

United States Senate

WASHINGTON, DC 20510

February 1, 2023

The Honorable Gilbert Cisneros Jr.
Under Secretary of Defense for Personnel and Readiness
4000 Defense Pentagon
Washington, DC 20301-1000

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Under Secretary Cisneros and Secretary Cardona:

We write regarding our continued concerns about the Junior Reserve Officers' Training Corps (JROTC) program. Specifically, we are disturbed by a recent *New York Times* investigation that found “dozens of schools have made the program mandatory or steered more than 75 percent of students in a single grade into the classes,” rather than running it as a voluntary elective, as intended.¹ This latest report raises major questions about whether the Department of Defense (DoD) and the Education Department (ED) are conducting appropriate oversight of this program, which is administered cooperatively by the military and local high schools,² to protect students' safety and autonomy.

DoD and ED share federal oversight of the JROTC program.³ DoD's responsibility includes overseeing how its funds are spent, since instructors' salaries are partially reimbursed by the military.⁴ ED's Office for Civil Rights “ensure[s] equal access to education” and “promote[s] educational excellence through vigorous enforcement of civil rights in our nation's schools,”⁵

¹ The New York Times, “Thousands of Teens Are Being Pushed Into Military's Junior R.O.T.C.,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-schools-mandatory-automatic-enrollment.html>.

² RAND Corporation, “Geographic and Demographic Representativeness of Junior Reserve Officer Training Corps,” 2017, p. ix, https://www.rand.org/content/dam/rand/pubs/research_reports/RR1700/RR1712/RAND_RR1712.pdf.

³ Congressional Research Service, “Defense Primer: Junior Reserve Officers' Training Corps (JROTC),” Kristy N. Kamarck, June 15, 2022, p. 1, <https://crsreports.congress.gov/product/pdf/IF/IF11313/10>; U.S. Department of Education Office for Civil Rights, “Office for Civil Rights,” <https://www2.ed.gov/about/offices/list/ocr/index.html>; Department of Education, Office for Civil Rights, Annual Report to Congress: Guaranteeing Equal Access to High-Standards Education, Fiscal Year 1998, p. 30, <https://www2.ed.gov/about/offices/list/ocr/ocrarc.pdf>.

⁴ The New York Times, “‘I Felt Trapped’: Sexual Abuse of Teens in the Military's J.R.O.T.C. Program,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, July 9, 2022, <https://www.nytimes.com/2022/07/09/us/sexual-abuse-jrotc.html>.

⁵ U.S. Department of Education Office for Civil Rights, “Office for Civil Rights,” <https://www2.ed.gov/about/offices/list/ocr/index.html>.

including in JROTC programs. The Education Department’s authority is granted under Title VI of the Civil Rights Act of 1964,⁶ which “prohibits any entity that receives federal financial assistance (such as grants or student loans) from discriminating on the basis of race, color, or national origin,”⁷ and Title IX of the Education Amendments of 1972, which “protects people from discrimination based on sex in education programs or activities that receive federal financial assistance.”⁸

The *Times* investigation raises concerns that the implementation of this program may be violating students’ civil rights by forcing them into the JROTC program and its mandatory requirements. We are disturbed by the fact that enrollment data examined by the *Times* indicates that “dozens of schools have made the program mandatory or steered more than 75 percent of students in a single grade into the classes” and most of the schools with these high levels of enrollment were “attended by a large proportion of nonwhite students and those from low-income households.”⁹ The implementation of mandatory JROTC programs discriminates against communities of color and already vulnerable students from low-income backgrounds. JROTC uniform standards largely reflect those of the military services, and members of our all-volunteer military force are aware when they choose to serve that they will have to meet these standards.¹⁰ But students conscripted into JROTC have no such choice.¹¹ This forces students of color to conform to dress codes and hairstyles that, in practice, discriminate by race. For example, putting students in JROTC at a high school in Maryland “created a problem...when students who had dreadlocks or other longer hairstyles ran up against the program’s strict grooming requirements.”¹²

While the U.S. Army has updated hairstyle requirements to address this discrimination, particularly for styles common among African American women,¹³ and the JROTC official guidelines have similarly relaxed standards such as allowing “multiple neat-in-appearance”

⁶ U.S. Department of Education Office for Civil Rights, “Education and Title VI,” <https://www2.ed.gov/about/offices/list/ocr/docs/hq43e4.html>.

⁷ U.S. Department of Education Office for Civil Rights, “Race, Color, or National Origin Discrimination,” <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/race-origin.html>.

⁸ U.S. Department of Education Office for Civil Rights, “Title IX and Sex Discrimination,” August 2021, https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html.

⁹ The New York Times, “Thousands of Teens Are Being Pushed Into Military’s Junior R.O.T.C.,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-schools-mandatory-automatic-enrollment.html>.

¹⁰ U.S. Department of the Army, “USACC Regulation 145-2: Junior Reserve Officers’ Training Corps Program,” August 12, 2022, Chapter 8, https://www.usarmyjrotc.com/wp-content/uploads/2022/08/Annex_A_CCR_145-2_12AUG22.pdf.

¹¹ The New York Times, “Thousands of Teens Are Being Pushed Into Military’s Junior R.O.T.C.,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-schools-mandatory-automatic-enrollment.html>.

¹² *Id.*

¹³ Military Medicine, “Military Grooming Standards and Black Hairstyling Practices,” Maeobob G. Enokenwa, Uzoamaka J. Okoro, Sunghun Cho, and Scott A. Norton, October 17, 2022, <https://doi.org/10.1093/milmed/usac313>.

hairstyles at once,¹⁴ some JROTC programs have not implemented these changes.¹⁵ For example, the Army eliminated offensive language such as “eccentric” and “faddish” in its grooming standards, which the Army itself recognized as “potentially offensive language.”¹⁶ However, a Marine Corps JROTC textbook states that, “Eccentric styles are prohibited,” and “Exaggerated or faddish cosmetic styles...shall not be worn,” which runs counter to DoD efforts towards inclusion.¹⁷

The actions by schools to make JROTC mandatory are also not consistent with Pentagon guidelines. JROTC instructors told the *Times* that schools are “creat[ing] problems with discipline and morale” by forcing students who did not want to participate in the program “even when they were so opposed to it that they refused to do the work.”¹⁸ The program has also been criticized for relying on textbooks that “bypassed...standard public reviews,” leading to “accounts of historical events that falsify or downplay the failings of the U.S. government.”¹⁹ For example, the Marine Corps textbook’s description of the Trail of Tears “fails to mention that thousands of people died when Native Americans were forced from their lands in the southeastern United States.”²⁰

Mandatory participation in JROTC is also troubling given reports of JROTC instructors sexually assaulting students. In September 2022, some of us wrote to you²¹ following a *New York Times* investigation that found “at least 33 J.R.O.T.C. instructors have been criminally charged with sexual misconduct involving students, far higher than the rate of civilian high school teachers in jurisdictions examined by the *Times*. Many others have been accused of misconduct but never charged.”²² Subsequent data that DoD provided to Congress found a significantly higher rate of misconduct had not been publicly reported. Specifically, this information revealed that DoD was

¹⁴ U.S. Department of the Army, “USACC Regulation 145-2: Junior Reserve Officers’ Training Corps Program,” August 12, 2022, p. 115, https://www.usarmyjrotc.com/wp-content/uploads/2022/08/Annex_A_CCR_145-2_12AUG22.pdf; Military Medicine, “Military Grooming Standards and Black Hairstyling Practices,” Maeobob G. Enokenwa, Uzoamaka J. Okoro, Sunghun Cho, and Scott A. Norton, October 17, 2022, p. 3, <https://doi.org/10.1093/milmed/usac313>.

¹⁵ The New York Times, “J.R.O.T.C. Textbooks Offer an Alternative View of the World,” Mike Baker and Nicholas Bogel-Burroughs, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-textbooks.html>.

¹⁶ U.S. Army, “Revised Army regulation and grooming standards support diversity, equity and inclusion and people first priority,” U.S. Army Public Affairs, January 26, 2021, https://www.army.mil/article/242719/revised_army_regulation_and_grooming_standards_support_diversity_equity_and_inclusion_and_people_first_priority.

¹⁷ The New York Times, “J.R.O.T.C. Textbooks Offer an Alternative View of the World,” Mike Baker and Nicholas Bogel-Burroughs, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-textbooks.html>.

¹⁸ The New York Times, “Thousands of Teens Are Being Pushed Into Military’s Junior R.O.T.C.,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-schools-mandatory-automatic-enrollment.html>.

¹⁹ The New York Times, “J.R.O.T.C. Textbooks Offer an Alternative View of the World,” Mike Baker and Nicholas Bogel-Burroughs, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-textbooks.html>.

²⁰ The New York Times, “Thousands of Teens Are Being Pushed Into Military’s Junior R.O.T.C.,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-schools-mandatory-automatic-enrollment.html>.

²¹ Letter from Senators Elizabeth Warren, Kirsten Gillibrand, Richard Blumenthal, and Mazie Hirono to Under Secretary of Defense for Personnel and Readiness Gilbert Cisneros Jr. and Department of Education Secretary Miguel Cardona, September 21, 2022, <https://www.warren.senate.gov/imo/media/doc/Letters%20to%20DOD%20and%20ED%20re%20JROTC%20Program.pdf>.

²² The New York Times, “‘I Felt Trapped’: Sexual Abuse of Teens in the Military’s J.R.O.T.C. Program,” Mike

aware of 60 allegations of sexual abuse, harassment, and other sexual misconduct, and that nearly all of them were substantiated by local school or law enforcement investigations.²³

Sexual abuse, harassment, and other sexual misconduct allegations should have been brought to the attention of ED. In November, in reply to our letter, ED reiterated that they do “have jurisdiction over a Title IX complaint involving a JROTC program operating in a school that receives federal funds from the Department” but told us that “The Department does not currently have a specific process to receive reports of sexual misconduct in JROTC programs from DoD,” and that “The Department does not have a specific process to report to DoD allegations of sexual misconduct in school-affiliated JROTC programs” – a significant communications gap.²⁴ Given that gap, it is no surprise that ED has received only three Title IX complaints related to the JROTC program in the last decade.²⁵ We are glad that DoD and the Department of Education are reviewing effective practices for reporting sexual misconduct now,²⁶ but it’s clear that the risks to many of these students were not prevented by current practices.

The most recent *Times* investigation raises similar questions about whether ED and DoD are conducting adequate oversight of the program, given that schools have been forcing students into the JROTC program against their will for years.²⁷ In lieu of federal oversight, local organizations, activists, parents, and even instructors have had to be the ones questioning these programs. In 2005, a Buffalo school district “agreed...to ensure that the program was optional after the New York Civil Liberties Union had raised questions.”²⁸ In 2008, it was “parents and other residents in San Diego” challenging school district officials about “forced enrollment.”²⁹ This year, “concerns raised by activists, news coverage and an inspector general’s report led the school district to backtrack...on automatic JROTC enrollments at several high schools that serve primarily lower-income neighborhoods” in Chicago.³⁰ In Fort Myers, a female student was allowed to withdraw from the class “only after [her father] complained that an instructor had grabbed her by the shoulders during an exercise.”³¹ Students in Detroit also struggled to withdraw from the JROTC program after being automatically enrolled.³² An instructor who taught the JROTC program in three states reported receiving “blowback” for trying to help

Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, July 9, 2022, <https://www.nytimes.com/2022/07/09/us/sexual-abuse-jrotc.html>.

²³ House Oversight Committee, “Ahead of Hearing, Committee Releases New Information Showing Sexual Abuse in JROTC Programs is More Widespread than Previously Reported,” November 16, 2022, <https://web.archive.org/web/20221209143511/https://oversight.house.gov/news/press-releases/ahead-of-hearing-committee-releases-new-information-showing-sexual-abuse-in>.

²⁴ Letter from Assistant Secretary for Civil Rights Catherine Lhamon to Senator Warren, November 3, 2022, p. 3 [On File with the Office of Senator Elizabeth Warren].

²⁵ *Id.*, p. 1.

²⁶ *Id.*, p. 3.

²⁷ The New York Times, “Thousands of Teens Are Being Pushed Into Military’s Junior R.O.T.C.,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-schools-mandatory-automatic-enrollment.html>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

remove students who didn't want to be there, including when due to religious objections to the program.³³

We are also disturbed by additional *Times* reporting that in order to get National Rifle Association (NRA) grants or sponsorships for JROTC marksmanship training and competitions, marksmanship team instructors at public high schools “have repeatedly promised to promote the organization at competitions and in newsletters, post N.R.A. banners at their schools or add the N.R.A. logo to apparel worn by students.”³⁴ The NRA has donated over \$5 million in money and equipment since 2015, including to schools that are automatically enrolling students in JROTC.³⁵ Even more concerning, the investigation found that some instructors “promised to encourage cadets to join the N.R.A. and have volunteered students to participate in N.R.A. fund-raising events.”³⁶ DoD ethics regulations make clear that DoD employees are prohibited from fundraising for outside entities except under very limited circumstances.³⁷ Additionally, Army guidance is even more explicit that “Soldiers may not conduct unofficial fundraising during duty time, in uniform, or in the workplace (the entire DoD installation).”³⁸ Given these clear expectations for DoD employees, it is unfathomable why JROTC instructors think it would be appropriate to direct students to volunteer for NRA fundraising.

We are also concerned that DoD may be creating financial incentives for schools to make JROTC programs mandatory. As the *Times* investigation explains, DoD requires schools to enroll a certain threshold of students to keep the program while it subsidizes JROTC instructor salaries.³⁹ Additionally, where JROTC is able “to be used as an alternative graduation credit, some schools appear to have saved money by using the course as an alternative to hiring more teachers in subjects such as physical education or wellness.”⁴⁰

We understand the ongoing concerns about military recruitment, and support programs to address recruiting shortfalls. But the JROTC program cannot help address these problems and uphold its mission to instill “the values of citizenship, service to the United States... and personal responsibility and a sense of accomplishment”⁴¹ if students are forced to participate against their will.

³³ *Id.*

³⁴ The New York Times, “In Public Schools, the N.R.A. Gets a Boost From Junior R.O.T.C.,” Nicholas Bogel-Burroughs and Mike Baker, December 20, 2022, <https://www.nytimes.com/2022/12/20/us/jrotc-nra-schools.html>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ U.S. Department of Defense, “Joint Ethics Regulation (JER),” August 30, 1993, Sec. 3-209, pp. 32-33, <https://dodsoco.ogc.osd.mil/Portals/102/550007r.pdf>.

³⁸ U.S. Army, “Fundraising and Membership Factsheet,” September 8, 2014, https://home.army.mil/riley/application/files/2715/3729/4261/Fundraising_Membership_Factsheet_8_September_2014.pdf.

³⁹ The New York Times, “Thousands of Teens Are Being Pushed Into Military’s Junior R.O.T.C.,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-schools-mandatory-automatic-enrollment.html>.

⁴⁰ *Id.*

⁴¹ 10 U.S.C. 2031(a)(2); Department of Defense, “DoD Instruction 1205.13 Junior Reserve Officers’ Training Corps Program,” May 21, 2021, p. 3, <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/120513p.pdf>.

Since 1973, the United States adopted the all-volunteer force,⁴² following the unanimous findings of the Gates Commission “that the nation’s interests will be better served... than by a mixed force of volunteers and conscripts.”⁴³ Forcing children into the JROTC program undermines this policy. As a DoD spokesperson told the *Times*, “Just like we are an all-voluntary military, this should be a volunteer program.”⁴⁴

In order to better understand the Department of Education and the Department of Defense’s oversight of the JROTC program, we ask that you provide answers to the following questions no later than February 15, 2023:

1. Does ED and DoD intend for student participation in the JROTC program to be voluntary?
 - a. If yes, what does your agency understand to be the rationale for making this program voluntary?
2. Has ED or DoD received reports from JROTC instructors, teachers, school administrators, school staff, students, or families about students being forced to participate in the JROTC program?
 - a. If so, how many of these reports have you received in the last decade?
 - b. What steps has ED or DoD taken to address these reports?
3. Is there any DoD or ED policy prohibiting school districts from forcing students to participate in the JROTC program?
 - a. If there is a policy, what is the penalty for violating that policy?
 - b. What remedies are available for students harmed by the violation of the policy?
4. Was DoD aware of JROTC programs’ relationships with the NRA? Did DoD approve these relationships?
5. What ethics guidance do JROTC instructors receive from DoD and ED regarding the JROTC program’s and instructors’ relationships with outside entities?
6. What is DoD’s policy regarding JROTC instructors supporting fundraising for outside entities?
7. What is DoD’s policy regarding instructing JROTC students to participate in fundraising for outside entities?
8. Are JROTC programs allowed to accept funds from outside entities?
 - a. If so, what, if any, limitations or requirements are placed on that acceptance?

⁴² Congressional Research Service, “The Selective Service System and Draft Registration: Issues for Congress,” Kristy N. Kamarck, p. 1, <https://crsreports.congress.gov/product/pdf/R/R44452>.

⁴³ The Report of the President’s Commission on an All-Volunteer Armed Force, February 1970, p. iii, <https://www.nixonfoundation.org/wp-content/uploads/2012/01/The-Report-Of-The-Presidents-Commission-On-An-All-Volunteer-Armed-Force.pdf>.

⁴⁴ The New York Times, “Thousands of Teens Are Being Pushed Into Military’s Junior R.O.T.C.,” Mike Baker, Nicholas Bogel-Burroughs, and Ilana Marcus, December 11, 2022, <https://www.nytimes.com/2022/12/11/us/jrotc-schools-mandatory-automatic-enrollment.html>.

9. How does the DoD review military service JROTC textbooks for accuracy?
10. How often does the DoD review military service JROTC curricula for accuracy?
11. Has ED and DoD received reports of instances where schools are mandating JROTC for graduation credits?
 - a. If so, how many?

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Mazie K. Hirono
United States Senator



Bernard Sanders
United States Senator



Ron Wyden
United States Senator