

United States Senate

WASHINGTON, DC 20510

July 22, 2024

The Honorable Lloyd J. Austin III
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Austin:

We write to you regarding your progress in implementing the provisions from the *Junior Reserve Officers' Training Corps (JROTC) Safety Act of 2023* included in the Fiscal Year 2024 National Defense Authorization Act (FY 2024 NDAA). These reforms are necessary to ensure schools protect students from sexual misconduct by JROTC instructors and do not force students into the program against their will. We urge you to implement these reforms prior to the start of the 2024-2025 school year and we request information on how you will do so.

Sexual Misconduct by JROTC Instructors and Forced Enrollment in JROTC

In July 2022, a *New York Times* report revealed a disturbing pattern of sexual assault and harassment of students by JROTC instructors.¹ In several cases, reports of instructors sexually harassing or assaulting students would seemingly go nowhere, and “records released under public disclosure laws show cases across the country in which J.R.O.T.C. instructors who wound up being criminally charged had been the subject of complaints from students in the past.”² A follow up Senate investigation conducted by several of us revealed that DoD received 114 allegations of violence, including sexual abuse and sexual harassment by instructors against students in JROTC.³ Many of us also requested that the Government Accountability Office conduct a review into oversight of JROTC after these reports of sexual abuse and misconduct, which the GAO launched in May 2023.⁴

1 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>.

2 *Id.*

3 Letter from Under Secretary of Defense Gilbert R. Cisneros, Jr. to Senators Elizabeth Warren, Kirsten Gillibrand, Richard Blumenthal, Mazie Hirono, January 18, 2023, p. 2, <https://www.warren.senate.gov/imo/media/doc/2023.01.18%20Response%20to%20Letter%20to%20DOD%20on%20JROTC%20program%20sexual%20assault1.pdf>.

4 Office of Senator Elizabeth Warren, “At the Request of Senators Warren, Hirono, and Representatives Raskin, Houlahan, GAO to Review Oversight of JROTC Program Following Reports of Sexual Abuse and Misconduct,” May 16, 2023, <https://www.warren.senate.gov/newsroom/press-releases/at-the-request-of-senators-warren-hirono-and-representatives-raskin-houlahan-gao-to-review-oversight-of-jrotc-program-following-reports-of-sexual-abuse-and-misconduct>.

We are deeply alarmed by new reports of JROTC instructors' sexual misconduct toward students. On April 24, 2024, a JROTC instructor at Palmetto Ridge High in Florida was fired for reports of inappropriate behavior toward female students, with one student reporting that he had "made sexual comments, touched her, asked her on a date and told her to keep her mouth shut."⁵ The investigation's report reveals highly disturbing behavior by the instructor toward students,⁶ and out of the 21 students interviewed in the report, an alarming "13 said he either made them feel uncomfortable or made inappropriate jokes."⁷ In November 2023, a former student at Mount Tahoma High School in Washington "filed a lawsuit against Tacoma Public Schools over alleged sexual and physical harassment she faced while in the school's Junior Reserve Officers' Training Corps."⁸ The instructor "made comments about the former student's physical appearance, including once about her 'upper chest area'" and "told the plaintiff a specific date on the calendar 'he set for intercourse'" with the student.⁹ After reporting the instructor, he "allegedly grabbed her backpack and pulled her backward while shouting at her" in the school hallway and "[t]he student did not return to school for a month as her parents felt they no longer could trust the administration to protect their daughter."¹⁰ An investigation by the Tacoma Public Schools "determined there was probable cause to fire him" and the school system settled the lawsuit for an undisclosed sum on June 3, 2024.¹¹ The student's attorney said that, "She hopes one day to be a public school teacher at the high school level or ideally a district administrator," and that "Her thinking is, if she can rise to a level high enough within a school system's power structure, she'll be able to hold wrongdoers accountable."¹² This continued sexual abuse toward students is unacceptable.

The *Times* also uncovered many cases in which schools informed students that participation in the JROTC program was mandatory, enrolling significant percentages of their student body into the program without the students' consent.¹³ Schools with substantially high rates of JROTC enrollment were largely those with "a large proportion of nonwhite students and those from low-income households."¹⁴ DoD reiterated this point in response to our letter, confirming it "intends

5 NBC2, "Students described alleged inappropriate behavior of former Palmetto Ridge High Teacher," Jusolyn Flower, May 9, 2024, <https://www.nbc-2.com/article/students-allegations-palmetto-ridge-high-teacher-inappropriate-behavior/60745538>.

6 FOX4, "ACCUSED NOT ARRESTED: Instructor fired following inappropriate behavior reports," Shari Armstrong, May 10, 2024, <https://www.fox4now.com/accused-not-arrested-instructor-fired-following-inappropriate-behavior-reports>.

7 WINK, "Collier County JROTC instructor fired for alleged sexual misconduct," May 9, 2024, <https://winknews.com/2024/05/09/collier-county-jrotc-instructor-fired-alleged-sexual-misconduct/>.

8 King5, "Lawsuit: Former JROTC Instructor sexually, physically harassed student," November 10, 2023, <https://www.king5.com/article/news/local/tacoma/former-jrotc-cadet-sues-tacoma-schools-sexual-harassment/281-5757b0f4-fd23-47ea-9e59-9e7eb1b13463>.

9 *Id.*

10 *Id.*

11 Tacoma News Tribune, "Cadet claimed abuse by Tacoma JROTC instructor. Now the district will pay undisclosed sum," Shea Johnson, June 13, 2024, <https://www.thenewstribune.com/news/local/education/article289199999.html>.

12 *Id.*

13 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?pgtype=Article&action=click&module=RelatedLinks>.

14 *Id.*

for student participation in the Junior Reserve Officers' Training Corps (JROTC) program to be voluntary.”¹⁵ During a March 2023 Senate Armed Services Personnel Subcommittee hearing, the Assistant Secretaries of the Army, Navy, and Air Force also voiced support for actions to ensure students were enrolled in the program voluntarily.¹⁶

FY 2024 NDAA Reforms to Combat Abuse and Forced Enrollment

In response to these concerns, the FY 2024 NDAA included a number of reforms to increase transparency and protect students. These reforms included requiring schools to report allegations of instructor misconduct to DoD, providing tools and processes for students to report misconduct, holding schools accountable for failing to abide by these requirements, and increasing transparency on instructor misconduct by requiring annual reports to Congress on misconduct allegations.¹⁷ Specifically, schools with JROTC programs are now required to sign standardized memorandums of understanding (MOUs) with DoD to establish proper protocols and protections.¹⁸ Under these MOUs, schools must forward any report of misconduct by an instructor to the Secretary of the relevant military department within 48 hours of learning of such allegations.¹⁹ All schools must also have a process for students to report violations of their Title IX and Title VI rights, which includes cases of sexual assault and discrimination, and provide an annual report on allegations of misconduct to the Defense Department and if applicable, the Department of Education.²⁰ The MOUs will require that all students in JROTC are provided with annual training on “methods to prevent, respond to, and report sexual assault and harassment,” as well as be informed of ways to report violations of their rights.²¹

The Secretary of Defense must also submit an annual report to Congress on any investigation or allegation of sexual misconduct, sexual harassment, and sex discrimination in the JROTC programs.²² These reports must include the total number of allegations received and investigated, the type of offenses reported, the location of offense, and military service involved.²³ DoD must also report cases where instructors are removed as a result of these allegations and steps that DoD has taken to mitigate risks of sexual misconduct and harassment in JROTC.²⁴ Additionally, under the FY 2024 NDAA DoD must require that all schools with JROTC programs “ha[ve] developed processes to ensure that each student enrolled in a unit...has done so voluntarily.”²⁵

15 Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senators Elizabeth Warren, Mazie Hirono, Bernie Sanders, and Ron Wyden, March 14, 2023, p. 1, [On file with the Office of Senator Elizabeth Warren].

16 Office of Senator Elizabeth Warren, “ICYMI: At First Hearing of Armed Services Personnel Subcommittee, Warren Highlights Priorities for 2024 NDAA,” March 16, 2023, <https://www.warren.senate.gov/newsroom/press-releases/icymi-at-first-hearing-of-armed-services-personnel-subcommittee-warren-highlights-priorities-for-2024-ndaa>.

17 National Defense Authorization Act for Fiscal Year 2024, Public Law 118-31, Sec. 552 and 556.

18 *Id.*, Sec. 552.

19 *Id.*

20 *Id.*

21 *Id.*

22 *Id.*, Sec. 556.

23 *Id.*

24 *Id.*

25 *Id.*, Sec. 552.

The Secretary of Defense may place a JROTC unit on probation for up to three years if the unit does not comply with the MOU requirements.²⁶ If the unit does not come into compliance after three years, the Secretary can suspend it.²⁷

We are glad that the President’s budget request included an additional \$2 million to support the increased oversight reforms established in the FY 2024 NDAA.²⁸ We urge that this funding be included in the NDAA’s final passage. DoD has stated that it “has an unwavering commitment to the safety and well-being of all program participants, to doing right by students and educational community partners, and to providing the support and resources necessary towards achieving those ends.”²⁹ DoD must make its commitment clear by fully implementing these reforms before the 2024-2025 school year begins. In order to better understand how the Department of Defense intends to implement the FY 2024 NDAA provisions from the *JROTC Safety Act*, we ask that you respond to the following questions no later than August 5, 2024:

1. Has DoD and each of the services finalized an updated Memorandum of Understanding (MOU) required under Section 552 of the FY 2024 NDAA? If not, when will these be finalized?
 - a. Please provide a copy of each MOU.
 - b. Will these MOUs be standard and used in all cases across DoD and the respective services?
2. What steps will DoD take to ensure that each institution with a JROTC program annually provides training to students informing them of methods to prevent, respond to, and report sexual assault and harassment?
3. How will DoD ensure that each institution with a JROTC program has an accessible reporting process for students to report violations of their rights under Title IX and Title VI?
 - a. How will DoD provide oversight on the reporting procedures?
 - b. What steps will DoD take to ensure the schools pass on reports to the military department concerned within 48 hours, and the Department of Education’s Office for Civil Rights as applicable?
4. What reporting process will the Department establish for students, families, or third parties to come forward with reports that institutions are not abiding by these MOUs?
5. When will DoD require institutions with JROTC programs to provide their annual report on allegations of violations of title IX and title VI rights by, and how will the Department integrate these reports into its annual reporting requirement to Congress under Section 556 of the FY 2024 NDAA?
6. What steps will the Department take to confirm that these institutions are ensuring that participation in JROTC units is voluntary as required under the FY 2024 NDAA?

²⁶ *Id.*, Sec. 555.

²⁷ *Id.*

²⁸ Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, “Defense Budget Overview: United States Department of Defense Fiscal Year 2025 Budget Request,” April 4, 2024, pp. 4-7.

²⁹ Letter from Under Secretary of Defense Gilbert R. Cisneros, Jr. to Senators Elizabeth Warren, Kirsten Gillibrand, Richard Blumenthal, Mazie Hirono, January 18, 2023, p. i, <https://www.warren.senate.gov/imo/media/doc/2023.01.18%20Response%20to%20Letter%20to%20DOD%20on%20JROTC%20program%20sexual%20assault1.pdf>.

- a. How will the DoD ensure each student is fully aware of what the program entails prior to enrollment?
7. What is the timeline of implementation for these reforms? Will these reforms be in place prior to the start of the 2024-2025 school year?
8. When will the Department submit the annual report mandated by the Section 556 of the FY 2024 NDAA?
9. What steps is the Department taking to ensure that institutions with JROTC programs are aware of these new requirements under the FY 2024 NDAA?
10. When did DoD receive information on the allegations of sexual misconduct by the JROTC Instructor at Palmetto Ridge High in Florida?
 - a. Did this follow the 48 hour requirement for the school to pass along this report to the Department?
 - b. When did DoD share these allegations with the Department of Education's Office for Civil Rights?
 - c. What steps has DoD taken and will it take in response to these allegations?
 - d. What background investigation did DoD conduct on the instructor before approving his role as a JROTC instructor?
 - i. Were there any previous allegations of misconduct against him?
 - ii. For how long was this individual a JROTC instructor?
11. When did DoD receive information on the allegations of JROTC instructor sexual misconduct at Mount Tahoma High School in Washington?
 - a. Did this follow the 48 hour requirement for the school to pass along this report to the Department?
 - b. When did DoD share these allegations with the Department of Education's Office for Civil Rights?
 - c. What steps has DoD taken and will it take in response to these allegations?
 - d. What background investigation did DoD conduct on the instructor before approving his role as a JROTC instructor?
 - i. Were there any previous allegations of misconduct against him?
 - ii. For how long was this individual a JROTC instructor?

Thank you for your attention to this matter.

Sincerely,



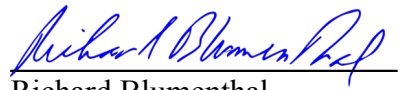
Elizabeth Warren
United States Senator



Mazie K. Hirono
United States Senator



Bernard Sanders
United States Senator



Richard Blumenthal
United States Senator

CC:

Dr. Miguel Cardona, Secretary of Education, U.S. Department of Education