

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

NAVY SEAL # 1, et al.,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official
capacity as President of the United States, et al.,

Defendants.

Case No. 8:21-cv-02429-SDM-TGW

DEFENDANTS' NOTICE REGARDING WITNESSES AND EXHIBITS

Defendants respectfully provide notice that they do not presently intend to present new witnesses or exhibits at the evidentiary hearing on April 28, 2022. ECF No. 174. Defendants rest on materials previously submitted or cited in connection with the Plaintiffs' original and renewed motions for a preliminary injunction, Plaintiffs' several other motions for emergency relief (including as to USAFA Cadet), Plaintiffs' Motion for Class Certification, Defendants' Motion to Dismiss, and Defendants' stay motion, including material provided at previous hearings. *See, e.g.*, ECF Nos. 23, 42, 66, 73, 74, 103, 118, 132, 139, 140, 167, 171. This material is all appropriate for consideration at the preliminary injunction stage. *See Levi Strauss & Co. v. Sunrise Int'l Trading, Inc.*, 51 F.3d 982, 985 (11th Cir. 1995) (considering declarations that would not be admissible at trial); *Stuart J. Kaufman, M.D. & Associates, P.A. v. Bausch & Lomb Inc.*, No. 8:13-CV-461-T-33EAJ, 2013 WL 6154166, at *1 (M.D. Fla. July 25, 2013) ("The Federal Rules of Evidence do not strictly apply at the preliminary

injunction stage.”), *report and recommendation adopted*, No. 8:13-CV-461-T-33EAJ, 2013 WL 12123679 (M.D. Fla. Sept. 4, 2013).

To assist the Court, Defendants list here the exhibits that are most likely to be relevant to the Cadet’s motion.

ECF No. of Exhibit	Title
167-2	Declaration of Major Alyssa S. Tetrault (April 12, 2022)
167-3	Declaration of Colonel Tonya Rans (April 8, 2022)
167-4	Declaration of Lieutenant Colonel Scott Robinson, M.D. (April 14, 2022)
167-5	DMED Information Paper (February 15, 2022)
171-1 and 171-2	Cadet RAR Package
157-1	Declaration of USAFA Cadet
23-4	DoD Instruction 6205.2
23-5	AF Instruction 48-110_IP (aka Army Regulation 40-562) (also cited in ECF No. 23-22).
23-10	Secretary of the Air Force Mem. (Sept. 3, 2021)
23-11	Dep’t of the Air Force COVID-19 Vaccine Implementation Guidance (Sept. 3, 2021)
23-12	Congressional Research Report Defense Health Primer: Military Vaccinations
23-13	Declaration of Peter Marks

23-22	Declaration of Chaplain, Major Matthew J. Streett (also citing a document of which the Court may take judicial notice: AFI 52-201 - Religious Freedom in the Department of the Air Force, available at https://static.e-publishing.af.mil/production/1/af_hc/publication/dafi52-201/dafi52-201.pdf , also cited in other declarations)
42-1	Declaration of Major General Sharon R. Bannister
47-5	Declaration of Col. Jason Holbrook
47-6	Declaration of Chaplain, Major Matthew J. Streett
47-7	Declaration of Col. Artemio C. Chapa
66-7	Decl. of Colonel James R. Poel
74-1	DoD Instruction 1332.45, Retention Determination for Non-Deployable Service Members
74-6	Decl. of Col. Artemio Chapa
103-1	Decl. of Technical Sergeant Tasha L. Johnson
105	Second Amended Verified Class Action Complaint
139-2	Decl. of Major Alyssa S. Tetrault

Respectfully submitted,

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