 Vaccine," *Pfizer.com,* November 20, 2020. https://www.pfizer.com /news/ press-release/press-release-detail/pfizer-and-biontech-submit-emergency-use-authorization

[50] David Vergun. "DOD Officials Announce Distribution Plan for Initial Batch of COVID-19 Vaccine." US Department of Defense News, December 9, 2020. https://www.defense.gov/News/News-Stories/Article/Article/2440577/dod-officials-announce-distribution-plan-for-initial-batch-of-covid-19-vaccine/

Speed, to expedite the EUA.[51] Some reports indicated that some pharmaceutical companies, such as AstraZeneca and Janssen, involved in vaccine development used cells derived from aborted fetuses during testing.[52] On May 20, 2021, the SECDEF and the Joint Chiefs of Staff Vice Chairman published a memorandum encouraging all service members to receive the COVID-19 vaccination voluntarily.[53] On August 12, 2021, the FDA amended the Pfizer-BioNTech EUA to include Moderna in the COVID-19 vaccine authorizations, along with a new requirement for an additional dose to be an effective treatment against COVID-19.[54]

COVID-19 Vaccination Mandate

Subsequently, on August 24, 2021, the DOD issued a policy memorandum mandating that all active-duty, reserve, and National Guard service members be vaccinated.[55] Immediately, service members from the three main military services submitted requests for religious accommodation. Early figures showed that thousands of requests were prepared in anticipation of the mandate. Once the SECDEF published the mandate on August 24, the individual services established deadlines to receive the vaccine. The Air Force used November 2, 2021, as the cutoff date, only 48 business

[51] Executive Order No. 13962, Federal Register 79,777, vol. 85, No. 239. (December 8, 2020). https://www.govinfo.gov/content/pkg/FR-2020-12-11/pdf/2020-27455.pdf

[52] Richard K. Zimmerman. "Helping patients with ethical concerns about COVID-19 vaccines in light of fetal cell lines used in some COVID-19 vaccines." *Vaccine* 39, no. 31 (2021): 4242-4244, 4242.

[53] "COVID-19 Timeline", *Department of Defense*, March 18, 2024. https://www.defense.gov/Spotlights/ Coronavirus-DOD-Response/Timeline/

[54] "COVID-19 Timeline", *Department of Defense*.

[55] Secretary of Defense. "Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members," Secretary of Defense, August 24, 2021. https://media.defense.gov/2021/ Aug/25/2002838826/-1/-1/0/MEMORANDUM-FOR-MANDATORY-CORONAVIRUS-DISEASE-2019-VACCINATION-OF-DEPARTMENT-OF-DEFENSE-SERVICE-MEMBERS.PDF

days later.[56] The Army used December 15, 2021,[57] as the deadline for all active-duty soldiers, which is only 76 business days. Both dates fell short of the established timelines in DODI 1300.17.[58] If a service member fails to meet the established deadline, the service declares they are disobeying a lawful order as outlined in 10 US Code Article 92, which results in the forfeiture of all pay and allowances, as well as confinement for up to two years.[59]

The military services became overwhelmed by thousands of requests. As of January 2023, the DOD Inspector General numbers, based on the total requests received in the table below, indicate that only 2% of the requests were approved. The services continued to receive requests until the mandate was rescinded on January 10, 2023, resulting in a total of 36,500 religious accommodation requests across the three services.[60] After analyzing the data, only 0.8% of all accommodations were approved.[61] Missing the deadline for submitting a religious accommodation request for the COVID-19 vaccine led to numerous administrative actions being initiated by the three services. These actions included but were not limited to, involuntary separation, delays in promotions, and restrictions on assignments and deployments.[62] By the date of the rescission memo, the military had discharged 8,339 service members for refusing to

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[56] Secretary of the Air Force. “DAF processes religious accommodations requests,” US Air Force Public Affairs, January 6, 2022. https://www.afpc.af.mil/News/Article/3019430/daf-processes-religious-accommodations-requests/

[57] US Army. “Army announces implementation of mandatory vaccines for Soldiers,” US Army Public Affairs. September 14, 2021. https://www.army.mil/article/250277/army_announces_implementation_of_mandatory vaccines_for_soldiers

[58] DODI 1300.17 outlines the 60-day response required by the services to the service member.

[59] Joint Service Committee. “Manual for Courts-Martial” (2024 edition), IV-28. https://jsc.defense.gov/Portals/99/2024%20MCM%20files/MCM%20(2024%20ed)%20-%20TOC%20no%20index.pdf?ver=b7JVpxV5rbIHg0ENlCRVKQ%3d%3d

[60] Avriette, 52.

[61] Health.mil. November 1, 2023.

[62] US Marine Corps. “INTERIM GUIDANCE REGARDING MARINES REQUESTING RELIGIOUS ACCOMMODATION FROM COVID-19 VACCINATION REQUIREMENTS,” MARADMINS Number 464/42, September 14, 2022. https://www.marines.mil/News/Messages/Messages-Display/Article/3157581/interim-guidance-regarding-marines-requesting-religious-accommodation-from-covi/

take the COVID-19 vaccine which included service members awaiting results of their religious accommodation requests.[63] Thousands of other service members "left voluntarily to avoid the vaccine mandate."[64] During the surge in COVID-19-related religious accommodation requests, the military services became so overwhelmed that they encountered additional administrative complications in tracking each request across all services, which complicated the final numbers.[65]

Table 13. Number of Religious Accommodation Requests Submitted as of January 2023

Military Service	Requests Approved by Decision Authority	Requests Denied by Decision Authority	Requests In Process	Total Requests by Service
Army	97	1,819	2,512	4,428
Marine Corps	23	3,686	0	3,709
Navy	50	3,256	30	3,336
Air Force*	169	4,626	17	4,812
Total	339	13,387	2,559	16,285

*Air Force numbers include requests from Space Force Service members.

Table 2, Religious Accommodation Numbers as of January 2023[66]

National Level Reaction by DOD Inspector General and Congress

Beginning in August 2021, the DOD IG received numerous complaints through its hotline regarding the military services' failure to process vaccination exemption requests for medical and religious accommodations.[67] To address the growing number of complaints, the DOD IG initiated an audit in February 2022, published in March 2024, to

[63] Meghann Myers. "The fallout of the military's COVID-19 vaccine mandate," Military Times.
[64] C. Todd Lopez. "DOD prepares invitation to bring back troops separated for refusing COVID vaccine," DOD News, February 18, 2025. https://www.army.mil/article/283143/dod_prepares_invitation_to_bring_back_troops_separated_for_refusing_covid_vaccine.
[65] Avriette, 52.
[66] Department of Defense Inspector General. "Audit of Military Services' Processing of Coronavirus Disease–2019 Vaccination Exemptions and Discharges for Active Duty Service Members" Report No. DODIG-2024-061. March 12, 2024, i. https://www.oversight.gov/sites/default/files/documents/reports/ 2024-03/DODIG-2024-061AUDITVaccineExemptRedactedSECURED.pdf
[67] DOD IG Audit, 23.

investigate potential noncompliance with standards for reviewing and documenting the denial of religious accommodation requests from service members. The findings presented two concerns to the DOD: the "volume and rate at which decisions were made to deny requests" and a "lack of individualized review of religious accommodation requests" listed in DODI 1300.17.[68] The data indicated that out of nearly 23,000 exemptions submitted at the time of the DOD IG audit, 67% were for religious accommodations.[69] The audit findings specified that the Army and the Air Force did not adhere to the timelines outlined in DODI 1300.17. They took an average of 192 days to respond, significantly exceeding the 60-day requirement.[70] Additionally, all services failed to create appropriate command letters and monitor vaccination status, which impacted "educational benefits and eligibility to reenlist in military service," including missing required schooling, training or becoming ineligible for promotions.[71]

Forty-six members of Congress sent a letter dated September 15, 2022, expressing their concerns to the SECDEF about the impact of the DOD's COVID-19 vaccine mandate on the readiness of the Armed Forces, notably the Army.[72] The letter noted that if 75,000 service members who had not yet been vaccinated were discharged, it raised questions about the military's ability to replace them, naming expressly the Army as with the most unvaccinated.[73] Congress approved the 2023 NDAA which directed the DOD to rescind the vaccine mandate on December 23,

[68] DODIG Audit, i.
[69] DOD IG Audit, 46.
[70] DOD IG Audit, i.
[71] DOD IG Audit, ii.
[72] US Congress. "Letter to Secretary of Defense," Congress of the United States, September 15, 2022, 1. https://oga.trmlx.com/wp-content/uploads/2022/09/14183553/FILE_3443.pdf
[73] US Congress. "Letter to Secretary of Defense".

2022.[74] January 10, 2023. The DOD rescinded the vaccination mandate on January 10, 2023.[75] President Biden issued an executive order formally rescinding the vaccine mandate for all federal workers on May 11, 2023.[76]

Analysis

This paper aims to highlight the relationship between religion and secularism in the DOD, illustrating a balance between military readiness and respect for religious beliefs. The apparent apathy with which the DOD treated the policy for religious accommodation, along with the lack of planning for any influx of accommodation requests, illustrated significant indifference. The analysis of the events will examine several key arguments concerning the COVID-19 vaccination mandate. The first is the moral compromise between religious belief and compliance that condones abortion through taking vaccines manufactured using fetal cells in research and testing.[77] The second issue is the ethics of the bait-and-switch tactic employed by the DOD, which treated all COVID-19 vaccines as equal, despite the mandate stating that only FDA-approved vaccines would be used.[78] The third is the right to fair and equal treatment for

[74] "H.R.7776 - 117th Congress (2021-2022): James M. Inhofe National Defense Authorization Act for Fiscal Year 2023." *Congress.gov*, Library of Congress, 23 December 2022, https://www.congress.gov/bill/ 117th-congress/house-bill/7776.

[75] Lloyd Austin. "Rescission of August 24, 2021 and November 30, 2021 Coronavirus Disease 2019 Vaccination Requirements of the Armed Forces," (official memorandum, Washington, DC: Secretary of Defense, January 10, 2023), 1. https://media.defense.gov/2023/Jan/10/2003143118/-1/-1/1/SECRETARY-OF-DEFENSE-MEMO-ON-RESCISSION-OF-CORONAVIRUS-DISEASE-2019-VACCINATION-REQUIREMENTS-FOR-MEMBERS-OF-THE-ARMED-FORCES.PDF

[76] Joseph Biden, Jr. "Executive Order 14099- Moving Beyond COVID-19 Vaccination Requirements for Federal Workers." (official executive order, Washington, DC, May 9, 2023). https://www.govinfo.gov/content/pkg/DCPD-202300394/pdf/DCPD-202300394.pdf

[77] Steve Clarke. "The sanctity of life as a sacred value." *Bioethics* 37, no. 1 (2023): 32-39, 32.

[78] David Adam Friedman, *Explaining "Bait-and-Switch" Regulation*, 4 Wm. & Mary Business Law Review 575 (2013), https://scholarship.law.wm.edu/wmblr/vol4/iss2/6

religious service members focusing on the 0.8% list of approved accommodations, which uses the other mandated vaccination accommodations as a standard.[79]

Each argument serves as a framework for understanding the dynamics and critique of policy for religious accommodations within the DOD. This highlights a flaw in the accommodation process, using the COVID-19 vaccine mandate as a demonstrative example.

Moral Compromise Between Religious Belief & Compliance Condones Abortion

In October 2021, twenty-six Navy SEALs,[80] along with nine other sailors serving in Naval Special Warfare (NSW) Command units, filed religious accommodation requests with their respective commands to be exempt from the COVID-19 vaccination mandate, "which describes their sincere religious beliefs and the substantial burden placed on them by the Navy's vaccine mandate."[81] The SEALs stated the primary issue concerning the vaccine was that it "would cause them to 'participate in the abortion enterprise,' or that the immune response produced by the vaccines was 'not designed by God.'"[82] According to the Navy process, there are six phases with fifty steps involved in processing religious accommodations.[83] After submission and progress to step

[79] Avriette, 46.

[80] Naval Special Warfare operators that conduct warfare through the SEa, Air, and Land= SEAL. "Components of the Trident," USMilitary.com. https://usmilitary.com/navy-seal-trident/#componentsofthetrident

[81] United States Court of Appeals for the Fifth Circuit. "U.S. Navy SEALS 1-26; U.S. Navy Special Warfare Combatant Craft Crewmen 1-5; U.S. Navy Explosive Ordinance Disposal Technician1; U.S. Navy Divers 1-3, versus J Joseph R. Biden, Jr., in his official capacity as President of the United States of America; Lloyd Austin, Secretary, U.S. Department of Defense, individually and in his official capacity as United States Secretary of Defense; United States Department of Defense; Carlos Del Toro, individually and in his official capacity as United States Secretary of the Navy," USDC No. 4:21-CV-1236, No. 22-10077, 7. https://www.ca5.uscourts.gov/opinions/pub/22/22-10077-CV0.pdf

[82] Corey Dickstein. "Navy SEALs' lawsuit claims religious freedoms violated by coronavirus vaccine mandate," Stars and Stripes, November 10, 2021. https://www.stripes.com/branches/navy/2021-11-10/navy-seals-lawsuit-coronavirus-vaccine-mandate-religious-exemptions-3570370.html

[83] "Religious Accommodations," MyNavy HR, March 7, 2025. https://www.mynavyhr.navy.mil/Support-Services/Religious-Accommodations/

thirteen, each service member's paperwork was reviewed and verified. Following this step, "various commanders told several Plaintiffs that they risked losing their special warfare device, the SEAL Trident,[84] if they requested a religious accommodation."[85] The support for abortions brought many service members to experience this moral issue of the sanctity of life, claiming that all life is sacred, that each human has personhood where life begins at conception, and that all life has value.

The support for the sanctity of life compelled the applicants to request religious accommodation. After their initial accommodation denials, these personnel were prevented from traveling for schooling or training, from relocating, such as through a permanent change of station, and from advancing in leadership.[86] One SEAL stated that the chain of command removed him from a leadership position, and a Combatant Craft Crewman was denied access to essential leadership training.[87] A few other SEALs endured derision from their commanders, who claimed that no religious accommodations would be approved and that even if they were approved, the applicant would be "an 'acceptable loss' to the Naval Special Warfare (NSW) community," which means they would be relieved of their positions and moved out of the NSW community and back into the conventional Navy.[88] All applicants received opposition after requesting a religious accommodation, and then most received a formal letter of disapproval, "explained in generic terms — a boilerplate letter."[89] Not all SEALs and

[84] The SEAL Trident is awarded after completion of Basic Underwater Demolition/SEAL Training and is a gold-colored badge that has on it an eagle representing the US and warrior spirit, an anchor representing the naval heritage, a three-pronged staff or "trident" representing maritime capabilities and Neptune, and a pistol representing readiness for combat action. "Components of the Trident," USMilitary.com. https://usmilitary.com/navy-seal-trident/#componentsofthetrident

[85] US Court of Appeals for the Fifth Circuit. "*U.S. Navy SEALS 1-26*," 8.

[86] US Court of Appeals for the Fifth Circuit. "*U.S. Navy SEALS 1-26*," 8.

[87] US Court of Appeals for the Fifth Circuit. "*U.S. Navy SEALS 1-26*," 8-9.

[88] US Court of Appeals for the Fifth Circuit. "*U.S. Navy SEALS 1-26*," 9.

[89] US Court of Appeals for the Fifth Circuit. "*U.S. Navy SEALS 1-26*," 10, 13.

NSW sailors received direct denials; however, those who appealed the decisions through the formal process received second denials by February 2022.

In February 2022, the twenty-six Navy SEALs and nine other NSW sailors, collectively referred to in the case law as *U.S. Navy SEALs 1-26 v. Biden*, filed a lawsuit after being denied religious accommodations requests and appeals for the COVID-19 vaccination.[90] Their lawsuit and other opposition to the President and the DOD alerted Congress to the implications of the policy directive mandating that all service members receive the COVID-19 vaccine. The SEALs claimed that "the Navy and DOD violated the First Amendment rights of service members who had religious objections to the vaccine mandate."[91] They argued that religious accommodations were not considered, pointing out that the Navy had not granted a single religious exemption from any vaccination in seven years.[92] When the suit was filed, the COVID-19 vaccine by Pfizer-BioNTech was still under EUA from the FDA.[93] Due to manufacturing and logistic issues, many locations were only offered one vaccine. Referring to the next argument of bait-and-switch tactics, service members were not informed, nor could they trust which vaccines were offered during vaccination procedures.

Several SEALs expressed that the belief in personhood, defined as life beginning at conception, heightened concerns about the use of fetal cells in testing. They argued that the accelerated manufacturing process of a vaccine derived from the death of a

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[90] Lloyd Austin. "Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members." Secretary of Defense. August 24, 2021. https://media.defense.gov/2021/Aug/25/2002838826/-1/-1/0/MEMORANDUM-FOR-MANDATORY-CORONAVIRUS-DISEASE-2019-VACCINATION-OF-DEPARTMENT-OF-DEFENSE-SERVICE-MEMBERS.PDF

[91] Allison Bath. "Navy SEAL COVID-19 vaccine suit settlement vindicates religious objectors," Stars and Stripes, July 30, 2024. https://www.stripes.com/branches/navy/2024-07-30/covid-vaccine-lawsuit-navy-seal-14661163.html

[92] US Court of Appeals for the Fifth Circuit. "*U.S. Navy SEALS 1-26*," 7.

[93] Pfizer and BioNTech.

fetus raised significant moral issues.[94] The Operation Warp Speed initiative was perceived as inadequately vetted to justify the EUA, which mandated the vaccine for public use before it had undergone thorough testing.[95] Pharmaceutical companies such as AstraZeneca and Janssen, which are involved in vaccine development, reportedly used fetal stem cells during testing.[96] Many other reports indicated that some COVID-19 vaccines were developed using “embryonal kidney tissue from an allegedly therapeutic abortion” and “retinal tissue from an abortion.”[97]

The value of life was stated by leaders from eight prominent religious faith groups, including Jewish, Protestant Christianity, Roman Catholicism, Islam, Evangelical Christianity, Hinduism, Orthodox Christianity, and Mormonism, supported the FDA-approved COVID-19 vaccination, stating that certain vaccine manufacturers did not utilize cells derived from aborted fetuses.[98] In conjunction with the RFRA, service members retain the right to request religious accommodations for vaccination exemption based on their sincerely held religious beliefs.[99] A concern was raised that service members were not given specific options for vaccines that did not use fetal stem cells at all locations nor did the DOD properly communicate those vaccines that were implicated with fetal cell testing or production. Interviews conducted with numerous service members about their COVID-19 vaccinations, including those with chaplains from another court case, revealed that only one vaccine option was available at many locations, and service members were not given a choice.[100] The support for the sanctity

[94] Zimmerman, 4242.
[95] Executive Order No. 13962.
[96] Zimmerman, 4242.
[97] Zimmerman, 4243.
[98] Zimmerman, 4244.
[99] Zimmerman, 4244.
[100] Telephonic interviews with chaplains 1-4.

of life and the belief that taking a vaccine made through aborted fetal cells leads into the next argument of the ethics of the bait-and-switch tactic used by the Health and Human Services (HHS) to claim all vaccines should be treated the same, devaluing the abortion concern.

Ethics of the Bait-and-Switch Tactic

The ethics of the bait-and-switch tactic refer to remarks made by four chaplains involved in a lawsuit filed by forty-two Army, Air Force, and Navy chaplains, stating that the DOD and the HHS did not follow proper vaccination protocols.[101] A memorandum published by the DOD and the HHS directed that all EUA vaccines not approved by the FDA should be treated as "interchangeable" with the approved vaccine.[102] This interchangeable nature amplified the concern of not condoning abortion referenced in the previous argument. The memorandum originated from the Assistant Secretary of Defense for Health Affairs, indicating that the FDA approved the Comirnaty vaccine by Pfizer-BioNTech. Although the Comirnaty vaccine was approved, the other vaccines from Pfizer-BioNTech, Moderna, and Janssen remained in the EUA approval process and were not licensed by the FDA.[103] The memorandum stated that the other EUA vaccines outweigh the risk, alleging "the known and potential risks of the product."[104] One chaplain interviewed stated that a highly political subject like abortion cannot be

[101] *Israel Alvarado, et al., Petitioners, v. Lloyd Austin, III, et al, Defendants*. (July 29, 2022) 1. https://www.supremecourt.gov/DocketPDF/23/23-17/294561/20231229154038644_Alvarado %20Petition %20for%20Writ.pdf

[102] Terry Adirim. "Mandatory Vaccination of Service Members using the Pfizer-BioNTech COVID-19 and Comirnaty COVID-19 Vaccines," (official memorandum, Washington, DC: Assistant Secretary of Defense, November 29, 2022), 1. https://defendingtherepublic.org/wp-content/uploads/2022/12/129-4.pdf

[103] Adirim, 1.

[104] Federal Drug Administration. "FDA Approves First COVID-19 Vaccine," *Federal Drug Administration News Release*. August 31, 2021. https://www.fda.gov/news-events/press-announcements/fda-approves-first-covid-19-vaccine

glossed over just to speed up a process and religious beliefs that value all life, even in embryonic form, should have been addressed.[105] A chaplain recounted a story from a service member who witnessed medical personnel administering vaccines with removed labels, treating all the vaccines as similar, despite only one being licensed by the FDA and not using fetal cells.[106] This point is highlighted in another District Court case in Florida, *Robert et al. v. Austin et al.,* which states that licensed vaccines were switched with EUA vaccines, thereby violating the FDA and Public Health Service Act, as well as the rights of service members to informed consent.[107]

The ethical issue is that the chaplains believed that fetal cells were used in research and testing in some vaccines, which they claimed was immoral. The bait-and-switch tactic masked the vaccines that used fetal cells and those that did not. Of the seven chaplains interviewed, three claimed they had firsthand experience or counseled people who had witnessed the bait-and-switch tactic employed by some military units. The ethics of the bait-and-switch prompted these chaplains to remark that the DOD employed deception and manipulation to further an unrealistic goal of 100% vaccination, thereby violating trust in leaders and potentially leading to moral injury.

In September and October 2021, forty-two chaplains requested religious accommodations from their respective chains of command, citing ethical considerations related to deception and misrepresentation on behalf of the DOD. After the chaplains' accommodations were denied, stating that vaccination was required, they appealed and were denied again. Chaplains are trained and must maintain annual credentialling that

[105] Telephonic interview with chaplain 1.
[106] Telephonic interview of chaplains 1-7.
[107] *John Doe #1-14 and Jane Doe #1-#2 v. Lloyd Austin, III et al*. October 6, 2021. https://dockets.justia.com/docket/florida/flndce/3:2021cv01211/409961

allows them to write memoranda for service members who request religious accommodations. The DODI 1300.17 requires all chaplains to counsel any service member who requests a religious accommodation and write a memorandum to be placed in the accommodation packet. As chaplains are familiar with the religious accommodation process and are educated in dealing with the command on accommodations, the deception from many leaders compelled each of the seven chaplains interviewed to request accommodations. One chaplain commented that he witnessed units not following regulations and policies, reported it to his chain of command, and many personnel in his unit were given "blanket denials" too quickly, stating that an official review could not have been completed within the allotted time period.[108] When this same chaplain submitted his religious accommodation request, one of the commanders stated, "from the get-go, it was a no; you won't get [the religious accommodation]."[109]

The chaplains also mentioned poor communication preventing them from fully supporting the vaccine mandate. Shortly after the appeals were denied, the forty-two chaplains collectively filed a lawsuit, known as *Israel Alvarado et al. v. Lloyd Austin, III et al.*[110] The chaplains argued that the COVID-19 vaccination mandate violated multiple constitutional rights, explicitly asserting infringements upon the First Amendment's Establishment Clause, Free Exercise Clause, Free Speech Clause, the Petition Clause, the Fifth Amendment's Due Process Clause, and the Religious Test Clause in Article VI of the Constitution.[111] While there were similarities between this case and that of the

[108] Telephonic interview with chaplain 1.
[109] Telephonic interview with chaplain 1.
[110] *Alvarado v. Austin,* 1.
[111] *Alvarado v. Austin,* 2.

SEALs, a significant sense of manipulation was also discussed within the leadership experiences, particularly regarding the careers of the chaplains.[112] The ethics of the DOD came into question as these chaplains were trusted agents to assist in the religious accommodations process when writing for other service members but quickly became the abhorrent opposition once they requested accommodations for themselves.

The violation of trust was revealed in interviews with seven chaplains, who stated that five missed educational opportunities would have qualified them for higher positions with more responsibility. These chaplains could not attend required schooling because the mandate prevented them from traveling to or from professional military education.[113] The chaplains had served in the military from seven to almost thirty years. Some of these chaplains had been awaiting their opportunity to attend the required leadership training, only to be informed that they could not participate due to their religious objections and refusal to take the vaccine. Of those five, three missed assignments that could have led to promotions, such as brigade or division supervisory roles, due to their inability to change stations without vaccination. One chaplain reported being overlooked for a promotion due to missing the required schooling and was a discriminator against any candidate for promotion during the selection process.[114] One chaplain retold a story about being called out during a morning formation by his commander in front of the entire unit, who asked him why he was one of the few not vaccinated.[115] This same chaplain also missed an opportunity for an assignment that would have provided greater responsibilities and potential for advancement. He believed that it was solely based on

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[112] Austin. “Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members.”

[113] Telephonic interviews with seven chaplains named in the *Alvarado, et al., Petitioners, v. Austin, et al.*, between January 22 and February 9, 2025.

[114] Telephonic Interview with chaplain 5.

[115] Telephonic Interview with chaplain 7.

the request for religious accommodation.[116] Another chaplain stated that he was brought into his commander's office and "given two options: you can get voluntarily vaccinated or you will voluntarily separate [as in retirement]."[117]

Several of the chaplains defined these trust violations as Moral Injury. The Veterans Administration defines Moral Injury as acts of commission or omission that relate to moral values, betrayal by once-trusted leaders who use the power of their positions negatively, and emotional reactions that instill guilt, shame, and anger.[118] One of the critical questions raised in another lawsuit representing fifteen service members was whether the SECDEF "possesses the authority 'to declare unlicensed biologic products *licensed* and thereby *force* members of the all-volunteer military take them?'"[119] This issue relates to concerns raised by several chaplains regarding the bait-and-switch tactic of using unlicensed EUA vaccines under the guise that all vaccines were the same. One chaplain recounted an incident that occurred during a regular formation at the start of the workweek when the entire unit was instructed to march into a building. Each service member was presented with two options: receive the one undisclosed vaccine available or face disciplinary proceedings at the Judge Advocate General's (JAG's) table.[120] Additionally, one of the plaintiffs in the lawsuit had an accommodation request and a General Officer Reprimand for disciplinary issues in their file, which remained after the DOD issued a rescission memorandum regarding the

[116] Telephonic Interview with chaplain 5.
[117] Telephonic Interview with chaplain 2.
[118] Sonya B. Norman PhD and Shira Maguen PhD. "Moral Injury," Veterans Administration PTSD: National Center for PTSD, March 8, 2025. https://www.ptsd.va.gov/professional/treat/cooccurring/moral_injury.asp
[119] *Wilson, et al., v. Lloyd Austin, III, et al.* (September 1, 2023), 10. https://law.justia.com/cases/federal/district-courts/texas/txedce/4:2022cv00438/214840/61/
[120] Interview with chaplain 1.

mandate.[121] All the chaplains interviewed agreed that if the military services advocate for such treatments that disregard the accommodation process or the chaplains' right to request an accommodation, either could violate trust and inflict moral injury upon service members.

Right to Fair and Equal Treatment for Service Members' Religious Beliefs

A secondary issue for the SEALs, and implied in the chaplain case, was that as of February 15, 2022, many religious accommodation requests had been submitted to the military services, yet only a fraction had been approved.[122] "Here, the Navy treated service members who applied for medical exemptions more favorably than those who sought religious exemptions."[123] Hundreds of medical exemptions for the COVID-19 vaccine were granted without adverse consequences for those applicants, while those who applied for religious exemptions faced "severe consequences, including dishonorable discharge and confinement."[124] The perspective of some interviewed service members suggests that their religious accommodations were viewed as lacking merit, thereby devaluing the entire process of religious accommodations. Justice Alito, in a dissenting opinion, stated that the medical exemption requests "are not restricted as severely" as those filing for religious accommodations with the lack of movement to schools or change of station.[125] After the Court of Appeals ruled in favor of the SEALs by issuing a partial stay, blocking the Navy from considering their unvaccinated status,

[121] *Wilson v. Austin*, 16.
[122] *Austin v. U.S. Navy Seals 1-26*, 142 S. Ct. 1301 (March 25, 2022), 3. https://casetext.com/case/ austin-v-us-navy-seals
[123] *Austin v. U.S. Navy Seals 1-26,* 6.
[124] *Austin v. U.S. Navy Seals 1-26*, 2.
[125] *Austin v. U.S. Navy Seals 1-26*, 9.

and the DOD was found liable for violating the RFRA, the Court stayed any disciplinary procedures as the Navy "lack[ed] a sufficiently compelling interest."[126] The same court continued to state that the Navy, and subsequently the DOD, had "not demonstrated 'paramount interests' that justify vaccinating these 35 Plaintiffs against COVID-19 in violation of their religious beliefs."[127] The Court continued by stating that "the Navy admits it has not granted a single religious accommodation. Yet surely, had the Navy been conscientiously adhering to RFRA, it could have adopted the least restrictive means to accommodate religious objections to forced vaccinations.[128] The right to fairness and equity relates to the discrimination experienced by many who have requested religious accommodations, the presumed bias against those applying for such accommodations, and the harassment many have experienced throughout the accommodation process.

The SEALs experienced discrimination and claimed that they represented a significant portion of the Navy that sought similar religious accommodations, standing as a hallmark to raise concerns about the effect of mistreatment of all service members for military readiness and unit cohesion.[129] The broader issue of potential discrimination against religious requests while supporting medical requests was emphasized in the brief for appellees that stated that "what the Navy is doing is worse because it has granted exemptions for secular reasons."[130] The Navy viewed religious exemptions as inferior to medical exemptions, treating them as mere "rubber stamps" for each vaccine

[126] US Court of Appeals for the Fifth Circuit. "U.S. Navy SEALS 1-26," 27.
[127] US Court of Appeals for the Fifth Circuit. "U.S. Navy SEALS 1-26," 25.
[128] US Court of Appeals for the Fifth Circuit. "U.S. Navy SEALS 1-26," 27.
[129] *Brief for Appellees, U.S. Navy Seals 1–26 v. Biden, 27 F.4th 336 (5th Cir. 2022)* https://firstliberty.org/wp-content/uploads/2022/08/Appellee-Br-FILED_Redacted.pdf
[130] *Brief for Appellees* (italics part of the original text)

denial.[131] The DOD IG audit found that each service "did not personally spend an inordinate amount of time" on each religious accommodation request before denial.[132] The SEALs and the chaplains raised several points related to discrimination against their religious accommodations compared to those who requested medical exemptions.

A presumed bias was stated in 2023 by a US District Court Judge who remarked as part of another case, *Air Force Officer v. Austin*, that the "religious-based refusal to take a COVID-19 vaccine simply isn't going to halt a nearly fully vaccinated [DOD] mission to provide a ready national defense."[133] He ruled in favor of the anonymous Air Force officer and against the DOD and the Secretary of the Air Force. The District Court ruled that the DOD could not enforce the COVID-19 vaccine mandate, as it would violate the plaintiff's religious freedom rights, which are protected by the First Amendment and RFRA.[134] The judge questioned, "What real interest can our military leaders have in furthering a requirement that violates the document they swore to support and defend?"[135] He pointed out that there has never been a 100% vaccination rate, even with other vaccines. For example, the annual Influenza vaccination distribution typically achieves vaccination rates at or below 90% due to exemptions and accommodations.[136]

The chaplain case shows another concern of harassment. Each of the over 36,500 requests for religious accommodation originates with the requirement for service

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[131] *Brief for Appellees*

[132] DOD IG Audit, 9.

[133] Joe Kovac Jr. "Air Force officer says vaccine mandate violates her faith. A Georgia judge weighed in," *Columbus Ledger-Enquirer*. February 15, 2022.

[134] *Air Force Officer v. Austin*, 588 F. Supp. 3d 1338 (M.D. Ga. 2022), February 15, 2022. https://casetext.com/case/air-force-officer-v-austin-1

[135] Kovac.

[136] C.J. Lovelace. "Army distributes nearly 1.4 million vaccines to combat expected annual flu spike," *Army.mil*. October 31, 2023. https://www.army.mil/article/271293/army_distributes_nearly_1_4_million_vaccines_to_combat_expected_annual_flu_spike

members to interview with a chaplain. The chaplain, in turn, must write a memorandum addressing the demonstrable religious basis and sincerity of belief.[137] All seven chaplains felt they might be treated differently than other service members, given their expertise in religious accommodation. However, six of them reported experiencing discrimination from their commands, fellow officers who opted to receive the vaccine, and even other chaplains who disagreed with their stance, viewing it as a political issue.[138] One chaplain recounted "feeling betrayed…People treated me like a leper."[139] One chaplain was removed from his position, removed from his office, and forced to sit among other enlisted service members who had not taken the vaccine in an orderly room, where he was addressed as a "non-vaccer" in front of his subordinates, peers, and superiors.[140]

The forty-two military chaplains highlighted systemic issues across all military services in the mistreatment of those who requested COVID-19 vaccination religious accommodation.[141] As chaplains, commissioned officers, and professional clergy, they expected professionalism and a fair assessment of their individual requests, as well as their constitutional protections, regarding the accommodation process. Four of the seven chaplains received annual reports indicating minimal performance during the two-year waiting period when they were removed from their positions and anticipated a resolution, which negatively impacted their professional military records.[142] The

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[137] AR 600-20, 184.

[138] Equal Employment Opportunity Commission. "EEOC Issues Updated COVID-19 Technical Assistance" US Equal Employment Opportunity Commission. October 25, 2021. https://www.eeoc.gov/newsroom/eeoc-issues-updated-covid-19-technical-assistance-0

[139] Telephonic interview with chaplain 5

[140] Telephonic interview with chaplain 7.

[141] *Alvarado v. Austin*, 2.

[142] Telephonic interviews with chaplains.

interviewed chaplains reported experiencing mistreatment comparable to that faced by lower-enlisted personnel during the COVID-19 religious accommodation process.[143] One chaplain stated he did not regret standing up for his religious rights, while many others who were denied exemptions chose to remain anonymous due to fears of "social stigma."[144] Following the lawsuit's filing, all seven chaplains mentioned feeling despised by fellow officers and chaplains who chose to be vaccinated. They expressed concerns not only about their loss of roles within their units but also about the effect of their ministry on the military. The court deemed their lawsuit moot after the DOD issued the rescission memo, unlike the SEAL case that agreed to a settlement.[145] However, the damage to several chaplains' records had already occurred, leading some to opt for early retirement due to the hostile work environment.[146]

Recommendations

The comprehensive literature review on the freedom of religion, sources in federal law, testimony given in case law, DOD policy, Armed Services doctrine, interviews with service members, and personal experience show an issue with readiness through unprepared leaders and lack of accountability for some leaders' apparent bias in the DOD during the COVID-19 vaccination mandate. This paper focused on an effect not previously documented in the history of the DOD for

[143] Telephonic interviews with chaplains.
[144] *Air Force Officer v. Austin (February 15, 2022).* https://casetext.com/case/air-force-officer-v-austin
[145] *Alvarado v. Austin*, No. 23-1419 (4th Cir. Aug. 3, 2023) (dismissed as moot).
[146] Interview with chaplains 6 and 7.

vaccinations. Of the 36,500 religious accommodations requested, only 0.8% were approved, compared to the standard 7% approval rate for other vaccines.[147] The seemingly individual religious accommodations had an effect that, when taken as nearly 36,500 issues, had a negative influence on the DOD, many service members, their families, and some theorize on recruiting.[148] The case studies discussed constitutional freedoms that protect service members from denial of their right to free exercise of religion. The effect from the fetal cells used that condone abortion, to the manipulation of the FDA-approved and EUA vaccines bait-and-switch, to the fundamental understanding that those who have religious convictions should be treated equally, provided that their beliefs "should not be changed for light and transient Causes."[149] These voices echoed across the DOD, claiming that an injustice had been committed. The DOD IG audit provided a compelling backdrop for the following recommendations, which are essential to creating a more trustworthy environment within the system and leadership. However, the DOD only acknowledged one out of four recommendations it would follow.[150] The recommendations include revising Public Law 112-239 and updating DODI 1300.17 to reflect the previous changes to the law, specifically the terms of reference for military readiness. Additionally, it is suggested to create education and training for commanders and policy leaders on religion and the purposes of religious accommodations.

[147] Health.mil. November 1, 2023.

[148] Lolita C. Baldor. "Marines and Soldiers Discharged for Refusing the COVID-19 Vaccine Show Limited Interest in Rejoining," Military.com, March 5, 2025. https://www.military.com/daily-news/2025/03/05/marines-and-soldiers-discharged-refusing-covid-19-vaccine-show-limited-interest-rejoining.html

[149] George Anastaplo, "The Declaration of Independence," Saint Louis University Law Journal 9, no. 3 (Spring 1965): 390-416, 401.

[150] DOD IG Audit, iii.

Transparent Communication

Public Law 112-239, Section 533 should be revised by removing the wording "reflecting the conscience, moral principles." The conscience factor relates to an ideological stance on personal matters of conscience and not necessarily religious belief per se. This affects the perspective of the religious foundations that undergird this country, the US democracy, law and policy.[151] The Offices of the Chief of Chaplains of each military service have endeavored to support the foundations of religion within the US Military.[152] However, an undercurrent of ideological philosophies has continued to conflict with and expand support for religious beliefs, shifting to a focus on personal or cultural preference that is not tied to any specific religious belief or practice. The issues associated with over-secularization impact the government and the DOD, as well as DODI 1300.17 and its application during the accommodation process, beginning with how it is communicated. As written, the law prioritizes religious beliefs last among the accommodation principles, although the freedoms protected in the First Amendment begin with the right to practice religion.[153] This ideological shift has altered the original values outlined by the Founding Fathers in the US Constitution. The expansion of terminology has devalued the definition of religion, allowing for new ideologies that do not align with the traditional understanding of religious values and beliefs, creating absurd byproducts such as Pastafarianism.[154] The DOD Equal Opportunity Office,

[151] Public Law 112-239, Section 533 (a)(1), 97. https://www.congress.gov/112/plaws/publ239/PLAW-112publ239.pdf

[152] Personal experience working in the Army OCCH at the Pentagon and observing the Air Force and Navy OCCHs from July 2021 to August 2023.

[153] Public Law 112-239, Section 533 (a)(1), 97.

[154] An example of this is *Pastafarianism*, the Church of the Flying Spaghetti Monster, which expounded upon the loose classification of religion and was purportedly developed to request religious accommodations. Church of the Flying Spaghetti Monster. "Request for Religious Exemption," *Spaghetti Monster*. https://www.spaghettimonster.org/2024/08/22/exemption-letters/

charged with protecting service members from discrimination, lists discrimination in the following order, “including sexual harassment, and unlawful discrimination on the basis of race, color, national origin, religion, sex (including gender identity), or sexual orientation.”[155] The social ideology behind many laws written in the twenty-first century has claimed that religion prevents social change.[156] This spurred rapid changes to the acceptance of religions within the DOD, expanding the list of approved religions from 187 to 221, which now includes Asatru (Norse Religion), Humanist, Pagan, and several earth-based groups, resulting in drastic changes in support requirements and accommodations.[157] Of these newly approved religions, the Norse Religion has the most approved religious accommodations for wearing a beard, surpassing any other religion. However, the claim is more cultural than religious.[158] A number of commanders interviewed have discussed religious accommodations and seem to think that service members are using religious accommodations as a way to avoid their duty and are using the religious accommodation process as a supposed bandwagon for personal preferences, not tied to any religious practice.[159] This presents a potential issue for good order and discipline, as evidenced by the example of one service member receiving approval to avoid shaving and grow a beard, which may prompt many others

[155] Department of Defense. “Directive 1020.02E: Diversity Management and Equal Opportunity in the DOD,” (Official memorandum Washington, DC: Assistant Secretary of Defense), 1. June 1, 2018. https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/102002p.pdf ?ver=2019-03-11-081757-483

[156] David A. Rochefort and Roger W. Cobb, eds. *The Politics of Problem Definition: Shaping the Policy Agenda*. University Press of Kansas, 1994, 58.

[157] Lemes J. Hebert. “Faith and Belief Codes for Reporting Personnel Data of Service Members,” Office of the Assistant Secretary of Defense, March 27, 2017. https://americanhumanist.org/wp-content/uploads/2017/04/Faith-and-Belief-Codes-for-Reporting-Personnel-Data-of-Service-Members.pdf

[158] The Norse Pagan Religion claims to not require a beard in their standards of practice and belief, however service members have used this Viking cultural attribute to emphasize the desire to wear a beard while in uniform. “No Beards Required: Norse Paganism, Facial Hair and Real Faith beyond the Headlines,” The Troth: Education and Service for Inclusive Heathery, 2025. https://thetroth.org/resource/beards-norse-paganism/

[159] Visiting commanders to Duke University from different military services at different general officer levels commented on their experience with religious accommodations, cultural concerns from specifically the Norse Pagan beards, and the entirety of the accommodation process.

to do the same, not for religious reasons, but with an ulterior motive. In 2024, the Army approved over 1500 beards for Norse Pagan soldiers, a significantly higher number than the last five years combined.[160] This contributed to the treatment of service members' requests for religious accommodation. A way to address the concerns of both members and leaders in military organizations is to improve the overall communication of mandates. This includes allowing options if it is a vaccine and respect for religious beliefs about abortion to quell a significant response from those who would not take the vaccine. The DOD could have utilized this as an effective means of support for resilience, coping, and other ways to provide a sense of meaning and purpose.[161]

Revise DODI 1300.17 Terminology and Timelines

Revising wording from Public Law 112-239 to remove “conscience, moral principles” and only include “religious beliefs”[162] helps clarify that religion is an individual belief, not an ideological prerogative. The concern is that the broader the definition of religion within public law, the more challenging it becomes to craft a policy that supports it. If every subjective conscience or personal principle is accommodated, the nature of religious expression may be altered and devalued due to its subjective and personal interpretation. The DODI 1300.17 should include an updated list of terminology used within these discussions, as essential definitions, such as “military readiness,” “unit cohesion,” and “good order and discipline,” are currently missing from the DODI. The various court cases have demonstrated that individual commanders at all levels

[160] Interview with Army Office of the Chief of Chaplains representative.

[161] Lisa Miller. *The Spiritual Child: The New Science on Parenting for Health and Lifelong Thriving*. NY: St. Martin’s Publishing Group. May 5, 2015, 87.

[162] Discussion with Chaplain (Major) Patrick Stefan about DODI 1300.17, Office of the Chief of Chaplains Government Relations officer. June 11, 2024.

interpret these terms differently, resulting in inconsistencies in their application. Examples of each term would enable the use of universally acceptable terms of reference across the DOD, assisting commanders, service members, and the overall process.

An additional revision should address the sheer volume of religious accommodations requested during the COVID-19 pandemic. Paragraph 3.2.c. establishes the “Review and Action Timelines” that the DOD wrote prior to COVID-19, stating a 30-day submission to the commander and a 60-day receipt by the Office of the Secretary in order to reply timeline.[163] The recommendation is to create another category within the table that extends the timeline to 180 days to support the increased requests in the event of another global pandemic. A recommended statement may include this statement, “If requests are filed during a global pandemic, timeliness are extended to 180 days to allow for receipt, review, and adjudication.” This would assist service members in managing their expectations when making an accommodation request.

Education for Commanders and Policy Leaders

Once the necessary changes are made to the previous laws and policies, an investigation should be conducted into the three military services’ education processes for commanders and policy leaders. The lack of current training contributed to the willingness to deny nearly all religious accommodation requests submitted for COVID-19. This investigation should examine a myriad of concerns, including, but not limited to,

[163] DODI 1300.17, (2020), 10.

the bait-and-switch issues covered previously. It is unclear whether the services actively supervised their units, accurately reported all the religious accommodations, filed the appropriate paperwork, or correctly classified each service member's discharge if the case escalated to that action. Many concerns remain on the minds of those who requested an accommodation but have yet to receive a response. The 2020 version of the DODI 1300.17 states that the DOD, specifically the USD (P&R), has the task to "oversee the development and provision of education and training on the policies and procedures pertaining to the accommodation of religious practices of Service members."[164] If this policy had been followed and the USD (P&R) provided appropriate oversight, perhaps many of these issues would not have occurred, resulting in nearly 36,500 religious accommodation requests during the COVID-19 vaccination mandate. Retrospectively, if all religious accommodations for vaccine exemptions had been granted, the military's vaccination rate would have only decreased from 96% to 94% of total vaccinated. This investigation aims to clarify the implementation of the four-year-old doctrine outlined in DODI 1300.17, which has not been properly followed. An update to this instruction is essential, as the "once-in-a-century pandemic" drove many ideological interpretations of these terms.[165] The policy revisions should support a more comprehensive ideal for military life that is supportive of all.

Conclusion

The summary of the DOD's COVID-19 vaccine mandate sparked significant opposition due to the limited number of approved exemptions, the experimental nature

[164] DODI 1300.17, (2020), 8.

[165] Bill Gates. "Responding to Covid-19—A Once-in-a-Century Pandemic?" *New England Journal of Medicine*, February 28, 2020. 382:1677-1679, 1677. https://www.nejm.org/doi/full/10.1056/NEJMp2003762

of the vaccines, and a perceived bias in favor of medical exemptions and other vaccinations, creating a perceived double standard. These issues fueled resistance to the mandate and contributed to a growing distrust of military and political leadership among service members. While the DOD emphasizes the importance of force readiness for national security, it must also acknowledge and address the resistance from its personnel that could potentially affect military readiness, unit cohesion, and good order and discipline**.** The DOD should strive to be more communicative and respectful of religious beliefs when formulating policy and always allow accommodations to be requested. A mandate perceived as arbitrary and coercive ultimately undermines the principles of service and sacrifice it aims to uphold. The COVID-19 vaccination mandate highlighted the DOD's compromised religious accommodation process, overloaded the system to process each request fairly, and contributed to the infringement of the rights of religious service members. The strict bureaucratic framework established by constitutional protections in the First Amendment and the RFRA was created to protect the servicemen and women who sacrificed everything to preserve the national security of the US.

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