

Congress of the United States
Washington, DC 20510

March 4, 2014

The Honorable Chuck Hagel
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Hagel,

The National Defense Authorization Act (NDAA) for Fiscal Year 2014 (FY2014) passed by both houses of Congress and signed by President Obama contains language that strengthens the protection of religious freedom for military personnel. As members of the House and Senate Armed Services Committees, we believe this is an issue of great importance that is vital to the strength of our military and the morale and wellness of those who serve.

We offered amendments to the authorizing legislation last year in our respective committees with the goal of expanding the protection of religious expression for members of the military. The language contained in the Senate Armed Services Committee version of the NDAA was ultimately included in the final bill and passed into law.

Faith and religious beliefs are of paramount importance to many of those who serve in the armed forces, and are as necessary to their well-being as their families and patriotism. Their beliefs are what sustain them through the enormous pressure and stresses of the battlefield, the months away from loved ones, the constant risk of life-changing injuries and death, and the loss of close friends. We share deep concerns about an evolving military environment increasingly hostile to religious practices, one in which service members fear that expressing their religious beliefs would be grounds for disciplinary action or hinder career advancement. This proclivity to marginalize religious liberties in the military can have a pronounced negative effect on morale and cohesiveness, and undermine recruitment and retention efforts.

Section 532 of the FY2014 NDAA amends Section 533 of the FY2013 NDAA to state that the Armed Forces shall accommodate the individual expressions of belief of a member reflecting his or her sincerely held conscience, moral principles, or religious beliefs. The section also states that the Secretary of Defense shall consult the official military faith group representatives who endorse military chaplains when prescribing implementation regulations. There is a unique balance that must be achieved in the military so commanders have the ability to nurture and preserve good order and discipline in their ranks. Nothing in this legislation precludes disciplinary or administrative action for conduct that is prohibited under the Uniform Code of Military Justice.

We believe this is a positive step towards protecting the freedoms of service members from unsettling policies that are curbing religious liberties.

With this legislative framework enacted, we are extremely concerned about the Department's lack of a comprehensive response. On January 22, 2014, the DOD released Instruction 1300.17. While we recognize that you incorporated the Religious Freedom Restoration Act (RFRA) in the Instruction, the Instruction focuses narrowly on religious accommodation for specific clothing or jewelry displayed on one's person. This Instruction fails to address the issue of censorship of religious speech and fear of reprisal for expressing one's beliefs, the primary intent of the FY2013 and FY2014 amendments. This published Instruction also redefines "substantial burden," forcing commanders to determine the theological significance of the tenants of a faith practice, contrary to current statute (RFRA) and case law; inverts the intent of the amendments by implying that service members must seek accommodation in order to express their beliefs; and ignores the clear mandate to consult with official military faith groups' representatives prior to issuing the Instruction.

As authors of the amendments to protect religious liberties adopted in both of our authorizing committees, we are deeply disappointed and alarmed by the Department's incomplete and poorly crafted response. We respectfully request that the Department reissue Instruction 1300.17, addressing the intent and content of the statute.


Religious liberties are the bedrock of American society, guaranteed in the Constitution, and retained by members of the U.S. Military. These freedoms are not to be checked at the door when signing up for military service; rather they must be vigorously protected by the Department of Defense.

We appreciate your attention to this matter and respectfully request a response to our concerns.

Sincerely,



Mike Lee
United States Senator



John Fleming
Member of Congress