

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

U.S. NAVY SEALs 1-26;

**U.S. NAVY SPECIAL WARFARE
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE
DISPOSAL TECHNICIAN 1; and**

U.S. NAVY DIVERS 1-3,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, 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,

Defendants.

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

MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs U.S. Navy SEALs 1-26, U.S. Navy Special Warfare Combatant Craft Crewmen 1-5, U.S. Navy Explosive Ordnance Disposal Technician 1, and U.S. Navy Divers 1-3 (“the SEALs”), by and through counsel, and pursuant to Federal Rule of Civil Procedure 65, respectfully move this Court for a preliminary injunction against Defendants’ vaccine mandate.

In support of this Motion, the SEALs rely on the following:

1. The Brief in support of this Motion, filed contemporaneously herewith;
2. The Appendix in support of this Motion, filed contemporaneously herewith;

3. The Complaint, ECF No. 1; and

4. All further evidence necessary to support this Motion, filed hereafter or presented at any hearing on this Motion.

The SEALs respectfully request the following relief:

1. A preliminary injunction against Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them that prohibits them from applying their facially discriminatory policies:

- a. Manual of the Medical Department of the U.S. Navy (MANMED), Article 15-105(n)(9);
- b. NAVADMIN 225/21, “COVID-19 Consolidated Disposition Authority” (Oct. 13, 2021);
- c. Trident Order #12, “Mandatory Vaccination for COVID-19” (Sept. 24, 2021);
and
- d. NAVADMIN 256/21, “CCDA Guidance to Commanders” (Nov. 15, 2021).

2. A preliminary injunction against Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them that prohibits them from applying their practice of:

- a. across-the-board denial of religious accommodation requests for COVID-19 vaccination;
- b. differential treatment of accommodation requests for the COVID-19 vaccination for secular reasons and accommodation requests for religious reasons; and

c. retributive or negative action against servicemembers who make or have made religious accommodation requests; and

3. A preliminary injunction against Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them that prohibits them from making Plaintiffs' non-receipt of COVID-19 vaccination or Plaintiffs' submission of a request for a religious accommodation from COVID-19 vaccination a basis for any adverse action against Plaintiffs, including, but not limited to: separation from service; loss of special warfare device; change in job title or duties; recoupment of education or training expenses; determination of medical disqualification or non-deployability; loss or delay of promotion, training opportunities, or retirement; and loss of bonuses, pay, or benefits.

The SEALs request a waiver of any bond required by Federal Rule of Civil Procedure 65(c) as these issues involve the free exercise of religion, there is no money at stake in issuance of the injunction, and no financial impact on the Defendants. *See Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 628 (5th Cir. 1996) (recognizing district courts have discretion to waive the bond requirement of Rule 65(c)); *see also Gordon v. City of Hous.*, 79 F. Supp. 3d 676, 695 (S.D. Tex. 2015) (waiving Rule 65 bond in First Amendment lawsuit).

WHEREFORE, the SEALs respectfully request that the Court grant this Motion for Preliminary Injunction against the Defendants.

Respectfully submitted this 24th day of November, 2021.

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CERTIFICATE OF CONFERENCE

Plaintiffs' counsel were unable to conference this Motion with Defendants' counsel because no counsel has appeared for Defendants. However, once counsel for Defendants file appearances, Plaintiffs' counsel will confer with them.

/s/Heather Gebelin Hacker
HEATHER GEBELIN HACKER

CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2021, I electronically filed the foregoing document through the Court's ECF system and will serve a copy on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/Heather Gebelin Hacker
HEATHER GEBELIN HACKER

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Defendants.

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[PROPOSED] PRELIMINARY INJUNCTION ORDER

Having reviewed the submissions of the Parties, and otherwise being fully advised in the premises, it is hereby **ORDERED AND ADJUDGED**:

1. Plaintiffs' Motion for Preliminary Injunction is **GRANTED**;
2. Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them are **PRELIMINARILY ENJOINED** from application of their facially discriminatory policies:

- a. Manual of the Medical Department of the U.S. Navy (MANMED), Article 15-105(n)(9);
- b. NAVADMIN 225/21, “COVID-19 Consolidated Disposition Authority” (Oct. 13, 2021);
- c. Trident Order #12, “Mandatory Vaccination for COVID-19” (Sept. 24, 2021);
and
- d. NAVADMIN 256/21, “CCDA Guidance to Commanders” (Nov. 15, 2021).

3. Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them are **PRELIMINARILY ENJOINED** from application of their practice of: (a) across-the-board denial of religious accommodation requests for COVID-19 vaccination; (b) differential treatment of accommodation requests for the COVID-19 vaccination for secular reasons and accommodation requests for religious reasons; and (c) retributive or negative action against servicemembers who make or have made religious accommodation requests;

4. Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them are **PRELIMINARILY ENJOINED** from making Plaintiffs’ non-receipt of COVID-19 vaccination or Plaintiffs’ submission of a request for a religious accommodation from COVID-19 vaccination a basis for any adverse action against Plaintiffs, including, but not limited to: separation from service; loss of special warfare device; change in job title or duties; recoupment of education or training expenses; determination of medical disqualification or non-deployability; loss or delay of promotion, training opportunities, or retirement; and loss of bonuses, pay, or benefits; and

5. Because Plaintiffs' Motion for Preliminary Injunction raises issues concerning the free exercise of religion, because there is no money at stake in issuance of this injunction, and because issuance of this injunction will have no financial impact on Defendants, the bond requirement of Rule 65(c) of the Federal Rules of Civil Procedure is **WAIVED**.

SO ORDERED on this _____ day of _____, 2021.

Hon. Reed O'Connor
UNITED STATES DISTRICT JUDGE