

Statement for the Record of the Sikh Coalition

*House Armed Services Committee
Subcommittee on Military Personnel
U.S. House of Representatives
Hearing on Religious Accommodations in the Armed Services*

September 19, 2014

As the largest Sikh American advocacy organization in the United States, the Sikh Coalition believes that the U.S. Department of Defense (DOD) is continuing to impose discriminatory barriers on observant Sikh Americans who wish to serve in our nation's military. *See Ex. 1.* Although DOD issued new religious accommodation guidelines in January 2014 purporting to expand service opportunities for people of faith, these guidelines contain loopholes that continue to make observant Sikh Americans vulnerable to discrimination solely on the basis of their religion. *See Ex. 2.* Earlier this year, 105 members of the U.S. House of Representatives, 15 U.S. Senators, and 20 interfaith and civil rights organizations concurred with our assessment that these loopholes are problematic and need to be closed. *See Ex. 3, 4, and 5.* Given that observant Sikh Americans have repeatedly demonstrated that they can enhance the mission of our nation's military while wearing turbans and maintaining unshorn hair and beards in accordance with their faith, we urge the House Armed Services Committee and DOD to close loopholes that prevent observant Sikh Americans from serving in our nation's military. All Americans deserve an equal opportunity to serve in our nation's armed services, regardless of their religion.

Loopholes in DOD Instruction 1300.17

Although DOD Instruction 1300.17 (as amended on January 22, 2014) purports to place “a high value on the rights of members of the Military Services to observe the tenets of their respective religions,”¹ its current provisions will ironically have a chilling effect on the ability of observant Sikh Americans to serve in our nation's military while practicing their religion.

As detailed more fully in the attached exhibits, Section 4(g) of the Instruction contains a provision that would require a prospective Sikh American service member to cut their hair, shave their beard, and stop wearing a turban—in violation of their religion—while their accommodation request is pending.² Without further revision, this obvious Catch-22 will prevent observant Sikh Americans from serving in our nation's military. In addition, Section 4(j)

¹ Sec. 4(a), DOD Instruction 1300.17, Accommodation of Religious Practices Within the Military Services, (Jan. 22, 2014) (hereafter DOD Instruction 1300.17), *available at* <http://www.dtic.mil/whs/directives/corres/pdf/130017p.pdf>.

² *See* Sec. 4(g), DOD Instruction 1300.17.

of the Instruction requires service members who are granted religious accommodations to repeatedly apply for a renewal each and every time they are assigned to a new base or duty station,³ even if they have already served with distinction and successfully demonstrated that their religion does not interfere with their military duties. In practice, because of this provision, observant Sikh American service members run the risk of having their accommodations revoked at any time during their career, even a few months before retirement.

On top of this, Paragraph 7 in the Procedures implementing DOD Instruction 1300.17 gives military officials sweeping authority to impose a “complete ban on wearing any visible items of religious apparel,” even in the absence of safety considerations, “under circumstances in which the Service member’s duties, the military mission, or the maintenance of discipline require absolute uniformity,” such as “historical or ceremonial uniforms; participating in review formations, parades, honor or color guards, and similar ceremonial details and functions.”⁴

Taken together, the foregoing provisions create a presumption against the inclusion of observant Sikh Americans in our nation’s military. These provisions must be amended without delay.

Discrimination Against Prospective Sikh American Service Members

Although the U.S. Army creditably granted individualized religious accommodations to three observant Sikh Americans—Maj. Kamaljeet Singh Kalsi, Capt. Tejdeep Singh Rattan, and Cpl. Simran Preet Singh Lamba—between 2009 and 2010, their accommodations were the exception, not the rule, and may not have been possible at all without the backing of several members of Congress and thousands of hours of legal advocacy by the Sikh Coalition and its pro bono counsel at the law firm McDermott Will & Emery. Although these proud Sikh American Soldiers successfully complied with safety and uniformity requirements, furthered the military mission, and earned awards and promotions for their service, which included two successful deployments to Afghanistan, it is unreasonable to expect qualified Sikh Americans like them to repeatedly secure Congressional support and legal representation in order to have, at best, an uncertain chance to serve in our nation’s military.

As of the date of this hearing, one of our clients—Mr. Taranbir Singh—is re-applying for an accommodation to serve in the U.S. Army with his Sikh articles of faith intact. On March 28, 2013, Taranbir was separated from the U.S. Army’s Future Soldier Program because of his religion. The following month, he filed a formal request for a religious accommodation. After waiting more than a year for a response, the U.S. Army finally informed us in July 2014 that Taranbir’s accommodation request could not be considered because “the U.S. Army only considers requests for waivers of uniform/grooming policy based on religious faith ... from those who are contracted for service in the United States Army.” *See Ex. 6*. Absurdly, this means that prospective Sikh service members must join our nation’s military and potentially face an

³ See Sec. 4(j), DOD Instruction 1300.17.

⁴ See Paragraph 7, Procedures, DOD Instruction 1300.17.

impossible choice between disciplinary action and violating their faith—as described above, under the new provisions of DOD Instruction 1300.17—in order to even request a religious accommodation, which may ultimately be denied. Notably, the Sikh Coalition had been previously informed that religious accommodations could be requested prior to accession. It is a testament to Taranbir’s patriotism and perseverance that he is still pursuing a career in our nation’s military after being subjected to bureaucratic hurdles, and we believe the U.S. Department of Defense should re-evaluate the manner in which people like him are treated.

The case of Taranbir Singh underscores the need to strengthen DOD Instruction 1300.17 so that prospective service members are not subjected to uncertain rules, arbitrary decisions, and inordinate delays in respect of their religious accommodation requests. Specifically, the Instruction should be amended further to give prospective service members an opportunity to request religious accommodations for visible religious articles prior to accession into the military. Such individuals should be given an opportunity to demonstrate compliance with safety and fitness requirements during basic training, and should be allowed and encouraged to practice their faith in our nation’s military if such requirements are met.

Conclusion

As of the date of this hearing, Sikh service members in the militaries of Canada, India, and the United Kingdom can expect to enjoy a greater measure of religious liberty than their peers in the United States. Our nation’s commitment to religious liberty rings hollow when we lag behind these other nations, and it is a shame that patriotic Sikh Americans are still struggling to secure equal opportunity to serve in the U.S. military in the 21st century.

In 1948, President Harry Truman promised “that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion, or national origin.” We urge the House Armed Services Committee and U.S. Department of Defense to make this promise real for patriotic Sikh Americans by strengthening DOD Instruction 1300.17 without delay. Justice delayed is justice denied.

EXHIBIT 1

The Case for Ending the Presumptive Ban on Observant Sikhs in the U.S. Armed Forces

March 10, 2014

McDermott Will & Emery LLP

Washington, D.C.

The Sikh Coalition

New York

Fremont

Washington, D.C.

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The Sikh Coalition is the largest Sikh-American civil rights organization in the United States, with offices in New York, California, and Washington, DC. The Sikh Coalition was constituted on the night of September 11, 2001 in response to a torrent of hate crimes against Sikhs throughout the United States. Since that time, the Sikh Coalition has pursued its mission by: providing direct legal services to persons whose civil or human rights are violated; advocating for laws and policies that are respectful of fundamental rights; promoting appreciation for diversity through education; and fostering civic engagement in order to promote local community empowerment.

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I. Overview and Summary of Position

The objectives of this paper are to set forth a general background of the policies underlying the exclusion of observant Sikh-Americans from the U.S. Armed Forces and describe the Sikh Coalition's advocacy over the past several years to break down these barriers.

Sikh-Americans are markedly absent from the ranks of the U.S. Armed Forces due to a policy that presumptively excludes observant Sikhs (and Muslims and Jews) unless they relinquish the tenets of their faith. Although practicing Sikhs proudly served our country without impediment prior to 1981, (*e.g.*, turban-wearing Sikhs with unshorn hair and beards served in the U.S. Army during the Vietnam War and prior conflicts dating back to World War I), military policy was changed in 1981 to prohibit exemptions to the uniform requirements for visible articles of faith. While some exceptions have been made since then for the Jewish yarmulke, the presumptive rule is that the turban and unshorn hair and beards of devout Sikhs are outside the U.S. military uniform. *See* DoD Instruction 1300.17 and Army Regulation 600-20. With extremely rare exceptions, this rule of exclusion has barred practicing Sikhs from entering any branch of the U.S. Armed Forces for the past 30 years, even if they are otherwise qualified to serve.

By denying Sikh service members the ability to practice their religion while serving, the military denies itself access to the important talents and abilities of individuals who are willing to fight and die for our nation. Including observant Sikh-Americans will enrich the military's understanding of diverse cultures, languages, and religions, thereby allowing us to fully appreciate not only the rich fabric of our own country but also the lands where we send our service members into harm's way.

II. Widespread Support For Accommodation of *Sikhs* in the U.S. Armed Forces

The Sikh Coalition is leading efforts to persuade the U.S. government to allow observant Sikh-Americans to serve in the U.S. Armed Forces. In 2009, as a result of several months of intense lobbying by the Sikh Coalition and its allies, 43 members of the U.S. House of Representatives and six U.S. Senators wrote a letter to then-Secretary of Defense Robert Gates urging him to permit Sikhs to join the U.S. Armed Forces while maintaining their articles of faith. *See* Exs. 1 and 2. At that time, thousands of supporters around the country reached out to their members of Congress and urged them to support ending the presumptive ban on Sikhs in the U.S. military. On March 10, 2014, 105 members of Congress signed a new letter to Secretary of Defense Chuck Hagel advocating for the right of observant Sikhs to presumptively serve in the U.S. military. *See* Ex. 3. This bipartisan group, which includes the Chairman and Ranking Member of the Defense Appropriations Subcommittee and several members of the House Armed Services Committee, “respectfully request[s] that the U.S. Armed Forces modernize their appearance regulations so that patriotic Sikh-Americans can serve the country they love while abiding by their articles of faith.” *Id.* Their letter also acknowledges the service of three observant Sikh-American service members who were granted historic accommodations to serve in the U.S. Army beginning in 2009:

As you know, three devout Sikh-Americans have been granted individualized accommodations to serve in the U.S. Army. *These patriotic soldiers wear turbans and maintain beards in a neat and conservative manner, both in accordance with operational requirements and their Sikh religious beliefs. They are also able to wear protective equipment, including helmets and gas masks, in conformity with safety requirements . . .* Given the achievements of these soldiers and their demonstrated ability to comply with operational requirements while practicing their faith, we believe it is time for our military to make inclusion of practicing Sikh-Americans the rule, not the exception.

Id. (emphasis added). The Sikh Coalition’s efforts have been bolstered by the U.S. Commission on Civil Rights (USCCR). In 2013, in response to testimony by Major Kamaljeet S. Kalsi, the USCCR wrote a letter to Secretary Hagel requesting his response to Pentagon policies that presumptively exclude Sikh-Americans from serving in the U.S. Armed Forces unless they give up their articles of faith. *See* Ex. 4.

Because we received testimony that Sikh service members can wear their helmets and gas masks properly while maintaining their unshorn hair and beards and wearing their turbans without compromising safety or decorum, the Commission is concerned that the aforementioned policies may result in the unnecessary exclusion of Sikh-Americans and Americans of other religious faiths from military service based on their religious beliefs manifested in their dress and grooming.

Id. The Becket Fund for Religious Liberty – a public interest legal and educational institute with a mission to protect the free expression of all faiths – co-hosted a congressional briefing with the Sikh Coalition in January 2014 in the U.S. House of Representatives to generate awareness about the presumptive ban on Sikh articles of faith.¹ The Sikh Coalition’s efforts have also been extensively covered in the national media, in such diverse outlets as the *New York Times*, the *National Review*, *Stars and Stripes*, and the *Army Times*. See Exs. 5, 6, 7, and 8.²

III. Introduction to the Sikh Articles Of Faith

The Sikh religion is the world’s fifth largest faith tradition. While there are more Sikhs in the world than Jews, the Sikh religion is relatively young compared to other major world religions. The founder of the Sikh faith, Guru Nanak, was born in 1469 in Punjab, India. His teachings, as well as the teachings of nine successive Gurus, form the basis of the Sikh religion. The Sikh religion is monotheistic, believing in one God that is all loving, all pervading, and eternal. This God of love is sought through grace and sought by service to humankind. Guru Nanak rejected the caste system, and declared all human beings, including women, to be equal in rights and responsibilities and their ability to reach God. He taught that God is universal to all – not limited to any religion, nation, race, color, or gender.

Consistent with the teachings of the ten Sikh Gurus, Sikhs wear an external uniform to bind them to their religious beliefs. Unlike some other faiths, where only the clergy maintain religious articles on their person, all Sikhs are *required* to wear external articles of faith *as a uniform*. These articles of faith – such as unshorn hair and the turban – serve as external visual reminders that a Sikh has committed him or herself to the values of truthfulness, courage, and service – values shared with the U.S. Armed Forces.

Maintaining uncut hair (including a beard) is an essential part of the Sikh way of life – one cannot be a practicing Sikh without it. Guru Nanak started the practice of keeping hair unshorn, regarding it as living in harmony with the will of God. The Sikh Code of Conduct, called the *Rehat Maryada*, outlines the requirements for practicing the Sikh way of life. All Sikhs must follow the guidelines set forth in this document. The *Rehat Maryada* explicitly instructs that if you are a Sikh, you must “[h]ave, on your person, all the time . . . the *keshas* (unshorn hair).” This document prohibits the removal of hair from the body as one of four major taboos. One of

¹ *Capitol Hill Briefing: Reflections of a Sikh American Soldier*, The Becket Fund for Religious Liberty, available at <http://www.becketfund.org/sikh-american-soldier/>.

² Despite these efforts, the policies which exclude devout Sikh service members have been further cemented over the last few months. As discussed in further detail herein, the U.S. Department of Defense (DoD) published on January 22, 2014 revisions to DoD Instruction 1300.17, which governs accommodation of religious practices within the military services. Although the revised Instruction provides a framework for service members to request religious accommodations and states a renewed commitment to religious liberty, it retains a presumptive ban on Sikh articles of faith; requires observant Sikhs to violate their religion while accommodation requests are pending; and forces those who receive accommodations to renew them repeatedly throughout their careers, even if they are otherwise qualified to serve. Without further revision, the Instruction will continue to impose needless barriers on Sikh Americans who want a fair opportunity to prove their abilities and serve the country they love while practicing their religion.

the other taboos on this list is adultery. Accordingly, the fact that cutting one's hair is a moral transgression as serious as committing adultery speaks to the immense significance of uncut hair in the Sikh religion.

The *Rehat Maryada* also mandates that Sikhs wear a turban. Unlike a hat, a turban must always cover a Sikh's head. The turban reminds a Sikh of his or her duty to maintain and uphold the core beliefs of the Sikh faith, which include working hard and honestly, sharing with the needy, and promoting equality and justice for all.

Historically, uncut hair and turbans have been central features of the Sikh identity. For example, in the 18th century, Sikhs in South Asia were persecuted by the Muslim rulers of India during the reign of the Mughal Empire. Sikhs were humiliated and pressured to abandon their faith, often by having their turbans removed and hair forcibly cut. As resistance to such forced conversions, many Sikhs chose death over having their turbans removed and hair shorn. Since then, denying a Sikh the right to wear a turban and maintain unshorn hair has symbolized denying that person the right to belong to the Sikh faith, and is perceived as the most humiliating and hurtful physical injury that can be inflicted upon a Sikh.

IV. Sikhs Have a Long and Storied History of Military Service

There are approximately 25 million Sikhs in the world and no more than 500,000 in the United States. For centuries, Sikh soldiers and officers have served in militaries across the globe, fought bravely in wars, and achieved the highest levels of military distinction.

Service in armed forces has always been – and continues to be – a central part of the Sikh identity. Tales of Sikh courage and valor date back at least as far as their defeat of the Afghan Pathans in 1813 at the Battle of Attock.³ Sikh soldiers famously defeated the British at the Battle of Chillianwala in 1849 before being overpowered six weeks later by superior British weapons.⁴ Sikh soldiers soon became “among the sturdiest and trustiest men of the British army,”⁵ with a group of 21 Sikhs famously repulsing an attack by thousands of Afghans for six hours at the Battle of Saragarhi in 1897, *see* Ex. 9,⁶ and with approximately 100,000 Sikhs – a disproportionately high number among Indian volunteer soldiers – fighting for the British in World War I.⁷ More than 83,000 British Sikh soldiers died, and over 109,000 were wounded

³ Pico Iyer, *The Lions of Punjab*, TIME, Nov. 12 1984, at 53, *discussed in* Rajdeep Singh Jolly, *The Application of the Religious Freedom Restoration Act to Appearance Regulations That Presumptively Prohibit Observant Sikh Lawyers From Joining the U.S. Army Judge Advocate General Corps*, 11 CHAPMAN LAW REVIEW 155, 157 n.13 (2008).

⁴ *Id.*

⁵ *Id.*

⁶ *Sikhs Prove Their Valor, Twenty-one Men Hold Sarhargarti Police Post Against 1,000 Orakzais Over Six Hours*, NEW YORK TIMES (Sept. 14, 1897), *available at* <http://query.nytimes.com/mem/archive-free/pdf?res=F60C1EFA355D11738DDDAD0994D1405B8785F0D3>.

⁷ Rajdeep Singh Jolly, *The Application of the Religious Freedom Restoration Act to Appearance Regulations That Presumptively Prohibit Observant Sikh Lawyers From Joining the U.S. Army Judge Advocate General Corps*, 11 CHAPMAN LAW REVIEW 155 (2008).

during both World Wars.⁸ Five Sikhs were awarded the Victoria Cross for their bravery in these wars.⁹ Observant Sikhs still serve with their articles of faith intact in militaries around the world, most notably in India, Canada, and the United Kingdom and as United Nations Peacekeepers – often working closely with American troops in troubled regions. In all cases, Sikh service members’ turbans, unshorn hair, and beards have never been an impediment to their service.

The Canadian Forces allow Sikh service members to practice their faith, stating that their “[h]air and beard shall remain uncut, provided that the operational mission and safety is not jeopardized when it is required that the member wear occupation and operational equipment such as gas masks, oxygen masks, combat/vehicle/flying helmets, hard hats, scuba masks, etc.” *See* Ex. 10. The Canadian Army policy also adds that “in addition to uncut hair, four other symbolic requirements of the Sikh religion are authorized for wear by both male and female members, with all orders of dress,” including turbans which “shall be worn by male members with ceremonial, mess, service, and base dress.” *Id.*

The United Kingdom’s Guide on Religion and Belief in the Ministry of Defence and Armed Forces also allows Sikh service members to wear their articles of faith. *See* Ex. 11. The British policy acknowledges that a ban on headwear would be “indirect discrimination” against Sikh service members: “[a] ‘no headwear’ policy for all personnel may inadvertently impact on Sikh personnel who wish to wear a turban. In the British Armed Forces, Sikh personnel are allowed to wear turbans in all circumstances, except where there is a requirement, for health and safety reasons, for personnel to wear protective headgear, such as a live firing exercise.” *Id.* Sikhs serving in the British Armed Forces are also allowed to maintain uncut hair, including beards. *Id.*

In the United States, a number of Sikhs were grandfathered in under the pre-1981 policy and have served honorably in the U.S. Army with their Sikh articles of faith intact – some even serving lifetime careers. For instance:

- **Colonel Gopal S. Khalsa** joined the Army as a private in 1976 and continues serving in the Reserves. While on active duty, Colonel Khalsa served in the Special Forces Unit for 10 years on Parachute Status and as a Battalion Commander overseeing an 800-person intelligence group. He received a Meritorious Service Medal and Silver Oak Leaf Cluster Award, amongst many other honors. He is a graduate of the Army Officer Candidate School in Georgia, and was inducted into the Officer Candidate School Hall of Fame in 2004.
- **Colonel Gurbhajan Singh**, a dentist, served from 1979 until 2007. During his 28-year tenure, Colonel Singh was stationed around the United States, as well as in Korea. He

⁸ *Id.*

⁹ *Id.*

was awarded several honors including the “A” Prefix, the U.S. Army Medical Department’s highest *award* for professional excellence.

- **Colonel Arjinderpal Singh Sekhon**, a medical doctor, served from 1984 until 2009. During his 25 years of commissioned service, Colonel Sekhon was stationed around the country. During the First Persian Gulf War, he was called to active duty and served stateside as a doctor at the United States Army Hospital in California. He rose through the ranks to Colonel and was given a Battalion Commander position through which he oversaw a unit of 600-700 service members. Before the end of his career in the U.S. Army, he was decorated with various awards, including a Presidential Unit Citation, Joint Meritorious Unit Award, and an Army Flight Surgeon Badge.
- **Sergeant Sevak Singh Kroesen** enlisted in the U.S. Army Reserves in 1976 and was attached to the Signal Company, 11th Special Forces Group after which he successfully completed airborne (paratrooper) and Radio Teletype Transmission Operator training. He then completed his Special Forces Qualification Courses and became a Special Forces Communications Sergeant. He completed this rigorous training, and his Sikh articles of faith were never a hindrance to his service. Sergeant Kroesen subsequently completed schools, trainings, and missions around the world with honor and distinction. He was honorably discharged from active duty in 1991.
- **Sergeant Kirnbir Singh Grewal** served in the U.S. Army from 1977 to 1984. He entered the Army as a private and served both domestically and abroad in Germany. Sergeant Grewal, a turban-wearing Sikh, used the same standard-issue gas mask and helmet as other members of the Army. During his tenure, his Sikh articles of faith were never an impediment. The Army’s actions in allowing Sergeant Grewal to serve with his articles of faith intact reaffirmed that it accepted his faith as an inseparable part of his identity.
- **Major Parbhur Singh Brar** is an ophthalmologist who served in the U.S. Army from December 1978 to October 1981. He was commissioned as a Reserve Officer, but then moved to Active Duty and was stationed at Ft. Eustis in Newport News, VA. Major Brar’s Sikh articles of faith never stopped him from performing his duties, nor did they preclude him from creating strong relationships with his unit or supervisors during his tenure with the Army.

Again, these Sikh-American service members’ turbans and unshorn hair – which they wore during the entire length of their service – never impeded their honorable service to their country. *See, e.g.*, Ex. 12.

V. The Exclusion of Sikhs From the U.S. Armed Services Violates the Law

Prior to the 1980s, the U.S. Armed Forces allowed Sikh-Americans to wear their articles of faith while in uniform. However, in 1981, the Army decided to prohibit Sikhs from serving with their articles of faith, purportedly as a result of “an Army review of appearance exceptions and their impact on the mission, health and safety of the soldier.”¹⁰ See Ex. 13 (Dept. of Army Memorandum re: Review of Present Army Policy Allowing Exceptions to Appearance Standards for Religious Reasons, April 10, 1981). The Army further claimed that its review “found the wearing of beards, unshorn hair, turbans and religious bracelets contrary to Army operational and safety requirements.”¹¹ The Army estimated at that time that 15 Sikh service members were impacted by the policy change, though some were provided grandfathered exemptions that allowed them to continue to serve their country while practicing their faith.

In 1986, the Supreme Court controversially held in *Goldman v. Weinberger* that military policy prohibiting the wearing of a yarmulke was not subject to strict scrutiny, despite the First Amendment issue raised by the prohibition.¹² The Court expressed its concern with overriding the military’s determination of what is necessary to “foster instinctive obedience, unity, commitment, and esprit de corps.”¹³

A. 10 U.S.C.A. § 774

After the Supreme Court’s decision in *Goldman*, in 1987, Congress passed 10 U.S.C.A. § 774 (“Religious Apparel: Wearing While in Uniform”), which permits military service members to wear religious apparel that is “neat and conservative” and that does not “interfere with the performance of the member’s military duties.”¹⁴ Since the passage of this statute, observant Jewish service members have been allowed to wear yarmulkes, but Sikh turbans are still presumptively prohibited. Given that a yarmulke serves as a religious identifier to the same extent that a Sikh turban does, banning turbans while allowing yarmulkes both reflects inconsistency in military policy regarding respect for the religious practices of all service members and indicates that claims of interference with uniformity and unit cohesion are unfounded.

B. DoD Directive 1300.17 and Current Army Regulations

In 1988, the DoD issued Directive 1300.17 to govern accommodation of religious apparel in all branches of the military. While the 1988 Directive and current Army regulations (by way of illustration) allow members of some faiths to practice their religion while in uniform, they do not allow observant Sikhs to serve with their articles of faith intact. Tracking the language of 10

¹⁰ *Religious Exceptions in Army Uniform End*, NEW YORK TIMES (Aug. 22, 1981).

¹¹ *Id.*

¹² See *Goldman v. Weinberger*, 475 U.S. 503, 507 (1986).

¹³ *Id.*

¹⁴ *Pentagon Rescinds Directive Limiting Wearing of Yarmulkes*, JEWISH TELEGRAPHIC AGENCY, (Oct. 5, 1988), available at <http://www.jta.org/1988/10/06/archive/pentagon-rescinds-directive-limiting-wearing-of-yarmulkes>.

U.S.C.A. § 774, the Directive permits service members to “wear visible items of religious apparel while in uniform, except under circumstances in which an item is not neat and conservative or its wearing shall interfere with the performance of the member’s military duties.”¹⁵ The term “religious apparel” was defined as “articles of clothing worn as part of the doctrinal or traditional observance of the religious faith practiced by the member.”¹⁶ However, the Directive did not include “[h]air and grooming practices required or observed by religious groups” in its definition of “religious apparel.”¹⁷ Notably, the Directive was revised soon after it was published because it would have required Jewish service members to violate their religion before being granted permission to practice it again. *See* Ex. 14.¹⁸

Army Regulation 600-20 (by way of illustration) states that “[t]he Army places a high value on the rights of its Soldiers to observe tenets of their respective religious faiths” and “[t]he Army will approve requests for accommodation of religious practices unless accommodation will have an adverse impact on unit readiness, individual readiness, unit cohesion, morale, discipline, safety, and/or health.”¹⁹ The maintenance of unshorn hair, however, is specifically excluded from the Army’s efforts to allow people of all faiths to serve. A.R. 600-20 clearly states that “[r]equests for religious accommodation of wear and appearance of the uniform and personal grooming practices will not be entertained.”²⁰ Additionally, although yarmulkes (and, presumably, Muslim skullcaps) are permitted under uniform headgear, turbans are categorically prohibited because they cannot “be completely covered by standard military headgear,” such as a beret (which has little bearing on safety), and are meant to be worn “in place of military headgear” when protective equipment is not required.

Army Regulation 670-1, “Wear and Appearance of Army Uniforms and Insignia,” also does not allow service members to keep their hair and beards unshorn, nor does it allow them to wear their turbans. Current grooming regulations do, however, allow for moustaches.²¹ The Army also routinely allows exceptions to the facial hair policy for service men with pseudo-folliculitis barbae and other medical conditions that make shaving difficult.²² Accordingly, the presence of facial hair itself cannot be said to be so distracting as to prohibit neat and conservative religious exceptions.

Although observant Sikhs are able to comply with military regulations requiring service members to maintain a neat and conservative appearance, the U.S. military’s religious apparel regulations simply do not include Sikh religious practices within their purview. By default, this

¹⁵ Department of Defense Directive Number 1300.17 (Eff. Feb. 3, 1988).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Pentagon Rescinds Directive Limiting Wearing of Yarmulkes*, JTA (Oct. 6, 1988), available at <http://www.jta.org/1988/10/06/archive/pentagon-rescinds-directive-limiting-wearing-of-yarmulkes>.

¹⁹ Army Regulation 600-20 (Eff. March 18, 2008) (revised: Sept. 20, 2012).

²⁰ *Id.*

²¹ *Id.*

²² Army Regulation 670-1 (Eff. March 3, 2005).

makes it impossible for observant Sikhs to comply with such regulations, even if they are otherwise qualified to serve.

C. Religious Freedom Restoration Act

In 1993, Congress passed the Religious Freedom Restoration Act (“RFRA”). The Act forbids the federal government from substantially burdening a person’s exercise of religion, even if the burden results from a rule of general applicability.²³ The only exception recognized by the statute requires the government to demonstrate that applying the burden to the person is: (1) in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.²⁴

Under RFRA, if any branch of the U.S. military refuses to accommodate an observant Sikh service member, such a refusal would constitute a substantial burden on his exercise of religion. More importantly, it would be impossible for the military branch concerned to show that it has satisfied both prongs of RFRA’s exception, given that a number of Sikhs have served honorably in the U.S. Armed Forces with their articles of faith intact, including, Colonel Khalsa, Colonel Singh, Colonel Sekhon, Sergeant Grewal, Sergeant Kroesen, Major Brar, (*see supra*, Section IV), Major Kalsi, Captain Rattan, and Corporal Lamba (*see, infra*, Section VI).

A concern commonly held by opponents of allowing Sikhs to serve in the U.S. Armed Forces is that allowing Sikhs to wear their articles of faith while in uniform would open the floodgates to fringe religious organizations and other organized entities that seek to make a mockery of the U.S. Armed Forces – the so-called “slippery slope” argument. But the reality is that the framework set forth by the Pentagon is that all service members must meet the “neat and conservative” standard and pass relevant safety tests. The three Sikh service members who have been granted recent accommodations (*see infra*, Section VI) have satisfied the military’s “neat and conservative” policies and passed safety tests. They also made it through basic training and successfully performed their military duties. Because anyone who attempts to join the military must satisfy these standards, fears of a slippery slope are unfounded.

VI. Recent Accommodations of Sikh Service Members

Over the past four years, McDermott and the Sikh Coalition have represented three Sikh-American men who received historic religious accommodations to join the U.S. Army with their Sikh articles of faith intact:

- **Corporal Simran Preet S. Lamba** began active duty in August 2010. Fluent in Punjabi and Hindi, he was recruited through the MAVNI program for his cultural and language skills. He serves in a medical battalion as a Soldier Medic. Corporal Lamba is known for his dedication, enthusiasm, and self-initiative. One of his superiors noted that “[h]e has

²³ *See Gonzales v. O’Centro Espirita Beneficent Uniao Do Vegetal*, 546 U.S. 418, 423 (2006); 42 U. S. C. §2000bb, et seq.

²⁴ § 2000bb.1(b); *see also O’Centro* at 423.

been instrumental in helping others to accomplish their own personal and professional goals by setting the example for others to emulate.” *See* Ex. 15, at 11. He is currently stationed at Fort Lewis, WA.

- **Captain Tejdeep S. Rattan**, a dentist, entered active duty in January 2010 after receiving a religious accommodation. In 2011, he was deployed to Afghanistan where he volunteered to serve in a remote forward operating base. While deployed, Captain Rattan performed approximately 25% of all dental procedures performed throughout the 673rd Dental Company. He was awarded an Army Commendation Medal for his “outstanding performance, technical expertise, and unwavering commitment to mission accomplishment in a hostile environment[,]” and a NATO Medal for defusing a tense confrontation with Afghan civilians. *See* Ex. 16. After his deployment, Captain Rattan was stationed at Fort Bragg, NC where he is a General Dentist at the Joel Dental Clinic.
- **Major Kamaljeet S. Kalsi** is a physician specializing in emergency and disaster medicine. Major Kalsi began active duty in June 2010. He was also deployed to Afghanistan in 2011 and was awarded a Bronze Star Medal upon his return. *See* Ex. 17. In support of the award, an official recommendation from Major Kalsi’s superiors cited his resuscitation back to life of two patients who were clinically dead on arrival; his “expert” emergency care of over 750 service members and civilians; coordination of five mass casualty exercises; and his general “commitment and leadership above and beyond that of his general duties.” He is currently in the U.S. Army Reserve Officer Corps.

As with other observant Sikh-Americans who have served, the Sikh articles of faith of these three Soldiers have in no way impeded their service to our country – even while deployed abroad in hostile territory. While each of these proud members of our Armed Forces received narrowly tailored, individual accommodations that granted exceptions to policy, *see* Exs. 18, 19, and 20, these accommodations were obtained only through extensive advocacy from counsel at McDermott and the Sikh Coalition.

VII. Pending Accommodation Requests

In addition to the three previously successful accommodation requests, McDermott and the Sikh Coalition represent one other Sikh man who is seeking to serve in the U.S. Army:

- **Taranbir Singh**: In April 2013, the Sikh Coalition wrote a letter to Pentagon officials requesting a religious accommodation for Mr. Singh. Mr. Singh immigrated to the United States in 2008 to pursue graduate studies, and obtained a Master’s of Science in Engineering from San Jose State University in San Jose, California. *See* Ex. 21. He is currently employed as a Software Quality Assurance Engineer at Barracuda Networks through an H1-B temporary work visa. In February 2013, Mr. Singh was recruited through the U.S. Army’s Military Accessions Vital to the National Interest (“MAVNI”) Program for foreign nationals after successfully completing the Punjabi and Hindi language skills examination. Mr. Singh was specifically recruited under the program because of his Punjabi language skills and cultural knowledge. While Mr. Singh enjoys his current profession as software engineer, his dream is to proudly serve his adopted country by joining the U.S. Army. Mr. Singh is willing to relinquish a burgeoning and

successful career as a software engineer to give back to the country that he loves; the country that has provided him with significant educational and employment opportunities. Mr. Singh hopes to build a career in the military, and intends to apply for Officer Candidate School as soon as he becomes eligible.

VIII. The Revised Department of Defense Instruction

On January 22, 2014, the DoD published revisions to DoD Instruction 1300.17. The revised Instruction addresses some of the gaps in its predecessor. For instance, under the revised Instruction, service members may now officially request accommodations to religious grooming and appearance practices, including hair, unless the accommodation will “adversely affect military readiness, unit cohesion, good order, discipline, health and safety, individually and on the unit level.” *See* Ex. 22.²⁵

While the amended Instruction indicates a new openness to accommodating religious articles of faith, it nevertheless fails to provide adequate accommodations to Sikh service members and will continue to deter new Sikh recruits. The reasons are enumerated below.

A. Case-by-Case Accommodations Are Not Sufficient

Under the revised Instruction, service members may only receive accommodations to changes in uniform and grooming standards on a strict case-by-case basis from the highest levels of command. Under this highly discretionary policy, Sikh service members continue to lack certainty regarding how their accommodation will be handled and when and on what basis it will be decided. Accommodations may also be rescinded at any time, even a few months before retirement, and a service member is required to submit a new request for an accommodation every time he receives a different assignment. The amended Instruction simply provides no certitude that a service member will not be made to choose between his religion and his career at some point during his military service, and may even subject a service member to disciplinary action and the loss of benefits, such as retirement benefits, if an accommodation is rescinded. By making accommodations the exception instead of the presumptive rule, there is no guarantee that a turbaned and bearded Sikh service member will be granted approval, even though past and current Sikh service members have repeatedly proven that their religious articles of faith do not interfere with their ability to perform their military duties. Under the revised Instruction, Sikh turbans and beards remain presumptively prohibited, which is a significant deterrent for potential Sikh service members. Accordingly, instead of opening the doors of opportunity to Sikhs, the Instruction will continue to deter new Sikh recruits.

B. The New Instruction Needlessly Bans Sikh Turbans and Beards

It is clear that the military’s need for uniformity has in no way been undermined by allowing observant Sikhs to serve with their turbans and unshorn hair and beards intact. Observant Sikhs

²⁵ Department of Defense Instruction Number 1300.17 (Eff. Jan. 22, 2014).

who served in the U.S. Armed Services before 1981 and those who are currently serving with religious accommodations have posed no disruption to troop morale, esprit de corps, unit cohesion and discipline. To the contrary, they have served alongside their fellow Americans and encouraged camaraderie and respect for the diversity of the U.S. military. As a matter of principle, allowing more Sikhs to serve – without having to request individualized accommodations – would not affect military interests any differently.

1. Sikh Articles of Faith Comply With Neatness Standards

Major Kalsi, Captain Rattan and Corporal Lamba, while serving in the U.S. Army, have used standard-issue Army cloth to develop turbans that conform with Army uniform requirements – including Army Combat Uniform (camouflage) headwear and turbans with their Army flash (insignia patch). Major Kalsi has even had the opportunity to provide information to Army leadership on “the proper wear of the turban with the Army uniform.” Ex. 23.²⁶ The Sikh service members currently serving in the U.S. Army have also been commended for adhering to the uniform standards of neatness and conservativeness.²⁷ Speaking of Captain Rattan, Capt. John Lopez, Company A, 187th Medical Battalion, has said:

From day one, Captain Rattan has been an ideal individual... He has done everything in his power to keep within the regulation (AR 160-1), and I sometimes have a hard time getting other Soldiers to follow it . . . I wish some other Soldiers had the personal pride and willingness to go the extra mile as he does, so those young Soldiers have someone to look up to.

See Ex. 24.²⁸

2. Sikh Articles of Faith Do Not Adversely Affect Unit Cohesion or Morale

The revised Instruction places heavy importance on “unit cohesion” in determining whether to grant accommodations. Unit cohesion is defined as “establishing and maintaining uniform military grooming and appearance standards.” See Ex. 22. While unit cohesion and morale are integral to the proper functioning of the military, these factors should not be used as reasons to restrict Army enlistment of members of a disfavored minority; similar concerns were historically cited to justify the exclusion of women, racial minorities, and homosexuals in the U.S. Armed Services.²⁹ The U.S. Army has made great progress in opening up its ranks to previously-excluded sections of American society. LGBT service members can now serve

²⁶ Steve Elliott, *Second Sikh Doctor Allowed to Wear Articles of Faith; Enlisted Soldier in Training*, Official Homepage of the United States Army, Sept. 9, 2010, <http://www.army.mil/article/44944>.

²⁷ See A.R. 670-1, Ch. 1-7(a).

²⁸ Steve Elliott, *Sikh Soldiers Allowed to Serve, Retain Their Articles of Faith*, Official Homepage of the United States Army, Mar. 25, 2010, <http://www.army.mil/article/36339>.

²⁹ Dawinder S. Sidhu & Neha Singh Gohil, *CIVIL RIGHTS IN WARTIME: THE POST-9/11 SIKH EXPERIENCE* 140, Ashgate Publishing, Ltd., 2009.

openly in the U.S. Armed Services.³⁰ By 2016, women will be able to serve in all Army units and in every military occupational specialty.³¹ The U.S. Army has recognized that allowing these traditionally excluded demographic groups to serve does not negatively impact morale or esprit de corps. It should also recognize that presumptively allowing observant Sikhs to serve with their articles of faith intact will not lead to a breakdown in discipline, morale, or unit cohesion.

Although the Joint Service Study Group on Religious Practice, established by the DoD in 1984, indicated that “it is possible that non-uniformity can ‘create an impression that [an] individual is unwilling to subordinate personal desires to traditional military values,’” the same Study Group also found that this impression is less likely when the individual is known to the other group members.³² The fact that a Sikh who is an integral member of an Army unit will not be perceived as “outside of regulations” has been borne out by the careers of the Sikh service members who served in previous generations, those who were grandfathered in after the policy change in 1981, and more recently by Major Kalsi, Captain Rattan and Corporal Lamba.

Any concerns about assimilation have been allayed by these service members’ performance during training and in the field. Sgt. 1st Class Michael Hildebrand, who oversaw Corporal Lamba’s training while he was a Specialist, noted that he not only integrated well into the unit and excelled in his training, but “the other Soldiers in the platoon actually love [then-Specialist] Lamba. Their family members have found out that we have a Sikh Soldier, and they have asked if they could write to Spc. Lamba to find out more about where he comes from. There has been no negativity expressed by the Soldiers toward Spc. Lamba.”³³ As has been demonstrated with the inclusion of women, racial minorities, and LGBT people in our nation’s armed forces, embracing diverse individuals within the military strengthens our military force, rather than weakening it. Similarly, in discussing Captain Rattan, Col. Roger Fiedler, Fort Drum DENTAC commander, noted that, “while his dental skills are the same as any other dentist, his unique status as a practicing Sikh U.S. Soldier and dental provider add to the diversity that makes our military so strong.”³⁴

3. Sikh Service Members Are Able to Comply With Protective Mask and Helmet Requirements

Closely linked with unit cohesion is the question of combat readiness. Although concerns have

³⁰ Tina Ray, *Fort Bragg Gay Soldiers Serve Openly*, Official Homepage of the United States Army, Feb. 8, 2013, http://www.army.mil/article/96139/Fort_Bragg_gay_Soldiers_serve_openly.

³¹ C. Todd Lopez & Julia Henning, *Army Describes Plans for Integrating Women into Combat*, Official Homepage of the United States Army, June 18, 2013, http://www.army.mil/article/105814/Army_describes_plans_for_integrating_women_into_combat.

³² Jolly, *supra* note 7, at 159 & n.38.

³³ Susanne Kappler, *Keeping Faith: Sikh Soldier Graduates Basic Training*, Official Homepage of the United States Army, Nov. 10, 2010, <http://www.army.mil/article/47924/keeping-faith-sikh-soldier-graduates-basic-training>.

³⁴ Paul Steven Ghiringhelli, *Traditional Sikh Serves as Army Dentist on Fort Drum*, Official Homepage of the United States Army, May 20, 2010, <http://www.army.mil/article/39536>.

been expressed about the ability of Sikh service members to comply with requirements relating to protective masks and helmets, both concerns have been disproved by Sikhs serving in militaries around the world, as well as in the preparedness tests that Major Kalsi, Captain Rattan, and Corporal Lamba underwent during training and their service.

The notion that an effective gas mask seal cannot be created without clean-shaven skin is a fallacy. The three observant Sikhs who currently serve in the U.S. Army have undergone rigorous safety testing, including being placed in a chamber filled with gas, to determine whether their protective masks form an effective seal with their beards and religious headwear intact. Not only did they pass these tests along with their fellow service members, but they have also demonstrated that helmets and other safety gear can be worn safely over a *patka* (a smaller turban).

When Undersecretary of the Army Joseph W. Westphal visited the Joint Readiness Training Center at Fort Polk in October, 2012 while Major Kalsi was participating in combat training, he specifically noted that he was “absolutely impressed with [the service members’] intellect, their knowledge, and their easy disposition” and that the Army was on “good footing” with its readiness training. *See Ex. 25.*³⁵ Capt. John Lopez, Company A, 187th Medical Battalion, who was Captain Rattan’s commanding officer during training, said that Captain Rattan “knows what he is doing and he’s doing a phenomenal job. *I’d go to battle with him.*” *See Ex. 24.*³⁶

Service members of the Sikh faith currently serving in the U.S. Army have proven that Sikhs not only can comply with all safety regulations with their turbans and unshorn hair and beards intact but can also do so in the most difficult of duty stations, and have served their country courageously in overseas deployment. Allowing other Sikh-Americans to make the same commitment to serve their country while keeping their articles of faith intact would demonstrate respect for the service of those who have already demonstrated their willingness to lay down their lives for their country.

4. Sikh Service Members Promote the Military Mission in Overseas Deployment

In units that serve overseas, having service members who are familiar with other languages and cultures – particularly those of South Asia – can only benefit the Army’s understanding of local context and engagement with local populations. This cultural understanding has already proven to be an asset in the case of Captain Rattan, whose NATO Medal was granted specifically for his defusing a tense situation with Afghan locals. *See Ex. 16.*

³⁵ C. Todd Lopez, *JRTC Rotation Demonstrates Force of Future*, Official Homepage of the United States Army, Oct. 20, 2012, <http://www.army.mil/article/89623>.

³⁶ Elliott, *Sikh Soldiers Allowed to Serve, Retain Their Articles of Faith*, *supra* note 28 (emphasis added).

C. The Revised Instruction Creates a Catch-22 for Sikh Service Members

The Revised Instruction requires that a service member abide by military policy, practice, and duty while awaiting resolution of a religious accommodation request. For a Sikh, who is religiously obligated to maintain unshorn hair, including a beard, and wear a turban instead of a hat, this is an impossible request. This section literally requires service members to put their religious practices on hold while their accommodation requests are pending. If Sikhs are asked to violate the very practices for which accommodations are being sought, it will have a chilling effect on their ability to join the U.S. Armed Services.

This requirement is particularly alarming because a similar issue arose over 25 years ago with respect to the Jewish community. *See* Ex. 14.³⁷ When a previous version of the Instruction was issued by the DoD in 1988, it contained a similar “Catch-22” stating that Jewish personnel could wear head coverings (kippot/yarmulkes), but not for initial training, including boot camp for enlisted personnel and officer accession for officer candidates. An appeal was made to the Secretary of Defense, based on the exact issues that we raise in this section, and the DoD promptly removed the restrictive provision.³⁸ The appeal noted that allowing Jewish service members to practice their religion at some points, but not others, “would undermine, if not eliminate, the effect of the religious apparel amendment.”³⁹

Similarly, the new Instruction should be amended so that it does not impose needless barriers on Sikh service members and other religious minorities.

IX. Conclusion

Despite their proven ability to comply with safety requirements and perform their military duties with excellence, Sikhs who maintain their religiously-mandated turbans, unshorn hair, and beards in a neat and conservative manner will nevertheless continue to experience significant difficulty obtaining highly discretionary and revocable accommodations under DoD Instruction 1300.17. Observant Sikhs are still presumptively prohibited from serving in the U.S. military as long as (1) Sikh articles of faith are presumptively disallowed; (2) the process for obtaining an accommodation is cumbersome and requires constant renewal and approval by the highest chains of military command; and (3) Sikhs have to violate their religion while accommodation requests are pending.

The DoD should modernize its new Instruction and uniform guidelines to presumptively allow Sikh turbans and beards, similar to yarmulkes, and only deny accommodations when an individual cannot comply with safety requirements or successfully perform their military duties. Not only would this demonstrate the military’s commitment to upholding one of the most fundamental and precious values of this country – freedom of religion – but would demonstrate

³⁷ “Pentagon Rescinds Directive Limiting of Yarmulkes,” available at <http://www.jta.org/1988/10/06/archive/pentagon-rescinds-directive-limiting-wearing-of-yarmulkes> (Oct. 6, 1988).

³⁸ *Id.*

³⁹ *Id.*

its commitment to abiding by the military policy established under President Truman, which demands “equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin.”⁴⁰ If the DoD continues to disallow religious exemptions from certain aspects of the uniform policy, it perpetuates a discriminatory mechanism inconsistent with the spirit of religious accommodation and will continue to preclude talented Americans from serving their country, simply on account of their religion. Where religious practices do not interfere with the service or safety of the individual or unit concerned, such prohibitions serve only as an invidious means of limiting the military participation of disfavored minorities.

Moreover, DoD regulations should be revised to allow service members to presumptively wear and maintain Sikh articles of faith, which are tailored to conform to uniform style and color, and which do not interfere with the functioning of safety equipment such as a helmet and gas mask. In the case of observant Sikh service members, the military can look to the uniform standards of other militaries in which Sikhs are presumptively allowed to serve for examples of how to provide for standard-issue, uniform turbans. *See* Exs. 10 and 11.⁴¹ The Sikh service members currently serving in the U.S. Army have already laid the groundwork for such a uniform standard by developing headwear that closely resembles standard-issue Army headgear, thereby allowing them to comply with both their religious obligations and the Army’s requirements for good order and discipline through established uniform requirements. In fact, the Sikh Coalition – working in conjunction with current and former Sikh members of the U.S. Armed Forces – has developed a “Field Manual for Sikh Soldiers in the U.S. Army.” *See* Ex. 26. This working document presents a framework through which the U.S. Armed Forces (and each of the Services, respectively) could develop rigorous standards for Sikh service members ensuring that standards for uniformity and safety are not degraded by the integration of Sikhs in the officer and enlisted corps. Major Kalsi, Corporal Lamba, and the Sikh Coalition all submitted statements to the record for a January 29, 2014 hearing before the House Armed Services Committee’s Subcommittee on Military Personnel. *See* Exs. 27-29.

Our nation’s military leadership should modernize its regulations without delay so that operational excellence becomes the principal criterion by which service members are judged. We remain deeply appreciative of the DoD diligently working to safeguard the civil rights of all Americans who wish to serve or have served in the U.S. Armed Forces, including Sikh-Americans.

⁴⁰ President Harry Truman, Executive Order 9981, July 26, 1948, *available at* <http://www.trumanlibrary.org/9981a.htm>.

⁴¹ United Kingdom and Canada Military Policies Regarding Sikhs, *available at* http://salsa.wiredforchange.com/o/1607/images/Canadian_Army_Sikh_Appearance_Policy.pdf and http://salsa.wiredforchange.com/o/1607/images/UK_Army_Religious_Dress_Policy.pdf.

EXHIBIT 2

April 17, 2014

VIA FEDEX & EMAIL

Mr. Lernes J. Hebert
Principal Director
Military Personnel Policy
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Re: Sikh American Service in the U.S. Armed Forces

Dear Mr. Hebert:

On behalf of McDermott Will & Emery LLP (“MWE”) and the Sikh Coalition,¹ we want to first thank you for being so generous with your time when we met at the White House on March 10, 2014. It was a pleasure to meet with you, Chaplain Rutherford, Chaplain Pitts, Brodi Kemp (Domestic Policy Counsel), Radha Iyengar (National Security Council), and Gautam Raghavan and Rumana Ahmed from the White House Office of Public Engagement. Your willingness to listen to our concerns, engage in constructive dialogue, and provide critical feedback was invaluable to our continuing efforts to end the presumptive ban on observant Sikhs who wish to serve in the U.S. Armed Forces.

Following up on our discussions – and in response to your request – we have enclosed for your review and consideration proposed amendments to Department of Defense Instruction Number 1300.17. As we discussed during our meeting, we are grateful for the Department’s announcement earlier this year that it had revised Instruction Number 1300.17 to better accommodate the religious practices of its Service members. However, the Sikh American community is deeply concerned that the revisions – while recognizing the importance of religious liberty to our nation’s Service members – still retain a presumptive ban on Sikh articles of faith in the U.S. Armed Services. As currently written, Instruction Number 1300.17 asks devout Sikhs to choose between practicing their religion and serving their country. This will

¹ By way of background, the Sikh Coalition is a community-based organization that defends civil rights and civil liberties in the United States, educates the broader community about Sikhs and diversity, and fosters civic engagement amongst Sikh Americans. The Coalition owes its existence in large part to the effort to combat violence and discrimination against Sikh Americans after September 11, 2001. Since its inception, the Sikh Coalition has worked with government agencies and the private sector to achieve mutually acceptable solutions to the accommodation of Sikh religious practices.

ultimately continue to have a chilling effect on religious liberty for aspiring Sikh American Service members. Under the new Instruction, a religiously-observant Service member must also seek approval to renew a religious accommodation each time he or she is transferred to a new post.

As we discussed in greater detail in our White Paper entitled *The Case for Ending the Presumptive Ban on Observant Sikhs in the U.S. Armed Forces*, we have “proof of concept” that Sikh Service members can meet our military’s standards for safety and uniformity and do not degrade esprit de corps or disrupt unit cohesion. In addition to the dozens of Sikhs who have served in the U.S. Armed Forces since World War I, we successfully obtained individualized religious accommodations allowing Major Kamaljeet Singh Kalsi, Captain Tejdeep Singh Rattan, and Corporal Simran Preet Singh Lamba to serve in the U.S. Army with their Sikh articles of faith (turbans and beards) intact. Starting in 2009, these three Service members have proudly served in the U.S. Army and earned recognition and awards for their outstanding service to our country. Nonetheless, despite the exemplary service of MAJ Kalsi, CPT Rattan, and CPL Lamba, all three Service members have operated under a cloud of uncertainty as to whether their individualized, temporary accommodations could be revoked at any time by the U.S. Army. The revised Instruction Number 1300.17 does nothing to lift this cloud.

The tables below provide an explanation of the problems with the current language and suggested solutions, as highlighted in the enclosed redline of Instruction Number 1300.17. Although these discussion points are listed in the order in which the relevant provisions appear in the redlined document, all of our proposed revisions are critically important and of high priority.

Provision	Explanation of Problem
Section 3a(2) – Definitions, Neat and Conservative	This provision limits “neat and conservative” religious apparel to items that “[d]o not replace . . . any authorized article of the uniform.” Thus, even in circumstances where a protective helmet is not required, this provision may still prohibit a Sikh Service member, for example, from wearing a religiously-mandated turban.
Suggested Solution	
This provision should be clarified so that authorized religious apparel can be treated as an “authorized article of the uniform.” In this context, and to illustrate this point, the Sikh Coalition and MWE have already provided DOD with a draft field manual that sets forth proposed uniform standards for observant Sikhs, consistent with 10 U.S.C. 774, which permits a service member to “wear an item of religious apparel while wearing the uniform of the member’s armed force.”	

Provision	Explanation of Problem
Section 4c – Policy	This provision states that “[a]n essential part of unit cohesion is establishing and maintaining uniform military grooming and appearance standards.” Rather than focusing on the ultimate end of mission accomplishment, this provision suggests that uniformity is an end in itself, and so may presumptively exclude religious minorities whose grooming practices and appearance are different from those adopted by the military in deference to majoritarian norms.
Suggested Solution	
This provision should be revised to emphasize the primacy of “mission accomplishment” instead of insisting on strict uniformity for its own sake, which currently reflects bias against religious minorities. In other words, Service members should be judged on the basis of their job performance, not presumptively disadvantaged because of their religion. This is consistent with 10 U.S.C. 774, which permits a Service member to “wear an item of religious apparel while wearing the uniform of the member’s armed force.”	

Provision	Explanation of Problem
Section 4e – Policy	This provision does not contain a time limit for resolution of accommodation requests. Delays can disrupt the lives of service members. For example, in March 2012, while waiting to move with his spouse to another state pursuant to a base transfer, a Sikh Coalition client was compelled by delays to request a letter from two U.S. Senators to expedite renewal of a religious accommodation previously granted to him. Another Sikh Coalition client filed an accommodation request in April 2013 and, as of the date of this letter, has not received a response.
Suggested Solution	
Religious accommodation requests should be resolved no later than 10 calendar days after they are made.	

Provision	Explanation of Problem
Section 4f (1), (2) – Policy	This provision requires religious accommodation requests relating to grooming and appearance to be forwarded to the “Secretary of the Military Department concerned.” Thus, without approval at the highest levels of military command, observant Sikhs cannot presumptively enjoy the right to practice their religion in the U.S. Armed Forces.
Suggested Solution	
Religious accommodation requests should not have to be resolved at the Secretary level.	

Provision	Explanation of Problem
Section 4g – Policy	This provision requires current and prospective Sikh Service members to cut their hair, shave their beards, and remove their head coverings in violation of their religion while an accommodation request is pending — a Catch-22.
Suggested Solution	
This provision should be revised to clarify that it applies only to Service members who wish to adopt a new religious practice. Service members who are religiously observant to begin with should not be required to violate their religion while an accommodation request is pending.	

Provision	Explanation of Problem
Section 4h – Policy	This provision understates the importance of protecting the free exercise rights of Service members and promoting religious pluralism in the U.S. Armed Forces.
Suggested Solution	
This provision should be revised to clarify that the U.S. Armed Forces values religious freedom and pluralism. In addition, this provision should be revised to emphasize the primacy of “mission accomplishment” instead of insisting on strict uniformity for its own sake, which currently reflects bias against religious minorities. In other words, Service members should be judged on the basis of their job performance, not presumptively disadvantaged because of their religion. This is consistent with 10 U.S.C. 774, which permits a Service member to “wear an item of religious apparel while wearing the uniform of the member’s armed force.”	

Provision	Explanation of Problem
Section 4i – Policy	This provision is inconsistent with the intent of 10 U.S.C. 774, which permits Service members to “wear an item of religious apparel while wearing the uniform of the member’s armed force.” This presumptive permission should be the default rule, and the burden of rebutting this presumption should rest with military authorities.
Suggested Solution	
This provision should be revised to clarify that, in the context of evaluating religious accommodation requests, there is a rebuttable presumption that the request should be granted. This is consistent with 10 U.S.C. 774, which permits Service member to “wear an item of religious apparel while wearing the uniform of the member’s armed force.”	

Provision	Explanation of Problem
Section 4j – Policy	This provision requires Service members who receive a religious accommodation to renew the accommodation every time they are assigned to a new base, even if they have already graduated from basic training and successfully performed their military duties. Moreover, an accommodation can be denied at any time during a Service member’s career, even a few months before retirement.
Suggested Solution	
This provision should be revised so that a Service member does not have to repeatedly apply for religious accommodations throughout his or her career. In the event an experienced Service member’s request for religious accommodation is denied, he or she should not face disciplinary action or loss of retirement benefits.	

Provision	Explanation of Problem
Sections 7 and 8 – Procedures	These provisions suggest that religious headcoverings may not be worn in lieu of hats, even when protective helmets are not required, and give the military the authority to implement a complete ban on religious apparel, even in the absence of safety considerations.
Suggested Solution	
These provisions should be revised so that a Service member can wear religious apparel as an “authorized article of the uniform” when safety requirements are not implicated. In this context, and to illustrate this point, the Sikh Coalition and MWE have already provided DOD with a draft field manual that sets forth proposed uniform standards for observant Sikhs, consistent with 10 U.S.C. 774, which permits a Service member to “wear an item of religious apparel while wearing the uniform of the member’s armed force.”	

In addition to considering our proposed revisions – and in an effort to engage in a productive dialogue on this issue – we respectfully request a meeting with you and other senior leadership at the Department of Defense and in each of the branches of our military to discuss the way forward to end the presumptive ban on devout Sikhs serving in the U.S. Armed Services. Consistent with our guiding philosophy over the past five years, we hope to work cooperatively with you and branch leadership to articulate our concerns with Instruction Number 1300.17, answer your questions, and provide you with the information you need to make informed decisions. We are confident in our abilities to assist you in developing further revisions and refinements to policy that will address the needs of the Sikh American community without deteriorating the standards that make our military the strongest in the world.

Mr. Lernes Hebert

April 17, 2014

Page 6

Thank you in advance for your time and consideration. We look forward to meeting with you again in the near future.

Sincerely,



Amandeep S. Sidhu
Counsel to the Sikh Coalition



Sapreet Kaur
Executive Director, Sikh Coalition

Enclosure

Cc (via email):

Major General Donald Rutherford, Chief of Chaplains
Colonel Jerry Pitts, Armed Force Chaplain Board
Brodi Kemp, White House Domestic Policy Counsel (Veterans and Military Families)
Radha Iyengar, National Security Council
Gautam Raghavan, White House Office of Public Engagement
Rumana Ahmed, White House Office of Public Engagement
Amardeep Singh, Esq., Program Director, The Sikh Coalition
Rajdeep Singh, Esq., Law & Policy Director, The Sikh Coalition
Gurjot Kaur, Esq., Staff Attorney, The Sikh Coalition



Department of Defense **INSTRUCTION**

NUMBER 1300.17

February 10, 2009

Incorporating Change 1, Effective January 22, 2014

USD(P&R)

SUBJECT: Accommodation of Religious Practices Within the Military Services

- References:
- (a) DoD Directive 1300.17, "Accommodation of Religious Practices Within the Military Services," February 3, 1988 (hereby cancelled)
 - (b) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
 - (c) DoD Instruction 1000.29 "DoD Civil Liberties Program," May 17, 2012
 - (d) Public Law 112-239, "National Defense Authorization Act for Fiscal Year 2013," December 18, 2012, as amended
 - (e) Section 2000bb-1 of Title 42, United States Code
 - (f) DoD Instruction 5025.01, "DoD Directives Program," September 26, 2012, as amended
 - (g) Section 774 and chapter 47 of title 10, United States Code

1. PURPOSE. This Instruction:

- a. Reissues Reference (a) as a DoD Instruction in accordance with the authority in Reference (b).
- b. Prescribes policy, procedures, and responsibilities for the accommodation of religious practices in the Military Services.

2. APPLICABILITY AND SCOPE

- a. This Instruction applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.
- b. The policies, procedures, and definitions prescribed herein apply solely to the accommodation of religious practices in the Military Services and in no other context.

3. DEFINITIONS

a. Neat and Conservative. In the context of wearing a military uniform, “neat and conservative” items of religious apparel are those that:

(1) Are discreet, tidy, and not dissonant or showy in style, size, design, brightness, or color.

(2) Do not replace or interfere with the proper wear of any authorized article of the uniform, or are approved as an authorized article of the uniform.

(3) Are not temporarily or permanently affixed or appended to any authorized article of the uniform.

b. Religious Apparel. Articles of clothing worn as part of the doctrinal or traditional observance of the religious faith practiced by the member.

c. Grooming and Appearance. Grooming and appearance practices, including hair, required or observed by religious groups.

d. Religious Body Art. Temporary or permanent tattoos, piercings through the skin or body part, or other modifications to the body that are of a religious nature.

e. Substantially Burden. In general, significantly interfering with the exercise of religion as opposed to minimally interfering with the exercise of religion.

f. Exercise of Religion. Includes any religious practice(s), whether or not compelled by, or central to, a system of religious belief.

g. Compelling Governmental Interest. In the DoD, a military requirement that is essential to accomplishment of the military mission.

4. POLICY. It is DoD policy that:

a. The DoD places a high value on the rights of members of the Military Services to observe the tenets of their respective religions or to observe no religion at all. It protects the civil liberties of its personnel and the public to the greatest extent possible, consistent with its military requirements, in accordance with DoD Instruction (DoDI) 1000.29 (Reference (c)).

b. In accordance with section 533(a)(1) of Public Law 112-239 (Reference (d)), as amended, unless it could have an adverse impact on military readiness, unit cohesion, and good order and discipline, the Military Departments will accommodate individual expressions of sincerely held beliefs (conscience, moral principles, or religious beliefs) of Service members in accordance with the policies and procedures in this instruction. This does not preclude disciplinary or administrative action for conduct by a Service member requesting religious accommodation that is proscribed by Chapter 47 of Title 10, United States Code (the Uniform Code of Military Justice), including actions and speech that threaten good order and discipline.

c. DoD has a compelling government interest in mission accomplishment, including the elements of mission accomplishment such as military readiness, unit cohesion, good order, discipline, health, and safety, on both the individual and unit levels. An essential part of unit cohesion is establishing and maintaining ~~uniform~~ military grooming and appearance standards that meet certain uniform requirements meeting the DoD's compelling government interest in mission accomplishment.

d. In so far as practicable, a Service member's expression of sincerely held beliefs (conscience, moral principles, or religious beliefs) may not be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

e. Requests for religious accommodation will be resolved in a timely manner, not later than 10 calendar days after they are made, and will be approved when accommodation would not adversely affect mission accomplishment, including military readiness, unit cohesion, good order, discipline, health and safety, or any other military requirement. For requests for religious accommodation when accommodation would adversely affect mission accomplishment:

(1) In accordance with section 2000bb-1 of Title 42, United States Code (Reference (e)), requests for religious accommodation from a military policy, practice, or duty that substantially burdens a Service member's exercise of religion may be denied only when the military policy, practice, or duty:

(a) Furthers a compelling governmental interest.

(b) Is the least restrictive means of furthering that compelling governmental interest.

(2) Requests for religious accommodation from a military policy, practice, or duty that does **not** substantially burden a Service member's exercise of religion should not be evaluated under the standard established in paragraph 4e(1). Under these circumstances, the needs of the requesting Service member are balanced against the needs of mission accomplishment. Only if it is determined that the needs of mission accomplishment outweigh the needs of the Service member may the request be denied.

f. Requests for accommodation of religious practices will be resolved as follows:

(1) Immediate commanders may resolve requests for accommodation of religious practices that ~~do not~~ require a waiver of Military Department or Service policies regarding the

wearing of military uniforms, the wearing of religious apparel, or Service grooming, appearance, or body art standards.

(a) Jewelry bearing religious inscriptions or otherwise indicating affiliation or belief is subject to existing Service uniform regulations under the same standard that applies to jewelry that is not of a religious nature.

(b) Grooming and appearance practices are not included within the definition of religious apparel; however, such practices are subject to consideration for accommodation when the request is based on religious beliefs.

(2) Requests that ~~do~~ require such a waiver ~~may will~~ be forwarded to the Secretary of the Military Department concerned (known in this issuance as the “Secretary concerned”) for decision. The Secretary concerned may delegate authority to resolve these requests no lower than:

(a) Army: Deputy Chief of Staff, G-1.

(b) Air Force: Deputy Chief of Staff for Manpower, Personnel, and Services.

(c) Navy: Chief of Naval Personnel and Deputy Commandant, Manpower and Reserve Affairs.

g. Service members submitting requests for accommodation of newly adopted religious practices will comply with the policy, practice, or duty from which they are requesting accommodation, including refraining from beginning unauthorized grooming and appearance practices, wearing beginning to wear unauthorized apparel, or applying unauthorized body art, unless and until the request is approved. Prospective service members arriving at basic training shall be permitted to maintain existing religious requirements, including requirements for religious apparel (as defined in Section 3(b)) and grooming and appearance (as defined in Section 3(c)) during the pendency of his or her request for religious accommodation.

h. In resolving requests for accommodation of religious practices, careful consideration of the effect, if any, of approval or disapproval on any compelling governmental interest is essential. ~~Because While~~ the military strives to protect the free exercise rights of its service members and reflect the religious pluralism of our Nation, ~~it~~ is a specialized community within the United States, governed by a discipline separate from that of the rest of society. ~~As such,~~ the importance of ~~uniformity and adhering to standards~~ mission accomplishment, of putting unit before self, is ~~more~~ significant and needs to be carefully evaluated when considering each request for accommodation of religious practices. It is particularly important to consider the effect on unit cohesion.

i. All requests for accommodation of religious practices will be assessed on a case-by-case basis but will be presumptively granted, subject to a Service member’s compliance with requirements relating to military readiness, unit cohesion, good order, discipline, health and safety. Each request must be considered based on its unique facts; the nature of the requested religious accommodation; the effect of approval or denial on the Service member’s exercise of

religion; and the effect of approval or denial on mission accomplishment, including unit cohesion.

j. Service members whose requests for accommodation of religious practices are approved will be informed of the specific elements of that approval. ~~Specific elements will include that such~~ The approval ~~presumptively applies for the rest of their~~ ~~the does not apply for their entire military~~ ~~Service members'~~ commitment, and that, at the discretion of the Secretary concerned, ~~new~~ New requests for the same accommodation are ~~not required unless there is a significant change in the Service member's duties implicating military readiness, unit cohesion, good order, discipline, health, and safety.~~ Service members whose requests are approved but ~~subsequently denied~~ will not face disciplinary action and will receive a pro rata share of all ~~benefits, including retirement benefits, to which former Service members are entitled.~~ ~~necessary upon new assignment, transfer of duty stations, or other significant change in circumstances, including deployment.~~

5. RESPONSIBILITIES

a. Assistant Secretary of Defense for Readiness and Force Management. The Assistant Secretary of Defense for Readiness and Force Management, under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, shall be responsible for the administration of this Instruction and may issue guidance implementing this Instruction, as appropriate.

b. Secretaries of the Military Departments. The Secretaries of the Military Departments shall issue appropriate implementing documents and administer the rules thereunder within their respective Departments consistently with this Instruction. This includes:

(1) Designation of appropriate approval and disapproval authority.

(2) Final review will take place within 30 days for cases arising within the United States and within 60 days for all other cases, with strict limitations on exceptions for exigent circumstances.

6. PROCEDURES. The enclosure contains procedures for accommodating religious practices in the Military Services.

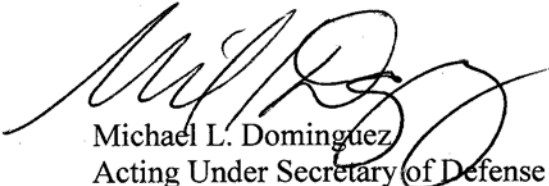
7. RELEASABILITY. Unlimited. This Instruction is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Instruction

a. Is effective February 10, 2009.

b. Must be reissued, cancelled, or certified current within 5 years of its publication to be considered current in accordance with DoDI 5025.01 (Reference (f)).

c. Will expire effective January 22, 2024 and be removed from the DoD Issuances Website if it hasn't been reissued or cancelled in accordance with Reference (f).



Michael L. Dominguez
Acting Under Secretary of Defense
(Personnel and Readiness)

Enclosure
Procedures

ENCLOSURE

PROCEDURES

1. In accordance with rules prescribed by the Secretary of the Military Department of the individual making the request for accommodation of a religious practice, military commanders should consider the following factors, in addition to any other factors deemed appropriate, when determining whether to grant a request, as addressed in section 4 of the front matter of this Instruction:

- a. The importance of military requirements in terms of mission accomplishment, including military readiness, unit cohesion, good order,-discipline, health, and safety.
- b. The religious importance of the accommodation to the requester.
- c. The cumulative impact of repeated accommodations of a similar nature.
- d. Alternative means available to meet the requested accommodation.
- e. Previous treatment of the same or similar requests, including treatment of similar requests made for other than religious reasons.
- f. If a waiver of current Service policy is required to approve a request, the decision authority rests with the Secretary concerned, delegable only to levels defined in paragraph 4b above the signature of this instruction.

2. The factors described in this enclosure are intended to promote standard procedures for resolving difficult questions involving the accommodation of religious practices. In view of the different mission requirements of each command, individual consideration of specific requests for accommodation is necessary.

3. When a request for accommodation is not approved, and continued tension between the unit's requirements and the individual's religious practices is apparent, administrative actions should be considered. Based on the needs of the Military Service, administrative action that may be considered include assignment, reassignment, reclassification, or separation

4. The guidance in this Instruction shall be used by the Military Departments in the development of implementing documents on the exercise of command discretion concerning the accommodation of religious practices.

a. Worship practices, holy days, and Sabbath or similar religious observance requests will be accommodated to the extent possible consistent with mission accomplishment.

b. Religious beliefs shall be included as a factor for consideration when granting separate rations.

c. Religious beliefs shall be considered as a factor for the waiver of required medical practices, subject to military requirements including medical risks to the unit.

d. Familiarization with religious accommodation policies shall be included in the training curricula for command, judge advocate, chaplain, and other appropriate career fields or assignments.

e. Applicants for commissioning, enlistment, and reenlistment shall be advised of their Military Department's specific religious accommodation policies.

5. In accordance with section 774 of Reference (g), members of the Military Services may wear items of religious apparel while in uniform, except where the items would interfere with the performance of military duties or the item is not neat and conservative. The Military Departments shall prescribe regulations on the wear of such items. Factors used to determine if an item of religious apparel interferes with military duties include, but are not limited to, whether or not the item:

a. Impairs the safe and effective operation of weapons, military equipment, or machinery.

b. Poses a health or safety hazard to the Service member wearing the religious apparel and/or others.

c. Interferes with the wear or proper function of special or protective clothing or equipment (e.g., helmets, flak jackets, flight suits, camouflaged uniforms, protective masks, wet suits, and crash and rescue equipment).

d. Otherwise impairs the accomplishment of the military mission.

6. Religious items or articles not visible or otherwise apparent may be worn with the uniform provided they shall not interfere with the performance of the member's military duties, as discussed in paragraph 5 of this enclosure, or interfere with the proper wearing of any authorized article of the uniform.

~~7. A complete ban on wearing any visible items of religious apparel may be appropriate under circumstances in which the Service member's duties, the military mission, or the maintenance of discipline require absolute uniformity. For example, members may be prohibited from wearing visible religious apparel while wearing historical or ceremonial uniforms; participating in review formations, parades, honor or color guards, and similar ceremonial details and functions.~~

78. The standards in paragraphs 5 ~~and~~, 6, ~~and~~ 7 of this enclosure are intended to serve as a basis for determining whether a Service member's request to wear religious apparel with the uniform should be approved. For example, unless prohibited by paragraph 5 ~~or~~, 6, ~~or~~ 7 of this enclosure, a Jewish yarmulke or Sikh turban may be worn with the uniform ~~whenever in place of~~ a military cap or hat consistent with pre-established guidelines for the wearing of religious headdress, hat, or other headgear if safety equipment is not prescribed. A yarmulke or small turban may also be worn underneath military headgear when safety requirement is prescribed as long as it does not interfere with the proper wearing, functioning, or appearance of the prescribed headgear, under paragraph 6 of this enclosure.

89. Notwithstanding any other provision in this Instruction, chaplains may wear any required religious apparel or accouterments with the uniform while conducting worship services and during the performance of rites and rituals associated with their religious faith.

910. In evaluating religious accommodation requests for the wear of body art, whether or not the body art is neat and conservative, and the location of the body art, as it relates to being visible while wearing the military uniform, should be considered. When evaluating religious accommodation requests regarding grooming (e.g., hair length and styles) and body art, factors to consider include whether approving the accommodation would:

- a. Impair the safe and effective operation of weapons, military equipment, or machinery.
- b. Pose a health or safety hazard.
- c. Interfere with the wear or proper function of special or protective clothing or equipment.
- d. Otherwise impair discipline, morale, unit cohesion, or accomplishment of the unit mission.

101. Nothing in this guidance or in the Military Department documents authorized by section 4 of this enclosure (except when expressly provided therein) shall be interpreted as requiring a specific form of accommodation in individual circumstances.

EXHIBIT 3

Congress of the United States
Washington, DC 20515

March 10, 2014

The Honorable Charles Hagel
Secretary of Defense
Department of Defense
Washington, DC 20301

Dear Secretary Hagel:

We respectfully request that the United States Armed Forces modernize their appearance regulations so that patriotic Sikh Americans can serve the country they love while abiding by their articles of faith.

As you know, three devout Sikh Americans have been granted individualized accommodations to serve in the U.S. Army. These patriotic soldiers wear turbans and maintain beards in a neat and conservative manner, both in accordance with operational requirements and their Sikh religious beliefs. They are also able to wear protective equipment, including helmets and gas masks, in conformity with safety requirements.

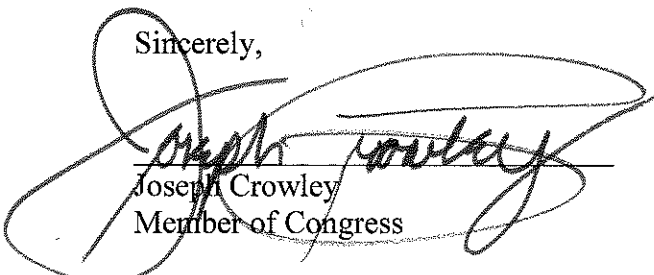
These Sikh soldiers have given their all in service of their country. Maj. Kamaljeet Singh Kalsi earned a Bronze Star Medal for his service in Afghanistan, which included treating multiple combat injuries and reviving two clinically dead patients back to life; Capt. Tejdeep Singh Rattan earned a NATO Medal for his service in Afghanistan; and Corporal Simran Preet Singh Lamba successfully graduated from the Military Accessions Vital to National Interest (MAVNI) program for his proficiency in Punjabi and Hindi.

Given the achievements of these soldiers and their demonstrated ability to comply with operational requirements while practicing their faith, we believe it is time for our military to make inclusion of practicing Sikh Americans the rule, not the exception.

Devout Sikhs have served in the U.S. Army since World War I, and they are presumptively permitted to serve in the armed forces of Canada, India, and the United Kingdom, among others. Notably, the current Chief of Army Staff of the Indian Army is a turbaned and bearded Sikh, even though Sikhs constitute less than two percent of India's population. Throughout the world, and now in the U.S. Army, Sikh soldiers are clearly able to maintain their religious commitments while serving capably and honorably.

We look forward to working with you to end the presumptive ban on Sikh Americans in the U.S. military and extend opportunity to Sikh Americans who wish to serve and defend our nation.


Sincerely,




Joseph Crowley
Member of Congress



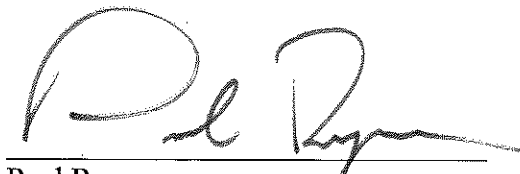
Rodney P. Frelinghuysen
Member of Congress

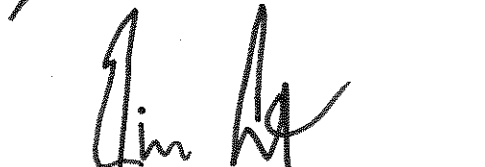

David G. Valadao
Member of Congress

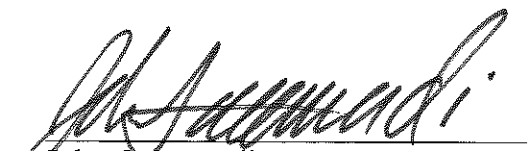

Judy Chu
Member of Congress

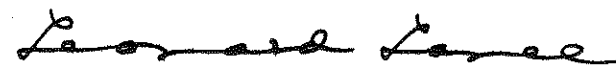

Peter J. Visclosky
Member of Congress

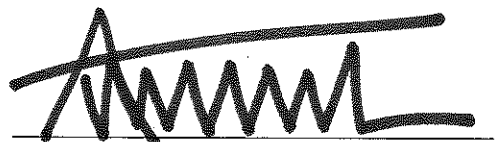

Joseph J. Heck
Member of Congress



Paul Ryan
Member of Congress

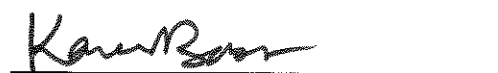

Jim Costa
Member of Congress


John Garamendi
Member of Congress


Leonard Lance
Member of Congress



Ted Poe
Member of Congress

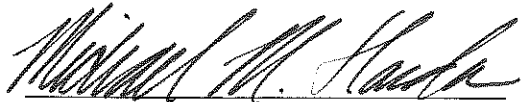

Paul Tonko
Member of Congress


Karen Bass
Member of Congress


Kerry L. Bentivolio
Member of Congress


Frank R. Wolf
Member of Congress

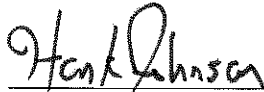

David E. Price
Member of Congress



Michael M. Honda
Member of Congress



Charles W. Dent
Member of Congress



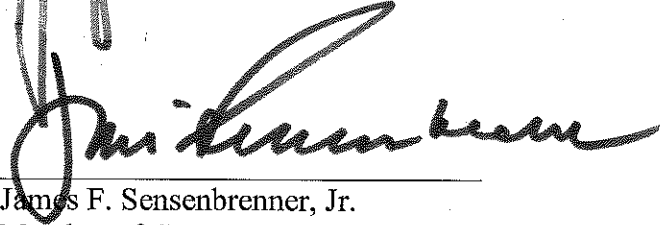
Henry C. "Hank" Johnson, Jr.
Member of Congress



Jeff Denham
Member of Congress



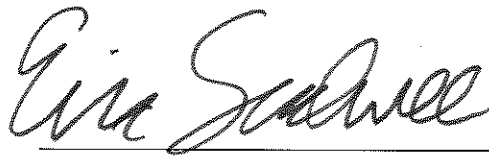
Rush Holt
Member of Congress



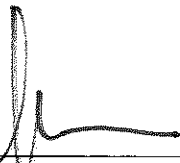
James F. Sensenbrenner, Jr.
Member of Congress



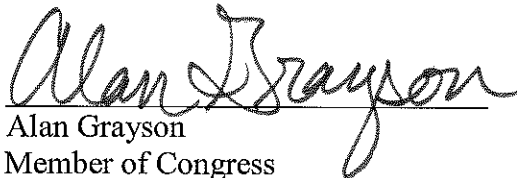
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Member of Congress



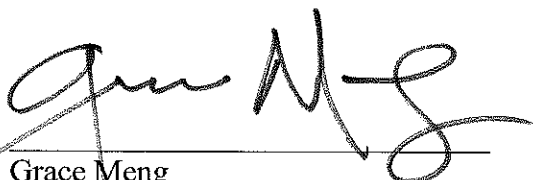
Eric Swalwell
Member of Congress




Ami Bera
Member of Congress



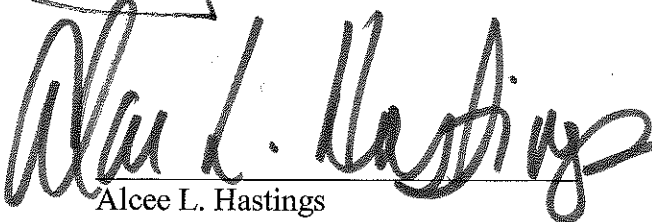
Alan Grayson
Member of Congress



Grace Meng
Member of Congress



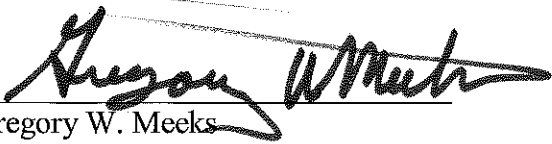
William R. Keating
Member of Congress



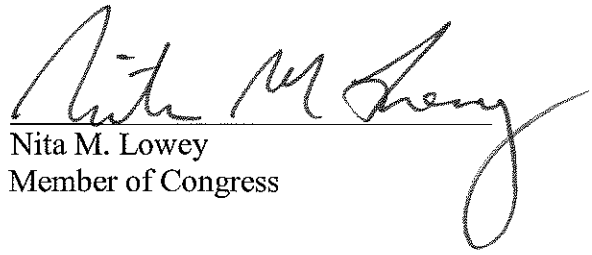
Alcee L. Hastings
Member of Congress



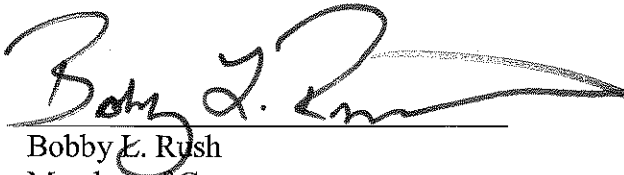
Niki Tsongas
Member of Congress



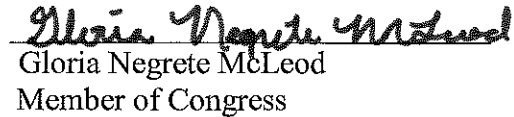
Gregory W. Meeks
Member of Congress



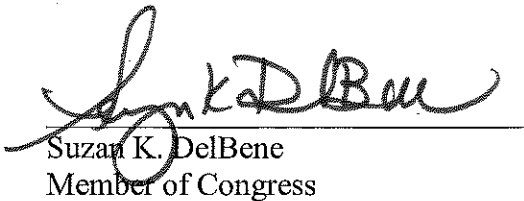
Nita M. Lowey
Member of Congress



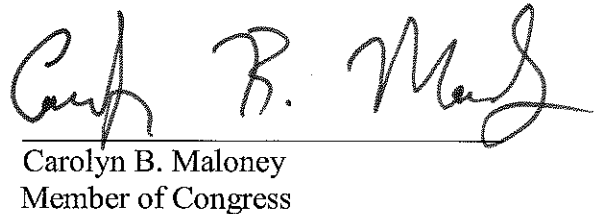
Bobby E. Rush
Member of Congress



Gloria Negrete McLeod
Member of Congress



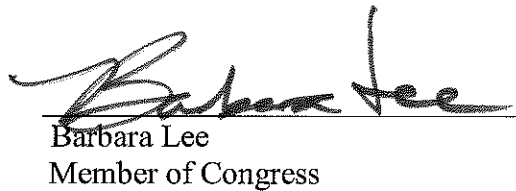
Suzan K. DelBene
Member of Congress



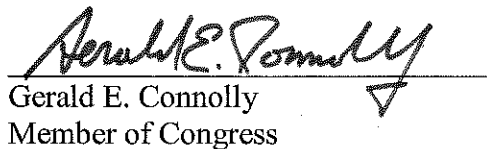
Carolyn B. Maloney
Member of Congress



Ben Ray Lujan
Member of Congress



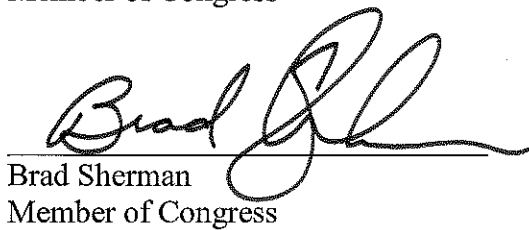
Barbara Lee
Member of Congress



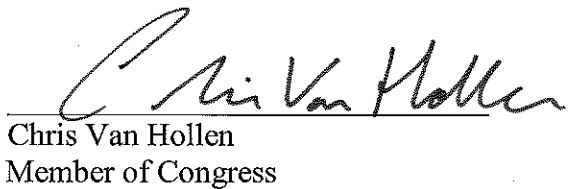
Gerald E. Connolly
Member of Congress



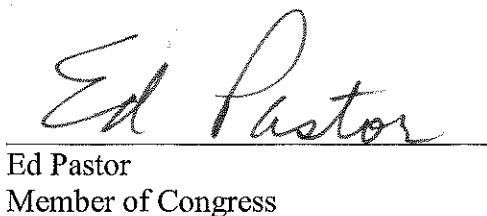
Ron Kind
Member of Congress



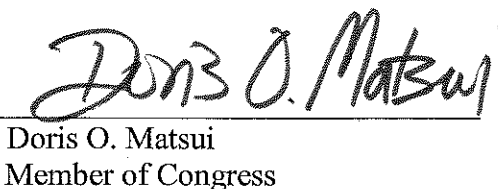
Brad Sherman
Member of Congress



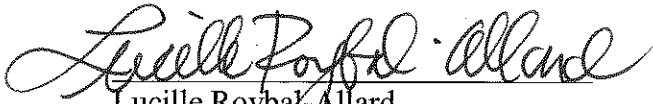
Chris Van Hollen
Member of Congress





Ed Pastor
Member of Congress





Doris O. Matsui
Member of Congress



Lucille Roybal-Allard
Member of Congress



Mark Takano
Member of Congress

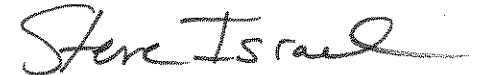

John Lewis
Member of Congress



Tammy Duckworth
Member of Congress

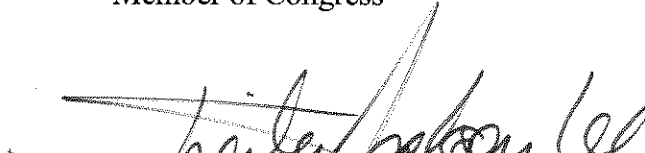

Donna F. Edwards
Member of Congress



Wm. Lacy Clay
Member of Congress


Errol Nadler
Member of Congress

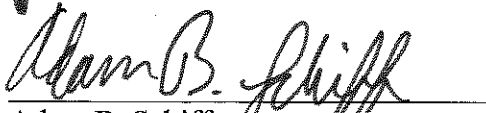

Steve Israel
Member of Congress



Earl Blumenauer
Member of Congress



Sheila Jackson Lee
Member of Congress


James P. Moran
Member of Congress


Gwen Moore
Member of Congress


Adam B. Schiff
Member of Congress

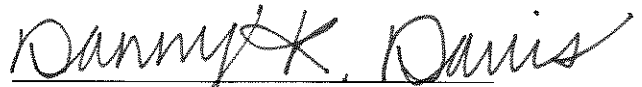

Anna G. Eshoo
Member of Congress


Henry A. Waxman
Member of Congress

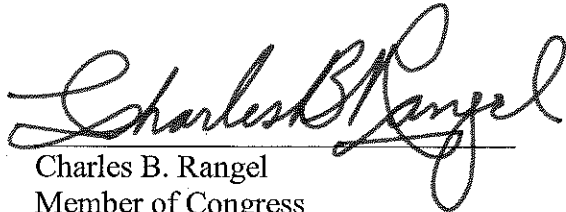

Jackie Speier
Member of Congress



Eleanor Holmes Norton
Member of Congress



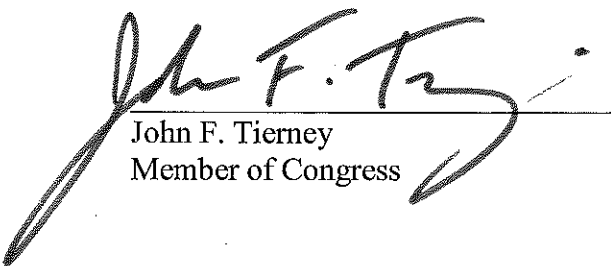
Danny K. Davis
Member of Congress



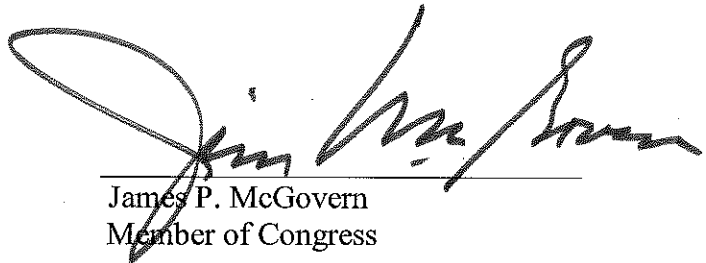
Charles B. Rangel
Member of Congress



Zoe Lofgren
Member of Congress



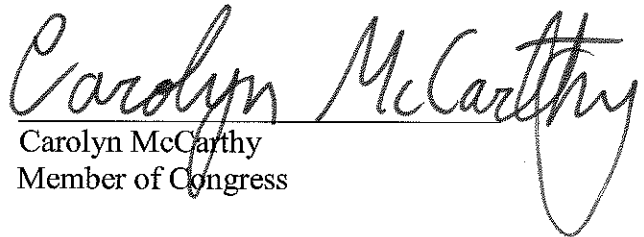
John F. Tierney
Member of Congress



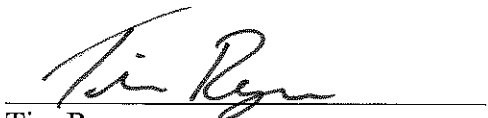
James P. McGovern
Member of Congress



Gary C. Peters
Member of Congress



Carolyn McCarthy
Member of Congress



Tim Ryan
Member of Congress



Pedro R. Pierluisi
Member of Congress



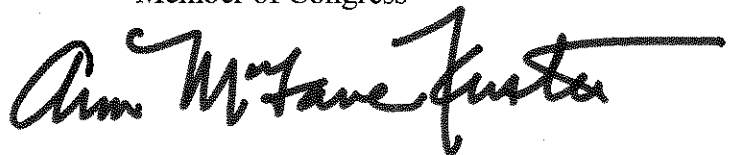
William L. Owens
Member of Congress



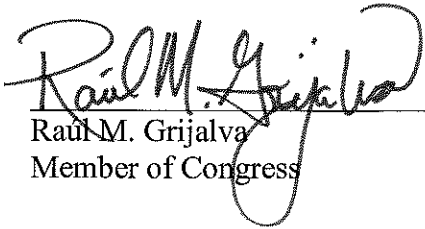
Luis V. Gutierrez
Member of Congress

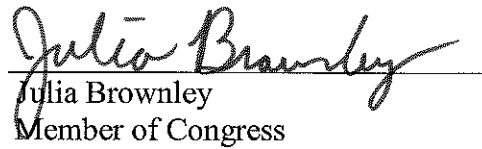


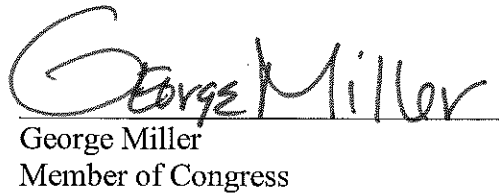
Bill Pascrell, Jr.
Member of Congress



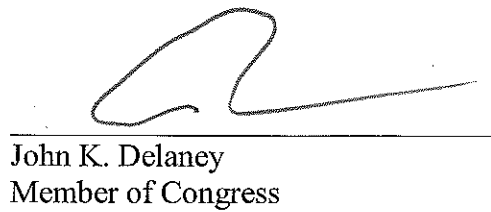
Ann McLane Kuster
Member of Congress

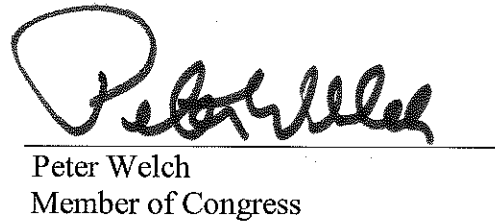

Raul M. Grijalva
Member of Congress

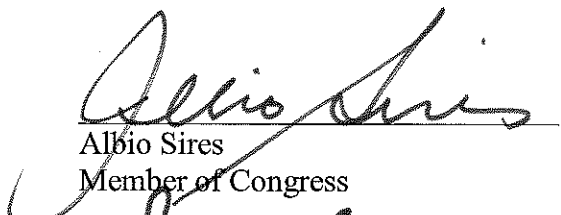

Julia Brownley
Member of Congress

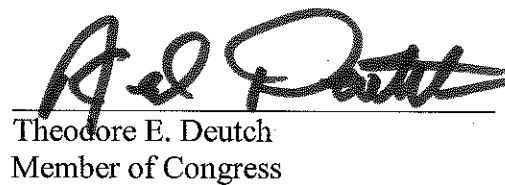

George Miller
Member of Congress

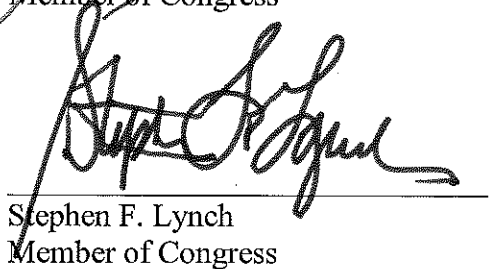

Rosa L. DeLauro
Member of Congress


John K. Delaney
Member of Congress

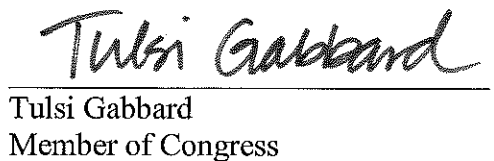

Peter Welch
Member of Congress

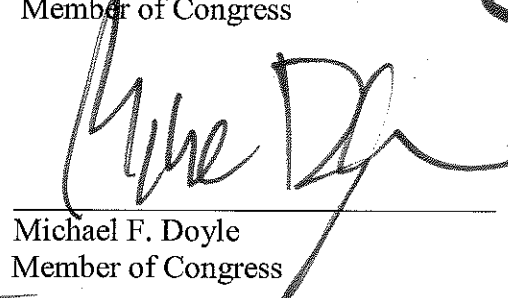

Albio Sires
Member of Congress

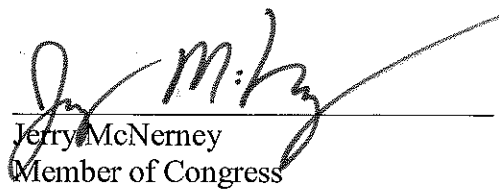

Theodore E. Deutch
Member of Congress

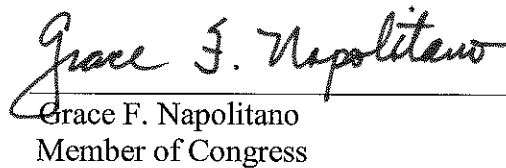

Stephen F. Lynch
Member of Congress


Elijah E. Cummings
Member of Congress


Tulsi Gabbard
Member of Congress

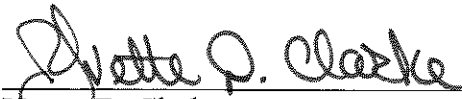

Michael F. Doyle
Member of Congress


Jerry McNerney
Member of Congress


Grace F. Napolitano
Member of Congress



Lois Capps
Member of Congress




Yvette D. Clarke
Member of Congress



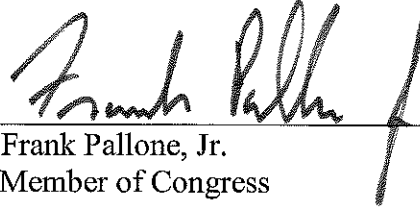
Robert C. "Bobby" Scott
Member of Congress



André Carson
Member of Congress



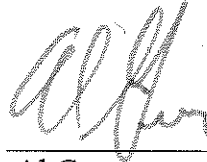
Joe Garcia
Member of Congress



Frank Pallone, Jr.
Member of Congress



Betty McCollum
Member of Congress



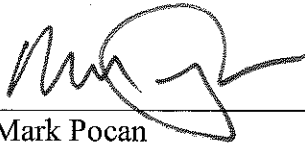
Al Green
Member of Congress



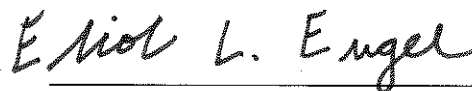
Alan S. Lowenthal
Member of Congress



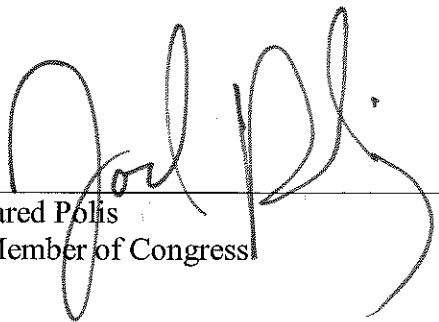
Joaquin Castro
Member of Congress



Mark Pocan
Member of Congress



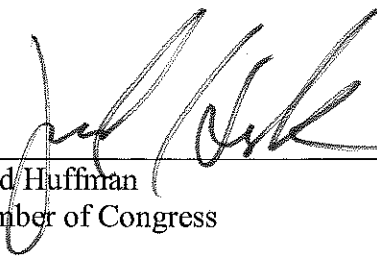
Eliot L. Engel
Member of Congress



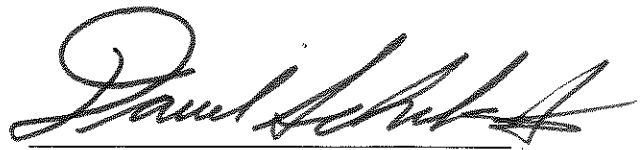
Jared Polis
Member of Congress



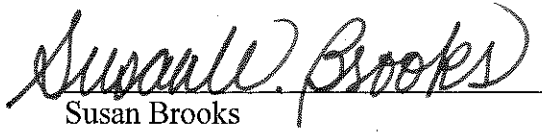
Janice D. Schakowsky
Member of Congress



Jared Huffman
Member of Congress



David Schweikert
Member of Congress



Susan Brooks
Member of Congress

EXHIBIT 4

United States Senate

WASHINGTON, DC 20510

April 24, 2014

The Honorable Charles Hagel
Secretary of Defense
Office of the Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Hagel,

We respectfully request that the Department of Defense refine its January 22, 2014, revisions to Instruction 1300.17 (*Accommodation of Religious Practices Within the Military Services*) so that religiously observant individuals are not presumptively prohibited from serving in our military.

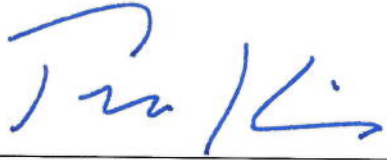
As you know, 10 USC § 774 was enacted during the Reagan Administration and permits service members to wear neat and conservative religious apparel, such as a yarmulke, as long as it does not interfere with the performance of their military duties. In recent years, the U.S. Army has granted individualized waivers to three Sikhs to wear turbans and maintain unshorn hair and beards. Each of them successfully completed basic training and complied with safety requirements relating to helmets and protective masks. Two of these soldiers deployed to Afghanistan and earned a Bronze Star Medal and Army Commendation Medal for their service; another was recently promoted to the rank of Corporal. In recent years, the U.S. Army has also granted waivers to a Jewish Rabbi and two Muslim doctors to maintain beards.

Despite their achievements, Section 4(g) of the revised Instruction would require religiously observant service members to remove their head coverings, cut their hair, or shave their beards—in violation of their religious obligations—while an accommodation request is pending, even if they are capable of meeting safety requirements. Section 4(j) of the revised Instruction would require each of these soldiers to submit to a new accommodation request each time they are assigned to a new base or duty station. These seem inconsistent with the intent of section 774, which creates the presumptive entitlement to wear religious apparel that is neat and conservative and which does not interfere with military duties.

We believe that a service member's religion should not be a barrier to serving in our nation's armed services. Accordingly, we hope that Instruction 1300.17 can be further amended so that talented Americans of faith are given a fair opportunity to serve in our nation's military.

We appreciate your attention and look forward to working closely with you on this matter. Thank you for your time and consideration.

Sincerely,



Senator Tim Kaine



Senator Patrick Leahy



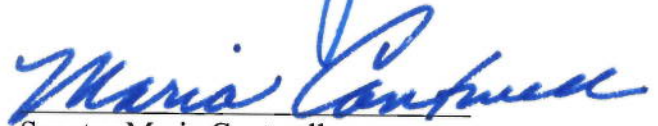
Senator Patty Murray



Senator Ron Wyden



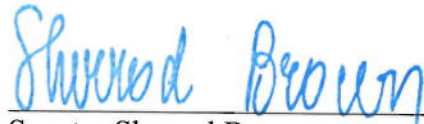
Senator Richard Durbin



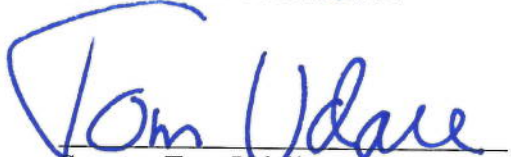
Senator Maria Cantwell



Senator Robert Menendez



Senator Sherrod Brown



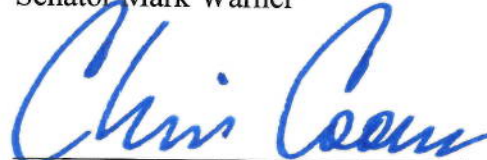
Senator Tom Udall



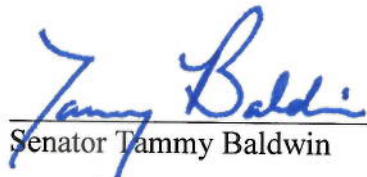
Senator Mark Warner



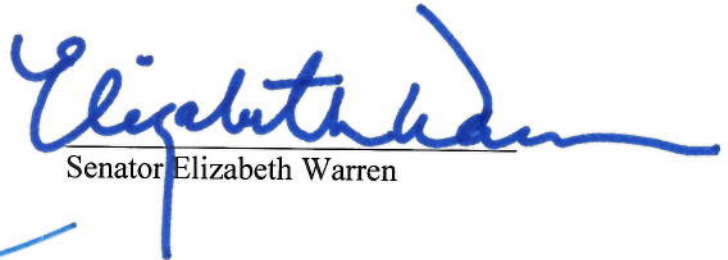
Senator Kirsten Gillibrand



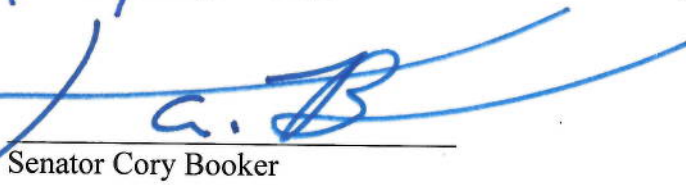
Senator Chris Coons



Senator Tammy Baldwin



Senator Elizabeth Warren



Senator Cory Booker

EXHIBIT 5

April 2, 2014

The Honorable Jessica L. Wright
Acting Under Secretary of Defense for Personnel and Readiness
4000 Defense Pentagon
Washington, DC 20301-4000

Dear Acting Under Secretary Wright:

On January 22, 2014, the Department of Defense released a revised version of its Instruction 1300.17 – *Accommodation of Religious Practices Within the Military Services*. We appreciate the fact that these revisions establish, for the first time, a formal process for requesting and granting accommodations for our men and women in uniform who seek to abide by the requirements of their faith – wearing, for instance, head coverings or neat beards. However, we are writing to express our concerns that these provisions still needlessly infringe on the rights of these religiously observant service members and prospective service members. As written, the revised Instructions will have the effect of limiting diversity in the ranks and preventing talented and patriotic Americans from serving in our nation’s military because of their religion.

As currently drafted, section 4(g) of the revised Instruction would require religiously observant service members and prospective service members to remove their head coverings, cut their hair, or shave their beards – a violation of their religious obligations – while their request to accommodate these same religious practices is pending. This is so, even if they are otherwise qualified to serve and an accommodation is unlikely to undermine safety or other necessary objectives. We urge you to reconsider this provision, which has the effect of forcing some religiously observant service members to make an impossible choice between their faith and their chosen profession.

Further, under Section 4(j) of the revised Instruction, even if an original accommodation request is approved, religiously observant service members would be required to submit a new request for the same accommodation every time they receive a new assignment, “transfer of duty station, or other significant change in circumstances.” The uncertainty associated with this requirement to repeatedly request an accommodation for the very same religious practices is stifling, and may needlessly limit career opportunities – or, in some cases, end careers.

Without further revisions, Instruction 1300.17 will have an unwelcome and unnecessary chilling effect on religious liberty – and will limit opportunities for talented individuals of faith to serve in our nation’s military. If service members can successfully perform their military duties, their religious practices, such as wearing head coverings or beards, should not be an obstacle to service.

We urge you to consider fine-tuning the revised Instruction to better accommodate these kinds of religious practices. We would be pleased to meet with you and members of your staff to discuss this matter further.

Thank you for your consideration of this important request.

Sincerely,

American Civil Liberties Union
American Jewish Committee (AJC)
Americans United for Separation of Church and State
Anti-Defamation League
Baptist Joint Committee for Religious Liberty
Becket Fund for Religious Liberty
Chaplain Alliance for Religious Liberty
Christian Legal Society
The Church of Jesus Christ of Latter-day Saints
The Episcopal Church
Forum on the Military Chaplaincy
General Conference of Seventh-day Adventists
Interfaith Alliance
Muslim Advocates

National Council of Jewish Women
Sikh American Legal Defense and Education Fund (SALDEF)
Sikh Coalition
South Asian Americans Leading Together (SAALT)
United Methodist Church, General Board of Church and Society
Union of Orthodox Jewish Congregations of America
Union for Reform Judaism

EXHIBIT 6



DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF G-1
300 ARMY PENTAGON
WASHINGTON DC 20310-0300

JUL 03 2014

Mr. Amandeep S. Sidhu
McDermott, Will & Emery
500 North Capitol Street, NW
Washington, DC 20001

Dear Mr. Sidhu:

Thank you for your May 21, 2014 letter. You shared two concerns in your letter. With this letter, I am responding to your question regarding Mr. Taranbir Singh. I will send a separate letter to address your other inquiry.

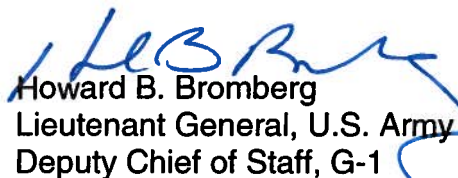
This letter also responds to your letters of May 16, 2014 and April 18, 2013, both of which relate to Mr. Singh.

As shown in your Exhibit C, Mr. Singh was separated from the U.S. Army Future Soldier Program on March 28, 2013. The U.S. Army only considers requests for waivers of uniform and/or grooming policy based on religious faith (religious accommodation) from those who are contracted for service in the United States Army. Because Mr. Singh ceased to be a Future Soldier on March 28, 2013, I am not able to consider his request for a waiver of uniform and grooming standards based on religious faith.

If Mr. Singh feels that his separation from the U.S. Army Future Soldier Program was in error, Mr. Singh can appeal his separation to the Army Board for Correction of Military Records (ABCMR). Mr. Singh can apply to the ABCMR online, at <http://arba.army.pentagon.mil/online-application.cfm>, or send a request for an application to: Army Review Boards Agency (ARBA), 251 18th Street South, Suite 385, Arlington, VA 22202-3531.

I hope this satisfactorily answers your concerns.

Sincerely,


Howard B. Bromberg
Lieutenant General, U.S. Army
Deputy Chief of Staff, G-1